NLRB PERFORMANCE and ACCOUNTABILITY REPORT

NATIONAL LABOR RELATIONS BOARD

FY2023

Protecting Democracy in the Workplace Since 1935

HOW THIS REPORT IS ORGANIZED

This Performance and Accountability Report (PAR) consists of the following sections:

SECTION **01** **The Management's Discussion and Analysis (MD&A) Section** provides an overview of the National Labor Relations Board's (NLRB or the Agency) mission, organization, mission-related goals, performance and financial systems highlights as well as the Agency's operational and casehandling highlights for Fiscal Year (FY) 2023. The MD&A also contains an analysis of financial statements and a discussion of compliance with legal and regulatory requirements, such as the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

SECTION **02** **The Performance Section** compares the NLRB's performance to its strategic goals and objectives as set forth in its current FYs 2022 through 2026 Strategic Plan. The current Strategic Plan includes three mission-related goals and two support goals to help achieve the Agency's mission and vision. The performance measures associated with the mission-related goals are outcome-based. The Agency has several outcome-based performance measures for the support goals combined with those that are management strategy driven to ensure alignment with the mission and needs of stakeholders.

SECTION **03** **The Financial Section** is composed of the NLRB's audited financial statements, related footnotes, and the Independent Auditor's Report.

SECTION **04** **Other Information** provides the Top Management and Performance Challenges identified by the Inspector General in the current fiscal year, and the NLRB's summary of audit and management assurances, which details the Agency's review of compliance with the Payment Integrity Information Act of 2019 (PIIA). For an update on the Board's progress in addressing management and performance challenges from FY 2023 please see ***https://www.nlrb.gov/reports/inspector-general-reports/oig-semiannual-reports.***

SECTION **05** **Appendices:**

- Appendix A: Acronyms used throughout this report
- Appendix B: Glossary of terms used throughout this report
- Appendix C: Historical performance data
- Appendix D: Complete strategic goal structure

An electronic version of the NLRB FY 2023 PAR is available on the NLRB's website at ***https://www.nlrb.gov***. The NLRB's current Strategic Plan is also available at this website along with graphs and data which reflect the NLRB's work.

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MESSAGE FROM THE CHAIRMAN

On behalf of the NLRB, I am pleased to submit the Agency's FY 2023 Performance and Accountability Report. In times when more and more workers are joining together to improve their working conditions, the work of the NLRB is critically important to ensure that the right to engage in such collective action is adequately protected. The Agency is charged with administering and enforcing the National Labor Relations Act (NLRA or the Act), which guarantees the right of private sector workers to choose a union, if they desire, and to bargain collectively with their employers over wages, hours, working conditions, and other aspects of their employment. Additionally, with or without a union, the NLRA protects workers' right to act collectively to seek improvements at their workplace. The entire Agency takes seriously its mission to effectively enforce the Act, and we are proud of our achievements this year in increasing our productivity and expanding access to our services. Yet, as discussed below, we are also mindful of the potential challenges ahead in maintaining our high level of performance in an environment of increasing case intake but with a shortage of necessary resources to fully support the Agency's operations.

The Board itself is a five-member body that serves as an impartial decision-maker to resolve questions pertaining to union elections and adjudicate cases where unfair labor practices are alleged. The Act also authorizes the Board to engage in rulemaking, as appropriate. The Board is committed to producing quality decisions as efficiently as possible. Timely decision-making by the Board is vitally important, both to workers seeking the benefits of collective bargaining and to those who have been the victims of unfair labor practices. The Board accordingly has focused attention in recent years on expediting case processing and increasing overall productivity, and we are continuing to make significant progress. In FY 2023, the Board issued decisions in 246 contested cases, an increase compared to FY 2022. Moreover, among those cases were more than a dozen significant precedent-setting decisions. The Board also issued 141 rulings, orders, or notices in other matters. The net result was that the Board lowered the median age of pending cases at the end of the fiscal year, notwithstanding another significant increase in case intake, as discussed below. Finally, the Board also promulgated a Final Rule on election procedures that will significantly improve the timeliness and efficiency of union elections.

The Board's case-processing and rulemaking achievements are attributable primarily to the hard work and dedication of our career staff. Indeed, we are fortunate to have a workforce that is committed to achieving the Agency's mission. But sustaining these achievements requires that their commitment to the work be supported by the commitment of adequate resources to the Agency. In FY 2023, the Agency received a modest $25 million increase in its annual appropriation after receiving the same Congressional appropriation for the nine preceding years. The additional resources were an important and much appreciated down-payment on fully restoring the Agency's capacity to achieve its mission, but this down-payment did not fundamentally change the Agency's continuing need for additional resources in the face of ever-increasing costs. The FY 2023 increase enabled the Agency to fund the FY 2023 annual pay increases without the need for furloughs, backfill a limited number of critical vacancies, absorb some of the inflationary increases in non-labor expenses, and perform limited but necessary maintenance to our outdated information technology systems. But more is needed to truly advance the purposes of the Act. Thus, although the Board's career staff continued working as hard as ever and the Board both issued more cases and reduced the median age of its pending cases, the total number of pending cases at the end of FY 2023 increased by 36 percent relative to FY 2022. We simply did not have the capacity to keep pace with a significant increase in case intake, driven by a 10 percent increase in union election cases. Additional budgetary support thus remains necessary to enable the Agency and its workforce to continue effectively serving the workers, employers, and unions that count on us to resolve their workplace issues.

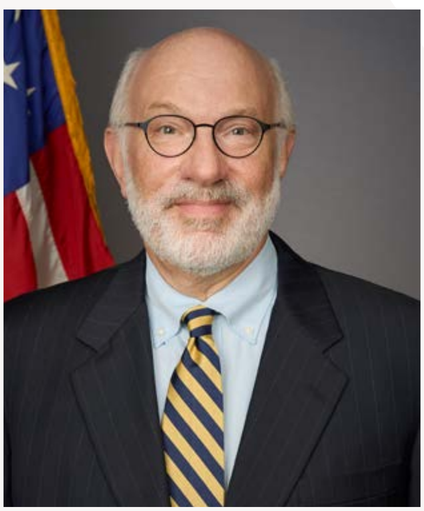
Adequate support is also needed to ensure that as many workers, employers, and unions as possible are aware of and can access the Agency's services. The entire Agency has continued to reinvigorate our outreach efforts, with an emphasis on ensuring greater public awareness, particularly among underserved communities, of the rights and responsibilities established by the Act, the Agency's role in enforcing the Act, and how to invoke our processes. Our emphasis on outreach is grounded in the reality that the Act's protections are meaningful only if all workers know their rights and how to assert them, and if all employers and unions understand their obligations and protections under the law. In the same vein, the Agency has enthusiastically embraced and is pursuing the goals of the President's Executive Orders seeking to enhance equity in access to government services and federal employment.

Finally, the NLRB also takes seriously its responsibility to the taxpayers to be careful stewards of public funds. As Chairman, I certify that the NLRB's internal controls and financial systems meet and conform to the requirements of the Federal Managers' Financial Integrity Act. (A more detailed discussion of the Agency's internal controls can be found starting on page 57 of this report.) I have also made every effort to verify the accuracy and completeness of the performance data presented in this report.

Lauren McFerran

Lauren McFerran
Chairman

BOARD MEMBERS



Chairman Lauren McFerran

Board Member Marvin E. Kaplan

Board Member David M. Prouty

Board Member Gwynne A. Wilcox

MESSAGE FROM THE GENERAL COUNSEL

As General Counsel of the NLRB, it is my honor and privilege to share the many important accomplishments attained by the Agency's talented employees. This FY 2023 report outlines the Agency's case handling, administrative, human capital, and financial achievements, as well as our outstanding management of resources.

The Office of the General Counsel (OGC) is responsible for the Agency's two primary functions: (1) to prevent and remedy unfair labor practices (ULPs) and (2) to protect workers' free choice regarding union representation. The OGC exercises general supervisory authority over the NLRB's 48 Field Offices across the nation. The OGC also directly oversees Headquarters' divisions responsible for various case handling, administrative, human capital, and financial functions.

As to our financial operation, I am pleased to report that, during FY 2023, the Agency ensured that our appropriated funds were fully obligated, resulting in spending 99.9 percent of its $299.2 million in appropriated funds. After absorbing the mandatory inflationary increases in FY 2023 with the welcome, but limited, increase of $25 million in appropriated funds after almost a decade of flat funding, the OGC focused on addressing staffing shortages, particularly in Field Offices, which are responsible for initial processing of cases that are filed with the Agency. Unfortunately, due to budgetary constraints, OGC hiring was restricted to backfilling some vacant positions. The Agency's annual appropriation for FY 2024 needs to be substantially increased to absorb cost-of-living and inflationary increases in labor and non-labor costs, as well as to enable the Agency to improve staffing levels and critical infrastructure in order to better serve the public.

Since the start of my tenure in July 2021, I continue to issue public guidance memos to the Field Offices to further the goals of fully and effectively educating the public, protecting workers' rights, and enforcing the NLRA. Since issuing GC Memo 21-04, *Mandatory Submissions to Advice*, on August 12, 2021, the Field Offices and GC-side Headquarters divisions have litigated cases that have brought some of the legal issues outlined in that memo for the Board's consideration. As a result, on March 20, 2023, I issued GC Memo 23-04, *Status Update on Advice Submissions Pursuant to GC Memo 21-04*, to apprise Field Offices and the public about the status of outstanding issues from GC Memo 21-04.

In GC Memo 23-01, *Settling the Section 10(j) Aspect of Cases Warranting Interim Relief*, in addition to streamlining the Region's Section 10(j) processes, in order to secure more timely and effective remedies, I authorized Regions to obtain full interim settlements in Section 10(j) cases if parties could not agree to an overall settlement of the entire case. These efforts have resulted in Field Offices successfully obtaining interim relief for victims of ULPs while conserving the resources of the Agency and all parties.

Addressing employers' ubiquitous use of technology in monitoring and managing employees that impact employees' NLRA rights, I issued GC Memo 23-02, *Electronic Monitoring and Algorithmic Management of Employees Interfering with the Exercise of Section 7 Rights*. In that memo, I discussed how use of intrusive electronic monitoring and/or abusive automated management practices would have a tendency to interfere with employees' exercise of their Section 7 rights. I urged the Board to adopt a framework to more effectively address these concerns based on applying well-established extant Board law. I also highlighted the Agency's continued interagency approach to address issues that implicate our respective statutory interests by partnering with numerous agencies across the federal government, including the Federal Trade Commission (FTC), the Department of Justice-Antitrust Division (DOJ - Antitrust), the Equal Employment Opportunity Commission, the Department of Labor, and the Consumer Financial Protection Bureau (CFPB).

In GC Memo 23-05, *Guidance in Response to Inquiries about the McLaren Macomb Decision*, I provided guidance to Field Offices in response to inquiries stemming from the Board's decision finding that the offering of severance agreements that require employees to broadly waive their rights under the Act violates the NLRA. Relatedly, I issued GC 23-08, *Non-Compete Agreements that Violate the National Labor Relations Act*, to provide my reasoning as to why broad non-compete agreements also interfere with employees' exercise of rights under Section 7 of the NLRA. In the memo, I reiterated our whole-of-government approach by underscoring our Memoranda of Understanding (MOU) with the FTC and DOJ-Antitrust, both of which are focused on the anti-competitive effects of these sorts of agreements.

During this fiscal year, my commitment to partnering with other agencies included signing an MOU with the CFPB. Consistent with prior inter-agency MOUs signed in previous fiscal years, this MOU provides for information-sharing, investigation, enforcement, training, and outreach. For example, as to joint outreach, Field Offices across the country actively participated in Labor Rights Week events, and I personally participated in the Department of Labor's kickoff event to help inform immigrant and migrant workers about their statutory rights. With regard to members of that underserved community, another notable effort by the Agency involved updates to the NLRB's public webpage to provide workers greater access to the Agency by translating NLRB publications in 17 languages and by crafting brochures specific to issues involving immigrant populations.

I am heartened to see that, through our robust efforts, workers, including those from underserved, underrepresented and vulnerable populations, are aware of their statutory rights and feel empowered to exercise them because our Agency has demonstrated that it will fully protect the exercise of and vigorously remedy violations of those rights. As clearly reflected above, the Agency's great successes this past fiscal year are due to the extremely hard work exhibited by our talented and dedicated board agents. After over 25 years with this Agency, I remain in awe of the commitment that they show in well and faithfully serving the public, and I look forward to another great year partnering with them. I am proud to say that our significant accomplishments in comporting with our Congressional mandate to protect workers' rights to engage in union and protected concerted activities is making a huge, positive impact on the lives of so many workers, families, and communities around the country.

Jennifer A. Abruzzo

General Counsel

FY 2023 YEAR IN REVIEW

Agency Operations

The Board

Throughout FY 2023, the Board continued to focus on timely and efficiently issuing decisions in pending unfair labor practice (ULP) and representation cases, in recognition that long delays in the issuance of Board decisions undermines the purposes of the Act and mission of the Agency. As a result of these efforts, in FY 2023, the Board issued 246 decisions in contested cases – 161 decisions in ULP cases and 85 decisions in representation cases – a slight increase from the total number of decisions issued last fiscal year. Moreover, the FY 2023 total included more than a dozen decisions in important, complex, precedent-setting cases that significantly strengthen and support the protection of workers' rights under the Act.

The Board also made great strides in issuing decisions in its oldest pending cases, defined as cases that, if not issued by the end of FY 2023, would have been pending before the Board for more than 18 months for ULP cases and more than 12 months for representation cases. The shorter timeframe for representation cases recognizes that case processing efficiency is particularly important in the context of effectuating employees' wishes regarding union representation. Overall, 67 cases were identified as "oldest cases" for FY 2023. As of the end of FY 2023, the Board had issued decisions in 56 of those oldest cases, including 96 percent of the representation cases that were prioritized for completion. The issuance of decisions in these cases helped keep the median age of cases pending before the Board at the end of FY 2023 low, coming in at 106 days, well below the goal of 180 days or less. Although some of the oldest cases were not completed during FY 2023, this was due to circumstances unrelated to the Board's commitment to this initiative, and these cases will be prioritized for completion in FY 2024.

As described below, the Board also issued a Final Rule that removed unnecessary barriers to the fair, efficient, and expeditious resolution of union election cases. Further, the Board completed substantial work on two additional rulemaking initiatives, one of which resulted in a Final Rule issued just after the end of the fiscal year.

Notably, the Board achieved these results notwithstanding the challenges presented by a significant jump in case intake at a time when budgetary constraints foreclosed the Board from adding staffing capacity and pursuing a much-needed overhaul of our electronic case-processing systems. The Board had an intake of 321 ULP and representation cases in FY 2023, —an increase of 4 percent over FY 2022 (308 cases) and 18 percent over FY 2021 (272 cases). At the same time, however, the Board was unable to expand its capacity to meet the demands of its increased caseload. Although the Agency received a $25 million increase in funding for FY 2023, these additional resources had to be used to absorb Government-wide pay increases for current staff, address a limited number of critical staffing vacancies, and fund pressing infrastructure needs. As a result, although the Board issued more cases than last year and reduced the median age of its remaining cases, the total number of cases pending before the Board at the end of FY 2023 increased by 36 percent as compared to the end of FY 2022, from 145 cases last year to 197 cases this year. Nevertheless, the Board remains committed to issuing all of these decisions in as timely a manner as possible under the circumstances.

The Board is equally committed to maintaining the high quality of its decisions. The Board is regularly apprised of the outcomes of cases that have been appealed to the federal courts of appeals and, as in years past, the Board enjoyed a high rate of judicial enforcement of its orders in FY 2023. Overall, 87 percent of challenged Board orders were enforced or affirmed in full or in substantial part. In addition, senior leaders and staff on the Board-side regularly reviewed all appellate court decisions concerning Board orders to identify strengths and weaknesses in the Board's decision-making. These strategies enabled the Board to continually evaluate ways to enhance the quality of its decisions.

The Board also used its statutory authority to engage in rulemaking during FY 2023. The Board issued a Final Rule in August 2023 to restore fair and efficient procedures for union elections. This Rule largely rescinded the amendments made by the prior Board's 2019 Election Rule, which introduced new delays in the election process and had been struck down in part by the United States Court of Appeals for the District of Columbia Circuit. The new Rule returned the Board's key election procedures to those put in place by a 2014 rule that was adopted using a notice-and-comment process and that was uniformly upheld by federal courts. The new Rule will meaningfully reduce the time it takes workers to get from petition to election in contested elections and will expedite the resolution of any post-election litigation.

In addition, in November 2022, the Board published a Notice of Proposed Rulemaking seeking public comment on other potential changes to improve the conduct of free and fair union elections. Over the course of the remainder of FY 2023, the Board worked on reviewing the submitted comments regarding this proposal, which will greatly assist the Board in preparing a Final Rule that will further protect workers' representational rights under the Act.

Also, during FY 2023, the Board continued work on a proposed rule revising the joint-employer standard applicable under the Act. The Notice of Proposed Rulemaking on the joint-employer standard was issued during FY 2022, and throughout FY 2023 the Board devoted substantial time and resources to considering all the submitted comments and developing an appropriate joint-employer standard. The Final Rule on this standard was issued in FY 2024.

Last, as described below, the Board supported the Agency's implementation of significant cybersecurity measures and related technology to protect the integrity of our IT systems, continued to expand its congressional and public affairs program, prioritized increasing diversity, equity, inclusion, and accessibility for both internal and external stakeholders, continued to rebuild stable relationships with the unions representing Agency employees, and ensured the sound management of fiscal resources. In sum, we achieved much success in FY 2023, and we look forward to carrying this momentum into FY 2024.

The General Counsel

In FY 2023, Regional case intake totaled 22,463 cases, an increase of 10 percent over last fiscal year and a filing level not seen since FY 2016. And, over the most recent two fiscal years (FY 2023 and FY 2022), the Agency saw an increase in ULP case filings of 10 percent and 19 percent, respectively, and in Representation case filings of 3 percent and 53 percent, respectively.

The General Counsel continued to successfully effectuate a rigorous settlement program to timely resolve meritorious unfair labor practices in a quality manner, pursuant to prior GC Memos, 21-06, *Seeking Full*

Remedies, 21-07, *Full Remedies in Settlement Agreement*, and 22-06, *Update on Efforts to Secure Full Remedies in Settlements*. Notably, Regions garnered settlements in 96 percent of meritorious cases while obtaining significant make-whole remedies for workers, who were the victims of unfair labor practices, as well as for their workplace colleagues, who were detrimentally affected by the violative conduct.

A few notable settlements include: *Star Garden Enterprise*, where the Employer agreed to reopen its business, reinstate employees, recognize the union, and not refile for bankruptcy for one year; *Chipotle Mexican Grill*, where the Employer agreed to pay $240,000 in backpay and frontpay to 24 employees and post an NLRB Notice advising employees of their rights in 40 stores; and *CW Building Maintenance*, where the Employer agreed to pay $300,000 in make-whole remedies after consultations occurred between the Region and the Contempt Compliance and Special Litigation Branch (CCSLB).

The General Counsel is equally proud of the litigation efforts performed by Headquarters and the Field Offices this fiscal year. By way of illustration, Regions, with assistance from the Division of Advice's Injunction Litigation Branch, successfully argued for injunctive relief in district court. For example, in *Amazon.com Services, LLC*, the United States District Court for the Eastern District of New York granted injunctive relief, ordering the Employer to cease and desist from discharging employees in retaliation for their engaging in protected activities, in *Starbucks Corporation*, the United States District Court for the Eastern District of Michigan ordered the reinstatement of an unlawfully fired employee, and in *HAS Cleaning*, the Agency obtained injunctive relief requiring interim reinstatement of two employees and the reading and posting of the Court's order in English and Spanish.

Further, in *Haven Salon +Day Spa*, after the Division of Enforcement-Litigation successfully obtained enforcement of the Board's order, CCSLB secured a writ of body attachment of the Employer's owners, who were in contempt for failing to comply with the Court-enforced Board order, and a Court order requiring the Employer to pay the NLRB over $30,000 in fines and attorney fees.

The Agency's outreach efforts expand well beyond worker populations. The Office of General Counsel and Field Offices educated stakeholders during numerous speaking engagements, including the Chamber of Commerce, Frances Perkins Center, American Bar Association (ABA), Labor and Employment Relations Associations, State Bar Associations, HR Policy Association, labor organizations, worker advocacy groups, law schools, and law firms. The Office of Congressional and Public Affairs (OCPA) also continued its great work to promote broader public awareness of workers' rights and employers' and unions' responsibilities under the NLRA. For example, the OCPA crafted and coordinated the dissemination of new "Know Your Rights" cards, as well as developed and posted news releases via our public website and on social media, which provided regular and updated announcements about Agency operations during this fiscal year.

Technology Advances

Information Technology Advances FY 2023

In FY 2023, the Office of the Chief Information Officer (OCIO) continued to devote its limited resources to accomplishing essential Agency projects and required Government cybersecurity initiatives. OCIO made significant strides advancing technologies in alignment with the Agency's strategic goals.

NxGen Application Upgrades and Enhancements

The NLRB OCIO is responsible for the development, operations and maintenance, and modernization of the Agency's mission-centric applications and systems, including the enterprise case management system, known internally as the Next Generation Case Management System (NxGen). The following technological advances were implemented in alignment with the Agency's goals.

- Suggestion Feedback App: The upgraded "Suggestion Box" application promotes transparency and user engagement, encouraging feedback and suggestions to enhance NxGen. The integration of the Business Intelligence (BI) Report facilitates data-driven decision-making, aligning with the NLRB's objective of fostering transparency and continuous improvement.
- Subscription App: The implementation of the new "Subscription" App streamlines case management, allowing users to efficiently monitor high-profile cases, reflecting the NLRB's commitment to improved service delivery and adaptability.
- Improving Ad-hoc Reporting Features
  - **Automated Notification Process:** The automated notification process for the Division of Judges' office enhances internal controls and compliance, ensuring timely decision issuance in line with the Inspector General's recommendations. The process promotes accountability and efficient case management, contributing to the NLRB's goal of maintaining effective internal processes.
  - **Courtroom Hearings Data Entry:** The dotNET solution for ad-hoc reporting streamlines data management for courtroom hearings, enhancing efficiency and reducing workload, in alignment with the NLRB's objectives of streamlining processes and ensuring effective data management.
  - **Certification of Representative issued:** The development of an Ad-hoc Report for transmitting Certification of Representative issued case data to the Federal Mediation and Conciliation Service (FMCS) supports information sharing, reflecting the NLRB's objective of fostering effective communication with external partners.
  - **Managing Editable Ad-hoc Reports:** The Ad-hoc Report for managing open purchase order obligations supports effective financial management, ensuring accurate tracking of invoices and payments, which aligns with the NLRB's goal of efficient resource utilization and financial management.
- Software Technology Upgrades: The upgrades of various systems, including Documentum (document content storage and retrieval), xPression/Adlib Enterprise (document production), DocuSign Integration (public outreach), and the implementation of the Indy Microsoft Word application, demonstrate the NLRB's commitment to modernizing its technology infrastructure. The upgrades enhance the efficiency and functionality of the systems, contributing to the organization's goal of streamlining processes and improving service delivery.

Office of Management and Budget (OMB) Memorandum M-22-09 Advancements

OMB Memorandum M-22-09, *Moving the U.S. Government Toward Zero Trust Cybersecurity Principles*, sets forth a Federal Zero Trust Architecture (ZTA) strategy. The strategy requires agencies to meet specific cybersecurity standards and objectives by the end of FY 2024 to reinforce the Government's defenses against increasingly sophisticated and persistent threat campaigns. The memorandum places significant emphasis on stronger enterprise identity and access controls, including multi-factor authentication.

The goal is to transition to a "zero trust" approach to security. The following technological advances were implemented in alignment with the Agency's goals.

Completed the implementation of core infrastructure upgrades for Zero Trust Architecture

Strategic Goal Alignments: Effectively managing budgetary and other resources; Ensuring a secure and innovative workforce.

- Provided the Agency with secure access to applications over the public internet without relying on a virtual private network (VPN) while reducing the complexity of Remote Access, bringing the Agency into compliance with Trusted Internet Connection (TIC) 3.0 and ZTA requirements per OMB executive orders.
- Negotiated with Cybersecurity & Infrastructure Security Agency (CISA)/Department of Justice to reduce costs and increase security by extending CISA provided funding through March 31, 2025, for labor and Zscaler ZTA client software licenses. With deployment of the Zscaler clients, the Agency gained visibility into network and computer health/security:
  - Provided the ability to identify user/application performance issues. Configured Zscaler to proactively send email alert notifications if a significant proportion of users experienced degraded performance per affected application or service.
  - Facilitated the standardization of cloud application / website filtering / web controls for all users regardless of employee work location.

Implemented a Security Operations Center (SOC)

Strategic Goal Alignment: Effectively managing budgetary and other resources.

- Negotiated with the Continuous Diagnostic Monitoring (CDM)/Department of Homeland Security team to add CareFirst SOC services at no cost to NLRB to obtain the following security services:
  - 5x10 monitoring and alerting.
  - Expert analysis and prioritization of the alerts.
  - Expert assistance in handling our security incidents.
- Negotiated with CDM/DHS to utilize agency developed software scripts to provide read-only access to agency IT System log files.

Implemented new features to increase the quality of voice calls and video conferencing at Headquarters and Field Offices.

Strategic Goal Alignment: Effectively managing budgetary and other resources.

- Increase the amount of traffic reserved for voice and video by an average of 50% on each circuit resulting in improved and consistent call quality. Effectively managed and coordinated network installations for videoconferencing devices in each Field Office.
- Implemented Software-Defined Wide Area Network (SD-WAN) application aware policies to optimize voice and video traffic between each office and Microsoft. This removed unnecessary traffic hops between the end-user and Microsoft which improved the user experience and increased audio/video quality and performance.

OMB Memorandum M-21-31 Advancements

OMB Memorandum M-21-31, *Improving the Federal Government's Investigative and Remediation Capabilities Related to Cybersecurity Incidents*,underscores the importance of increased government visibility before, during, and after a cybersecurity incident. It focuses on ensuring centralized access and visibility of security operations center (SOC) activities, and establishes requirements to increase the sharing of information, as needed and appropriate, to accelerate incident response efforts. The following technological advances were implemented in alignment with the Agency's goals.

Implemented Cloud Log Aggregate Warehouse (CLAW)

Strategic Goal Alignment: Ensuring a secure and innovative workforce.

- Implemented a network interconnection to link the Cybersecurity and Infrastructure Security NLRB (CISA) and the NLRB Zscaler Internet Access tenant. The "interconnection" provides the transfer of NLRB metadata and telemetry to CISA, addressing log sharing requirements, and providing the Agency with 24/7 situational awareness, analysis, and incident response support as needed.

Implemented processes to increase the efficiency and security of the Agency's cloud infrastructure.

Strategic Goal Alignment: Ensuring a secure and innovative workforce.

- Migrated from Active Directory Federate Services to Azure authentication, resulting in the following benefits:
  - Increased security by modernizing the authentication protocols.
  - Reduced bandwidth/network utilization by going straight to Microsoft data center.
- Eliminated On-premises email server
  - Increased internal and public availability by shifting entirely to cloud services for email.

Process Automation Advancements

The development of the following systems is in line with the NLRB's goal of greater organizational excellence and productivity. The system improvements improve productivity, streamline legacy processes, and provide actionable reporting to senior leadership.

- Designed, developed and launched several Agency systems to improve productivity and streamline legacy processes.
  - Automated the process for submission of the reimbursement form using specific calculations for the reimbursement amount with all levels of approval.
  - The Hiring Information Tracking System (HITS) provides a monitoring dashboard to hiring managers on all hiring applications.

Improved Internal and Public Facing Customer Support and Outreach Services

Strategic Goal Alignment: Ensure public awareness of and equitable access to the Agency's services.

- Established a public facing Service Desk accessible on the Agency's website that provides support for external users of the E-Filing System.

Strategic Goal Alignment: Protect employee free choice with timely and effective mechanisms to resolve questions concerning representation.

- Designed and implemented the OCIO Customer Service Portal that provides 24-hour access for users to submit support requests to the Service Desk.
- Updated and created new knowledge articles to enable self-help capabilities within the portal.
- Implemented revised support request ticket category structure to align with current service demand, available technology, new support services, and computing resources.

Strategic Goal Alignment: Build, support, and retain a talented and diverse workforce.

- Developed and deployed an informal name change service request capability.

Strategic Goal Alignment: Effectively manage budgetary and other resources:

The technology advancements enable efficient IT resource management and reduces manual application of the operational maintenance requirement, minimizes the occurrence of security vulnerabilities, and contributes to long-term cost savings.

- Migrated endpoint management technology from on-premises Microsoft SCCM to Intune which serves to more efficiently sustain computing device security posture, conduct application installations, and deploy workstation patches.
- Automated the workstation imaging process by implementing Windows Autopilot and retiring the use of Microsoft Desktop Manager resulting in faster and manual involvement in the laptop imaging procedure.
- Deployed the Lenovo Commercial Vantage tool on all laptops to automate peripheral device, i.e. monitor, speaker, camera, and other integrated resource driver installations as they become available.

Public Information Program

The Agency's Public Information Program is one of the critical services provided to the American public, including employers, unions, and employees. Under this program, in addition to the services provided by the Office of Congressional and Public Affairs (OCPA) in Headquarters, Board agents in the Field Offices provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2023, the Agency's Regional Offices received 34,174 public inquiries regarding workplace issues. In responding to these inquiries, Board agents spent a considerable amount of time explaining the rights and responsibilities under the Act and of other government agencies, accepting charges, or referring parties to other federal or state agencies. Of the 22,463 Charges and Petitions filed, 17,570, were filed electronically (via E-fling wizard and onsite fillable forms), and 4,893 were filed by mail, facsimile or in-person. The public may also contact the Agency through a toll-free telephone service (844-762-6572) designed to provide easy and cost-free access to information. Callers to this number will hear messages recorded in English and Spanish languages that provide a general description of the Agency's mission, contact information for other government agencies, and contact information for the Regional Offices in closest geographic proximity. Board staff also monitor ***publicinfo@nlrb.gov***, an email account for general public inquiries.

Public outreach is encouraged and has been embraced at all levels of the Agency. Over the past few years, Board Members, the General Counsel, Regional Directors, OCPA staff, and Board agents participated in numerous speaking engagements at events sponsored by law schools, bar associations, chambers of commerce, worker advocacy groups, and various other employer, union, and human resources professional groups to educate them on the NLRA and the role of the NLRB in impartially enforcing the Act. The Agency's leadership spoke with a variety of media outlets about the NLRB's congressional mandate and the rights and responsibilities under the Act. Additionally, the Director of OCPA corresponded with hundreds of reporters, explaining the NLRB's processes. Further, Regional Offices publish newsletters and participate in televised or radio public talk shows. The Agency has also been active on X (formerly known as Twitter), Facebook, and Instagram accounts.

As part of the Agency's outreach to communities with limited English proficiency, in addition to the bilingual toll-free telephone service for inquiries, the NLRB employs Language Specialists and contracts with service providers to provide interpretation and translation services in various languages to assist Field Office casehandling. The public website contains Agency publications about the NLRA and processes, which are translated into Spanish, Arabic, Chinese, French, Haitian Creole, Hindi, Hmong, Korean, Polish, Portuguese, Punjabi, Russian, Somali, Tagalog, Urdu, and Vietnamese. The number of electronic document templates available in Spanish continues to increase and the database of translated representation case notices and ballots includes 31 languages. Finally, the Agency has teamed up with consulates from Central American countries to educate business owners and their employees about rights and obligations under the NLRA and with other federal agencies in conducting listening sessions among the Asian American and Pacific Islander community. These sessions will educate them about the rights of workers, listen to their concerns regarding treatment at their workplaces, and help resolve any confusion about the Agency's processes.

Also of note is the Agency's effort to increase interagency law enforcement efforts. Specifically, the Agency has shared information and partnered with, among others, the DOJ's Antitrust Division, the FTC, CFPB, DOL's Wage and Hour Division, DOL's Office of Labor-Management Standards, the Equal Employment Opportunity Commission (EEOC), FMCS, and the New York State Office of the Attorney General, maximizing governmental resources.

FY 2023 STATISTICAL HIGHLIGHTS

The Board issued **246** decisions in contested cases:

161 unfair labor practice cases

85 representation cases

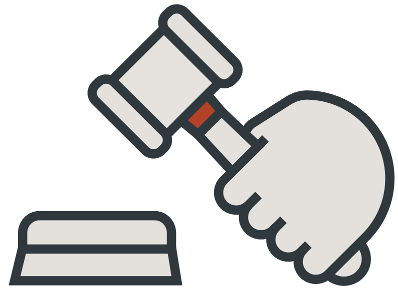
89.7% of all initial elections were conducted within 56 days of filing of the petition.

Initial elections in union representation cases were conducted in a median of **37 days** from the filing of the petition.

Regional Offices issued **743 complaints.**

78.9%

of meritorious ULP charges resolved within 365 days.



Regional Offices prevailed in

90.9%

of Board and Administrative Law Judge (ALJ) decisions which were won, in whole or in part.

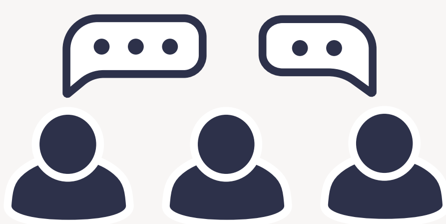
$56,928,501

was recovered on behalf of employees as backpay, consequential damages, or reimbursement of fees, dues, and fines

and

983

employees offered reinstatement.



The Agency received **34,174** inquiries through its Public Information Program.

The Division of Judges closed **150** hearings, issued **135** decisions, and achieved **288** settlements in cases on its trial docket.

Protecting Democracy in the Workplace Since 1935

MANAGEMENT'S DISCUSSION AND ANALYSIS

ABOUT THE NLRB

The National Labor Relations Act

- Basic law governing relations between labor unions and business enterprises engaging in interstate commerce in the private sector.
- Serves the public interest by reducing interruptions in commerce caused by conflict between employers and employees.
- Embodies a bill of rights for workers, which establishes freedom of association for purposes of collective bargaining and concerted activities to improve terms and conditions in the workplace.
- Addresses the rights of employees and obligations of labor unions and private employers.

The National Labor Relations Board

The NLRB is an independent federal agency created in 1935 to administer and enforce the NLRA by ensuring that workers can freely express their wishes regarding union representation; and by protecting workers' fundamental right to act together for their mutual aid or protection.

The NLRB acts only on those charges brought before it and does not initiate cases. All proceedings originate with the filing of charges or petitions by employees, labor unions, private employers, or other private parties.

In its 88-year history, the NLRB has counted millions of votes, investigated hundreds of thousands of charges, and issued thousands of decisions. These numbers tell an important part of the Agency's story. Specific data on the following components of the Agency's work can be found on the NLRB's web site at: *https://www.nlrb.gov/*:

Charges and Complaints - Data related to the investigation and prosecution of ULPs received by Regional Offices and their disposition over time, including withdrawals, dismissals, complaints, and settlements.

Petitions and Elections – Data related to petitions for representation, decertification, unit amendment and clarification, and rescission of union security agreements received by Regional Offices, elections held, and outcomes.

Decisions – Data related to decisions by the Board and NLRB ALJs.

Federal Litigation – Data related to litigation by Board attorneys before administrative law judges, the Board, and in federal court, including petitions for temporary injunctions, defending Board decisions in court, and pursuing enforcement, contempt and compliance actions.

Remedies – Data related to remedies obtained to resolve ULPs, including backpay and offers of reinstatement.

MISSION STATEMENT

Vigorously advance the policies of the NLRA to promote collective bargaining by ensuring that workers can freely express their wishes regarding union representation and protecting workers' fundamental right to act together for their mutual aid or protection.

Employee Rights Under The NLRA

The NLRA extends rights to many private-sector employees, including the right to organize and to bargain collectively with their employer. Employees covered by the Act are protected from certain types of employer and union misconduct and have the right to support union representation in a workplace where none currently exists or to attempt to improve their wages and working conditions through other group action.

Under the NLRA, employees have the right to:

- Form, or attempt to form, a union among the employees of an employer.
- Join a union whether the union is recognized by the employer or not.
- Assist a union in organizing employees.
- Engage in protected concerted activity. Generally, "protected concerted activity" are activities that seek to improve working conditions.
- Refuse to do any or all of these things. However, the union and employer, in a state where such agreements are permitted, may enter into a lawful union-security clause requiring employees to pay basic union dues and fees for core representational activities.

The NLRA forbids employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining or assisting a labor organization for collective bargaining purposes, engaging in protected concerted activities, or refraining from these activities. Similarly, unions may not restrain or coerce employees in the exercise of these rights.

Statutory Structure

Agency Leadership consists of six presidential appointees—five Board Members (including the Chairman) and the General Counsel. Day-to-day management of the Agency is divided by law, delegation, and Agency practice between the Chairman, the Board, and the General Counsel. The Agency's offices include its Headquarters in Washington, D.C., a network of Field Offices throughout the U.S., and two satellite Judges' offices in New York City and San Francisco. The NLRA assigns separate and independent responsibilities to the Board and the General Counsel. The General Counsel's role is chiefly prosecutorial and the Board's is adjudicative. A map depicting the Regional Offices can be found at: ***https://www.nlrb.gov/about-nlrb/who-we-are/regional-offices***

The Five-Member Board

The five-member Board primarily acts as a quasi-judicial body, deciding cases based on formal records in administrative proceedings. Board Members are appointed by the President with the advice and consent of the Senate and serve staggered five-year terms.[1] The President designates one of the Board Members as Chairman. Board Member Lauren McFerran was designated as Chairman on January 20, 2021.

The General Counsel

Congress created the position of General Counsel in its current form in the Taft-Hartley Act of 1947. The General Counsel is appointed by the President to a four-year term, with Senate consent, and is responsible for the investigation and prosecution of ULP cases and for the general supervision of the NLRB Regional Offices, and pursuant to a delegation by the Board, the administrative, financial, and human capital operations of the Agency. In performing delegated functions, and in some aspects statutorily assigned functions, the General Counsel acts on behalf of the Board. With respect to the investigation and prosecution of ULP cases, the General Counsel has sole prosecutorial authority under the statute, independent of the Board. Jennifer A. Abruzzo was nominated by the President to serve as General Counsel, and was confirmed by the Senate on July 21, 2021, and sworn in on July 22, 2021.

Below is information about the terms of the current Presidential appointees of the NLRB.

Appointee	Sworn In	Term Expires
THE BOARD		
Lauren McFerran Chairman of the Board	8/10/2020 (as Board Member) 1/20/2021 (designated as Chairman)	12/16/2024
Marvin E. Kaplan Board Member	8/10/2017	8/27/2025
David M. Prouty Board Member	9/22/2021	8/27/2026
Gwynne A. Wilcox Board Member	9/11/2023	8/27/2028
THE GENERAL COUNSEL		
Jennifer A. Abruzzo General Counsel	7/22/2021	7/20/2025

1 Even though Board Members have five-year terms, a new five-year term begins running immediately upon the expiration of the previous Member's term and the seat remains vacant until an individual is nominated and confirmed by the Senate. Therefore, a lapse of time can occur between when a term expires and a new Board Member is confirmed, which means that a new Board Member would serve only the remaining portion of the five-year term to which they were appointed.

ORGANIZATION

BOARD
Lauren McFerran - Chairman
Marvin E. Kaplan - Board Member
David M. Prouty - Board Member
Gwynne A. Wilcox - Board Member
Vacant - Board Member

OFFICE OF THE GENERAL COUNSEL
Jennifer A. Abruzzo - General Counsel
Peter Sung Ohr - Deputy General Counsel
Jessica Rutter - Associate General Counsel

OFFICE OF THE EXECUTIVE SECRETARY
Roxanne L. Rothschild
Executive Secretary

OFFICE OF THE SOLICITOR
Fred B. Jacob
Solicitor

OFFICE OF REPRESENTATION APPEALS
Terence G. Schoone–Jongen
Director

DIVISION OF JUDGES
Robert A. Giannasi
Chief Judge

OFFICE OF CONGRESSIONAL AND PUBLIC AFFAIRS
Kayla Blado
Director

OFFICE OF THE INSPECTOR GENERAL
David P. Berry
Inspector General

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY
Brenda V. Harris
Director

DIVISION OF ADMINISTRATION
Lasharn Hamilton
Director

ETHICS OFFICE
Lori Ketcham
Associate General Counsel

OFFICE OF THE CHIEF FINANCIAL OFFICER
Isabel McConnell
Chief Financial Officer

OFFICE OF THE CHIEF INFORMATION OFFICER
Prem Aburvasamy
Chief Information Officer

SPECIAL COUNSEL AND LABOR RELATIONS OFFICE
Polly Misra
Assistant General Counsel

DIVISION OF OPERATIONS – MANAGEMENT
Joan A. Sullivan
Associate
General Counsel

REGIONAL OFFICES

DIVISION OF ENFORCEMENT LITIGATION
Appellate and Supreme Court Litigation Branch
Ruth E. Burdick
Deputy Associate General Counsel

Office of Appeals
Elicia Watts
Director

DIVISION OF ADVICE
Richard Bock
Associate General Counsel

DIVISION OF LEGAL COUNSEL
Nancy Platt
Associate
General Counsel

CASEHANDLING FUNCTIONS

The NLRB strives to create a positive labor-management environment for the Nation's employees, unions, and employers by assuring employees free choice regarding union representation and by preventing and remedying statutorily defined ULPs. The NLRB maintains a public-focused and results-oriented philosophy to best serve the needs of the American people.

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The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed under the NLRA by individuals, employers, or unions. In carrying out the NLRA's mandates, the NLRB supports the collective bargaining process and seeks to prevent and remedy certain ULPs on the part of employers and unions so as to effectuate employees' rights under the NLRA and promote commerce and strengthen the Nation's economy.

The three mission-related goals of the NLRB are:

- Ensure effective enforcement of the NLRA through timely and quality consideration and resolution of unfair labor practices with appropriate remedies.
- Protect employee free choice with timely and effective mechanisms to resolve questions concerning representation.
- Improve Public Awareness of Agency Mission and Activities.

Unfair Labor Practice Proceedings

The NLRA regulates the conduct of labor-management relations between employers and unions. The NLRB enforces the provisions of the Act through ULP proceedings, which are adjudicated and remedied through procedures under the NLRA.

The General Counsel has sole responsibility—independent of the Board—to investigate charges of ULPs, and to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding the merits of ULP cases.

The General Counsel investigates ULP charges through the Agency's network of Regional, Subregional, and Resident Offices (collectively known as Field Offices). If there is reason to believe that a ULP charge has merit, the Regional Director, on behalf of the General Counsel, issues and prosecutes a complaint against the charged party, unless a settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an ALJ, who issues a decision. The decision may be appealed by any party to the

Board through the filing of exceptions. The Board decides cases on the basis of the formal record, according to the Act and the body of case law that has been developed by the Board and the federal courts.

If the Board finds that a violation of the Act has been committed, the role of the General Counsel thereafter is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation. Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. The statute provides that any party may seek review of the Board's decision in a U.S. Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board must petition for court enforcement of its order. In court proceedings to review or enforce Board decisions, the General Counsel represents the Board and acts as its attorney. Also, the General Counsel acts as the Board's attorney in contempt proceedings and when the Board seeks temporary injunctive relief under Sections 10(e) and (f) of the NLRA after the entry of a Board order and pending enforcement or review of proceedings in circuit court.

Section 10(j) of the NLRA empowers the Agency to petition a federal district court for an injunction to temporarily prevent ULPs by employers or unions and to restore the status quo, pending full review of the case by the Board. In enacting this provision, Congress was concerned that delays inherent in the administrative processing of ULP charges, in certain instances, would frustrate the Act's remedial objectives. Determining whether the use of Section 10(j) is appropriate in a particular case is dependent on preserving the Board's ability to effectively remedy the alleged ULP and ensuring the alleged violator would not otherwise reap the benefits of its violation.

Under NLRB procedures, after deciding to issue a ULP complaint, the General Counsel may request authorization from the Board to seek injunctive relief. The Board votes on the General Counsel's request and, if a majority votes to authorize injunctive proceedings, the General Counsel, through the Regional staff, files for injunctive relief with an appropriate federal district court. In addition, under Section 10(l) of the Act, when a Region's investigation of a charge yields reasonable cause to believe that a union has committed certain specified ULPs, such as a work stoppage or picketing with an unlawful secondary objective, the Regional Director is required, on behalf of the Board, to seek an injunction from a federal district court to halt the alleged unlawful activity.

Representation Proceedings

In contrast to ULP proceedings, representation proceedings conducted pursuant to the Act are not adversarial.[2] Representation cases are initiated by the filing of a petition—by an employee, a group of employees, a labor organization acting on their behalf, or in some cases by an employer. Typically, the petitioner requests an election to determine whether a union has the support of a majority of the employees in an appropriate bargaining unit and therefore should be certified or decertified as the employees' bargaining representative. The role of the Agency in such cases is to investigate the petition and conduct a secret-ballot election, if appropriate, addressing challenges and objections to the election subsequently, and thereafter determining whether certification should issue.

In the processing of representation cases, the Board and the General Counsel have shared responsibilities. The Regional Offices, which are under the day-to-day supervision of the General Counsel, process representation petitions and conduct elections on behalf of the Board based on a delegation of authority made in 1961. As a result, although the Board holds the authority to determine the rules governing representation proceedings, the Board and the General Counsel have historically worked together in developing such procedures. The Board also has ultimate authority to determine such matters as the appropriateness of the bargaining unit and to rule on any challenges and objections to the conduct of an election. The Regional Directors have been delegated authority to render initial decisions in representation matters, which are subject to Board review.

Compliance Proceedings

To obtain compliance with the Board's orders and settlement agreements, the General Counsel's staff must follow up to ensure that the results of the processes discussed above are enforced. The NLRB staff deals with employees whose rights have been violated to calculate backpay, and works with respondents regarding notice postings, reinstatement of workers, disciplinary record expungement, withdrawal of unlawful rules or policies, and bargaining remedies. Since Board orders are not self-enforcing, noncompliance or disputes on findings may require additional hearings or actions in the courts.

Administrative Functions

Section 3(d) of the Act assigns the General Counsel supervision over all attorneys employed by the Agency, with the exception of the ALJs, the Solicitor, the Executive Secretary and the attorneys who serve as counsel to the Board Members. The Board has also delegated to the General Counsel general supervision over the administrative, financial, and human capital functions of the Agency.

2 Unlike ULP hearings where violations of the statute are litigated in an adversarial proceeding, representation case hearings are fact-finding proceedings regarding questions concerning representation.

CASEHANDLING HIGHLIGHTS

The NLRB acts only on cases brought before it and does not initiate cases. While charges must be filed with the Agency to begin an investigation, if merit is found to the charge allegations, the Regional Director has delegated authority from the General Counsel to issue a complaint absent settlement.

All proceedings originate with the filing of charges or petitions by employees, labor unions, or private-sector employers engaged in interstate commerce. During FY 2023, the public filed 19,869 unfair labor practice charges, containing one or more allegations of unlawful conduct, of which 41.1 percent were found to have merit. Also, in FY 2023, the NLRB received 2,594 representation petitions, including 2,483 petitions to conduct secret-ballot elections in which workers in appropriate units freely decide whether they want unions to represent them in collective bargaining with their employers. There were 62 RM petitions filed of which 28 were filed by employers after being asked to voluntarily recognize employees' union. There were 21 petitions for elections in which workers voted on whether to rescind existing union-security agreements. The NLRB also received nine petitions seeking amendment and 70 petitions seeking clarification of an existing bargaining unit.

The NLRB is focused on effectuating the dual purposes of the NLRA to ensure employees' free choice on union representation and to prevent and remedy statutorily defined unfair labor practices in an efficient manner that best serves the needs of the American people.

The cases summarized on the following pages highlight some of the Agency's more notable casehandling activities in furtherance of these purposes.

Board Highlights

Board Rules Remedies Must Compensate Employees for All Direct or Foreseeable Pecuniary Harms

Thryv, Inc.

(20-CA-250250 and 20-CA-251105; 372 NLRB No. 22) San Francisco, CA, December 13, 2022

In *Thryv, Inc.*, the Board (Chairman McFerran and Members Kaplan, Ring, Wilcox, and Prouty) unanimously found that the Respondent violated the Act by failing and refusing to respond to the Union's request for necessary and relevant information, and by laying off six employees without providing the Union notice and an opportunity to bargain. To fully remedy the Respondent's unlawful conduct, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting in part) found that it was appropriate to require the Respondent to compensate affected employees for all direct or foreseeable pecuniary harms incurred as a result of the respondent's unfair labor practices. The Board explained that, in addition to the loss of earnings and benefits, victims of unfair labor practices may incur significant financial costs, such as out-of-pocket medical expenses, credit card debt, or other costs that are a direct or foreseeable result of the unfair labor practices. Accordingly, the Board determined that compensation for those losses should be part of the standard, make-whole remedy for labor law violations. Finally, the Board found it appropriate to apply this standard retroactively to all pending cases.

Board Details Potential Remedies for Repeated or Egregious Misconduct

Noah's Ark Processors, LLC d/b/a WR Reserve

(14-CA-255658 372 NLRB No. 80) Hastings, NE, April 20, 2023

In *Noah's Ark Processors*, the Board (Chairman McFerran and Member Prouty; Member Kaplan, concurring in part and dissenting in part) detailed potential remedies it will consider in cases involving Respondents who have shown repeated or egregious disregard for employees' rights under the Act. The Board determined that when a Respondent's unfair labor practice violations justify a "broad" cease-and-desist order (traditionally ordered in cases where the Respondent has shown a proclivity to violate the Act or has engaged in egregious or widespread misconduct), in addition to the "broad" order, the Board should consider a non-exhaustive list of potential additional remedies, discussed in depth in the *Noah's Ark* decision and, depending on the circumstances of the case, apply some or all of those remedies. The Board explained that its discussion of these additional potential remedies was part of an effort "to bring greater consistency to the Board's exercise of its remedial discretion, and to better ensure that all appropriate remedies are ordered in any given case."

Turning to the case before it, the Board found that the Respondent bargained in bad faith with the union and determined that—because the Respondent had also previously been found in violation of the Act, as well as in contempt of a U.S. District Court injunction ordering it to bargain in good faith—the Respondent's open hostility toward its responsibilities under Act warranted a broad cease-and-desist order. The Board then further found that, in addition to traditional remedies for bad-faith bargaining, it was appropriate to impose additional remedies, including, among other things, an Explanation of Rights notice, a bargaining schedule with written progress reports, reimbursement of the union's bargaining expenses and earnings lost by individual employees while attending bargaining sessions, extended posting of the Notice and Explanation of Rights for one year, electronic distribution of the Notice and Explanation of Rights, mailing of the Notice and Explanation of Rights, and reading and distribution of the Notice and Explanation of Rights in English and Spanish by the Respondent's CEO or by a Board agent in the CEO's presence.

Board Ensures Remedies Are Appropriately Tailored to Undo Effects of Misconduct

Absolute Healthcare d/b/a Curaleaf Arizona

(28-CA-267540, 372 NLRB No. 16) Gilbert, AZ, December 8, 2022

In *Curaleaf Arizona*, the Board (Members Wilcox and Prouty; Member Ring, dissenting) found that the Respondent violated the Act by discharging an employee for attempting to organize a union at the Respondent's cannabis dispensary, promising employees benefits if they did not unionize, threatening employees with economic losses if they did unionize, and creating the impression that employees' union activity was under surveillance. In addition to ordering standard make-whole and cease-and-desist remedies, the Board ordered a notice-reading remedy, requiring the Respondent's Director of Human Resources to read the Board's remedial notice aloud to employees or be present for a reading of the notice by a Board agent. In support, the Board observed that the Respondent had committed serious unfair labor practices that struck at the heart of employees' Section 7 rights, and that the Human Resources Director has been personally involved in the violations. The Board also ordered an access remedy, allowing the union entry to the Respondent's facility to respond to any address the Respondent makes to employees regarding union representation for a period of two years or until Board certification after a free and fair election, whichever occurs sooner. The Board explained that this remedy was appropriate given that the Respondent's violations denied employees access to accurate information about the union (including from the discharged employee) that was needed to ensure their opportunity to make a free and fair choice regarding union representation.

Board Modifies Framework for Appropriate Bargaining Unit Standard

American Steel Construction, Inc.

(07-RC-269162; 372 NLRB No. 23) Livonia, MI, December 14, 2022

In *American Steel Construction, Inc.*, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting) revised the standard it applies in bargaining-unit determination cases where the petitioned-for unit contains some, but not all, of an employer's employees and a party contends that any appropriate unit must include additional employees. The Board thus reinstated the framework adopted in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), thereby overruling the standard announced in *PCC Structurals, Inc.*, 365 NLRB No. 160 (2017) and revised in *The Boeing Co.*, 368 NLRB No. 67 (2019). The Board reaffirmed its long-standing principle that employees in the petitioned-for unit must be "readily identifiable as a group" and share a "community of interest," and further reaffirmed that, where a party argues that a proposed unit meeting these criteria must include additional employees, the burden is on that party to show that the excluded employees share an "overwhelming community of interest" to mandate their inclusion in the bargaining unit.

NLRB Maintains Protections for Workers during Employer Questioning in Preparation for Board Proceedings

Sunbelt Rentals, Inc.

(18-CA-236643, et al., 372 NLRB No. 24) Franksville, WI, December 15, 2022

In *Sunbelt Rentals, Inc.*, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting) reaffirmed the long-established standard set forth in *Johnnie's Poultry* for evaluating whether employer questioning of employees in preparation for Board proceedings is lawful. Under this traditional standard, the employer must communicate to employees the purpose of the questioning, assure them that no reprisal will take place, and obtain their participation on a voluntary basis; the questioning must occur in a context free from employer hostility to union organization and must not be itself coercive in nature; and the questions must not pry into other union matters, elicit information concerning an employee's subjective state of mind, or otherwise interfere with the statutory rights of employees. The Board found that the *Johnnie's Poultry* standard is rational and consistent with the Act, and that it appropriately balances the competing interests at stake. The Board found that the totality of the circumstances test advanced by some courts had significant shortcomings compared to the Board's *per se* approach. Applying the *Johnnie's Poultry* standard to the case before it, the Board found that the Respondent violated the Act by interrogating two employees without providing the required assurances.

Board Reinstates Standard Governing Off-Duty Workplace Access for Employees of Contractors

Bexar County Performing Arts Center Foundation d/b/a Tobin Center for the Performing Arts

(16-CA-193636; 372 NLRB No. 28) San Antonio, TX, December 16, 2022

In this case on remand from the U.S. Court of Appeals for the District of Columbia Circuit , the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting) restored the rights of workers employed by a contractor to engage in protected concerted activity in their workplace, which had been curtailed by the prior Board's initial decision in the case. The Board found that the Respondent violated the Act by barring off-duty San Antonio Symphony employees—who were not employed by the Respondent but regularly worked on its property—from accessing the Respondent's property to engage in protected Section 7 activity. The Board retroactively returned to the previous court-approved standard announced in *New York New York Hotel & Casino*, 356 NLRB 907 (2011), that a property owner may lawfully exclude from its property off-duty on-site contractor employees who seek to engage in Section 7 activity on the property only where the property owner proves a legitimate business reason, such as significant interference with the owner's use of the property or the need to maintain production and discipline. The Board reasoned that contractor employees in these circumstances are much more like the property owner's own employees than nonemployee union organizers. Accordingly, the Board concluded that the *New York New York* Board reached a proper accommodation of the competing interests—the contractor employees' Section 7 rights on the one hand and a property owner's property rights on the other.

Board Rules that Employers May Not Offer Severance Agreements Requiring Employees to Broadly Waive Labor Law Rights

McLaren Macomb

(07-CA-263041, 372 NLRB No. 58) Mount Clemens, MI, February 21, 2023

In *McLaren Macomb*, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) returned to longstanding precedent holding that employers may not offer employees severance agreements that require them to broadly waive their rights under the Act. The decision involved severance agreements offered to furloughed employees that prohibited them from making statements that could disparage the employer and from disclosing the terms of the agreement itself. The decision reversed the previous Board's decisions in *Baylor University Medical Center* and *IGT d/b/a International Game Technology*, which abandoned prior precedent in allowing employers to offer similar severance agreements to employees. The Board explained that the proffer to employees of a severance agreement that requires them to broadly give up their Section 7 rights is itself an attempt to deter employees from exercising those rights, particularly considering that employees may feel they have no choice but to sign in order to get the benefits provided in the agreement.

Board Returns to Traditional Standards for Evaluating Employee Misconduct During Protected Concerted Activity

Lion Elastomers LLC

(16-CA-190681, 16-CA-203509 & 16-CA-225153, 372 NLRB No. 83) Port Neches, TX, May 1, 2023

In *Lion Elastomers LLC*, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) overruled the prior Board's decision in *General Motors LLC*, 369 NLRB No. 127 (2020), and returned to the long-established "setting-specific" standards applicable to cases where employees are disciplined or discharged for misconduct that occurs during activity otherwise protected by the Act. Those standards are: (1) the *Atlantic Steel* test, which governs employees' conduct towards management in the workplace; (2) the totality-of-the-circumstances test, which governs social media posts and most cases involving conversations among employees in the workplace; and (3) the *Clear Pine Mouldings* standard, which governs picket-line conduct. The *General Motors* Board had sweepingly rejected those traditional standards, notwithstanding that they had never been rejected by any federal court. In their place, the *General Motors* Board imposed the *Wright Line* standard as a one-size-fits-all analytical framework, which also made it easier for employers to discipline misconduct that occurred in the course of protected activity. In overruling *General Motors*, the current Board noted that labor disputes are often heated, as the Supreme Court has recognized, and reaffirmed the settled principle that employees must be given some leeway for their behavior while engaging in protected concerted activity in order to safeguard their statutory rights.

Board Modifies the Independent Contractor Standard under the National Labor Relations Act

The Atlanta Opera, Inc.

(10-RC-276292, 372 NLRB No. 95) Atlanta, GA, June 13, 2023

In *The Atlanta Opera, Inc.*, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, concurring in part and dissenting in part) returned to the 2014 *FedEx Home Delivery (FedEx II)* standard for determining independent contractor status under the Act, and overruled *SuperShuttle (2019)*. In reinstating the *FedEx II* standard, the Board—consistent with the instructions of the Supreme Court—explained that its independent-contractor analysis will be guided by a well-established list of common-law factors, with no one factor being given determinative weight. Accordingly, the Board expressly rejected the *SuperShuttle* Board's holding that entrepreneurial opportunity for gain or loss should be the "animating principle" of the independent-contractor test. Instead, entrepreneurial opportunity would be taken into account along with all the other traditional common-law factors by asking whether the evidence tends to show that a supposed independent contractor is, in fact, rendering services as part of an independent business. Applying the reinstated *FedEx II* standard, the Board found that the makeup artists, wig artists, and hairstylists who work at the Atlanta Opera were statutory employees, not independent contractors excluded from the Act.

Board Adopts New Standard for Assessing Lawfulness of Work Rules

Stericycle, Inc.

(04-CA-137660, 04-CA-145466, 04-CA-158277, & 04-CA-160621, 372 NLRB No. 113) Southampton, PA, August 2, 2023

In *Stericycle Inc.,* the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) adopted a new legal standard for evaluating employer work rules challenged as facially unlawful under the Act. In arriving at a new standard, the Board overruled *Boeing Co.* (2017), as modified by *LA Specialty Produce Co.* (2019), which took a categorical approach to employer work rules that resulted in certain types of rules always being lawful, regardless of how broadly they were drafted or what employer interests they allegedly served. The Board did not simply reinstate pre-*Boeing* precedent, but instead developed an improved analytical framework to better protect employees' Section 7 rights while still also recognizing employers' legitimate management interests. Under the Board's new standard, the General Counsel must prove that a challenged rule has a reasonable tendency to chill employees from exercising their Section 7 rights. If the General Counsel does so, then the rule is presumptively unlawful. The employer, however, may rebut the presumption by proving that the rule advances a legitimate and substantial business interest that cannot be preserved with a more narrowly-tailored rule. If the employer proves its defense, then the work rule will be found lawful to maintain. The Board opined that requiring employers to narrowly tailor their rules to serve their asserted interests better supports the policies of the Act.

Board Adopts New Framework for Bargaining Orders Based on Union's Showing of Majority Support

Cemex Construction Materials Pacific, LLC

(28-CA-230115 et al., 372 NLRB No. 130) Las Vegas, NV, August 25, 2023

In *Cemex Construction Materials Pacific, LLC,* the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) announced a new framework for determining when employers are required to bargain with unions without a representation election. The new framework both effectuates employees' right to bargain through representatives of their own choosing and improves the fairness and integrity of Board-conducted elections. Under the new framework, when a union requests recognition based on evidence of majority support, the employer may either voluntarily recognize and bargain with the union or promptly file a petition with the Board for a secret-ballot election. However, if an employer who seeks an election commits any unfair labor practice that would require setting aside the election, the petition will be dismissed, and—rather than re-running the election—the Board will order the employer to recognize and bargain with the union. In addition, if an employer presented with an appropriate request for recognition neither recognizes the union nor timely petitions for an election, the Board will similarly order the employer to recognize and bargain with the union. The Board explained that the revised framework better effectuates employees' right to bargain through their chosen representative, while preserving employers' ability to invoke the Board's election processes. When employers pursue that option, however, *Cemex* helps ensure that elections occur in a fair environment. In *Cemex* itself, the Board found that the employer engaged in more than 20 instances of objectionable or unlawful misconduct during the critical period between the filing of the election petition and the election. Accordingly, the Board found that the employer was subject to a bargaining order under the newly announced standard, which the Board applied retroactively, as well as under the Supreme Court's decision in *NLRB v. Gissel Packing Co.*

Board Clarifies 2019 Decision on Wright Line Burden of Proof in Discrimination Cases

Intertape Polymer Corp.

(07-CA-273203 & 07-CA-273901, 372 NLRB No. 133) Las Vegas, NV, August 25, 2023

In *Intertape Polymer Corp.*, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) confirmed that the prior Board's 2019 decision in *Tschiggfrie Properties, Ltd.*, did not add to or change the General Counsel's burden under the longstanding *Wright Line* test used in cases involving alleged employer discrimination. Under *Wright Line*, the elements required to sustain the General Counsel's initial burden are: (1) union or other protected activity by the employee; (2) employer knowledge of that activity; and (3) animus against union or other protected activity on the part of the employer. The *Tschiggfrie* decision purported to "clarify" the third element of this initial burden—"animus"—by discussing circumstances in which the General Counsel's evidence of animus might or might not be sufficient. But, as the current Board observed, that "clarification" had caused unnecessary confusion and, at times, had been interpreted as modifying or heightening the General Counsel's *Wright Line* burden. In *Intertape*, the Board reaffirmed that the General Counsel's burden under *Wright Line* remains the same as it has been throughout decades of Board jurisprudence. Accordingly, the Board looks to whether the evidence in the record as a whole supports a reasonable inference that protected activity was a motivating factor in a challenged employment action. With regard to the General Counsel's burden to prove animus specifically, the Board reaffirmed that either direct or circumstantial evidence can support a finding of animus, and that there is no requirement that the demonstrated animus be specifically directed toward the employee's own protected activity or even the particular employee against whom the employer has taken action.

Board Returns to Totality of Circumstances Test for Determining Concerted Activity

Miller Plastic Products, Inc.

(06-CA-266234, 372 NLRB No. 134) Burgettstown, PA, August 25, 2023

In *Miller Plastic Products, Inc.,* the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, concurring in the result only) returned to the long-established test for determining whether an employee who intends to induce group action by their coworkers engages in protected concerted activity under Section 7 of the Act. The Board reaffirmed the principle—originally announced in the Board's 1986 *Meyers Industries* decision—that the question whether an employee has engaged in concerted activity is a factual one based on the totality of the record evidence. In reinstating this longstanding principle, the Board overruled *Alstate Maintenance, LLC*, (2019), which had adopted an unduly restrictive test for defining concerted activity in the context of group meetings by introducing a mechanical checklist of factors in place of the Board's traditional, fact-sensitive approach. In the case before it, the Board found that an employee had engaged in concerted activity when he raised COVID-related concerns to his coworkers and managers, including in a group employee meeting called by the Respondent.

Board Revises Standard on Employers' Duty to Bargain Before Changing Terms and Conditions of Work

Wendt Corporation

(03-CA-212225, 03-CA-220998, & 03-CA-223594, 372 NLRB No. 132) Cheektowaga, NY, August 26, 2023

Tecnocap, LLC

(06-CA-265111, 06-CA-268399, 06-CA-270171, 06-CA-270931, & 06-CA-273334, 372 NLRB No. 136) Glen Dale, WV, August 26, 2023

In two decisions issued the same day, *Wendt Corporation* and *Tecnocap, LLC*, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) revisited the statutory duty of employers to bargain with unions before making changes in terms and conditions of work to ensure that the standard the Board applies is consistent with applicable Supreme Court precedent. In *Wendt*, the Board overruled *Raytheon Network Centric Systems* (2017), which had given employers greater latitude to rely on "past practice" to make unilateral changes affecting a unionized workforce during a contractual hiatus or during negotiations for a first contract. The Board explained that allowing employers to justify discretionary unilateral changes during such time periods as a "past practice" was both inconsistent with the Supreme Court's decision in *NLRB v. Katz*, 369 U.S. 736 (1962) and undermined the pro-bargaining policies of the Act. The Board in *Wendt* also reaffirmed the longstanding principle that an employer may never rely on an asserted past practice of making unilateral changes *before* employees were represented by a union (when the employer had no duty to bargain) to justify unilateral changes after the workers select a bargaining representative.

In *Tecnocap*, the Board overruled a different aspect of *Raytheon* that had not been addressed in *Wendt*. The Board held that an employer's past practice of unilateral changes that was developed under a management-rights clause in a collective-bargaining agreement cannot authorize unilateral changes made after the agreement expires and while bargaining for a new agreement is under way. The Board explained that the *Raytheon* holding harmed the collective-bargaining process in two ways: It forced unions to bargain to regain terms of employment lost to post-expiration unilateral changes, and it discouraged unions from agreeing to management-rights clauses in the first place.

Board Restores Protections for Employees Who Advocate for Nonemployees

American Federation for Children, Inc.

(28-CA-246878 & 28-CA-262471, 372 NLRB No. 137) Glendale, AZ, August 26, 2023

In *American Federation for Children, Inc.,* the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) reversed the prior Board's 2019 decision in *Amnesty International*, and returned to longstanding precedent that concerted advocacy by statutory employees on behalf of nonemployees is protected by the Act when it can benefit the statutory employees. In the earlier *Amnesty International* decision, the Board had found that the statutory concept of "mutual aid or protection" did not encompass the efforts of statutory employees to help themselves by helping others who are not statutory employees. In reversing *Amnesty International*, the Board explained that Amnesty International failed to recognize that "mutual aid or protection" covers situations where employees extend help to nonemployees, especially those who work alongside them, because by standing in solidarity employees might help themselves and get help in return.

RULEMAKING

Board Issues Final Rule to Restore Fair and Efficient Procedures for Union Elections

On August 25, 2023, the Board (Chairman McFerran and Members Wilcox and Prouty; Member Kaplan, dissenting) published a Final Rule amending its procedures governing representation elections. This Rule largely rescinded the amendments made by the Board's 2019 Election Rule, which introduced new delays in the election process. The new Rule returns the Board's key election procedures to those put in place by a 2014 rule that was adopted using a notice-and-comment process and that was uniformly upheld by federal courts. Last year, the United States Court of Appeals for the District of Columbia Circuit struck down parts of the 2019 Rule, and the Board had already rescinded those provisions.

The new Rule meaningfully reduces the time it takes to get from petition to election in contested elections and will expedite the resolution of any post-election litigation. Highlights of the new Rule's changes include:

- Allowing pre-election hearings to begin more quickly;
- Ensuring that important election information is disseminated to employees more quickly;
- Making pre- and post-election hearings more efficient; and
- Ensuring that elections are held more quickly.

The Final Rule will become effective on December 26, 2023.

NLRB Issues Notice of Proposed Rulemaking on Fair Choice and Employee Voice

On November 4, 2022, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting) published a Notice of Proposed Rulemaking (NPRM) inviting public comment on a proposed rule that would rescind a Final Rule adopted by the prior Board in 2020. That rule made the following changes:

- Allowed representation elections to proceed despite pending unfair labor practice charges alleging coercive conduct that would interfere with employee free choice and require a re-run election;
- Allowed challenges to the representative status of a union that has been voluntarily recognized based on a showing of majority support among employees before there has been a reasonable period for collective bargaining; and
- Permitted election challenges to the long settled representative status of unions representing construction industry employees, despite undisputed evidence of the union's majority support in detailed language in a collective-bargaining agreement making clear that the employer voluntarily recognized the union based on a showing of majority support.

If adopted, the proposed Fair Choice and Employee Voice rule would restore the Board's prior law, including the longstanding principles reflected in the traditional "blocking charge" policy first adopted by the Board in 1937; the Board's "voluntary recognition" bar doctrine first established in 1966 and refined in *Lamons Gasket Co.*, 357 NLRB 934 (2011); and the Board's approach to voluntary recognition in the construction industry as reflected in *Casale Industries*, 311 NLRB 951 (1993), and *Staunton Fuel & Material*, 335 NLRB 717 (2001). The Board is still considering all the submitted comments.

NLRB Continued Work on Recently Issued Joint-Employer Rule

In FY 2022, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring, dissenting) released an NPRM on its joint-employer standard, and the Board just recently promulgated the Final Rule in FY 2024. It nevertheless bears emphasis that throughout FY 2023 the Board devoted substantial time and resources to considering all the submitted comments and developing its approach to an appropriate joint-employer standard. The outcome of that process was a Final Rule that rescinded the prior Board's 2020 joint-employer rule and in its place codified well-established common-law principles for determining joint-employer status that had been embraced by the Board's 2015 *BFI* decision, which itself had been substantially endorsed by the United States Court of Appeals for the District of Columbia Circuit. The Final Rule thus firmly grounds the joint-employer analysis in those common-law principles, including that indirect and reserved control may establish joint-employer status if they bear on essential terms and conditions of employment.

Regional Highlights

The Region Successfully Obtains Injunctive Relief Requiring Employer to Cease and Desist from Firing Employees for Protected Activities

Amazon.com Services LLC

29-CA-261755

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by discharging an employee for engaging in protected concerted activity to improve COVID-19 health and safety measures that later evolved into a union organizing campaign.

An ALJ determined that the Employer discharged the employee for engaging in protected concerted activities and that the employee had not engaged in conduct warranting discharge under the Employer's own policies and practices. Thereafter, the Region sought and obtained injunctive relief under Section 10(j) of the Act. The United States District Court for the Eastern District of New York granted the sought relief and ordered the Employer to cease and desist from discharging employees, and from engaging in any like or related conduct, in retaliation for employees engaging in protected activities. The injunction also directed the Employer to post, distribute, and read the Court's order to employees at its Staten Island facility.

The Region Wins Injunction Requiring Reinstatement of Two Unlawfully Fired Workers

HSA Cleaning, Inc.

22-CA-298853

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by illegally firing two workers after they spoke to their colleagues about their wages and working conditions, assisted in union organizing, and engaged in protected concerted activities.

The Region subsequently sought and obtained injunctive relief under Section 10(j) of the Act in the United States District Court for the District of New Jersey, requiring the Employer to reinstate the two unlawfully fired workers, read, and post the Court's order in English and Spanish, expunge the employees' records, and cease and desist from unlawful activities.

The Region Successfully Obtains Injunctive Relief in Classic Nip-in-the-Bud Litigation

Starbucks Corporation

07-CA-292971 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by unlawfully discharging an employee, who was at the time the lead organizer for the union and engaged in protected activities, to discourage its employees from engaging in these activities.

Following a hearing, an ALJ agreed, finding that the Employer's discharge ran afoul of the Act. The Region thereafter sought injunctive relief under Section 10(j) of the Act, which the United States District Court for the Eastern District of Michigan granted. Specifically, the Court ordered the Employer to reinstate the unlawfully fired employee, post and read the Court's order, and cease and desist from unlawful activities at the Ann Arbor store where the unlawful activity occurred. The Employer appealed the injunction to the United States Court of Appeals for the Sixth Circuit. While the appeal was pending, the Board issued its decision, finding, in agreement with the ALJ, that the Employer's discharge was unlawfully motivated and ordered full reinstatement and make-whole relief, among other remedies.

The Region Wins ALJ Decision Finding Employer Unlawfully Discriminated Against Workers Wearing Black Lives Matter Pins and Masks

Fred Meyer Stores, Inc., a subsidiary of The Kroger Company

19-CA-272795

Quality Food Centers, a subsidiary of The Kroger Company

19-CA-272796

After an investigation and determination of merit, the Region issued a consolidated complaint alleging that the Employers violated the Act by discriminatorily applying their existing dress code policies; promulgating and enforcing new dress code policies and instructing employees to remove buttons, face masks and other attire; and sending employees home early without pay for refusing to comply with directives regarding their dress. The Region alleged that, in each instance, the actions in question were taken to prevent employees from engaging in protected concerted activity by wearing items displaying the "Black Lives Matter" or "BLM" insignia while working.

Following a hearing, an ALJ found merit. More specifically, the Judge found that the employees' wearing of the insignia was in support of their Black coworkers, both at their own workplace and elsewhere, "who do not check their skin color at the door when they start their shifts." Thus, it constituted mutual aid and protection and constituted protected activity under Section 7 of the Act. The Judge also found that the Employers had violated the Act by failing to bargain with the Union in enforcing and implementing its dress code policies. In view of these unfair labor practices, the Judge ordered the Employers to revise and rescind their dress code polices and all rules prohibiting the display of protected insignia and to advise its employees in writing that the rules have been revised or rescinded. The Judge also ordered the Employers to make whole those employees who were unlawfully sent home pursuant to unlawful rules, and for all financial harms suffered because of the Employers' unfair labor practices. The case is pending with the Board.

The Region Secures Rehire of 7 Unlawfully Fired Workers, Reopening of Closed Facility, and Bargaining Order

Starbucks Corporation

03-CA-285671 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer unlawfully responded to a union organizing campaign involving its Buffalo, New York-area stores by committing myriad unfair labor practices, including surveilling, more closely supervising, threatening, and coercing employees; granting and withdrawing benefits; enforcing rules more strictly; soliciting and remedying employees' grievances; closing one of its most pro-union stores; and terminating or constructively discharging employees.

Following a hearing, an ALJ concurred, finding that the Employer had violated the Act hundreds of times to affect workers' organizing efforts through "egregious and widespread misconduct demonstrating a general disregard for the employees' fundamental rights." Among other remedies, the Judge's decision required the Employer to reinstate all unlawfully fired workers and, if they are unable to return, to instate qualified applicants of the union's choice; reimburse workers for any consequential harms they suffered as a result of the Employer's unlawful conduct; electronically distribute a Notice to Employees to all of its U.S. employees, including on all forms of social media; physically post a Notice to Employees at all U.S. stores; reopen the facility it unlawfully closed; conduct ongoing training; and have specific executives either read the prescribed Notice to Employees and an Explanation of Rights to the employees in the Buffalo-area stores, or be present during a reading by a Board agent. The Judge also ordered a Gissel bargaining order at a particular store, explaining that "[t]he unprecedented incursion of the Respondent's highest-level corporate executives into Buffalo-area stores was relentless and likely left a lasting impact as to the importance of voting against representation." The case is pending with the Board.

The Region Wins ALJ Decision Providing for a Remedial Bargaining Order

I.N.S.A., INC.

01-CA-290558 et al

After an investigation and determination of merit, the Region issued a complaint alleging that, after the Employer received a letter signed by a majority of the Salem store employees demanding that it recognize and bargain with the Union as their chosen representative, the Employer violated the Act by engaging in myriad unfair labor practices, including holding mandatory meetings to discourage employees from supporting the Union; soliciting employee grievances, and promising employees increased benefits and improved terms and conditions of employment if they refrained from supporting the Union; having its owners and high-level managers make unprecedented and repeated visits to the store, creating the impression of surveillance; threatening employees with various adverse consequences if the Union were to win the election; informing employees that they would not receive performance reviews and related wage increases until after the election; restricting employees from talking about unions while allowing employees to discuss other, non-work-related topics; discriminatorily enforcing work rules and policies; disciplining and discharging employees because they engaged in union activities; and implementing a wage increase for all employees following the election.

Following a hearing, an ALJ found that the Employer committed certain serious unfair labor practices shortly after the petition was filed, which irreparably harmed the Union's organizing effort and undermined the integrity of the election process. Consequently, among other relief, he ordered a remedial bargaining order pursuant to the Board's decision in Cemex Construction Materials Pacific, LLC, 372 NLRB No. 130 (2023). The case is pending with the Board.

The Region Wins ALJ Decision Providing for Stock Options

Snowflake, Inc.

20-CA-274626

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by discharging an employee in retaliation for his protected concerted activities. Following a hearing, an ALJ agreed. Consequently, he ordered full reinstatement and make-whole remedies, including all stock options that would have vested had the discriminatee remained employed as an independent contributor. The case is pending with the Board.

The Region Wins Decision Finding Employer Unlawfully Fired a Worker; Surveilled and Interrogated Employees; Solicited Grievances and Granted Benefits; and Threatened a Store Closure

Dolgen Corp., LLC d/b/a Dollar General

01-CA-284330

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by interfering with protected activity and by illegally firing an employee for engaging in protected activity.

An ALJ agreed, finding that the evidence "established a corporate-wide determination to interfere, coerce, and restrain...employees in the exercise of their Section 7 rights." Among other remedies, the Judge's decision required the Employer to reinstate the unlawfully fired employee, make him whole, compensate him for all direct or foreseeable pecuniary harms, and physically post and electronically distribute a Notice to Employees. Further, due to the Employer's numerous and blatant unlawful actions, the Judge also issued a broad cease and desist order requiring the Employer to stop discharging or otherwise discriminating against employees for engaging in union or other protected concerted activity and from, in any manner, interfering with, restraining or coercing employees in the exercise of their Section 7 rights. The case is pending with the Board.

The Region Secures Reinstatement and Make-Whole Remedies in Case Involving Complaint to DOL's Wage and Hour Division

The Saldivar Group LLC

16-CA-291455

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by threatening, interrogating, and firing a worker who lodged a complaint about withheld wages with the U.S. Department of Labor's Wage and Hour Division (DOL-WHD).

Following a hearing, an ALJ agreed that the complained-of conduct was unlawful, noting that the Employer's rationale for terminating the employee smacked of "invidious intent" and was a "sham." Consequently, the Judge ordered the Employer to reinstate the fired worker, make him whole for lost earnings and benefits, including compensation for all direct or foreseeable pecuniary harms, and distribute an electronic and physical notice setting forth employees' rights under the Act. This case is pending with the Board.

In this case, pursuant to an MOU between the two agencies, the NLRB and the Department of Labor's Wage and Hour Division coordinated in support of the agencies' respective enforcement mandates by sharing investigative information. The case is pending with the Board.

The Region Obtains Interim Settlement Requiring Reinstatement of Four Fired Workers

Starbucks Corporation

06-CA-294667 et al

After an investigation, determination of merit, and issuance of a complaint, the Region entered into an interim Section 10(j) settlement agreement in which the Employer agreed to provide interim remedies based on multiple unfair labor practice allegations. Among the remedies obtained in the Settlement, the Employer agreed to offer interim reinstatement to four fired employees, pending Board adjudication; rescind employee work-availability requirements the company had implemented; cease and desist from future firings of workers for engaging in protected union activity at two Pittsburgh stores; and post a Notice to Employees about employee rights under the Act at the two involved stores.

This interim settlement was reached under a new initiative from the General Counsel announced last October, under which Regions seek to settle the Section 10(j) aspect of cases warranting interim relief when efforts to settle the administrative case are unsuccessful. Respondents are given the opportunity to voluntarily agree to an interim agreement that includes remedies, such as reinstating alleged discriminatees or agreeing to bargain, pending final resolution of the administrative case by the Board. If the Employer violates this settlement, the Regional Director will resume consideration of seeking Section 10(j) injunctive relief in district court.

The Region Obtains Settlement Requiring Employer to Reopen Business, Reinstate and Bargain with Unlawfully Fired Employees

21st Century Valet Parking LLC d/b/a Star Garden Enterprise

31-CA-291825 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by, among other things, surveilling employees, misclassifying employees as independent contractors, terminating employees, and discontinuing its business operations.

Prior to trial, the parties entered into a settlement agreement, fully resolving the unfair labor practice allegations. Among other remedies obtained in the settlement, the Employer agreed to reopen its business, and reinstate certain employees, placing others on a preferential hiring list; pay backpay to employees; immediately recognize the Union and abide by a bargaining schedule with the Union; and not refile for bankruptcy for one year (or Chapter 11 bankruptcy for 18 months). In addition, the Employer agreed to post, distribute, and read a Notice to Employees, and to permit a Board agent to train its managers and supervisors about the Act and unfair labor practices.

The Region Obtains Settlement Involving $240,000 in Backpay and Frontpay, Preferential Hiring, and Notice Posting in 40 Stores

Chipotle Mexican Grill

01-CA-299617 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by unlawfully closing its Augusta, Maine store and terminating all of its employees at that location.

Prior to a hearing, the parties entered into a settlement agreement, fully resolving the unfair labor practice allegations. Among other remedies obtained in the settlement, the Employer agreed to pay $240,000 in backpay and frontpay to 24 employees, offer preferential hiring to these employees for any job opening in Maine, and post a Notice advising employees of their rights under the NLRA at 40 stores throughout the Employer's Northern New England Sub-Region.

The Region Achieves Settlement that Includes $300,000 in Make-Whole Relief

CW Building Maintenance

20-CA-253040 et al

After multiple investigations and determinations of merit, the Region issued three successive complaints alleging that the Employer violated the Act by, among other things, failing to: provide the Union with certain information it requested, pay unit employees contractually required wages, make pension fund contributions, and remit dues to the union. Because the Respondent failed to file an answer, the Region sought and obtained default judgments in all three cases, each of which were later enforced by the Appellate and Supreme Court Litigation Branch in the United States Court of Appeals for the Ninth Circuit.

Thereafter, the Region, in close consultation with the Contempt Compliance and Special Litigation Branch, reached a settlement with the parties, which included the recovery of $300,000 in make-whole amounts.

The Region Obtains Effects Bargaining Order Over Employer's Changes to its I-9 Practices

Frontier Communications

09-CA-247015

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by failing and refusing to provide the Union notice of and an opportunity to bargain over the effects of its decision to require bargaining unit employees to provide new I-9 forms and supporting documentation, and by failing and refusing to provide (or unreasonably delaying in providing) information in response to two of the Union's information requests. The Region successfully litigated the case before an ALJ and the Board, which rejected the Employer's arguments on exception that the Union waived its right to effects bargaining.

Because the Employer failed to comply with the Board's Order, the Appellate and Supreme Court Litigation Branch sought and obtained enforcement in the United States Court of Appeals for the Fourth Circuit. In an unpublished opinion that issued on Wednesday, December 7, 2022, the Court held that the Board's decision was supported by substantial evidence and consistent with extant law. Relying on settled principles, the Court rejected the Employer's argument that because it had no choice but to adhere to the IRCA's recordkeeping requirements, it accordingly had no duty to bargain with the Union over its compliance plan or provide information. In agreement with the Board, the Court noted that the Employer had "ample room to negotiate," and that "the discretionary elements of the Employer's request are not extraneous, inconsequential details – they have direct 'effects' on employees' terms and conditions of employment." Further, the Court held that the Employer was required to provide the Union with the requested information related to its compliance plan, and unlawfully refused to do so.

The Region Successfully Obtains Reinstatement of Discriminatees, Make-Whole Remedies in Union Organizing Effort

Amerinox Processing, Inc.

04-CA-268380 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by threatening employees with discharge if they supported or engaged in union activity, telling employees they were separated because of their support for the Union, creating the impression among employees that their union activities were under surveillance, prohibiting employees from discussing the Union during work time while allowing discussions of other non-work topics, and maintaining a rule prohibiting employees from disclosing their wages, benefits, and terms and conditions of employment. The complaint further alleged that the Employer immediately separated an employee who had given notice, discharged another employee, and laid off four other employees because they supported the Union's organizing campaign.

Following a hearing, an ALJ issued a decision finding that the Employer had committed numerous violations of the Act, and the United States District Court for the District of New Jersey granted an injunction under Section 10(j) of the Act. Among other provisions, the Court ordered the Employer to reinstate the five discharged or laid-off employees, and to read the court's notice aloud at meetings attended by all employees.

On review, the Board found, in agreement with the ALJ, that the Employer violated the Act by taking discriminatory actions against the six employees and by committing numerous other unfair labor practices.

The Employer subsequently sought further review of the Board's decision and order, and the Appellate and Supreme Court Litigation Branch filed a cross-application for enforcement. In an unpublished judgment that issued on Friday, April 7, 2023, the United States Court of Appeals for the D.C. Circuit enforced the Board's order. More specifically, the Board rejected the Employer's challenges to each of the contested violations, fully agreeing with the Board's underlying analysis. Rejecting the claim that the Employer could not have acted with union animus when it laid off the one employee who had not signed an authorization card, the Court explained that "it is a violation of the Act to fire a neutral employee to cover up unlawful action against those involved in a union campaign." On the challenged remedies, the Court held that the Board acted well within its remedial discretion in ordering them because they "fall within the Act's policy goals" in that they "notify employees of their statutory rights and help ensure that they can exercise those rights." Further, the Court noted that those remedies were particularly reasonable here given its president's numerous disparaging statements about the Union and the employees' union activity, as well as the Employer's history of "flouting labor law."

The Agency Obtains Court Order Finding Employer in Civil Contempt, U.S. Marshals Take Corporate Officials into Custody for Refusing to Comply with Board's and Court's Orders

Haven Salon + Day Spa, Inc.

18-CA-266091 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act when it discharged an employee for raising concerns about the adequacy of the company's COVID-19 safety protocols during the height of the pandemic. The Region successfully litigated the case before an ALJ, who found Respondent suspended and effectively terminated an employee who concertedly complained about the Employer's COVID procedures. Since no exceptions were filed, the Judge's decision was later adopted by the Board.

Subsequently, the Appellate and Supreme Court Litigation Branch enforced the Board's order in the United States Court of Appeals for the Seventh Circuit. After the Employer failed to fully comply with the Court-enforced Board order, the Contempt Compliance and Special Litigation Branch filed a motion to hold the Employer in contempt, which the Court granted in February 2023. The Court's contempt order imposed escalating daily fines on the Employer that could be forgiven in full if it complied with the Board's order within a week's time.

Because Employer still did not comply, the Contempt Compliance and Special Litigation Branch filed another motion with the Court in August 2023 to liquidate the fines, add the Employer's principals as additional respondents in contempt, and issue a writ of body attachment. The Court granted the motion in full and ordered the Employer to pay the Board over $30,000 in fines and attorney's fees. The U.S. Marshals Service for the Eastern District of Wisconsin took the Employer's principals into custody on September 12th for a same-day hearing at which time they committed to a United States Magistrate Judge that they would promptly comply with the Court's orders.

The Agency Obtains a Contempt Adjudication, $30,000 in Costs and Attorney's Fees

Atlanticare Management LLC (d/b/a Putnam Ridge Nursing Home)

02-CA-177329 et al

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by, among other things, maintaining a rule prohibiting employees from engaging in union business on its property or during work hours, discharging an employee for supporting the Union, reducing unit employees' annual merit wage increases, failing and refusing to provide the Union with certain relevant information that it requested, and refusing to meet with the Union at reasonable times to bargain. The Region successfully litigated the case before an ALJ and the Board.

Because the Employer failed to fully comply with certain requirements of the Board's order, the Appellate and Supreme Court Litigation Branch obtained enforcement in the United States Court of Appeals for the Second Circuit. When the Employer's noncompliance continued, the Contempt Compliance and Special Litigation Branch filed a motion with the Court to hold the Employer in civil contempt. On August 4, 2023, the Court adopted a Special Master's recommendation that the Agency's motion for a contempt adjudication be granted. In addition to directing the Employer to post a notice informing its employees of the contempt finding, the Court awarded the Agency the costs and attorneys' fees it incurred in litigating the contempt action. The parties later settled on the amount of $30,000 to be paid to the Agency by the Employer.

The Agency Obtains $192,000 in Penalties and Other Remedies Based on Contempt Finding

Neises Construction Corp.

13-CA-210180

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit employees. Because the Employer failed to file an answer, the Region sought and obtained a default judgment, which was later enforced by the Appellate and Supreme Court Litigation Branch in the Seventh Circuit Court of Appeals.

Despite the Court-enforced Board order, the Employer thereafter engaged in a years-long pattern of delay, legal maneuvering, and bad-faith negotiations with no sincere intent to reach agreement. Twice, in 2019 and 2020, the Employer promised to bargain with the Union to settle allegations that it was in violation of the Court's order. Nearly as soon as the last settlement was reached in 2020, however, it took bargaining positions that were tantamount to retracting prior tentative agreements, including a provision that would bar the Union from taking any part in decision making about the hours and working conditions of its membership, as well as a grievance procedure that was essentially illusory.

Consequently, in FY 2020, the Agency's Contempt, Compliance, and Special Litigation Branch filed a contempt petition against the Employer in the United States Court of Appeals for the Seventh Circuit alleging that the Employer should be held in contempt for violating prior court orders requiring that it bargain in good faith with the Union. In FY 2022, a special master hearing the contempt petition agreed, recommending that the Employer be found in contempt.

On March 10, 2023, the Court concluded that the Special Master's Report and Recommendation was "sound" and adjudged the Employer in contempt. The Court noted: "Parties must make reasonable efforts to comply with our orders, not engage in crafty feints designed to avoid court-imposed obligations. ... [the Employer] significantly violated our unambiguous command to bargain in good faith with the Union and failed to make reasonable and diligent efforts to comply with that command."

To remedy the Employer's misconduct, the Court imposed $192,400 in contempt fines, awarded compensatory damages to the Union, awarded costs and attorney's fees to the Board, extended the six-month certification bar, and ordered the Employer to post a notice to its employees explaining the Court's judgment and describing the steps it will take to remedy its misconduct, in addition to other remedies.

PERFORMANCE HIGHLIGHTS

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, representatives from the Board and the General Counsel worked together in developing the current comprehensive Strategic Plan (FYs 2022–2026) and the PAR.

The NLRB's current Strategic Plan states the Agency's strategic goals, objectives, initiatives, performance measures, and management strategies. There are three mission-related goals, and two support goals. The support goals are management-strategy based and will be discussed at length in the Performance Section of this report.

The NLRB's performance measurement system has been highly regarded for decades and modeled by other agencies to track case processing times. The NLRB has long used performance measures to pursue a dual approach to excellence in customer service, striving to deliver results that are both timely and of high quality. The Agency does not rely on outside sources for the data used in its performance management system. Each NLRB office is responsible for collecting and verifying performance measurement data. All of the NLRB's mission-related offices work fully in the NxGen system, which provides for real-time review of all case file materials and consistent data reporting.

Data regarding mission-related goals are compiled using the Agency's NxGen Case Management system. This enterprise-wide electronic case management system is used by all divisions throughout Headquarters and the Regions and has data integrity reports which help isolate and correct data errors. The Division of Operations-Management oversees the Regional Offices which compile 75 percent of the case-related statistics. Each quarter, Regions are required to run various data integrity reports in NxGen and report their findings to the Division of Operations-Management for review. For more information on the program evaluation please see page 85.

The NLRB's mission-related goals (goal one, two, and five) represent the core functions of the Agency in its enforcement and education of the NLRA. Goal one focuses on the timely processing of unfair labor practice cases taking into consideration quality of processing and appropriate remedies. Goal two focuses on providing timely resolution of questions related to employee representation and opportunities to participate in union elections. Goal five focuses on engaging and communicating the mission of the Agency to the public. The NLRB's goals three and four are support goals. Goal three focuses on providing our talented employees with resources and career development. Goal four focuses on efficiently and effectively managing financial activities and delivering state of the art technology to effectuate the mission of the Agency. The goals are outcome-based and aligned with the mission of the Agency.

Goal 1, Objective 1 – Performance Measures

***Measure 1:** The Field Office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.*

Year	Annual Goal	Actual Performance
FY 2022	100.1 days	84.8 days
FY 2023	100.1 days	266 days
FY 2024	100.1 days	N/A
FY 2025	100.1 days	N/A
FY 2026	100.1 days	N/A

Based upon an average, Field Offices did not meet the goal of reaching case determination in 90 percent of unfair labor practice cases within 91 days pursuant to Memorandum GC 22-05, *Goals for Initial Unfair Labor Practice Investigations*.

The Agency experienced a significant increase in case intake (10.4 percent) and continued understaffing despite a modest increase in the Agency's budget. The Agency has implemented a program whereby Headquarters staff are assisting the Field Offices with case handling.

***Measure 2:** Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.*

Year	Annual Goal	Actual Performance
FY 2022	90%	81%
FY 2023	90%	76%
FY 2024	90%	N/A
FY 2025	90%	N/A
FY 2026	90%	N/A

As of the end of FY 2023, 76 percent of pending unfair labor practice cases had been closed that, by the end of the fiscal year, would have been pending before the Board for more than 18 months.

In FY 2023, the Board saw a significant increase in case intake, receiving a total of 321 cases, up from 308 cases in FY 2022. As a result, FY 2023 was an exceptionally busy year for the Board which continued to operate at static staffing levels. Despite these challenges, the Board processed more cases than last fiscal year and successfully prioritized the issuance of more than a dozen significant precedent-setting decisions during FY 2023. The Board also issued a Final Rule that improved the conduct of representation elections. The high number of incoming total cases, however, contributed to the Board not meeting the 90 percent goal for this measure related to unfair labor practice cases, missing the goal by 14 percent. The Board is committed to prioritizing the remaining FY 2023 "oldest cases" in FY 2024.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Year	Annual Goal	Actual Performance
FY 2022	180 days or less	108 days
FY 2023	180 days or less	106 days
FY 2024	180 days or less	N/A
FY 2025	180 days or less	N/A
FY 2026	180 days or less	N/A

As of the end of FY 2023, the median age of all cases pending before the Board was 106 days, which is well below the goal of 180 days or less.

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases, while striving to maintain its pace in issuing decisions overall, resulted in the Board achieving this measure by over 40 percent.

Goal 1, Objective 2 – Performance Measure

Measure 1: Conduct annual quality reviews of all Field Offices' unfair labor practice case files with overall ratings.

Year	Annual Goal	Actual Performance
FY 2022	100%	100%
FY 2023	100%	100%
FY 2024	100%	N/A
FY 2025	100%	N/A
FY 2026	100%	N/A

The Division of Operations-Management has completed its review of all Field Offices' unfair labor practice case files. This is the second year of the Agency's revised quality review process in which Operations reviewed representative case work that represents the breadth of the Field's case-related performance and provided timely oral and written feedback and guidance. The quality review encompassed not only a review of the substantive work but also of Agency systems and processes related thereto. Overall ratings are provided to the Field Offices early in the next fiscal year. The work of the Field Offices is being performed at the highest level in most of the casehandling work reviewed and at a high level for the remaining casehandling reviewed.

Goal 1, Objective 3 – Performance Measures

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

Year	Annual Goal	Actual Performance
FY 2022	85%	89.2%
FY 2023	85%	88.2%
FY 2024	85%	N/A
FY 2025	85%	N/A
FY 2026	85%	N/A

Closed or advanced cases to the next stage in fewer than 300 days in 45 of 51 cases, or 88.2 percent exceeding the 85 percent of the strategic goal target.

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

Year	Annual Goal	Actual Performance
FY 2022	85%	82.9%
FY 2023	85%	67.5%
FY 2024	85%	N/A
FY 2025	85%	N/A
FY 2026	85%	N/A

Closed cases or advanced cases to the next stage in fewer than 300 days in 27 cases closed during FY 2023, but it took longer than 300 days to close or advance to the next stage in 13 cases (67.5 percent) short of the 85 percent goal.

Goal 2, Objective 1 – Performance Measures

***Measure 1:** Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.*

Year	Annual Goal	Actual Performance
FY 2022	85%	95%
FY 2023	85%	96%
FY 2024	85%	N/A
FY 2025	85%	N/A
FY 2026	85%	N/A

The Regions met this measurement, with a pre-election agreement rate of 96 percent for cases not involving issues regarding the way elections are conducted.

***Measure 2:** Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.*

Year	Annual Goal	Actual Performance
FY 2022	90%	89%
FY 2023	90%	96%
FY 2024	90%	N/A
FY 2025	90%	N/A
FY 2026	90%	N/A

The Board's focus on the timely issuance of decisions in representation cases in FY 2023 is demonstrated by its excellent results in this measure. The Board issued decisions in 96 percent of the pending representation cases that, by the end of the fiscal year, would have been pending before the Board for more than 12 months. This achievement is all the more notable given that the Board experienced a 10 percent increase in the number of representation cases presented to the Board for decision in FY 2023.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Year	Annual Goal	Actual Performance
FY 2022	180 days or less	108 days
FY 2023	180 days or less	106 days
FY 2024	180 days or less	N/A
FY 2025	180 days or less	N/A
FY 2026	180 days or less	N/A

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases, while maintaining its pace in issuing decisions overall, resulted in the Board achieving this measure by over 40 percent.

Goal 2, Objective 2 – Performance Measure

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency's website.

In FY 2023, the Agency routinely posted on social media in both English and in Spanish and publicized the availability of an interpreter when a member of the public contacts the Agency. During Labor Rights Week, Agency representatives explained in English and Spanish how to file charges and petitions with the Agency at outreach events across the country.

Goal 5, Objective 1 – Performance Measures

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Time Period FY 2023	Users – English	Pageviews – English	Unique Pages – English	Views per User– English	Users – Spanish	Pageviews – Spanish	Unique Pages - Spanish	Views Per User – Spanish
Q1 2023	878,543	2,417,832	2,005,379	N/A	14,580	19,639	17,336	N/A
Q2 2023	1,094,805	3,272,118	2,626,463	N/A	10,296	20,954	17,555	N/A
Q3 2023	1,100,176	3,055,217	2,526,961	N/A	10,901	21,984	18,060	N/A
Q4 2023	839,791	3,041,013	N/A	3.6	7,417	13,139	N/A	1.91
Total	3,913,315	11,786,180	7,158,803*	3.6**	43,194	75,715	51,951***	1.91**

*For Q1-Q3; Q4 is not available due to Google Analytics change in the way it captures metrics. **For Q4, a new metric was added in Q4 which tracks the Unique page views per user. ***For Q1-Q3, Q4 metric is not available.

Account	X (formerly known as Twitter) followers	Facebook followers	Instagram followers	Total follower count
NLRB	21,800	24,000	1,427	47,227
NLRBGC	10,600	5,800	743	17,143
NLRBes	184	N/A	N/A	184
NLRBGCes	291	N/A	N/A	291
Total followers by platform	32,875	29,800	2,170	64,845

In FY 2023, the NLRB had 64,845 followers across all platforms in English and Spanish - a 7% increase in followers over the FY 2022 number of 60,494 followers. The Board had 47,411 followers on all accounts in English and Spanish, and the General Counsel had 17,434 followers across all accounts in English and Spanish in FY 2023.

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

The Student Ambassador program has increased its capacity during this fiscal year. For the first time, Student Ambassadors were able to visit NLRB Headquarters and learn about how each department functions. Four foreign language-speaking students from Ellis Preparatory Academy in the Bronx visited Headquarters over two days and learned about the processing of charges and petitions, and met with the General Counsel and the Board to discuss their roles.

The Agency established a new relationship with Covington Classical High School in Cincinnati, Ohio and looks forward to working with them in the future. The NLRB has also engaged in an individual student ambassador program for students enrolled in various schools in the New York City region, i.e., a program that is not tied to one particular school, but rather is open to students at a number of schools. These schools include Stuyvesant High School, Hunter College High School, Millennium High School Brooklyn, and Basis Independent Brooklyn High School.

FINANCIAL AND SYSTEMS HIGHLIGHTS

Operational/Performance Highlights

The Office of the Chief Financial Officer (OCFO) is comprised of four branches: Budget, Acquisitions Management, Finance, and Internal Control/Risk/Performance (IRP). The OCFO reports to both the Chairman and the General Counsel. This structure integrates and enhances Agency financial management. Specifically, the OCFO focuses on efficiency and effectiveness in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations.

The OCFO continuously seeks to improve discipline, structure, and internal control in the financial management lifecycle and throughout the financial management process.

Below are some highlights from FY 2023 OCFO activities:

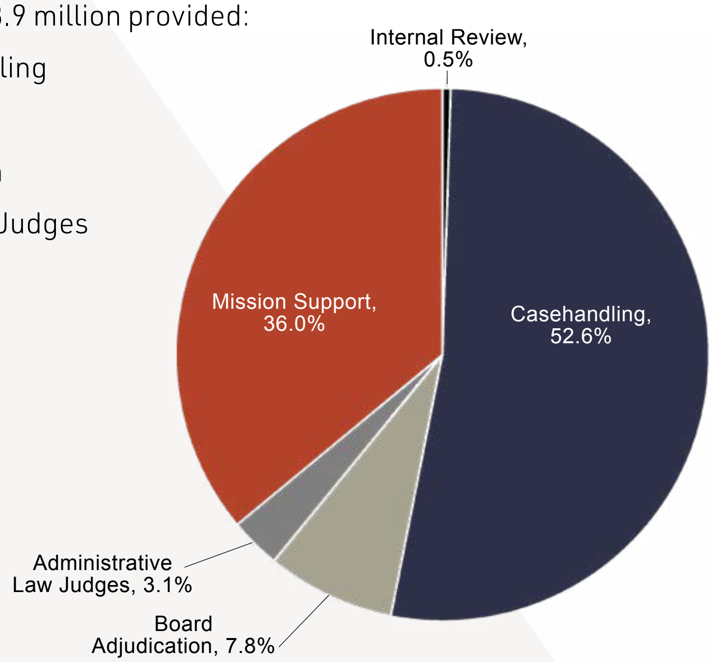
Budget Branch

The Budget Branch successfully executed the Agency's multi-million-dollar budget by ensuring all labor and mission critical non-labor requirements were fully funded during the fiscal year.

The FY 2023 Budget provided $299.2 million for the NLRB to fund the Agency's statutory mission of resolving labor disputes through investigation, settlement, litigation, adjudication, education, and compliance. The NLRB has five program activities that define the major mission functions for budgetary reporting. In FY 2023, the Agency obligated $298.9 million (99.9 percent) of its enacted appropriation to support these program activities leaving approximately 0.1 percent of the budget to support upward obligations that may arise in FY 2024.

The FY 2023 obligated budget of $298.9 million provided:

- $157.5 million to support Casehandling
- $107.6 million for Mission Support
- $23.2 million for Board Adjudication
- $9.2 million for Administrative Law Judges
- $1.4 million for Internal Review



Of the total obligations, the NLRB FY 2023 annual staff compensation (salaries and benefits) accounted for approximately 75.1 percent or $224.4 million. The Agency obligated 7.9 percent or $23.5 million to fund GSA rent for the NLRB offices in Headquarters and Regional Offices across the country. Information technology amounted to $26.1 million or 8.7 percent while the remaining 8.3 percent or $24.9 million accounted for non-labor obligations associated with facilities, security, court reporting, case-related travel, witness fees, interpreters and translation services, training, compliance with Government-wide statutory and regulatory mandates, and other critical mission support related costs.

The Budget Branch continues to coordinate its outreach efforts with the program offices to address enterprise-wide unfunded requirements. During FY 2023, the Budget Branch reassessed funding requirements which allowed the Agency to invest over $13.7 million in several high priority programs, including space alterations, cybersecurity, and information technology infrastructure.

Finance Branch

In FY 2023, the Finance Branch provided excellent customer service to our internal and external customers. The Finance Branch successfully submitted the monthly Government-wide Treasury Account Symbol Adjusted Trial Balance System (GTAS) and Central Accounting Reporting System (CARS) reporting to the U.S. Department of the Treasury (Treasury), Bureau of the Fiscal Service (BFS), in a timely manner. Additionally, the Finance Branch closed six Office of Inspector General (OIG) audit recommendations from the Backpay, Travel, and Financial Statement audits.

The Finance Branch resolved approximately $11,000 in Fund Balance with Treasury (FBWT) discrepancies with Treasury; and processed 86 backpay schedules totaling approximately $1.2 million in payments. In addition, the Finance Branch reconciled prior year canceled receivables of $615 thousand resulting in improved Treasury Reporting on Receivables.

Acquisition Management Branch (AMB)

In FY 2023, the AMB provided exceptional customer service to internal and external customers. The AMB leads the development of cost-effective acquisition approaches for the prevention of waste, fraud, and abuse with the definitive objective of meeting the mission of the NLRB. The AMB successfully executed all non-labor funds allocated in the FY 2023 Operating Plan by September 30, 2023. The AMB exceeded the Agency's Small Business goal of 23 percent by awarding 71 percent of the NLRB's contracts to small businesses.

Charge Card Program

On October 17, 2014, the President signed Executive Order (EO) 13681 directing the federal government to establish and maintain safeguards and internal controls for the charge card program. The NLRB evaluated the charge card program as directed by the guidance provided in OMB Circular No. A-123 Appendix B, OMB Memorandum M-12-12, *Promoting Efficient Spending to Support Agency Operations*, and OMB Memorandum M-13-21, *Implementation of the Government Charge Card Abuse Prevention Act of 2012*. The effectiveness of the Agency's purchase card and travel card programs were assessed through enhanced monitoring procedures to detect fraud, waste, and abuse. The NLRB is currently using CitiBank online tools and Visa Intellink to do enhanced monitoring for fraud, waste, and abuse. The Agency conducted 100 percent reviews of purchase transactions to deter fraud, waste, and abuse as well as identify areas for enhanced training.

Internal Control, Risk, And Performance (IRP) Branch

The IRP Branch reviews and evaluates existing policies, processes, and procedures to ensure compliance with applicable laws and regulations. The assessments and evaluations conducted by the IRP Branch involve collaborative efforts with management and staff of various divisions and program offices within the NLRB. The results of these assessments support short and long-term strategic decisions. In addition, the IRP Branch ensures that mechanisms, rules, and procedures are in place to:

- Safeguard operations and the integrity of financial and accounting information,
- Promote accountability, and
- Prevent fraud, waste, and abuse.

The IRP Branch provides recommendations and guidance for improvements to existing policies, processes, and procedures. It ensures that adequate documentation is in place to support the Chairman and the General Counsel's annual Statement of Assurance (SOA), which is published in the annual PAR.

In FY 2023, the IRP Branch continued to evaluate and refine the Agency's Internal Control Policy. As part of the annual assessment per OMB Circular No. A-123 Internal Control, the IRP Branch developed test plans and assessed the design and operating effectiveness of internal controls for all OCFO operations. The IRP Branch also evaluated and assessed the NLRB's Entity Level Controls. The results of these assessments were summarized in a Gap Analysis report that supports the NLRB's annual SOA.

During FY 2023, IRP Branch updated the Agency's Enterprise Risk Management (ERM) Policy based on the revised 2022 ERM Playbook. The OCFO identified enterprise risks which were approved by the Risk Management Council (RMC) and incorporated into the Agency's Risk Profile. In addition, the IRP Branch has procured ERM contractual services to aide in the Agency's ERM efforts in support of the Agency's commitment to maturing the ERM framework.

The IRP Branch worked closely with the NLRB program areas to collect, compile, and summarize the Agency's quarterly performance indicators which are reported annually in the PAR. The IRP Branch also reviewed and assessed quarterly performance data from various program areas to ensure that they align with the Goals and Objectives established in the Agency's FY 2022-2026 Strategic Plan. Additionally, the IRP Branch facilitated the review and completion of the Agency's PAR.

Systems

The NLRB obtains the majority of its financial systems and services from the Department of the Interior's Interior Business Center (IBC). The IBC provides shared services and offers administrative and financial services to the NLRB. The services provided include system support for procurement and contracts, payroll management, finance, accounting, and travel. The NLRB is responsible for overseeing the work produced by the IBC and ensuring that financial systems and internal controls are in place to fulfill legislated and regulatory financial management requirements. The IBC provides shared services using the following systems:

- Oracle Federal Financials (OFF) – The integrated system of record for all financial transactions.
- Oracle Analytics Server (OAS) – The Interior Business Center's reporting tool. IBC's OAS reporting solution is a group of over 95 top level reports, 70 financial/purchasing reports (analysis), 22 payroll reports (analysis), four credit cards and Do Not Pay reports (analysis) across Oracle modules that the NLRB can customize to meet its own agency-specific needs.
- Federal Payroll and Personnel System (FPPS) – The personnel system of record that interfaces with the Oracle system.
- E2Solutions – The eTravel system provided by Carlson Wagonlit (CWTSato), which is the NLRB's Travel Management Service. E2Solutions also interfaces with the Oracle system.
- Invoice Payment Platform (IPP) –Treasury's web-based system that provides a single, integrated, secure system to simplify the management of vendor invoices. It is offered at no charge to federal agencies and their vendors.

Analysis of Financial Statements

The NLRB prepares annual financial statements in accordance with U.S. Generally Accepted Accounting Principles (GAAP) for federal government entities and subjects the statements to an independent audit to ensure their integrity and reliability in assessing performance. 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 in the Financial Section of the PAR.

Balance Sheet

The NLRB's assets were $62.7 million as of September 30, 2023. The Fund Balance with Treasury (FBWT) is the NLRB's largest asset at $56.6 million (90.2 percent). It represents undisbursed balances from appropriated funds for the past five years and balances held by the NLRB on behalf the Government. It is an asset of a reporting entity and a liability of the General Fund of the U.S. Government. The FBWT is available to make expenditures and pay liabilities. The NLRB's FBWT includes general funds, deposit funds, clearing accounts, and miscellaneous receipt accounts.

The NLRB's Property, Plant, and Equipment (PP&E) represents the NLRB's second largest asset at $5.5 million (8.8 percent). The PP&E decreased $762 thousand (12.1 percent) from the prior year due to the accumulated depreciation and amortization of existing PP&E. The NLRB's capitalized assets for construction in progress and the leasehold improvements increased due to prior year investments for office space alterations.

The NLRB's liabilities were $25.3 million as of September 30, 2023. The liabilities consisted of amounts owed to vendors, federal government trading partners, and Agency employees.

The Unfunded Annual Leave of $15.4 million accounted for 61 percent of the NLRB's liabilities, which decreased by $108,733 (1.0 percent) from prior year. The NLRB employees' leave remained relatively consistent to the prior year. The Accrued Funded Payroll and Leave of $3 million increased by $103,849 (3.5 percent) due to the accrual factor calculation applied in FY 2023 and the timing of payroll processed at the end of the fiscal year. The Federal Employees' Compensation Act (FECA) Actuarial Liability of $326,124 decreased by $1.3 million (-80.5 percent) due to the projected FECA liability, which is based on age factor, years of service, and the actual compensation of the employees included in the actuarial liability calculation.

Accounts Payable for intragovernmental activities of $1.1 million decreased by $825,444 (-43.1 percent) primarily due to interagency agreements (IAAs) with General Service Administration, the timing of IPACs, billings and accruals. The related cost associated with prior year investments of office space alterations revamped after the delay of work deliverables.

Statement of Net Cost

The NLRB's appropriation is used to support mission critical activities and to resolve cases associated with Unfair Labor Practices and Representation Cases filed by employees, employers, and unions. In FY 2023, the net cost of operations was $303.4 million; 88 percent of the costs was used to resolve charges for Unfair Labor Practices and 12 percent was used for Representation Cases. Despite of the NLRB FY 2023 Budget increase of $25 million, the NLRB had to absorb increases in cost associated with pay inflation, investment to support critical information technology and office space alterations.

Statement of Changes in Net Position

The NLRB's net position is affected by changes in two components: Unexpended Appropriations and Cumulative Results of Operations. Unexpended Appropriations include the portion of the entity's appropriations represented by undelivered orders and unobligated balances. Unexpended Appropriations increased $9.7 million (25.6 percent) due to an increase in expenditures to fund mission support activities. Cumulative Results of Operations reflect the net results of operations since inception. Cumulative Results Operations increased $128,789 due to net increases in cost associated with the NLRB's mission.

Statement of Budgetary Resources

The Statement of Budgetary Resources shows the budgetary resources available and the status at the end of the period. This statement also represents the relationship between budget authority and budget outlays and reconciles obligations to total outlays. For FY 2023, the NLRB's total budgetary resources were $307.2 million which included appropriations of $299.2 million and unobligated balance from prior years of $7.9 million. In FY 2023, new obligations were $299.4 million and total outlays were $285.7 million. In FY 2023, the apportioned unexpired balance at the end of the year was $356,300 which resulted in a decrease of $54,750 (13.3 percent) from the prior year.

Limitations of Principal Financial Statements

The principal financial statements are prepared to report the financial position, financial condition, and results of operations, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from records of federal entities in accordance with federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same records. Users of the statements are advised that the statements are for a component of the U.S. Government.

COMPLIANCE WITH LAWS AND MANAGEMENT ASSURANCES

Antideficiency Act (ADA)

The ADA prohibits an officer or employee of the U.S. Government from:

- Making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law;
- Involving the government in any obligation to pay money before funds have been appropriated for that purpose unless otherwise allowed by law;
- Accepting voluntary services for the U.S., or employing personal services not authorized by law, except in cases of emergency involving the safety of human life or the protection of property; and
- Making obligations or expenditures in excess of an apportionment or reapportionment, or in excess of the amount permitted by Agency regulations.

There were no known ADA violations in FY 2023 at the NLRB.

Debt Collection Improvement Act (DCIA)

The DCIA is a U.S. legal act, regulating the collection of bad debts owed to the U.S. government. It dictates the whole debt recovery procedure and collection tools used for the collection of non-tax U.S. federal debts. Non-tax debts are considered to be all types of loans funded by the federal government, e.g., federal education loans, the U.S. Department of Housing and Urban Development (HUD) loan amounts (the so-called HUD debts), Small Business Administration (SBA) loans, unpaid child support sums, etc. The main function of the DCIA is to maximize recovery of delinquent debts owed to the federal government by ensuring quick action to enforce recovery of debt and the use of all appropriate collections' tools. The DCIA acts together with the Treasury Financial Management Service (FMS) and controls U.S. non-tax delinquent amounts, which have remained unpaid for more than 180 days. After this period, such debts are to be transferred to the Treasury.

Digital Accountability And Transparency Act (DATA Act)

The DATA Act expands the Federal Funding Accountability and Transparency Act of 2006 (FFATA) to increase accountability and transparency in federal spending, making federal expenditure information more accessible to the public. The goal of the DATA Act is to make federal spending more accessible, searchable, and reliable so taxpayers can understand the impact of federal funding for federal programs/entities.

As required by the OMB Memorandum M-15-12, *Increasing Transparency of Federal Spending by Making Federal Spending Data Accessible, Searchable, and Reliable*, the NLRB established its own Data Act Policy and Standard Operating Procedures to increase the transparency of federal spending as required by the DATA Act and FFATA Act. The NLRB's Data Act Policy was updated and finalized on February 13, 2023 to address findings issued during an OIG audit.

AMB inputs contracts directly into the Federal Procurement Data System – Next Generation (FPDS-NG). AMB has drafted and implemented the Independent Verification and Validation Policy to identify inaccurate data within the Federal Procurement Data System – Next Generation (FPDS-NG) to improve data accuracy and integrity.

The NLRB's service provider, IBC, has identified the required reportable data elements that will be provided for us to report from existing systems.

Federal Information Security Management Act

The Federal Information Security Management Act of 2002 (FISMA), as amended by the Federal Information Security Modernization Act of 2014, requires federal agencies to ensure adequate security protections for federal information systems and information. Under this act, federal agencies must submit annual FISMA reports to OMB.

In FY 2023, NLRB maintained its compliance with the M-23-03, FY 2023 Government-wide targets in the CIO Federal Information Security Management Act (FISMA) metrics. The Agency consistently managed risk across all security domains of the Risk Management Assessments (RMA's) in the CIO FISMA metrics. Furthermore, NLRB enhanced the effectiveness of CIO metrics in the following areas:

- Endpoint Detection and Response (EDR) (M-22-01)
- Ground Truth Testing and Vulnerability disclosure programs (M-20-32)
- Visibility and Vulnerability detection (M-23-01)

NLRB complies with FISMA reporting requirements through the submission of quarterly and annual reports, and the annual Senior Agency Official for Privacy report to OMB as required.

Government Charge Card Abuse Prevention Act

On October 17, 2014, the President signed Executive Order (EO) 13681 directing the federal government to establish and maintain safeguards and internal controls for the charge card program. The NLRB evaluated the charge card program as directed by the guidance provided in OMB Circular No. A-123 Appendix B, OMB Memorandum M-12-12, *Promoting Efficient Spending to Support Agency Operations*, and OMB Memorandum M-13-21, *Implementation of the Government Charge Card Abuse Prevention Act of 2012*. The effectiveness of the Agency's purchase card and travel card program were assessed through enhanced monitoring procedures to detect fraud, waste, and abuse. The NLRB is currently using CitiBank online tools and Visa Intellink to do enhanced monitoring for fraud, waste, and abuse.

Payment Integrity Information Act of 2019

The PIIA amends Government-wide improper payment reporting requirements by repealing and replacing the Improper Payments Information Act of 2002 (IPIA), the Improper Payments Elimination and Recovery Act of 2010 (IPERA), the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), and the Fraud Reduction and Data Analytics Act of 2015 (FRDAA). Government-wide improper payment reporting is now required to include requirements carried forward unchanged from current law (including some that stem from OMB guidance), modified current-law requirements, and new requirements. A detailed report of the NLRB's improper payments activities is presented in the Other Information section on page 133.

Fraud Reduction Report

During FY 2023, the NLRB OCFO collaborated with OED to procure training from Management Concepts on ERM, Internal Controls, and Fraud Prevention in the Federal Environment for all OCFO employees. The OCFO also executed quantitative and qualitative risk assessments, including a fraud risk assessment for OCFO operations. The fraud risk assessment identified fraud risks related to vendor payments and purchase cards. OCFO conducted FY 2023 internal controls testing and based on the testing results, internal controls related to vendor payments and purchase cards were found to be operating effectively as designed.

Prompt Payment Act

The Prompt Payment Act was enacted in 1982 to ensure the federal government makes timely payments. Invoices are to be paid within 30 days after receipt and acceptance of goods and/or services - or - after receipt of a proper invoice whichever is later. When payments are not made timely, interest is paid. The Agency made late payments resulting in interest penalties of $30 in FY 2023.

Federal Financial Management Improvement Act

The purpose of the Federal Financial Management Improvement Act of 1996 (FFMIA) is to advance federal financial management by ensuring that federal financial management systems provide accurate, reliable, and timely financial management information to the government's managers.

Federal Managers' Financial Integrity Act

The Federal Managers' Financial Integrity Act of 1982 requires federal agencies to develop and implement appropriate and cost-effective internal controls for results-oriented management. Federal agencies are also required to assess the adequacy of those internal controls, identify areas needing improvement, take corresponding corrective action, and provide an annual SOA regarding internal controls and financial systems. The annual SOA and management control over financial application controls and financial reporting submitted by the NLRB's service provider follows this section.

The NLRB management is responsible for establishing and maintaining an environment throughout the Agency that is positive and supportive of internal controls and conscientious management. The NLRB is committed to management excellence and recognizes the importance of strong financial systems and an internal control system that promotes integrity, accountability, and reliability.

Internal control systems are expected to provide reasonable assurance that the following objectives are being achieved:

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

In assessing whether these objectives are being achieved, the NLRB used the following standards in accordance with OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, dated July 15, 2016.

Control Environment	Creating and maintaining an organizational structure that promotes a high level of integrity and personal and professional standards and sets a positive and supportive attitude toward internal controls through conscientious management.
Risk Assessment	Identification and analysis of risks that could impede the achievement of Agency goals and objectives.
Control Activities	Policies, procedures, techniques, and mechanisms to ensure proper stewardship and accountability for government resources and for achieving effective and efficient program results.
Information and Communications	Ensures that the control environment, risks, control activities, and performance results are communicated throughout the Agency.
Monitoring	Assessing the quality of performance over time to ensure that internal control processes are appropriate and effective.

The NLRB's approach to assessing its internal controls included the identification and assessment of risks by designated Agency executives and managers on an Agency-wide basis. In completing this annual review, the designated executives and managers, in conjunction with subordinate staff as needed, used personal judgment as well as other sources of information to make their assessments. These sources included: knowledge gained from day-to-day operations; the Office of Inspector General (OIG) audits and investigations; program evaluations; reviews of financial systems; annual performance plans; and previous management reviews. The designated executives and 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 applicable laws and regulations.

The Statement of Assurance provided on page 62 is required by the FMFIA and OMB Circular No. A-123, *Management's Responsibility for Internal Control*.

FMFIA Section 2, Management Control

Section 2 of the FMFIA requires federal agencies to report, based on annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place in FY 2023 provide reasonable assurance that NLRB systems and internal controls comply with the requirements of FMFIA.

FMFIA Section 4, Financial Management Systems

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, 2023, in accordance with the FMFIA and OMB Circular No. A-127, *Financial Management Systems*, Section 7 guidance. The NLRB's financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General, OMB, and the Treasury. The Agency also reviews the Statement on Standards for Attestation Engagements No. 18 (SSAE-18) for financial systems operated by IBC to ensure that independent auditors have also certified that the necessary controls are in place so that the NLRB can rely on those systems.

UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS

BOARD WASHINGTON, DC

October 31, 2023

ANNUAL STATEMENT OF ASSURANCE

Management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982 (FMFIA). The National Labor Relations Board (NLRB or the Agency) assessed the effectiveness of internal control over reporting, efficiency of operations, and compliance with applicable laws and regulations in accordance with the Office of Management and Budget (OMB) Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Based on the results of this evaluation, the NLRB can provide reasonable assurance over the effectiveness and efficiency of its internal controls over reporting. Additionally, the NLRB has complied with the applicable laws and regulations as of September 30, 2023. Internal controls that were tested at the NLRB are operating effectively to provide reasonable assurance that the related control objectives were met during the specified period of assessment, and no material weaknesses and/or significant deficiencies were identified in the design or operating effectiveness of the internal controls.

In accordance with the requirements of the OMB Circular No. A-123, Appendix A, *Management of Reporting and Data Integrity Risk*, the NLRB assessed the effectiveness of internal control over financial reporting, which includes internal controls related to the preparation of the annual financial statements, safeguarding of assets, and compliance with applicable laws and regulations governing the use of the budget authority that could have a direct and/or material effect on the financial statements. The result of this evaluation provides reasonable assurance that the NLRB's internal controls over financial reporting were operating effectively as of September 30, 2023.

The NLRB has also submitted all the quarterly Fiscal Year 2023 Digital Accountability and Transparency Act of 2014 (DATA Act) reports to the U.S. Department of the Treasury as required. The NLRB continues to work on addressing the Office of Inspector General DATA Act findings and recommendations with the goal to remediate the findings and recommendations in the Fiscal Year 2024.

LAUREN MCFERRAN
Digitally signed by LAUREN MCFERRAN
Date: 2023.10.31 14:26:29 -04'00'

Lauren McFerran
Chairman

JENNIFER ABRUZZO
Digitally signed by JENNIFER ABRUZZO
Date: 2023.10.31 12:24:08 -04'00'

Jennifer A. Abruzzo
General Counsel

Protecting Democracy in the Workplace Since 1935

PERFORMANCE SECTION

PROGRAM PERFORMANCE

Performance Goals and Objectives

This section of the PAR details the NLRB's efforts to meet its strategic and performance goals. The three mission-related goals of the NLRB's current Strategic Plan represent the core functions of the Agency in enforcing the NLRA as efficiently as possible and in a manner that gives full effect to the rights afforded to employees under the Act. The two support goals further enable the Agency to accomplish its mission. Please see Appendix D for the list of performance measures for the support goals, as well as the management strategies for all the Agency goals.

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, representatives of the Board and the General Counsel worked together in developing one comprehensive Strategic Plan and PAR.

MEASURING PERFORMANCE

One of the NLRB's human capital goals is to create a results-oriented performance culture that clearly links employee performance and pay to the attainment of the NLRB's strategic goals. The Agency has three mission-related goals that emphasize individual segments of case processing to promote timely, efficient, and well-managed casehandling and two support goals that give a broader picture of how the Agency achieves its mission.

As to Agency success in bringing effective resolution to labor disputes in a timely manner, it should be noted that it is difficult for an agency, such as the NLRB, to measure "outcomes" in the sense intended by the authors of the Government Performance and Results Act of 1993 (GPRA) and the Government Performance and Results Modernization Act of 2010 (GPRAMA). In the representation case area, for instance, the Agency does not control or seek to influence the results of elections but strives instead to ensure the rights of employees to freely and democratically determine, through a secret ballot election, whether they wish to be represented by a labor organization. If the Agency concludes that all the necessary requirements for conducting an election have been met, it will either direct an election or approve the parties' agreement to have an election. The performance measure that the Agency has established for conducting elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees freely exercising their statutory rights as set out in the NLRA.

The aim of the Agency is to fully effectuate employees' rights under the NLRA, which also works to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. While it is difficult to quantify by the number of ULPs, the Agency can quantify commitment to resolve all disputes that are brought before us, and to provide a remedy and ensure that labor peace is maintained or restored. Noting that the Agency cannot *sua sponte*[3] investigate the actions of an employer or labor union without a charge being filed, the NLRB established two performance measures. The timeliness and quality of case processing, from the filing of an ULP charge to the closing of a case, are the focus of those performance measures.

The tables and narratives in this section show the proposed annual targets for performance measures and management strategies for the five-year period covered by the current Strategic Plan (FYs 2022–2026). The actual historical results achieved for the performance measures and management strategies for FYs 2017–2021 can be found in Appendix C.

3 A Latin phrase describing an act of authority taken without formal prompting from another party.

GOAL 1 (MISSION):

ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REMEDIES

Objectives:

1. Achieve timely consideration and appropriate resolution of unfair labor practice charges at every stage of processing.
2. Demonstrate high quality performance in the prosecution and adjudication of meritorious unfair labor practice charges.
3. Promptly pursue remedies for statutory violations.

GOAL 1, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 1, MEASURE 1

Measure 1: The Field Office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100.1 days	100.1 days	100.1 days	100.1 days	100.1 days
ACTUAL	84.8 days	266 days	N/A	N/A	N/A

Based upon an average, Field Offices did not meet the goal of reaching case determination in 90 percent of unfair labor practice cases within 91 days pursuant to Memorandum GC 22-05, *Goals for Initial Unfair Labor Practice Investigations*.

The Agency experienced a significant increase in case intake (10.4 percent) and continued understaffing despite a modest increase in the Agency's budget. The Agency has implemented a program whereby Headquarters staff are assisting the Field Offices with case handling.

GOAL NO. 1, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	81%	76%	N/A	N/A	N/A

As of the end of FY 2023, 76 percent of pending unfair labor practice cases had been closed that, by the end of the fiscal year, would have been pending before the Board for more than 18 months.

In FY 2023, the Board saw a significant increase in case intake, receiving a total of 321 cases, up from 308 cases in FY 2022. As a result, FY 2023 was an exceptionally busy year for the Board which continued to operate at static staffing levels. Despite these challenges, the Board processed more cases than last fiscal year and successfully prioritized the issuance of more than a dozen significant precedent-setting decisions during FY 2023. The Board also issued a Final Rule that improved the conduct of representation elections. The high number of incoming total cases, however, contributed to the Board not meeting the 90 percent goal for this measure related to unfair labor practice cases, missing the goal by 14 percent. The Board is committed to prioritizing the remaining FY 2023 "oldest cases" in FY 2024.

GOAL NO. 1, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	106 days	N/A	N/A	N/A

As of the end of FY 2023, the median age of all cases pending before the Board was 106 days, which is well below the goal of 180 days or less.

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases, while striving to maintain its pace in issuing decisions overall, resulted in the Board achieving this measure by over 40 percent.

GOAL 1, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 2, MEASURE 1

Measure 1: Conduct annual quality reviews of all Field Offices' unfair labor practice case files with overall ratings.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	100%	N/A	N/A	N/A

The Division of Operations-Management has completed its review of all Field Offices' unfair labor practice case files. This is the second year of the Agency's revised quality review process in which Operations reviewed representative case work that represents the breadth of the Field's case-related performance and provided timely oral and written feedback and guidance. The quality review encompassed not only a review of the substantive work but also of Agency systems and processes related thereto. Overall ratings are provided to the Field Offices early in the next fiscal year. The work of the Field Offices is being performed at the highest level in most of the casehandling work reviewed and at a high level for the remaining casehandling reviewed.

GOAL 1, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 3, MEASURE 1

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	89.2%	88.2%	N/A	N/A	N/A

Closed or advanced cases to the next stage in fewer than 300 days in 45 of 51 cases, or 88.2 percent exceeding the 85 percent of the strategic goal target.

GOAL NO. 1, OBJECTIVE 3, MEASURE 2

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	82.9%	67.5%	N/A	N/A	N/A

Closed cases or advanced cases to the next stage in fewer than 300 days in 27 cases closed during FY 2023, but it took longer than 300 days to close or advance to the next stage in 13 cases (67.5 percent) short of the 85 percent goal.

GOAL 2 (MISSION):

PROTECT EMPLOYEE FREE CHOICE WITH TIMELY AND EFFECTIVE MECHANISMS TO RESOLVE QUESTIONS CONCERNING REPRESENTATION

Objectives:

1. Achieve timely resolution of all questions concerning representation of employees.
2. Increase employees' opportunities to freely participate in election proceedings by making appropriate and effective use of technology.
3. Promptly pursue remedies for statutory violations.

GOAL 2, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 2, OBJECTIVE 1, MEASURE 1

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	95%	96%	N/A	N/A	N/A

The Regions met this measurement, with a pre-election agreement rate of 96 percent for cases not involving issues regarding the way elections are conducted.

GOAL NO. 2, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	89%	96%	N/A	N/A	N/A

The Board's focus on the timely issuance of decisions in representation cases in FY 2023 is demonstrated by its excellent results in this measure. The Board issued decisions in 96 percent of the pending representation cases that, by the end of the fiscal year, would have been pending before the Board for more than 12 months. This achievement is all the more notable given that the Board experienced a 10 percent increase in the number of representation cases presented before the Board for decision in FY 2023.

GOAL NO. 2, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	106 days	N/A	N/A	N/A

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases, while maintaining its pace in issuing decisions overall, resulted in the Board achieving this measure by over 40 percent.

GOAL 2, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 2, OBJECTIVE 2, MEASURE 1

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency's website.

In FY 2023, the Agency routinely posted on social media in both English and in Spanish and publicized the availability of an interpreter when a member of the public contacts the Agency. During Labor Rights Week, Agency representatives explained in English and Spanish how to file charges and petitions with the Agency at outreach events across the country.

GOAL 3 (SUPPORT):

ACHIEVE ORGANIZATION EXCELLENCE AND SERVE AS A MODEL EMPLOYER

Objectives:

1. Improve employee morale and labor relations
2. Increase opportunities for career enhancement through employee development
3. Recruit and retain a talented and diverse workforce

GOAL 3, OBJECTIVE 1 – PERFORMANCE MEASURE

GOAL NO. 3, OBJECTIVE 1, MEASURE 1

Measure 1: Maintain a target employee engagement index score of 67 percent on the Federal Employee Viewpoint Survey (FEVS), and in subsequent years establish new initiatives with the goal of increasing employee engagement.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	67%	67%	67%	67%	67%
ACTUAL	75%	78%	N/A	N/A	N/A

The Human Capital Planning Office continues to meet with managers and supervisors to address FEVS results and work toward improving employee morale and employee engagement. Effective leadership communication continues to be a key strategy in driving continued improvements in satisfaction and commitment. Work continues at leveraging best practices to strengthen a culture of higher employee engagement. In this regard, the NLRB achieved a 78 percent Employee Engagement Index Score on the 2023 FEVS results.

GOAL 3, OBJECTIVE 2 – PERFORMANCE MEASURE

GOAL NO. 3, OBJECTIVE 2, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) of the "Talent Management Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	75%	N/A	N/A	N/A

The NLRB achieved a 75 percent Talent Management Index score on the 2023 FEVS results. Recruitment, retention, and developmental activities have been ongoing throughout the year with various initiatives designed to attract, motivate and retain talent. The Agency continued to leverage its recruitment, retention, and developmental opportunities by using the Presidential Management Council, Interagency Rotation Program (PMC/IRP), and the Strategic Recruitment Program to partner with employees in Headquarters and the Field Offices on recruitment outreach initiatives and other development opportunities.

GOAL 3, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 3, OBJECTIVE 3, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) for the "Job Satisfaction Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	70%	N/A	N/A	N/A

The NLRB achieved a 70 percent Job Satisfaction Index score on the 2023 FEVS results.

GOAL NO. 3, OBJECTIVE 3, MEASURE 2

Measure 2: Satisfaction percentage rating (65 percent or above) for the "Support for Diversity Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	67%	79%	N/A	N/A	N/A

The NLRB achieved a 79 percent DEIA Index score on the 2023 FEVS results[4].

The Chief Diversity Officer continues to meet with managers and supervisors on building a diverse and inclusive workforce. The Strategic Plan for Diversity, Equity, Inclusion, and Accountability (DEIA) was implemented, which tied together existing practices with new initiatives that promoted an inclusive workplace culture. The Chief Diversity Officer continued to champion DEIA programs and educate the workforce on topics such as unconscious bias, anti-racism, anti-harassment, cultural competency and awareness, civility, workplace sensitivity, change management, reasonable accommodation and accessibility, and workforce fairness and equity for people of different abilities, cultures, races, ethnicities, genders, beliefs, and experiences.

4 For the 2022 FEVS, the Office of Personnel Management introduced a new DEIA Index, which was developed to support Executive Order 14035 and serves as the new standard for measuring diversity, equity, inclusion, and accessibility in current and future FEVS. The 79% DEIA Index Score for 2023 should not be compared to the 67% index score for 2022 because of the methodological changes between the indices. For comparison purposes, the NLRB achieved a 74% DEIA Index Score in 2022 and it would be appropriate to compare that score to the 79% DEIA Index Score of 2023.

GOAL 4 (SUPPORT):
MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST

Objectives:

1. Make effective use of Agency's resources by proactively planning how best to deploy those resources, and continually monitor and reevaluate the execution of such plans to ensure we have strong processes and internal controls in place to identify and prevent any misuse or inefficiencies in the allocation of Agency resources.
2. Conduct all internal and external Agency business in an ethical and timely manner.
3. Develop a culture of Enterprise Risk Management (ERM) and Internal Controls to support the Agency's decision-making process.

GOAL 4, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 4, OBJECTIVE 1, MEASURE 1

Measure 1: Achieving a clean audit opinion by ensuring that OCFO's operations are guided by appropriate processes and internal controls.

OCFO – Acquisition Management Branch

NLRB has submitted timely the DATA Act information to OMB monthly by respective FY 2023 reporting dates.

Issued the NLRB's DATA Act Policy which fulfills the requirement for a Data Quality Plan (DQP) in accordance with OMB M-18-16, Appendix A to OMB Circular No. A-123, Management of Reporting and Data Integrity Risk. The purpose of the DQP is to document the NLRB's approach to achieve reasonable assurance that its internal controls support the reliability and validity of the Agency's account-level and award-level data reported for display on ***https://www.usaspending.gov***.

NLRB continues to support minority business enterprises for contract awards.

Small Business Goal Status*						
Socio- economic Category	SBA Government Wide Small Business Goals	NLRB Statistics Q1 FY 2023	NLRB Statistics Q2 FY 2023	NLRB Statistics Q3 FY 2023	NLRB Statistics Q4 FY 2023	NLRB Statistics Overall FY 2023
Small Disadvantaged Disadvantaged*	12%	55.28%	45.43%	73.51%	64.20%	64.08%
8(a)*	0%	10.77%	34.10%	37.04%	40.54%	40.95%
Service Disabled Veteran Owned**	3%	0%	0%	0.16%	2.57%	2.59%
Women Owned	5%	39.66%	21.10%	18.84%	11.52%	10.75%
HUBZone	3%	2.36%	36.59%	19.17%	7.12%	7.19%
Small Business	23%	154.15%	93.30%	85.66%	71.42%	71.47%

*8(a) is not designated as separate categories by the SBA when establishing Goals. The NLRB defines our small business goals by separating this category.

**In FY 2023, the NLRB was below in one out of the five government wide goals for small disadvantaged businesses because of de-obligations and spending being put in areas that were either for an existing contract or the requirement exceeded small business capabilities.

OCFO – Budget Branch

- Developed and managed the Agency's FY 2023 Continuing Resolutions.
- Formulated the NLRB FY 2023 Operating Plan and obtained Board approval.
- Submitted the FY 2024 Congressional Justification on time.
- Developed Status of Funds Reports and provided budget briefings to the Agency Leadership.
- Maintained an Agency Unfunded Requirements List.
- Uploaded NLRB FY 2023 Quarterly Apportionments in Oracle Federal Financials in a timely manner.
- Conducted mid-year reviews with program offices.
- Completed the FY 2023 year-end closing process.
- Submitted the FY 2025 Budget Request to OMB.

OCFO – Finance Branch

- Submitted timely FY 2023 CARS/Statement of Transactions (SOTs) reporting to Treasury's Bureau of the Fiscal Service (BFS) monthly by its respective reporting window close (3rd workday of the month).
- Met all FY 2023 Treasury deadlines. Submitted timely GTAS reports to BFS, on a monthly basis, by its respective FY 2023 reporting window closing dates: December 19, January 20, February 17, March 17, April 19, May 17, June 20 July 20 and October 19, 2023.
- Met all FY 2023 Treasury deadlines. Submitted timely quarterly Intragovernmental Material Difference Report (MDR) to BFS by the FY 2023 reporting window closing dates: February 1, May 1 and August 1. The 4th Quarter reporting data is on target for submission by November 29, 2023.
- Met all FY 2023 Treasury deadlines. Submitted timely Treasury Report on Receivables (TROR) to BFS on a quarterly basis by the FY 2023 reporting window closing dates: January 31, April 28, and July 31, 2023. The 4th Quarter reporting data is on target for submission by November 14, 2023.
- Provided timely quarterly updates on the recommendations per the corrective action plan. Closed prior year financial audit notices of findings and recommendations.

Internal Control, Risk, and Performance Branch

- Executed quantitative and qualitative risk assessments for OCFO operations.
- Completed OMB Circular No. A-123 required assessment of Internal Control and Entity Level Controls (ELCs).
- Updated the Agency's ERM Policy based on the revised 2022 ERM Playbook.
- Launched the Enterprise Risk Management System (ERMS) to help facilitate the NLRB's ERM activities (tracking, assessing, and prioritizing the Agency's most significant risks).
- Conducted the Agency's Risk Management Council (RMC) meetings, along with ERM Working Group meeting with OCFO staff.
- OCFO proposed enterprise risks were approved by the RMC and added to the Agency's Risk Profile.
- OCFO has procured services from ERM contractor to aide in the Agency's ERM efforts.
- ERM discussions have been planned with Risk Owners and Risk Champions starting in the 1st Quarter of FY 2024.

GOAL NO. 4, OBJECTIVE 1, MEASURE 2

Measure 2: Continue to support telework by employees and contractors, as well as virtual access to Agency processes by members of the public, to create opportunities to reduce costs associated with maintaining the Agency's footprint in its Headquarters and Field Offices, in accordance with General Service Administration (GSA) directives.

The Facilities and Property Branch (FPB) conducted an annual space assessment of all Agency locations to identify the best space utilization for offices. From the assessment, a cost estimate was generated to reduce or eliminate space. Projects will be executed based on funding availability. There are currently numerous projects in the works.

GOAL 4, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 4, OBJECTIVE 2, MEASURE 1

Measure 1: Make progress towards an employee satisfaction percentage rating (65 percent or above) for the Agency's ethical culture using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	71%	75%	N/A	N/A	N/A

The Ethics Office supports Agency leadership in maintaining a vigorous and robust ethical culture by fully and timely complying with all relevant federal laws, regulations, applicable executive orders, management directives, and policies related to ethics in the workplace by meeting all regulatory requirements under the Ethics in Government Act (EIGA) and 5 C.F.R.§ 2638.104. During FY 2023, the Agency provided Initial Ethics Training (IET) to newly hired employees within 90 days of their appointment, ensured that all financial disclosure filers completed Annual Ethics Briefings as required, submitted all required reports to OGE (i.e., data calls, 1353 Semi-Annual Reports for Travel Reimbursement, Annual Questionnaire, Program Review Requests), coordinated with our partners in the Office of Human Resources (OHR) to communicate with new hires and newly appointed supervisors about their ethical obligations, and provided post-employment guidance to anyone separating from government service. The Agency also provided Political Appointees and Schedule C employees with important information about the Biden Ethics Pledge (Executive Order 13989) in the context of both recusals and gifts. To further support this category of employee, the Agency reviewed all speaking engagement invitations to ensure that the meeting or conference did not implicate Paragraph 2 of the Pledge and that the sponsor or any other entity was not offering a prohibited gift.

In addition, the Ethics Office supported the NLRB's commitment to a strong ethical culture by:

- Providing periodic reminders about the Hatch Act and when it applies to an employee's partisan political activities;
- Notifying employees when OGE issues a new regulation or provides updated guidance concerning existing regulations;
- Developing briefing materials and training programs that educate new Administrative Law Judges and Regional Directors about the role of the Ethics Office in supporting the work of the Agency;
- Supporting the AMB initiative to develop a strong cadre of Contracting Officer Representatives (CORs) by providing checklists and tips to avoid potential conflicts during the acquisitions process;
- Developing and distributing government and legal ethics resources on a variety of topics for all levels of employees to support the mission work of the Agency;
- Providing comprehensive ethics guidance to individual employees;
- Evaluating initiatives proposed by various offices to ensure that the initiatives were executed in an ethical manner; and
- Providing one-on-one Ethics Briefings when needed, including to officials new to government service and attorneys coming to the Agency from private practice.

Lastly, the Ethics Office is tasked with managing the Agency's Financial Disclosure Program in accordance with EIGA and the Stop Trading on Congressional Knowledge (STOCK) Act. This involves providing one-on-one assistance to confidential and public financial disclosure filers; ensuring that staff who hold "Acting" positions for more than 60 days in a calendar year file New Entrant and Termination reports as they transition in and out of a filing position; reviewing all reports for compliance and sufficiency within 60 days of receipt and providing individual guidance concerning potential conflicts based on the review of these reports.

GOAL NO. 4, OBJECTIVE 2, MEASURE 2

Measure 2: Continue to respond to Freedom of Information Act (FOIA) inquiries in a timely manner.

FOIA PAR Performance Measures:	FY 2023 Accomplishments:
Respond to at least 65 percent of initial FOIA requests within 20 working days.	During FY 2023, the Agency received 2,205 FOIA requests, of which 1,962 were processed in twenty days or fewer for a timeliness compliance rate of 89 percent.
By the end of the fiscal year, close the ten oldest cases (as reported in the prior FOIA Annual Report) that are not subject to litigation and/or do not require consultation and response from outside Agencies and/or the White House.	During FY 2023, the Agency closed 83.3 percent (5 of 6) of the oldest cases as reported in the FY 2022 FOIA Annual Report that are not subject to litigation and/or do not require consultation from outside entities. (Note: This calculation reflects the exclusion of 4 of the oldest cases reported in the FY 2022 FOIA Annual Report because they remain open due to ongoing litigation and are thus excluded from this metric.)

FOIA PAR Performance Measures:	FY 2023 Accomplishments:
Respond to at least 80 percent of statutory appeals within 20 working days.	During FY 2023, the Agency processed nine FOIA appeals, all of which were processed in twenty days or fewer for a timeliness compliance rate of 100 percent.
Post on the Agency website the Division of Advice memoranda and case closing emails by the 30th of the month following the month in which the case closed.	During FY 2023, Division of Advice memoranda and case closing emails were processed and timely posted on the Agency website each month in full compliance with the performance measure.
Maintain a year-to-year backlog of less than 10 percent of all FOIA requests received.	During FY 2023, the Agency received 2,205 FOIA requests, of which six remained backlogged at the end of the fiscal year, for a backlog rate of approximately one quarter of one percent (0.27 percent).

GOAL 4, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 4, OBJECTIVE 3, MEASURE 1

Measure 1: Reach an ERM maturity level-3 by FY 2026.

During FY 2023, the Agency worked in the following ERM activities in order to reach maturity level three in the next three years:

- Established the Enterprise Risk Management System (ERMS).
- Updated ERM Policy based on the revised 2022 ERM Playbook.
- Procured an ERM contractor to aide the Agency in the implementation of ERM efforts.

GOAL 5 (MISSION):
IMPROVE PUBLIC AWARENESS OF AGENCY MISSION AND ACTIVITIES

Objectives:

1. Improve agency outreach and public engagement, especially among members of underserved communities.

GOAL 5, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 5, OBJECTIVE 1, MEASURE 1

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Time Period FY 2023	Users – English	Pageviews – English	Unique Pages – English	Views per User– English	Users – Spanish	Pageviews – Spanish	Unique Pages - Spanish	Views Per User – Spanish
Q1 2023	878,543	2,417,832	2,005,379	N/A	14,580	19,639	17,336	N/A
Q2 2023	1,094,805	3,272,118	2,626,463	N/A	10,296	20,954	17,555	N/A
Q3 2023	1,100,176	3,055,217	2,526,961	N/A	10,901	21,984	18,060	N/A
Q4 2023	839,791	3,041,013	N/A	3.6	7,417	13,139	N/A	1.91
Total	3,913,315	11,786,180	7,158,803*	3.6**	43,194	75,715	51,951***	1.91**

*For Q1-Q3; Q4 is not available due to Google Analytics change in the way it captures metrics. **For Q4, a new metric was added in Q4 which tracks the Unique page views per user. ***For Q1-Q3, Q4 metric is not available.

Account	X (formerly known as Twitter) followers	Facebook followers	Instagram followers	Total follower count
NLRB	21,800	24,000	1,427	47,227
NLRBGC	10,600	5,800	743	17,143
NLRBes	184	N/A	N/A	184
NLRBGCes	291	N/A	N/A	291
Total followers by platform	32,875	29,800	2,170	64,845

In FY 2023, the NLRB had 64,845 followers across all platforms in English and Spanish - a 7% increase in followers over the FY 2022 number of 60,494 followers. The Board had 47,411 followers on all accounts in English and Spanish, and the General Counsel had 17,434 followers across all accounts in English and Spanish in FY 2023.

GOAL NO. 5, OBJECTIVE 1, MEASURE 2

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

The Student Ambassador program has increased its capacity during this fiscal year. For the first time, Student Ambassadors were able to visit NLRB Headquarters and learn about how each department functions. Four foreign language-speaking students from Ellis Preparatory Academy in the Bronx visited Headquarters over two days and learned about the processing of charges and petitions, and met with the General Counsel and the Board to discuss their roles.

The Agency established a new relationship with Covington Classical High School in Cincinnati, Ohio and looks forward to working with them in the future. The NLRB has also engaged in an individual student ambassador program for students enrolled in various schools in the New York City Region, i.e., a program that is not tied to one particular school, but rather is open to students at a number of schools. These schools include Stuyvesant High School, Hunter College High School, Millennium High School Brooklyn, and Basis Independent Brooklyn High School.

FACTORS AFFECTING AGENCY PERFORMANCE

Various factors can affect Agency performance as a whole, in addition to each goal, objective, and performance measure contained in the NLRB's strategic and annual performance plans. These factors include case intake, budgetary constraints, settlements, Board Member vacancies, the potential effect of case precedent and statutory changes, nationwide work-related activities by external entities, technological advances, and economic fluctuations, and other externalities.

Case Intake

The Agency's FY 2023 case intake totals 22,463 and includes 19,869 ULP cases and 2,594 representation cases. NLRB Board agents effectively and efficiently process all cases that are brought to the Agency by the general public. Comprehensive and complex matters that come before the Agency are often attributable to external factors, such as: lasting economic and workplace changes resulting from the COVID-19 pandemic; ongoing nationwide efforts to improve the wages and working conditions of workers in the retail, technology and fast food industries; the increased prevalence and evolving tools and usage by employees of technology and social media in and outside of the workplace to discuss terms and conditions of employment with one another, and the related handbook provisions and workplace rules generated therefrom; bankruptcies; challenging questions regarding jurisdiction over certain enterprises; increased understanding of statutory application in non-union workplaces; and difficult questions concerning single, joint, and successor employer relationships, and supervisory status, as well as defining employees covered under the NLRA.

Budgetary Constraints

The Agency's annual appropriation directly impacts the Agency's ability to enforce the Act effectively and efficiently. In the Consolidated Appropriations Act, 2023 (P.L.117-328), the Agency received $299.2 million which included a $25 million increase - the first increase in almost a decade. While the Agency appreciates the funding increase, enhanced annual discretionary appropriations remain critical. The Agency needs additional resources to support increasing labor costs associated with our current workforce, but even more importantly to rebuild staffing levels after years of decline, especially in our Field Offices where the vast majority of the work is done. Similarly, resources are needed to modernize legacy information technology systems, both to support timely case processing and to continue expanding public access to the Agency's resources, especially among underserved populations. Overall, additional budgetary support is essential to our ability to fully effectuate the Act.

Settlements

The initial processing and disposition of new case filings in the Regional Offices drives the intake for other stages of the casehandling pipeline. Over the past few years, more than 90 percent of those cases in which merit is found are settled. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP and representation cases, the settlement rate is, of course, not entirely subject to the Agency's control. When the process becomes formal and litigation takes over, Agency costs increase.

Board Member Terms

The staggering of Board Members terms and the filling of a vacant seat by an individual who will not be a Board Member for a full term has the potential to impair Board productivity, as extended vacancies that occur under this system can delay the issuance of cases because the Board's overall capacity is reduced and successive Board Members often have to get up to speed on the same case matters.

General Counsel Term

Delays in confirming the President's nomination of the General Counsel impair the NLRB's ability to fully effectuate important policies and initiatives to enforce the Act.

RELIABILITY OF PERFORMANCE DATA

Program Evaluation

The NLRB uses various governance mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. Both the Board and General Counsel regularly track the status of all of their respective cases to determine performance against yearly targets that support the Agency's strategic goals and measures.

On the Board-side of the Agency, a group of senior management officials, including, among others, the Deputy Chief Counsels of each of the Board Members, the Director of the Office of Representation Appeals, and the Executive Secretary, periodically review the status of cases, prioritize cases, and develop lists of cases that the Board Members jointly focus on in order to facilitate the issuance of decisions in those cases. These representatives also report back to the Board Members on performance data and staff workload, among other issues. The Board has an electronic case management system that captures all case events and milestones in a database from which case production reports are generated. The Board Members also regularly meet and communicate with each other to discuss case priorities and the overall processing of cases.

In FY 2023, the Division of Judges closed 150 hearings, issued 135 decisions and achieved 288 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2023, the U.S. Courts of Appeals ruled on Board decisions in 20 enforcement and review cases. Of those cases, 90.9 percent were enforced or affirmed in whole or in part.

The General Counsel's Office has long had an evaluation program in place to assess the performance of its Headquarters and Regional operations. The Division of Operations-Management regularly reviews case decisions to determine the quality of litigation. Other NLRB offices, such as the Office of Appeals, Division of Advice, and Division of Legal Counsel, provide valuable insight and constructive feedback on the performance and contributions of Field Offices. Top Agency management also meets regularly with relevant committees of the ABA to obtain feedback on their members' experiences practicing before the NLRB.

With respect to the Regional Offices, the Quality Review Program of the General Counsel's Division of Operations-Management reviews ULP, representation, and compliance case files throughout the year 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 assess, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's initiatives and priorities, and compliance with Agency decisions. Due to the budgetary constraints as a result of the Agency being flat level funded for nine straight years, personnel from the Division of Operations-Management have not conducted site visits of the Field Offices; however, through the use of technology, interactions have taken place throughout FY 2023, such as conducting "town hall" meetings with the different offices. In addition, to assess the quality of litigation, Operations-Management reviews all ALJ and Board decisions that constitute a significant prosecutorial loss in evaluating the Field Offices' performance. The

Regional Offices' performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities is also incorporated into the Regional Directors' annual performance appraisals.

The Office of the General Counsel is regularly informed of Regional Office activities, including the settlement and litigation success rates of ULP cases. In FY 2023, Regional Offices found merit in 41.1 percent of ULP cases filed of which over 96 percent settled. The Regional Office won 86.5 percent of ULP and Compliance matters in whole or in part. A total of over $56.9 million was recovered in backpay, fines, dues and fees and 983 employees were offered reinstatement. As to monitoring representation cases, in FY 2023, 89.7 percent of all initial elections were conducted within 56 days of filing.

In addition to the evaluation of Regional Office activities, the Office of the General Counsel monitors the litigation success rate before district courts with regard to injunction litigation. In FY 2023, the Injunction Litigation Branch (ILB) received 156 cases from Regional Offices to consider whether to seek discretionary injunctive relief under Section 10(j) of the Act. The General Counsel, through the ILB, submitted 15 cases to the Board for authorization. The Board authorized ILB to seek injunctive relief under Section 10(j) of the Act in all 14 cases submitted. The Regions filed 10(j) petitions for injunction in 7 cases. Petitions in the remaining six cases were scheduled to be filed after the close of the fiscal year. The "success rate," i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation was 100 percent. The Office of the General Counsel continues to focus its attention on "nip-in-the-bud cases," where a nascent organizing campaign is being unlawfully squelched, and on first contract bargaining and successor cases, where the relationship between the employer and the union is most fragile.

As previously mentioned, while there are a few outcome-based performance measures associated with the two support goals, the majority of them are management-strategy driven. The Agency collects quarterly performance metrics and strategies on the two Agency support goals, as well as utilizing NxGen reports for the mission-related goals. The metrics and strategies are tracked and monitored throughout the fiscal year. The compiled data is then presented in this document.

The data reported by OCIO comes from NxGen. The FOIA Branch maintains their case data in FOIAonline, which is a FOIA tracking and processing web tool. FOIAonline also generates annual, quarterly, and other workload reports to effectively monitor all aspects of FOIA case handling.[5] The FOIA Office logs the request and collects several pieces of data about the request, including the date that the request was made and the date that response was provided. The spreadsheet calculates the number of days between the two dates in order to track response times. The Ethics Office uses an electronic spreadsheet to track when an employee reaches out to the Office with an ethics inquiry.

5 As of the end of FY 2023, FOIAonline was decommissioned by the Environmental Protection Agency, the agency that created and maintained FOIAonline for agency partners, including the NLRB. Beginning on October 1, 2023, the FOIA Branch has been processing requests and maintaining the same case data through SecureRelease, a FOIA tracking and processing system run by Deloitte.

Protecting Democracy in the Workplace Since 1935

FINANCIAL SECTION

MESSAGE FROM THE CHIEF FINANCIAL OFFICER

November 6, 2023

I am pleased to present the NLRB's consolidated financial statements for the FY 2023 PAR. For the twentieth consecutive year an independent auditor has rendered an unmodified or "clean" audit opinion on the NLRB's financial statements.

The OCFO is responsible for improving efficiency and effectiveness in financial operations. The OCFO ensures reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. In FY 2023, the OCFO continued to support our customers through a hybrid workforce environment. In FY 2023, NLRB's year-end closing was executed smoothly leaving only approximately $356,300 in unobligated funds, which is 0.1 percent of the total appropriated funds of $299.2 million. This was a concerted effort by the program areas and the OCFO Branches (Budget, Finance, Acquisitions Management, and the Internal Control/Risk/Performance). To all of them, thank you for a job well done.

During FY 2023, the OCFO continued to focus on process improvement and internal control and conducted internal control reviews in accordance with OMB Circular No. A-123. The results of these reviews were summarized in a Gap Analysis report that supports the NLRB's annual Statement of Assurance (SOA).

During FY 2023, the OCFO addressed and closed out eight audit recommendations from previous years' audits. I would like to acknowledge and thank the OCFO staff for their dedication to the NLRB's mission and their diligent efforts in working to resolve open audit items, maintaining an unmodified opinion on our financial statements, and working through the OMB Circular No. A-123 reviews. Their demonstrated knowledge of the NLRB programs and processes and their constant effort to provide excellent customer service were outstanding.

Isabel Luengo McConnell

Chief Financial Officer

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

November 13, 2023

To: Lauren McFerran
Chairman

Jennifer A. Abruzzo
General Counsel

From: David P. Berry
Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2023 Financial Statements (OIG-F-28-24-01)

This memorandum transmits the audit report on the National Labor Relations Board (NLRB) Fiscal Year 2023 Financial Statements with the Management Response.

The Accountability of Tax Dollars Act of 2002 requires the NLRB to prepare and submit to Congress and the Director of the Office of Management and Budget annual audited financial statements. We contracted with Castro & Company, an independent public accounting firm, to audit the financial statements. The contract required that the audit be done in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States and Bulletin 24-01, *Audit Requirements for Federal Financial Statements*, issued by the Office of Management and Budget.

In connection with the contract, we reviewed Castro & Company's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on the NLRB's financial statements or internal control or conclusions on compliance with laws and regulations. Castro & Company is responsible for the attached auditor's report dated November 13, 2023, and the conclusions expressed in the report. Our review disclosed no instances where Castro & Company did not comply, in all material respects, with generally accepted government auditing standards.

We appreciate the courtesies and cooperation extended to Castro & Company and our staff during the audit.

cc: Board
Chief Financial Officer

Castro & Company
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Independent Auditor’s Report on the Financial Statements

Inspector General
National Labor Relations Board

Opinion
In accordance with the Accountability of Tax Dollars Act of 2002, we have audited the National Labor Relations Board (NLRB) financial statements. NLRB’s financial statements comprise the balance sheets as of September 30, 2023 and 2022, the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended, and the related notes to the financial statements. In our opinion, NLRB’s financial statements present fairly, in all material respects, NLRB’s financial position as of September 30, 2023 and 2022, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion
We conducted our audit in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor’s Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the NLRB and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements
NLRB Management is responsible for the (1) preparation and fair presentation of the financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the Required Supplementary Information (RSI) in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in NLRB’s Performance and Accountability Report (PAR), and ensuring the consistency of that information with the audited financial statements and RSI; and (4) designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor’s Responsibility for the Audit of the Financial Statements
Our objectives are to (1) obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and (2) issue an auditor’s report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

Independent Auditor's Report
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In performing an audit of financial statements in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the financial statement audit.

Required Supplementary Information
U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of (1) inquiries of management about the methods of preparing the RSI and (2) comparing the RSI for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information
NLRB's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not required as part of the financial statements or RSI. Management is responsible for the other information included in the NLRB's PAR. The other information comprises the Messages from the Chairman, General Counsel, and Chief Financial Officer, list of Board Members, Other Accompanying Information, and Appendices but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

Independent Auditor's Report
Page 3

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by Government Auditing Standards

In accordance with U.S. generally accepted government auditing standards and OMB Bulletin No. 24-01, we have also issued our reports dated November 13, 2023, on our consideration of NLRB's internal control over financial reporting and the results of our tests of its compliance with certain provisions of laws, regulations, and contracts that are required to be reported under U.S. generally accepted government auditing standards. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards and OMB Bulletin No. 24-01 in considering the NLRB's internal control and compliance and should be read in conjunction with this report in considering the results of our audit.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, U.S. Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

Alexandria, VA
November 13, 2023

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Independent Auditor's Report on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB), which comprise the balance sheets as of September 30, 2023 and 2022, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated November 13, 2023. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 24-01, *Audit Requirements for Federal Financial Statements*.

In connection with our audit of NLRB's financial statements, we considered NLRB's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control Over Financial Reporting
Our consideration of internal control was for the limited purpose described below and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies or to express an opinion on the effectiveness of NLRB's internal control over financial reporting. Given these limitations, during our Fiscal Year 2023 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weakness or significant deficiencies may exist that have not been identified.

During our Fiscal Year 2023 audit, we identified deficiencies in NLRB's internal control over financial reporting that we do not consider to be material weaknesses or significant deficiencies. Nonetheless, these deficiencies warrant NLRB management's attention. We have communicated these matters to NLRB management and, where appropriate, will report on them separately.

Basis for Results of Our Consideration of Internal Control over Financial Reporting
We performed our procedures related to NLRB's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget audit guidance.

Responsibilities of Management for Internal Control over Financial Reporting
NLRB management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Independent Auditor’s Report on Internal Control
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Auditor’s Responsibilities for Internal Control over Financial Reporting
In planning and performing our audit of NLRB’s financial statements as of and for the year ended September 30, 2023, in accordance with U.S. generally accepted government auditing standards, we considered NLRB's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate under the circumstances, but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control over financial reporting. Accordingly, we do not express an opinion on NLRB’s internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting
An entity’s internal control over financial reporting is a process effected by those charged with governance, management, and other personnel. The objectives of internal control over financial reporting are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, and contracts, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting
The purpose of this report is solely to describe the scope of our consideration of NLRB’s internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of NLRB’s internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

This report is intended solely for the information and use of the management and NLRB Office of Inspector General, OMB, the Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC
Alexandria, VA
November 13, 2023

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Independent Auditor's Report on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB), which comprise the balance sheets as of September 30, 2023 and 2022, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated November 13, 2023. We conducted our audit in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 24-01, *Audit Requirements for Federal Financial Statements*.

In connection with our audit of NLRB's financial statements, we tested compliance with selected provisions of applicable laws, regulations, and contracts consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, and Contracts
Our tests for compliance with selected provisions of applicable laws, regulations, and contracts disclosed no instances of noncompliance for Fiscal Year 2023 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, and contracts applicable to NLRB. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, and Contracts
We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Compliance with Laws, Regulations, and Contracts
NLRB management is responsible for complying with laws, regulations, and contracts applicable to the NLRB.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, and Contracts
Our responsibility is to test compliance with selected provisions of laws, regulations, and contracts applicable to NLRB that have a direct effect on the determination of material amounts and disclosures in NLRB's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, and contracts applicable to NLRB. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, and Contracts
The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, and contracts, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance

Independent Auditor's Report on Compliance with Laws and Regulations
Page 2

with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, and contracts is not suitable for any other purpose.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

Alexandria, VA
November 13, 2023

United States Government

NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
WASHINGTON DC 20570
www.nlrb.gov

To: David P. Berry, Inspector General

From: Isabel Luengo McConnell, Chief Financial Officer

Date: November 13, 2023

Subject: Response to the Audit of the National Labor Relations Board Fiscal Year (FY) 2023 Financial Statements

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During the FY 2023 Financial Statements audit, the National Labor Relations Board (NLRB) received an unmodified audit opinion on its financial statements. This opinion indicates that the auditors determined that the NLRB's financial statements present fairly, in all material respects, the financial position of the NLRB as of September 30, 2023.

The Office of the Chief Financial Officer's (OCFO) focus has been to address audit findings that were identified in previous audits. The remediation of these previous audit findings and the strengthening of internal controls processes have resulted in an unmodified audit opinion with no significant deficiencies or material weaknesses.

The OCFO will continue to support and guide NLRB's management programs and initiatives to ensure that the Agency delivers on its mission effectively and efficiently and provides the best value to the American people.

ISABEL MCCONNELL

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Date: 2023.11.13 10:20:01 -05'00'

Isabel Luengo McConnell

PRINCIPAL FINANCIAL STATEMENTS

Auditor's Reports and Principal Financial Statements

PRINCIPAL STATEMENTS

National Labor Relations Board

BALANCE SHEETS - As of September 30, 2023 and 2022

(In Dollars)

	2023	2022
Assets		
Intragovernmental:		
Fund Balance with Treasury (Note 3)	$ 56,556,319	$ 46,763,279
Advances and Prepayments (Note 4)	15,625	0
Total Intragovernmental	56,571,944	46,763,279
Other than Intragovernmental:		
Accounts Receivable, net (Note 5)	542,613	696,288
General Property, Plant, and Equipment, net (Note 6)	5,518,244	6,280,207
Advances and Prepayments (Note 4)	55,757	42,761
Total Other than Intragovernmental	6,116,614	7,019,256
Total Assets (Note 2)	$ 62,688,558	$ 53,782,535
Liabilities		
Intragovernmental:		
Accounts Payable	$ 1,089,503	$ 1,914,947
Liability to the General Fund	426,204	0
Benefit Program Contributions Payable	992,660	953,496
FECA Liabilities (Note 7)	(12,551)	1,611
Total Intragovernmental	2,495,816	2,870,054
Other than Intragovernmental:		
Accounts Payable	3,828,283	3,013,390
Federal Employee and Veteran Benefits Payable	145,263	139,238
Unfunded Annual Leave (Note 7)	15,425,238	15,533,971
Actuarial FECA Liability (Note 7)	326,124	1,671,221
Accrued Funded Payroll & Leave and Payroll Taxes Payable	3,102,544	2,998,695
Total Other than Intragovernmental	22,827,452	23,356,515
Total Liabilities	$ 25,323,268	$ 26,226,569
Commitments and Contingencies (Note 15)		
Net Position		
Unexpended Appropriations - Funds from Other than Dedicated Collections	$ 47,470,734	$ 37,790,199
Total Unexpended Appropriations	47,470,734	37,790,199
Cumulative Results of Operations - Funds from other than Dedicated Collections	(10,105,444)	(10,234,233)
Total Cumulative Results of Operations	(10,105,444)	(10,234,233)
Total Net Position	37,365,290	27,555,966
Total Liabilities and Net Position	$ 62,688,558	$ 53,782,535

The accompanying notes are an integral part of these financial statements.

National Labor Relations Board

STATEMENTS OF BUDGETARY RESOURCES

For the Years Ended September 30, 2023 and 2022

(In Dollars)

	2023	2022
Program Costs		
Resolve Unfair Labor Practices		
Net Cost	$ 268,401,143	$ 253,992,270
Resolve Representation Cases		
Net Cost	35,014,122	35,589,614
Costs	303,415,265	289,581,884
Less: Earned Revenue	0	(5,740)
Net Cost of Operations	$ 303,415,265	$ 289,576,144

The accompanying notes are an integral part of these financial statements.

National Labor Relations Board

STATEMENTS OF NET COST

For the Years Ended September 30, 2023 and 2022

(In Dollars)

	2023	2022
Unexpended Appropriations		
Beginning Balance	$ 37,790,199	$ 39,523,320
Appropriations Received	299,224,000	274,224,000
Other Adjustments	(3,700,819)	(1,338,323)
Appropriations Used	(285,842,646)	(274,618,798)
Net Change in Unexpended Appropriations	9,680,535	(1,733,121)
Total Unexpended Appropriations	$ 47,470,734	$ 37,790,199
Cumulative Results of Operations		
Beginning Balances	$ (10,234,233)	$ (8,402,083)
Appropriations Used	285,842,646	274,618,798
Imputed Financing	17,701,408	13,125,196
Net Cost of Operations	(303,415,265)	(289,576,144)
Net Change in Cumulative Results of Operations	128,789	(1,832,150)
Total Cumulative Results of Operations: Ending	$ (10,105,444)	$ (10,234,233)
Net Position	$ 37,365,290	$ 27,555,966

The accompanying notes are an integral part of the financial statements.

National Labor Relations Board

STATEMENTS OF CHANGES IN NET POSITION

For the Years Ended September 30, 2023 and 2022

(In Dollars)

	2023	2022
Budgetary Resources		
Unobligated balance from prior year budget authority, net (discretionary and mandatory)	$ 7,943,691	$ 11,004,773
Appropriations (discretionary and mandatory)	299,224,000	274,224,000
Spending Authority from offsetting collections (discretionary and mandatory)	0	3,598
Total Budgetary Resources (Note 11)	$ 307,167,691	$ 285,232,371
Status of Budgetary Resources		
New Obligations and upward adjustments (total)	$ 299,428,799	$ 275,154,470
Unobligated balance, end of year:		
Apportioned, unexpired accounts	356,300	411,050
Unexpired unobligated balance, end of year	356,300	411,050
Expired unobligated balance, end of year	7,382,592	9,666,851
Unobligated balance, end of year (total)	7,738,892	10,077,901
Total Budgetary Resources	$ 307,167,691	$ 285,232,371
Outlays, Net (total) (discretionary and mandatory)		
Outlays, net (total) (discretionary and mandatory)	$ 285,730,141	$ 281,032,885

The accompanying notes are an integral part of these financial statements.

NOTES TO PRINCIPAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The NLRB is an independent federal agency established in 1935 to administer the NLRA. The NLRA is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. The NLRB's jurisdiction includes the U.S. Postal Service; but other government entities, railroads, and airlines are not within the NLRB's jurisdiction. The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. The NLRB does this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The NLRB has two principal functions: (1) to determine and implement, through secret ballot elections, free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts by either an employer, a union, or both. The NLRB's authority is divided both by law and delegation. The five-member Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP charges before ALJ, whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.

B. Basis of Accounting and Presentation

The accompanying financial statements have been prepared to report the financial position, net cost, changes in net position, and budgetary resources of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the books and records of the NLRB in accordance with GAAP and the accounting standards issued by the Federal Accounting Standards Advisory Board (FASAB) in the format prescribed by the OMB Circular A-136, Financial Reporting Requirements. GAAP for federal entities are the standards prescribed by the FASAB, which is the official standard-setting body for the federal government.

The NLRB's financial statements should be read with the understanding that they are for a component of the United States Government whose liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and that the payment of all liabilities other than for contracts can be abrogated by the federal government acting in its capacity.

The NLRB is required to be in substantial compliance with all applicable accounting principles and standards established, issued, and implemented by the FASAB, which is recognized by the American Institute of Certified Public Accountants as the entity to establish GAAP for the federal government. The FFMIA requires the Agency to comply substantially with (1) federal financial management systems requirements, (2) applicable federal accounting standards, and (3) the United States Standard General Ledger (USSGL) at the transaction level. The NLRB uses the Department of Interior's financial management system, and that system is FFMIA compliant. Thus, the NLRB's financial management system complied with the requirements of FFMIA and produced records in accordance with USSGL at the transaction level.

The NLRB's financial statements reflect both accrual and budgetary basis of accounting. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized as incurred, without regard to receipt or payment of cash. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds. Budgetary accounting principles are designed to recognize the obligation of funds according to legal requirements.

The Balance Sheet presents the Agency's assets and liabilities, and the difference between the two is the Agency's net position. The Agency's assets include both entity assets; those which are available for use by the Agency and non-entity assets; those which are managed by the Agency but not available for use in its operations. The Agency's liabilities include both those covered by budgetary resources (funded) and those not covered by budgetary resources (unfunded). A note disclosure is required to provide information about the Agency's fiduciary activities. Fiduciary cash and other assets are not assets of the federal government.

The Statement of Net Cost presents the gross costs of programs, reported by program and for the Agency.

The Statement of Changes in Net Position reports beginning balances, budgetary and other financing sources, and net cost of operations, to arrive at ending balances.

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. Recognition and measurement of budgetary information reported on this statement is based on budget terminology, definitions, and guidance in OMB Circular A-11, Preparation, Submission, and Execution of the Budget.

The information presented on the Statement of Net Cost is based on the programs below:

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. Unless a settlement is reached, the NLRB Regional Office will issue and prosecute a complaint against the party being charged if it believes that the charge has merit. A complaint that is not settled or withdrawn is tried before an ALJ, who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial body, deciding cases based on the formal trial record according to the law and the body of case law that has been developed by the Board and the federal courts.

Representation Cases are initiated by the filing of a petition by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents, or in some cases continues to represent, a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency is to investigate the petition and, if necessary, conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the NLRA.

All cases are assigned unique tracking numbers, with the letter "C" designating Unfair Labor Practices cases, and the letter "R" designating Representation cases. The percentage of new cases filed for each type of case drives the program breakout for financial reporting purposes. See chart below with the calculations for FY 2023 and FY 2022, through September 30.

	2023 Percentage	2022 Percentage
C Cases (Unfair Labor Practices)	88%	88%
R Cases (Representation)	12%	12%
	100%	100%

C. Budgetary Basis of Accounting

The NLRB's programs and activities are funded through annual appropriations. Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the Treasury to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at year-end expire. At the end of the fifth year following the year of execution, all amounts not expended are canceled and returned to Treasury. Additionally, all revenue received from other sources must be returned to the Treasury.

Budgetary accounting measures appropriation and consumption of budget/spending authority and facilitates compliance with legal constraints and controls over the use of federal funds. Under budgetary reporting principles, budgetary resources are consumed at the time an obligation is incurred. Only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

D. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

E. Revenue and Other Financing Sources

As a component of the Government-wide reporting entity, the NLRB is subject to the federal budget process, which involves appropriations that are provided annually. The financial transactions that are supported by budgetary resources, which include appropriations, are generally the same transactions reflected in the NLRB and the Government-wide financial reports.

The NLRB's budgetary resources reflect past congressional action and enable the NLRB to incur budgetary obligations, but they do not reflect assets to the Government as a whole. Budgetary obligations are legal obligations for goods, services, or amounts to be paid based on statutory provisions (e.g., Social Security benefits). After budgetary obligations are incurred, the U.S. Treasury will make disbursements to liquidate the budgetary obligations and finance those disbursements in the same way it finances all disbursements, using some combination of receipts, other inflows, and borrowing from the public.

F. Fund Balance with the Treasury

FBWT is an asset of a reporting entity and a liability of the General Fund. The amounts represent commitments by the Government to provide resources for particular programs, but they do not represent net assets to the Government as a whole.

The NLRB does not maintain cash in commercial bank accounts. Treasury processes cash receipts and disbursements. Funds with the Treasury consist of appropriated and deposited funds that are available to pay current liabilities and finance authorized purchase commitments. In addition, funds held with Treasury also include escrow funds that are not appropriated but are fiduciary in nature. The fiduciary funds are not assets of the federal government; therefore, they are not recognized on the Balance Sheet.

G. Accounts Receivable, Net

Accounts Receivable typically consists of payroll related debts due to the NLRB from Agency employees and debts due to the NLRB from third party sources for invitational travel. Accounts receivable is stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year-end.

H. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, bulk purchases, computer hardware and software, and leasehold improvements.

Personal Property. Personal property costing $15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. Bulk purchases of large quantities of property that would otherwise fall under the individual capitalization threshold are capitalized if the total purchase is $100,000 or more. Other property items are expensed when purchased. Expenditures for repairs and maintenance are charged to operating expenses as incurred. The useful life for this category is three to twelve years. There are no restrictions on the use or convertibility of general property, plant, and equipment.

Real Property. Real property consists of leasehold improvements on GSA leased space which cost $100,000 or more. Leasehold improvements are recorded as construction in progress until the Agency has beneficial occupancy of the space, and then the costs are moved to the Leasehold Improvements account for amortization over the remaining life of the lease.

Internal Use Software. Internal Use Software (IUS) includes purchased Commercial Off-The-Shelf software (COTS), contractor-developed software, and software that was internally developed by Agency employees. IUS is capitalized at cost if the development cost is $100,000 or more. For COTS software, the capitalized costs include the amount paid to the vendor for the software; for contractor-developed software it includes the amount paid to a contractor to design, program, install, and implement the software. Capitalized costs for internally developed software include the full cost (direct and indirect) incurred during the software development stage. The standard useful life for IUS has been established as three years, to accurately match expenses with the period in which the benefits are received from the software. The NLRB uses the straight-line method of amortization.

Internal Use Software in Development. Internal use software in development is software that is being developed, but not yet put into production. At the time the software is moved into production the costs will be moved into the IUS account and amortized accordingly.

I. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets. Non-Entity assets, restricted by nature, consist of miscellaneous receipt accounts. The miscellaneous receipts represent court fines and fees collected for the FOIA requests that must be transferred to the Treasury at the end of each fiscal year.

J. Liabilities

Liabilities represent amounts that are likely to be paid by the NLRB as the result of transactions or events that have already occurred; however, no liabilities are paid by the NLRB without an appropriation. Liabilities must be recognized when they are incurred regardless of whether they are covered by available budgetary resources, including liabilities related to canceled appropriations. Liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity. Intragovernmental liabilities arise from transactions with other federal entities.

Accounts Payable

Accounts payable represent amounts due to federal and nonfederal entities for goods and services received by the NLRB that have not been paid at the end of the accounting period. Intragovernmental accounts payable represent payable transactions with other federal entities. Nonfederal accounts payable represent transactions with nonfederal entities.

Accrued Payroll

Accrued payroll consists of salaries, wages, and other compensation earned by employees but not disbursed as of September 30, 2023, and 2022. The liability is estimated for reporting purposes based on historical pay information.

K. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity. These liabilities will require budgetary resources. Liabilities not covered by budgetary resources include, unfunded leave, FECA and unemployment compensation.

Unfunded Leave

A liability for annual and other vested compensatory leave is accrued as earned and reduced when taken. The value of employees' unused annual leave at the end of each fiscal quarter is accrued as a liability. At the end of each fiscal quarter, the balance in the accrued annual leave account is adjusted to reflect current pay rate and leave balances. To the extent the current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed when used, and in accordance with federal requirements, no accruals are recorded for unused sick leave.

Unfunded Federal Employees' Compensation Act

The FECA was established by Public Law 103-3 which provides income and medical cost protection to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the DOL, which pays valid claims and subsequently seeks reimbursement from the NLRB for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by the DOL but not yet reimbursed by the NLRB. The NLRB reimburses the DOL for the actual claim amount as funds are appropriated for this purpose. There is generally a two to three-year period between payment by the DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by the DOL and to be reimbursed by the NLRB.

The second component is the estimated liability for future benefit payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. The NLRB determines this component annually, as of September 30, using a method that considers historical benefit payment patterns.

Due to the small number of claimants, the NLRB uses the methodology of reviewing the ages of claimants on a case-by-case basis to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants.

Unfunded Unemployment

The NLRB's unemployment programs provide unemployment benefits to eligible workers who become unemployed through no fault of their own and meet certain other eligibility requirements. The Unemployment Compensation for Federal Employees program provides benefits for eligible, unemployed, former civilian Federal employees. The NLRB's liability for unemployment includes and costs incurred but unbilled as of the quarter end, as calculated by DOL, and not funded by current appropriations.

L. Commitments and Contingencies

Commitments reflect binding agreements that may result in the future expenditure of financial resources that are not recognized on the Balance Sheet.

A loss contingency is an existing condition, situation, or set of circumstances involving uncertainty as to possible loss to an entity. The uncertainty should ultimately be resolved when a future event occurs or fails to occur. A contingent liability should be recorded when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable, and the future outflow or sacrifice of resources is measurable.

The NLRB recognizes material contingent liabilities in the form of claims, legal action, administrative proceedings, and suits that have been brought to the attention of legal counsel, some of which will be paid by the Treasury Judgment Fund. It is the opinion of management and legal counsel that the ultimate resolution of these proceedings, actions, and claims, will not materially affect the financial position or results of operations.

M. Life Insurance and Retirement Plans

Federal Employees' Group Life Insurance (FEGLI) Program

The NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain basic life term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met. The OPM administers this program and is responsible for the reporting of liabilities. For each fiscal year, OPM calculates the U.S. Government's service cost for the post-retirement portion of the basic life coverage. Because the NLRB's contributions to the basic life coverage are fully allocated by OPM to the pre-retirement portion of coverage, the NLRB has recognized the entire service cost of the post-retirement portion of basic life coverage as an imputed cost and imputed financing source.

Retirement Programs

The NLRB employees participate in either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees' Retirement System (FERS), a defined benefit and contribution plan. Congress created the FERS in 1986, and it became effective on January 1, 1987, pursuant to Public Law 99-335. Since that time, new Federal civilian employees who have retirement coverage are covered by FERS. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS. The NLRB contributes a matching contribution equal to seven percent of pay for CSRS employees.

FERS is a retirement plan that provides benefits from three different sources: a Basic Benefit Plan, Social Security, and the Thrift Savings Plan (TSP). Two of the three parts of FERS (Social Security and the TSP) can go with the employee to their next job if they leave the federal government before retirement. The Basic Benefit and Social Security parts of FERS require an employee to pay their share each pay period. The NLRB withholds the cost of the Basic Benefit and Social Security from the employee's pay as payroll deductions. After an employee retires, the federal government pays the annuitant monthly annuity payments for the rest of their life.

The Thrift Savings Plan is long-term retirement savings and investment plan that is administered by the Federal Retirement Thrift Investment Board. The TSP is an account that the NLRB automatically sets up for the employee. Each pay period the NLRB deposits into the employee account an amount equal to 1 percent of the basic pay earn for the pay period. FERS or CSRS employees who began or rejoined federal service after October 1, 2020, the NLRB will automatically enroll the employee in the TSP, and 5 percent of the basic salary is deducted from the employee's paycheck every pay period and deposited into the TSP account. FERS or CSRS employee who began or rejoined federal service between August 1, 2010, and September 30, 2020, were automatically enrolled at 3 percent FERS employee hired before August 1, 2010, and are not contributing their own money, still have a TSP account with accruing Agency/Service Automatic (1 percent) Contributions. An employee can also make their own contributions to their TSP account and the NLRB will make a matching contribution. Traditional (pre-tax) contributions allow employees to delay paying taxes on their contributions and their earnings until they withdraw them. Roth (after-tax) contributions, the employee pays taxes on your contributions as they make them.

The maximum amount of base pay that an employee participating in FERS may contribute to the plan is $22,500 per the IRS limit. Employees belonging to CSRS may also contribute up to $22,500 of their salary in CY 2023 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2023 is $7,500. For CY 2023, the regular and catch-up contributions may not exceed $30,000. The sum of the employees' and the NLRB's contributions are transferred to the Federal Retirement Thrift Investment Board. For FERS employees, the Agency also contributes the employer's share of Medicare.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employee Government-wide, including the NLRB employees. The NLRB has recognized an imputed cost and imputed financing source for the difference between the estimated service cost and the contributions made by the NLRB and covered CSRS employees.

The NLRB does not report FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities applicable to its employees on its financial statements. Reporting such amounts is the responsibility of the administrative agency, OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with SFFAS 4, Managerial Cost Accounting Concepts and Standards for the federal government, included in the NLRB's financial statements as an imputed financing source.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits (FEHB) and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS 4, Managerial Cost Accounting Concepts and Standards for the federal government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and provide these factors to the Agency for current period expense reporting. Information is also provided by OPM regarding the full cost of health and life insurance benefits.

As of September 30, 2023, the NLRB, utilizing OPM provided cost factors, recognized $5,923,539 of pension expenses, $11,751,160 of post-retirement health benefits expenses, and $26,709 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $17,701,408 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM. In comparison, in FY 2022, the NLRB recognized $2,488,371 of pension expenses, $10,611,169 of post-retirement health benefits expenses, and $25,656 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $13,125,196 as an imputed financing source from OPM.

N. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the GSA and commercial copier leases. NLRB leases all buildings through GSA. The NLRB pays GSA a standard level user charge for the annual leases, which approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, and it does not record GSA-owned properties as assets. The real property leases are for the NLRB's Headquarters and Regional Offices and the personal property leases are for fleet vehicles and copiers.

O. Net Position

Net position is composed of unexpended appropriations and cumulative results of operations.

Unexpended Appropriations include the portion of the NLRB's appropriations represented by undelivered orders and unobligated balances. Unexpended appropriations on the Balance Sheet must equal unexpended appropriations on the Statement of Changes in Net Position (SCNP). The NLRB does not have unexpended appropriations attributable to Funds from Dedicated Collections.

Cumulative Results of Operations represent the net results of operations since inception plus the cumulative amount of prior-period adjustments. Cumulative results of operations on the Balance Sheet should equal cumulative results of operations on the SCNP. The NLRB does not have cumulative results of operations attributable to Funds from Dedicated Collections.

P. Use of Management Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions, and exercise judgement that affects the reported amount of assets, liabilities, net position, and disclosure or contingent assets and liabilities as of the date of the financial statements, as well as reported amounts of financing sources, expenses, and obligations incurred during the reporting period. The assumptions made and estimates used by the NLRB to prepare the financial statements are based upon the facts that exist when the financial statements are prepared and on various other assumptions that are believed to be reasonable under the circumstances. Changes in estimates are reflected in the period in which they become known. Actual results may differ from those estimates. The notes to the financial statements include information to assist the reader in understanding the effect of changes in assumptions on the related information.

Q. Tax Status

The NLRB, as an independent Board of the Executive Branch, is a federal agency, and is not subject to federal, state, or local income taxes, and accordingly, no provision for income tax is recorded.

R. Subsequent Events

Subsequent events and transactions occurring after fiscal year-end through the date of the auditor's opinion have been evaluated for potential recognition of disclosure in the financial statements. The date of the auditor's opinion also represents the date that the financial statements were available to be issued.

Note 2. Non-Entity Assets

Non-Entity Assets are assets held by an entity that are not available to the entity. Non-Entity assets represent miscellaneous receipts collected and related accounts receivable (net of allowance for doubtful accounts). Miscellaneous Receipts represent court fines and fees collected for FOIA requests that must be transferred to the Treasury at the end of each fiscal year.

Entity Assets are assets that the reporting entity has authority to use in its operations. Management may have authority to decide how funds are used or it may be legally obligated to use the funds a certain way.

The composition of non-entity assets as of September 30, 2023 and 2022, is as follows:

(In Dollars)	2023	2022
Non-Entity Assets		
Fund Balance with Treasury	$ 0	$ 0
Total Non-Entity Assets	0	0
Total Entity Assets	62,688,558	53,782,535
Total Assets	$ 62,688,558	$ 53,782,535

Additionally, the NLRB received a remainder interest in Florida real estate valued at approximately $46,000 as part of a ULP case settlement. This asset is not included in the table above.

Note 3. Fund Balance with Treasury

Treasury performs cash management activities for all federal agencies. The NLRB's FBWT represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. The status of FBWT as of September 30, 2023 and 2022 consists of the following:

(In Dollars)	2023	2022
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	$ 356,300	$ 411,050
Unavailable	7,382,592	9,666,851
Obligated Balance Not Yet Disbursed	48,817,427	36,685,378
Non-Budgetary Fund Balance with Treasury	0	0
Total	$ 56,556,319	$ 46,763,279

The status of FBWT may be classified as unobligated available, unobligated unavailable, or obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in the current year of operations. Unavailable unobligated balances are not available to fund new obligations because they are expired. The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received but for which payment has not yet been made.

Obligated and unobligated balances reported for the status of FBWT do not agree with obligated and unobligated balances reported on the Statement of Budgetary Resources because the FBWT includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts (non-entity).

Note 4. Advances

Intragovernmental

As of September 30, 2023 and 2022, the NLRB reported advances to the Department of Transportation for the employee transit subsidy program totaling $15,625 and $0, respectively.

Public

As of September 30, 2023 and 2022, the NLRB reported advances for postage meter funding totaling $55,757 and $42,761, respectively.

Note 5. Accounts Receivable, Net

As of September 30, 2023 and 2022, the NLRB reported accounts receivable, net totaling $542,613 and $696,288 respectively.

(In Dollars)	2023	2022
Intragovernmental		
Accounts Receivable	$ 0	$ 0
With the public		
Accounts Receivable	555,547	750,871
Total Accounts Receivable	555,547	750,871
Allowance for Doubtful Accounts	(12,934)	(54,583)
Accounts Receivable, net	$ 542,613	$ 696,288

Note 6. General Property, Plant and Equipment

General property, plant, and equipment consists of that property which is used in operations and consumed over time. The table below summarizes the cost and accumulated depreciation for general property, plant, and equipment as of September 30, 2023 and 2022.

2023			
(In Dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Construction In Progress	$ 2,086,069	$ 0	$ 2,086,069
Equipment	3,776,101	3,574,032	202,069
Leasehold Improvements	8,603,214	5,373,108	3,230,106
Internal Use Software	45,060,728	45,060,728	0
Total Property, Plant and Equipment	$ 59,526,112	$ 54,007,868	$ 5,518,244

2022			
(In Dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Construction In Progress	$ 1,448,079	$ 0	$ 1,448,079
Equipment	3,776,101	2,907,542	868,559
Leasehold Improvements	7,405,114	4,595,510	2,809,604
Internal Use Software	45,060,728	43,906,763	1,153,965
Total Property, Plant and Equipment	$ 57,690,022	$ 51,409,815	$ 6,280,207

Note 7. Liabilities Not Covered by Budgetary Resources

Liabilities are classified as liabilities covered by budgetary resources, liabilities not covered by budgetary resources, and liabilities not requiring budgetary resources. Liabilities not covered by budgetary resources require future congressional action whereas liabilities covered by budgetary resources reflect prior congressional action. Regardless of when the congressional action occurs, when the liabilities are liquidated, Treasury will finance the liquidation in the same way that it finances all other disbursements, using some combination of receipts, other inflows, and borrowing from the public. The FECA liability presents an abnormal balance that resulted from a credit by DOL based on a correction for a chargeback of compensation expenses incurred that were not attributed to the NLRB during the reporting period.

The NLRB's liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents court fines and fees collected for FOIA requests that must be transferred to the Treasury at the end of each fiscal year.

The composition of liabilities not covered by budgetary resources as of September 30, 2023 and 2022, is as follows:

(In Dollars)	2023	2022
Liabilities Not Covered by Budgetary Resources		
Intragovernmental		
FECA Liabilities	$ (12,551)	$ 1,611
Total Intragovernmental	(12,551)	1,611
Liabilities with the Public		
Estimated Future FECA	326,124	1,671,221
Accrued Annual Leave	15,425,238	15,533,971
Total Liabilities Not Covered by Budgetary Resources	15,738,811	17,206,803
Total Liabilities Covered by Budgetary Resources	9,584,457	9,019,766
Total Liabilities	$ 25,323,268	$ 26,226,569

Note 8. Intragovernmental Costs and Exchange Revenue

For the intragovernmental costs, the buyer and seller are both federal entities. The earned revenue is the reimbursable costs from other federal entities. The NLRB has the authority to provide administrative law judges' services to other federal entities. There is no exchange revenue with the public.

(In Dollars)	2023	2022
Resolve Unfair Labor Practices		
Intragovernmental Costs	$ 91,149,449	$ 83,730,408
Costs with the Public	177,251,694	170,261,862
Total Net Cost – Resolve Unfair Labor Practices	268,401,143	253,992,270
Resolve Representation Cases		
Intragovernmental Costs	11,890,851	11,732,377
Costs with the Public	23,123,271	23,857,237
Total Net Cost – Resolve Representation Cases	35,014,122	35,589,614
Less: Earned Revenue	0	(5,740)
Net Cost of Operations	$ 303,415,265	$ 289,576,144

Note 9. Operating Leases

GSA Real Property. The NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of the NLRB's occupancy agreements with GSA will vary according to whether the underlying assets are owned by GSA or rented by GSA from the private sector. The NLRB has occupancy agreements with GSA, which set forth terms and conditions for the space the Agency will occupy for an extended period. Included within the occupancy agreements are 120 to 180-day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, federally owned leases are included in years FY 2024 through FY 2028.

Rental expenses for operating leases for the period ended September 30, 2023, were $23,274,053 for Agency leased space and $2,644,817 for Agency building security. For FY 2022, the operating lease costs were $23,542,818 and the Agency building security was $2,591,170.

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Future Space Lease Payments	
Fiscal Year	GSA Real Property Cost (In Dollars)
2024	$ 26,852,385
2025	28,195,004
2026	29,604,754
2027	31,084,991
2028	32,639,240
After 5 Years	34,271,202
Total	$ 182,647,576

GSA Fleet. The future fleet payments reflect the expense for 12 vehicles used for official NLRB business throughout the United States. Expenses for the fleet vehicles for the period ending September 30, 2023 was $40,401; for FY 2022 the cost was $38,945.

Future Fleet Lease Payments	
Fiscal Year	GSA Fleet Cost (In Dollars)
2024	$ 50,400
2025	52,920
2026	55,566
2027	58,344
2028	61,261
After 5 Years	64,324
Total	$ 342,815

Commercial Copiers. The commercial copier rental expense reflects lease contracts for copy machines located at the NLRB Headquarters and Field Offices. For FY 2023, the commercial copier yearly contract is $154,288; for FY 2022 the cost was $154,288.

Future Copier Lease Payments	
Fiscal Year	Copier Lease Cost (In Dollars)
2024	$ 180,000
2025	185,400
2026	190,962
2027	196,691
2028	206,526
After 5 Years	270,851
Total	$ 1,230,430

Digital Mailing System. The digital mailing system expense reflects lease contracts for mailing systems and postage meters located at the NLRB Headquarters and Field Offices. For FY 2023, the digital mailing system cost was $89,782; for 2022 the cost was $76,083.

Future Digital Mailing Lease Payments	
Fiscal Year	Digital Mailing Lease Cost (In Dollars)
2024	$ 108,723
2025	108,723
2026	114,160
2027	119,868
2028	125,862
After 5 Years	132,154
Total	$ 709,490

Security Screening Machines. The security screening machines expense reflects lease contracts for x-ray machines located at the NLRB Headquarters and Field Offices. For FY 2023, the security screening machines cost was $6,861; for 2022 the cost was $10,978.

Future Security Screening Machine Payments	
Fiscal Year	Security Screening Machine Lease Cost (In Dollars)
2024	$ 10,978
2025	10,978
2026	10,978
2027	0
2028	0
After 5 Years	0
Total	$ 32,934

Note 10. Inter-Entity Costs

Goods and services are received from other federal entities at no cost or at a cost less than the full cost to the providing federal entity. Consistent with accounting standards, certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost in the Statement of Net Cost and are offset by imputed revenue in the Statement of Changes in Net Position. Such imputed costs and revenues relate to employee benefits. However, unreimbursed costs of goods and services other than those identified are not included the financial statements.

OPM pays pension and other future retirement benefits on behalf of federal agencies for federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other federal agencies at September 30, 2023 and 2022 consisted of:

(In Dollars)	2023	2022
Office of Personnel Management:		
Pension Expenses	$ 5,923,539	$ 2,488,371
Federal Employees Health Benefits	11,751,160	10,611,169
Federal Employees Group Life Insurance Program	26,709	25,656
Total Imputed Financing Costs	$ 17,701,408	$ 13,125,196

Note 11. Statement of Budgetary Resources

The purpose for the federal budgetary accounting is to control, monitor, and report on funds made available to federal agencies by law and to help ensure compliance with the law. The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into GAAP for the federal government.

The following budget terms are commonly used from OMB Circular A-11, Preparation, Submission and Execution of the Budget (Section 20.3):

https://www.whitehouse.gov/wp-content/uploads/2018/06/a11_web_toc.pdf

- *Appropriation* - a provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.
- *Budgetary resources* - amounts available to incur obligations in a given year. Budgetary resources consist of new budget authority and unobligated balances of budget authority provided in previous years.

- *Offsetting collections* - payments to the Government that, by law, are credited directly to expenditure accounts and deducted from gross budget authority and outlays of the expenditure account, rather than added to receipts. Usually, offsetting collections are authorized to be spent for the purposes of the account without further action by Congress. They usually result from business-like transactions with the public, including payments from the public in exchange for goods and services, reimbursements for damages, and gifts or donations of money to the Government and from intragovernmental transactions with other Government accounts. The authority to spend offsetting collections is a form of budget authority.
- *Offsetting receipts* - payments to the Government that are credited to offsetting receipt accounts and deducted from gross budget authority and outlays, rather than added to receipts. Usually, they are deducted at the level of the agency and subfunction, but in some cases they are deducted at the level of the Government as a whole. They are not authorized to be credited to expenditure accounts. The legislation that authorizes the offsetting receipts may earmark them for a specific purpose and either appropriate them for expenditure for that purpose or require them to be appropriated in annual appropriations acts before they can be spent. Like offsetting collections, they usually result from business-like transactions with the public, including payments from the public in exchange for goods and services, reimbursements for damages, and gifts or donations of money to the Government, and from intragovernmental transactions with other Government accounts.
- *Obligation* - a binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.
- *Outlay* - a payment to liquidate an obligation (other than the repayment of debt principal or other disbursements that are "means of financing" transactions). Outlays generally are equal to cash disbursements but also are recorded for cash-equivalent transactions, such as the issuance of debentures to pay insurance claims, and in a few cases are recorded on an accrual basis such as interest on public issues of the public debt. Outlays are the measure of Government spending.

For further information about the budget terms and concepts, see the "Budget Concepts" chapter of the Analytical Perspectives volume of the President's Budget.

https://www.whitehouse.gov/omb/budget/analytical-perspectives/

The NLRB's total budgetary resources was $307,167,691 as of September 30, 2023 and $285,232,371 as of September 30, 2022, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. The NLRB received $299,224,000 in appropriations as of September 30, 2023, and $274,224,000 September 30, 2022. The NLRB's apportioned unobligated balance available at September 30, 2023 was $356,300 and at September 30, 2022 was $411,050.

Note 12. Undelivered Orders at the End of the Period

Undelivered orders are purchase orders issued by the NLRB during the FY 2023 and the five expiring fiscal years, which have not had delivery of the required product or service as of September 30, 2023 and 2022. It is anticipated that these undelivered items will be provided in future periods and will require resources obligated during the respective fiscal years.

Undelivered Orders as of September 30, 2023 and 2022		
(In Dollars)	2023	2022
Intragovernmental		
Paid	$ 0	$ 0
Unpaid	16,440,315	10,104,553
Total Intragovernmental	16,440,315	10,104,553
Public		
Paid	71,382	42,761
Unpaid	23,218,860	17,610,015
Total Public	23,290,242	17,652,776
Total	**$ 39,730,557**	**$ 27,757,329**

Note 13. Fiduciary Activities

The fiduciary cash and other assets are not assets of the federal government, are not recognized on the Balance Sheet, and are assets of a non-federal party for which the federal government is responsible.

The NLRB Escrow Accounts are fiduciary deposit funds presented in accordance with SFFAS 31, Accounting for Fiduciary Activities, and OMB Circular A-136, Financial Reporting Requirements. The Escrow Accounts, Restraining Order Cases (420X6152) and Backpay Cases (402X6154) are authorized by Title 31 United States Code, Section 3513 and Title 29 United States Code, Section 151-169. The Escrow Account, Restraining Order Cases (420X6152) was established to separate cases related to protective restraining orders.

The NLRB investigates and adjudicates disputes between private sector employees, employers, and unions. Part of the NLRB's mission is to determine if the employer (or sometimes the union), herein referred to as respondent, engaged in unfair labor practices, which resulted in a loss of employment or wages for the affected employees (discriminatees). In some cases, the respondent is ordered to pay monetary amounts to the discriminatees. These payments can be paid by respondent directly to the discriminatees or they can pay the NLRB, which disburses the funds to the discriminatees. The NLRB is authorized to collect funds on behalf of discriminatees.

The fiduciary funds collected by the NLRB are held in escrow and represent funds that were collected as part of the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. The NLRB collects the funds, and then distributes them to employees, unions, pension funds, or other discriminatees in the settlement. The NLRB has the option to invest funds in federal government securities if the funds will remain in escrow for a lengthy period. NLRB's fiduciary funds are not invested.

The NLRB executed an MOU with the Treasury that established agreed upon policies and procedures for investing monies in, and redeeming investments held by, the fiduciary fund account in Treasury. The NLRB manages these funds in a fiduciary capacity and does not have ownership rights against its contributions and investments; the assets and activities summarized in the schedule below are not presented in the financial statements. The NLRB's fiduciary activities are disclosed in this note.

Schedule of Fiduciary Activity
As of September 30, 2023 and 2022

(In Dollars)	2023			2022		
Fiduciary Funds	Fund 420X6152	Fund 420X6154	Total Funds	Fund 420X6152	Fund 420X6154	Total Funds
Fiduciary net assets, beginning of year	$ 0	$ 10,781,512	$ 10,781,512	$ 0	$ 23,397,224	$ 23,397,224
Fiduciary revenues	0	631,357	631,357	0	1,439,234	1,439,234
Disbursements to and on the behalf of beneficiaries	0	(792,521)	(792,521)	0	(14,054,946)	(14,054,946)
Increase (Decrease) in fiduciary net assets	0	(161,164)	(161,164)	0	(12,615,712)	(12,615,712)
Fiduciary net assets, end of year	$ 0	$ 10,620,348	$ 10,620,348	$ 0	$ 10,781,512	$ 10,781,512

Fiduciary Net Assets As of September 30, 2023 and 2022						
(In Dollars)	2023			2022		
Fiduciary Funds	Fund 420X6152	Fund 420X6154	Total Funds	Fund 420X6152	Fund 420X6154	Total Funds
Fund Balance with Treasury	$ 0	$ 10,620,348	$ 10,620,348	$ 0	$ 10,781,512	$ 10,781,512
Total Fiduciary net assets	$ 0	$ 10,620,348	$ 10,620,348	$ 0	$ 10,781,512	$ 10,781,512

Note 14. Reconciliation of Net Cost to Net Outlays

SFFAS 53, *Budget and Accrual Reconciliation*, amended SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting* and 24, *Selected Standards for the Consolidated Financial Report of the United States Government*, and rescinded SFFAS 22, *Change in Certain Requirements for Reconciling Obligations and Net Cost of Operations*. SFFAS 53 provided for the budget and accrual reconciliation (BAR) to replace the statement of financing. The BAR explains the relationship between the NLRB's net outlays on a budgetary basis and the net cost of operations during the reporting period. The reconciliation starts with the net cost of operations as reported on the Statement of Net Cost and will be adjusted by components of net cost that are not part of net outlays. Common components include depreciation and gains and losses on disposition of assets and changes in assets and liabilities (e.g., accounts receivable, accounts payable and salaries and benefits) not affecting budget outlays. Net cost of operations is also adjusted by budget outlays that are not part of net operating cost. Components of budget outlays that are not part of net operating cost include acquisition of capital assets, inventory, and other assets. Other reconciling differences, when applicable, include timing differences.

Reconciliation of Net Cost to Net Outlays As of September 30, 2023			
(In Dollars)	Intra- governmental	With the public	Total 2023
Net Cost	**$ 103,040,300**	**$ 200,374,965**	**$ 303,415,265**
Components of Net Cost That Are Not Part of Net Outlays:			
Other		3,760	3,760
Increase/(decrease) in assets:			
Accounts receivable		542,613	542,613
Other assets	15,625	55,757	71,382
(Increase)/decrease in liabilities:			
Accounts payable	825,444	(780,092)	45,352
Salaries and benefits	(992,660)	(145,263)	(1,137,923)
Other liabilities	(440,366)	(16,770,335)	(17,210,701)
Total Components of Net Cost That Are Not Part of Net Outlays	**(591,957)**	**(17,093,560)**	**(17,685,517)**
Components of Net Outlays That Are Not Part of Net Cost:			
Acquisition of capital assets			
Total Components of Net Outlays That Are Not Part of Net Cost			
Other Temporary Timing Differences		393	393
Net Outlays	**$ 102,448,343**	**$ 183,281,798**	**$ 285,730,141**
Related Amounts on the Statement of Budgetary Resources			
Outlays, net			285,730,141
Distributed offsetting receipts			0
Agency Outlays, Net			**$ 285,730,141**

Reconciliation of Net Cost to Net Outlays As of September 30, 2022			
(In Dollars)	**Intra- governmental**	**With the public**	**Total 2022**
Net Cost	**$ 95,457,045**	**$ 194,119,099**	**$ 289,576,144**
Components of Net Cost That Are Not Part of Net Outlays:			
Other		15,657	15,657
Increase/(decrease) in assets:			
Accounts receivable		752,183	752,183
Other assets		42,761	42,761
(Increase)/decrease in liabilities:			
Accounts payable	(1,552,646)	1,134,132	(418,514)
Salaries and benefits	(1,553,838)	(5,340,879)	(6,894,717)
Other liabilities	46,841	(2,088,315)	(2,041,474)
Total Components of Net Cost That Are Not Part of Net Outlays	**(3,059,643)**	**(5,484,461)**	**(8,544,104)**
Components of Net Outlays That Are Not Part of Net Cost:			
Acquisition of capital assets			
Total Components of Net Outlays That Are Not Part of Net Cost			
Other Temporary Timing Differences		845	845
Net Outlays	**$ 92,397,402**	**$ 188,635,483**	**$ 281,032,885**
Related Amounts on the Statement of Budgetary Resources			
Outlays, net			281,032,885
Distributed offsetting receipts			0
Agency Outlays, Net			**$ 281,032,885**

Note 15. Commitments and Contingencies

In addition to future commitments discussed in Note 9, Operating Leases, the NLRB is committed under obligations at year end for goods and services which have been received and not yet paid or for goods and services which have been ordered but not yet received. These are unpaid delivered orders.

The NLRB was not party to any legal actions that were likely to result in a material liability. Accordingly, no provision for loss is included in the financial statements.

Protecting Democracy in the Workplace Since 1935

OTHER INFORMATION

INSPECTOR GENERAL'S TOP PERFORMANCE AND MANAGEMENT CHALLENGES

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

October 6, 2023

To: Board and General Counsel

From: David Berry
Inspector General

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General (OIG) is required by section 3516 of title 31 to summarize what the Inspector General considers to be the most serious management and performance challenges facing the National Labor Relations Board (NLRB or Agency) and briefly assess its progress in addressing those challenges. This memorandum fulfills that requirement. The information provided in this report is based upon our reviews and investigations, as well as our general knowledge and observations of the NLRB's operations.

For the purpose of this report, an item can be noted as a management or performance challenge even though it is not a deficiency or within the control of the Agency. The challenges noted below are not OIG findings or matters that necessarily involve mismanagement or any type of failure on the part of the NLRB's leaders or managers. In our view, a challenge is just that, a task or endeavor that is made difficult by the circumstances. In our prior year's memorandum, we identified five management and performance challenges.

CHALLENGES

Operational Management

In prior reports, we described this overarching challenge as almost exclusively related to the COVID-19 pandemic. Now that the pandemic has receded from the focus it once had, we view this challenge as involving three primary components.

The NLRB continues to be challenged by the loss of Field staff. We know, from several sources, that the number of Field agents has steadily declined. Although, in this fiscal year, the Agency made a significant effort to address staffing issues, we continue to receive information regarding understaffing in Regional Offices and a backlog of work. To address some of the backlog, staff at the Headquarters began assisting in case work to include investigating unfair labor practice charges; representation case decision writing; monitoring deferrals and informal settlements; and assisting in litigation. Regional Offices also continued to shift some work to other Regions utilizing the inter-Regional Office assistance process. While those efforts address the immediate issue of processing particular cases, they do not resolve long-term staffing issues. Likewise, there is no basis to expect that there will be a reduction in case intake to the degree that would be required to address the Field office staffing issues.

The Agency is operating and managing its case work with an aging case processing system. That system, known as NxGen, has been in service since 2013 as the case record system. Although there have been updates to the software and changes to address the evolution of the electronic case processing needs, 11 years for a computer system is a significant period of time. We saw aspects of this challenge in the audits *Casehandling Efficiency* and *Division of Judges* when we attempted to reconcile and work with data from the system. In both audits, we determined that there were significant case processing data reliability issues. Also, when we spoke with NxGen users who are both from management and non-management, they provided examples of situations that demonstrate the difficulty of using the system and its data. Some managers refer to NxGen as a "legacy system" even though it is the only system in place. Given all the circumstances, it is a fair characterization to state that the NxGen system is antiquated when it comes to case management and data reporting.

It is also apparent that the COVID-19 virus is not completely gone. There will be ongoing issues for management to work through to address the evolving post pandemic environment and continue to meet its statutory mission to investigate and resolve unfair labor practice charges and conduct representation elections.

The ability of the Agency to address this overarching challenge is directly related to the level of the appropriation. For many years the NLRB's funding was set at the Fiscal Year (FY) 2014 level. For FY 2023, that funding was increased, but the amount remained below the budget request. To address the continued staffing issues and the information technology operational expenses, at the current funding level, while being mindful of the potential for disruption related to COVID-19 cases, is a significant challenge.

Financial Management

In July 2012, the Board created the Office of the Chief Financial Officer (OCFO), implementing a recommendation from the FY 2010 audit of the financial statements. The OCFO includes the budget, procurement, and finance functions. In five audits of the financial statements in the following years, the audits reported findings related to significant deficiencies and/or material weaknesses involving financial management. Also, in our audit of the FY 2019 lapse in funding, we found several internal control issues related to the OCFO's budget processes.

At the end of FY 2020, the OCFO closed a number of pending audit recommendations from the prior financial statement audits and reported a significantly lower lapse in funding as compared to FY 2019. Also, the audit of the FY 2020 financial statements did not have significant deficiency or material weakness findings. During FY 2021, we continued to see a significant effort related to improving internal controls and financial management. For the audit of the FY 2021 financial statement, the OCFO did not receive any new recommendations. During FY 2022, the OCFO continued to address prior years' internal control finding and implemented 11 recommendations closing out three audits related to financial management. In the audit for the FY 2022 financial statements, there were no findings related to a material weaknesses or significant deficiencies in internal controls, but there were four new recommendations issued in the Management Letter. In FY 2023, the OCFO closed out all of the older financial statement audit recommendations and two of the four FY 2023 recommendations.

Although the OCFO made significant progress in addressing the older financial statement recommendations, during FY 2023, we issued an audit report *Procurement Process* detailing the Agency's compliance with Federal Acquisition Regulation. That audit disclosed numerous internal control issues that could directly affect the management of the Agency's financial resources. Key to managing the Agency's financial resources is effectively managing its procurement process.

Human Capital Management and Maintaining the Agency's Institutional Knowledge

These two challenges are interrelated. The need to maintain a stable and productive workforce is key to the NLRB's ability to fulfill its statutory mission.

As we stated in prior Management Challenge reports, in our audit work we have, over an extended time period, observed a loss of institutional knowledge in management practices as new personnel take over key positions. In some circumstances when information about historical practices is available, the context regarding why the practice was developed has been lost with the personnel changes.

In FY 2023, the Division of Administration completed its work to develop an extensive succession and management program. Based on our review of the program policy, once fully implemented, it should address this challenge.

Information Technology Security

The FY 2016 Federal Information Security Modernization Act (FISMA) review was the start of the change from reviewing what the Agency was doing to assessing the maturity of the Agency's information technology (IT) security processes. For the past several years, the Office of the Chief Information Officer (OCIO) made steady progress at improving the Agency's IT security processes and maturity level. In the past several years, including FY 2023, the OCIO met the "optimized" level and was rated as "effective."

Because of the rapid changes in technology that results in evolving threats, however, we expect that the OCIO will continue to face challenges as it works to keep the NLRB network secure. To meet those challenges, the OCIO will continue to need adequate funding to maintain and update the NLRB systems and maintain an appropriate staffing level of skilled personnel to manage the processes.

Implement Audit Recommendations

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 18 open audit recommendations with the oldest of those recommendations being issued in an FY 2015 audit report. This year, there are nine open audit recommendations. For those recommendations, five were issued in FY 2023, three were issued in FY 2022, and one was issued FY 2021.

Given this improvement over the prior fiscal years, we determined that the challenge to implement audit recommendations is met and that the Agency is effectively addressing audit findings.

SUMMARY OF AUDIT AND MANAGEMENT ASSURANCES

I. Summary of Financial Statement Audit

Audit Opinion: Unmodified					
Restatement: No					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
	0	0	0	0	0

II. Summary of Management Assurances

Effectiveness of Internal Control Over Operations (FMFIA §2)

Statement of Assurance: Unmodified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

Compliance with Financial Systems Requirements (FMFIA §4)

Statement of Assurance: Unmodified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

PAYMENT INTEGRITY INFORMATION ACT REPORTING

The PIIA amends Government-wide improper payment reporting requirements by repealing and replacing the IPIA, IPERA, IPERIA, and the FRDAA.

The NLRB is required by the PIIA to assess the disbursement process and estimate the approximate amount of improper payments every three years. The NLRB's latest IPIA assessment and review performed by an independent consultant in FY 2022 concluded that the NLRB program and activities were at a low risk for improper payments.

For FY 2023, NLRB processed $285,701,520 in disbursements which included payroll and benefits of $233,880,801 and travel of $1,122,109. In addition, the NLRB paid $50,698,610 to vendors which accounted for 18 percent of the total disbursements.

The NLRB's independent review evaluated the procedures in the Agency's payment and disbursement processes. It also tested and assessed the design and effectiveness of internal controls. Given these controls, the IPIA assessment found no improper payment in the testing and found that the estimated improper payments to be within the thresholds defined by IPIA. Thus, improper payments for the NLRB's programs did not exceed $10 million and 1.5 percent of the program total expenditures or $100 million of the total program expenditures. The Agency estimates the improper payments rate to be at most 1.5 percent and the improper payment amount to be no more than $4,285,523. Therefore, the NLRB has effective procedures and controls in place for its payment and disbursement processes. The NLRB has reasonable assurance that controls over financial and non-financial operations are sufficient.

No additional reporting requirements are necessary.

Improper Payments Elimination and Recovery Chart

Program Name	Published Payment Integrity information with the annual financial statement	Posted the annual financial statement and accompanying materials on the Agency website	Conducted improper payment (IP) risk assessments for each program with annual outlays greater than $10,000,000 at least once in the last three years	Adequately concluded whether the program is likely to make IPs and unknown payments (UP) above or below the statutory threshold	Published IP and UP estimates for programs susceptible to significant IPs and UPs in the accompanying materials to the annual financial statement	Published corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement	Published an IP and UP reduction target for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement	Demonstrated improvements to payment integrity or reached a tolerable IP and UP rate	Developed a plan to meet the IP and UP reduction target	Reported an IP and UP estimate of less than 10 percent for each program for which an estimate was published in the accompanying materials to the annual financial statement
Payroll	Yes	Yes	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commercial Contracts	Yes	Yes	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Information regarding the Annual Data Call submission can be found at *https://www.paymentaccuracy.gov*.

Do Not Pay (DNP) Initiative

The mission of the Treasury's DNP team is to "protect the integrity of the government's payment process by assisting agencies in mitigating and eliminating improper payments in a cost-effective manner while safeguarding the privacy of individuals." The NLRB echoes that sentiment and has made eliminating improper payments one of the Agency's financial management priorities. The DNP portal is a multifaceted system that embraces resources from several agency subsystems i.e., Social Security Administration's Death Master File, GSA's System for Award Management (SAM) Exclusion Records as well as the Treasury Offset Program (TOP). DNP uses this network of systems in order to disseminate to agencies who should or should not receive public funds in order to reduce or prevent the likelihood of improper payments.

In FY 2023, the DNP portal vetted 6,848 payments for authenticity and validity. The number of payments made amounted to $26,801,162.41 in disbursements that passed through DNP's network of red flag indicating systems. DNP did not identify any payments which matched a vendor name on the Excluded Parties List (EPL).

October 2022 - September 2023						
	Number (#) of payments reviewed for improper payments	Dollars ($) of payments reviewed for improper payments	Number (#) of payments stopped	Dollars ($) of payments stopped	Number (#) of improper payments reviewed and not stopped	Dollars ($) of improper payments reviewed and not stopped
Reviews with DMF Public	6,848	$26,801,162.41	0	$0	0	$0
Reviews with SAM Exclusions Public	6,848	$26,801,162.41	0	$0	0	$0

- Payments reviewed for improper payments includes the total number of payments disbursed by the Agency through the Payment Automation Manager (PAM). Payment files are submitted by the Agency in the PAM Standard Payment Request (SPR) format. The agency's PAM SPR file is transmitted to the Portal for matching against the AIS Death Data, the DMF, the DOD Death Data, and the DOS Death Data minus any payments that were excluded from matching due to (1) a missing or unmatchable TIN (DMF only) or (2) a missing name.
- Payments stopped is currently not applicable since the DNP matching and adjudication process is based on post payment results.
- Improper payments reviewed and not stopped includes the total number of matches identified by the DNP Initiative that were adjudicated as proper by the Agency.

REAL PROPERTY

The GSA, the nation's largest public real estate organization, provides workspace for more than 1.2 million federal workers through its Public Buildings Service. Approximately half of federal employees are housed in buildings owned by the federal government and half are located in separate leased properties, including buildings, land, antenna sites, etc. across the country. GSA charges rent to over 100 federal agencies, which is deposited into the federal buildings fund and used to operate the government's buildings and pay rent to private companies for leased space.

The GSA serves as the real estate agent for the NLRB by providing office space in federal and leased space. GSA is the organization that makes the appropriate and final determination for NLRB office locations. Federal building occupancy is the preferred choice. GSA determines which space is the most cost effective for the government. GSA lease actions start +/- 18 months prior to lease expiration. The lease is signed between the lessor and GSA. The Agency signs an occupancy agreement (OA) with GSA.

This link takes you to the GSA's website: ***https://www.gsa.gov/tools-overview/buildings-and-real-estate-tools/inventory-of-gsa-owned-and-leased-properties***. The chart below provides information on NLRB locations.

https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp							
NLRB Location	**Address**	**Current Building Type**	**GSA Location Code**	**GSA Occupancy Agreement (OA) Number**	**Current Rentable Square Footage**	**OA Term Start Date**	**OA Term Expiration Date**
Headquarters	1015 Half Street, SE Washington, DC 20570-0001	Leased	DC0719	ADC07116	152,872	6/30/2015	6/29/2025
R-1 Boston	Thomas P. O'Neill Federal Building 10 Causeway Street, Suite 1001 Boston, MA 02222-1072	Federal	MA0153	AMA00119	8,813	9/1/2022	3/14/2032
SR-34 Hartford	A. A. Ribicoff Federal Bldg & Courthouse 450 Main St, 4th Floor Hartford, CT 06103-3503	Federal	CT0054	ACT01875	14,602	9/27/2020	5/31/2030
R-2 New York	Jacob K. Javits Federal Building 26 Federal Plaza, Room 3614 New York, NY 10278-0104	Federal	NY0282	ANY02166 & ANY02687	3,853	9/12/2022	1/31/2030
R-3 Buffalo	Niagara Center Building 130 S. Elmwood Avenue, Suite 630 Buffalo, NY 14202-2387	Leased	NY7340	ANY07196	10,296	9/20/2015	9/19/2025
RO-3 Albany	Leo W. O'Brien Federal Building 11A Clinton Ave, Room 342 Albany, NY 12207-2366	Federal	NY0300	ANY02196	3,993	3/1/2019	2/28/2029
R-4 Philadelphia	100 Penn Square East, Suite 403 Philadelphia, PA 19107-3323	Leased	PA0549	APA04935	12,525	10/16/2018	10/15/2028
R-5 Baltimore	Bank of America Center- Tower II 100 South Charles Street, Suite 600 Baltimore, MD 21202-2700	Leased	MD0395	AMD05219	20,050	6/14/2012	6/13/2024

https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp							
NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
RO-5 Washington, DC	1015 Half Street, SE, Suite 6020 Washington, DC 20570-0001	Leased	DC0719	ADC07116	Incl. w/ Headquarters	6/30/2015	6/29/2025
R-6 Pittsburgh	William S. Moorhead Federal Building 1000 Liberty Avenue, Room 904 Pittsburgh, PA 15222-4	Federal	PA0233	APA01602	18,365	12/15/2018	12/14/2028
R-7 Detroit	P. V. McNamara Federal Building 477 Michigan Avenue, Room 05-200 Detroit, MI 48226-2569	Federal	MI0131MC	AMI05260	12,173	2/1/2019	1/31/2028
RO-7 Grand Rapids	Gerald Ford Federal Bldg 110 Michigan St NW, Rm 299 Grand Rapids, MI 49503-23	Federal	MI0137	AMI04500	6,465	9/27/2020	8/31/2029
R-8 Cleveland	Anthony J. Celebrezze Federal Building 1240 East 9th Street, Room 1695 Cleveland, OH 44199-2086	Federal	OH0192	AOH00148	19,286	1/1/2017	10/31/2027
R-9 Cincinnati	John Weld Peck Federal Building 550 Main Street, Room 3003 Cincinnati, OH 45202-3	Federal	OH0189CN	AOH05409	22,971	2/1/2018	1/31/2028
R-10 Atlanta	Peachtree Summit Federal Building 401 W. Peachtree St. NW Suite 472 Atlanta, GA 30308-3525	Federal	GA0087	AGA04525	2,691	3/1/2021	2/28/2031
SR-11 Winston-Salem	One West 4th Street Suite 710 Winston-Salem, NC 27101	Leased	NC2711	ANC03510	5,949	11/7/2022	12/18/2036
RO-10 Birmingham	Ridge Park Place, Suite 3400 1130 South 22nd Street Birmingham, AL 35205-2871	Leased	AL2154	AAL02336	3,853	8/14/2012	8/13/2027
RO-26 Nashville	810 Broadway, Suite 302 Nashville, TN 37203-3859	Leased	TN2038	ATN02958	3,605	4/15/2013	4/14/2025
R-12 Tampa	South Trust Plaza Suite 530 201 East Kennedy Blvd Tampa, FL 33602-5824	Leased	FL2155	AFL06267	7,443	5/15/2023	3/31/2038
RO-12 Miami	Claude Pepper Federal Building Federal Building, Room 1320 51 SW 1st Avenue Miami, FL 33130-1608	Federal	FL0061	AFL00498	5,769	6/1/2013	3/31/2032
SR-24 San Juan	La Torre de Plaza Suite 1002 525 F. D. Roosevelt Avenue San Juan, PR 00918-1002	Federal	PR3928	APR02840	9,343	7/1/2014	6/30/2027
R-13 Chicago	Dirksen Federal Building and Courthouse 219 South Dearborn Street, Suite 808 Chicago, IL 60604	Federal	IL0205	AIL06640	23,860	1/1/2016	12/31/2031
R-14 St. Louis	Robert A. Young Federal Building 1222 Spruce Street, Room 8.302 St. Louis, MO 63103-2829	Federal	MO0106	AMO00055	13,487	6/1/2017	5/31/2032
SR-17 Overland Park	8600 Farley Street, Suite 100 Overland Park, KS 66212	Leased	KS1492	AKS01959	11,057	1/13/2014	1/12/2024

https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp							
NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
RO-14 Tulsa	Tulsa Federal Building 224 South Boulder Avenue, Room 322 Tulsa, OK 74103-3027	Federal	OK0063	AOK00169	2,233	9/27/2020	8/20/2030
R-15 New Orleans	F. Edward Hebert Federal Building 600 South Maestri Place, 7th Floor New Orleans, LA 70130-3413	Federal	LA0034	ALA01186	18,296	2/6/2019	1/31/2029
SR-26 Memphis	The Brinkley Plaza Bldg. 80 Monroe Avenue, Suite 350 Memphis, TN 38103-2481	Leased	TN2220	ATN03204	2,962	7/01/2023	5/19/2032
RO-15 Little Rock	Metropolitan National Bank Building 425 West Capitol Ave., Suite 1615 Little Rock, AR 72201-3401	Federal	AR0063	AAR02922	2,501	12/1/2021	11/30/2031
R-16 Fort Worth	Fritz G. Lanham Federal Building 819 Taylor Street, Room 8A24 Ft. Worth, TX 76102-6178	Federal	TX0224	ATX00305	12,112	11/1/2012	9/30/2026
RO-16 Houston	Mickey Leland Federal Building 1919 Smith Street, Suite 1545 Houston, TX 77002	Federal	TX0298	ATX02117	5,352	10/1/2014	9/30/2029
RO-16 San Antonio	Garcia Federal Building 615 East Houston Street, Suite 559 San Antonio, TX 78205-1	Federal	TX0164	ATX07520	2,517	9/27/2020	9/30/2027
R-18 Minneapolis	212 3rd Avenue South Minneapolis, MN 55401-2221	Federal	MN0036	AMN03832	14,152	9/27/2020	4/30/2030
SR-30 Milwaukee	310 West Wisconsin Avenue, Suite #700 Milwaukee, WI 53203-2211	Leased	WI1542RP	AWI02887	10,226	9/1/2013	3/7/2026
R-19 Seattle	Jackson Federal Building 915 2nd Avenue, Room 2948 Seattle, WA 98174-1078	Federal	WA0101	AWA00901	16,307	11/1/2017	10/31/2027
SR-36 Portland	Edith Green -Wendell Wyatt Federal Building 1220 SW 3rd Avenue Portland, OR 97204-2825	Federal	OR0043	APR04200	5,478	10/1/2013	9/30/2028
R-20 San Francisco	Phillip Burton Federal Building 450 Golden Gate Avenue 3rd Fl Suite 3112 San Francisco, CA 94102	Federal	CA0154	ACA12090	10,510	9/1/2022	8/31/2032
SR-37 Honolulu	Prince Kuhio Federal Building 300 Ala Moana Boulevard, Room 7-245 Honolulu, HI 96850-4980	Federal	HI0011	AHI00093	3,661	10/1/2017	9/30/2027
R-21 Los Angeles	U.S. Courthouse 312 N Spring Street, 10th floor Los Angeles, CA 90017-5449	Leased	CA0041	ACA11399	17,945	10/1/2018	9/30/2028
RO-21 San Diego	555 West Beech Street, Suite 418 San Diego, CA 92101-2939	Leased	CA5938	ACA08118	1,965	1/1/2018	12/31/2023
R-22 Newark	Federal Building 20 Washington Place, 5th Floor Newark, NJ 07102-3	Federal	NJ0056	ANJ00031	17,633	8/1/2017	7/31/2027
R-25 Indianapolis	Minton-Capehart Federal Building 575 N. Pennsylvania Street, Room 238 Indianapolis, IN 46204-1577	Federal	IN0133	AIN00258	12,930	3/1/2018	10/31/2028

https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp							
NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
SR-33 Peoria	101 SW Adams Street, 4th Floor Peoria, IL 61602	Leased	IL2637	AIL06665	5,599	6/1/2015	5/31/2025
R-27 Denver	Byron G. Rogers Federal Building 1961 Stout Street, 13th Floor Denver, CO 80202-5433	Federal	CO0039	ACO05930	12,743	11/8/2013	11/15/2028
R-28 Phoenix	2600 North Central Avenue, Suite 1400 Phoenix, AZ 85004-3099	Leased	AZ7319	AAZ04330	13,253	12/1/2011	11/30/2024
RO-28 Albuquerque	The Federal Building and U. S. Courthouse 421 Gold Avenue SW, Suite 310 P.O. Box 567 Albuquerque, NM 87103-2181	Federal	NM0502	ANM01766	5,028	7/1/2017	6/12/2027
RO-28 Las Vegas	Foley Federal Building and Courthouse 300 S Las Vegas Blvd, Suite 2-901 Las Vegas, NV 89101	Federal	NV0013	ANV02878	7,952	2/1/2015	1/31/2030
R-29 Brooklyn	Two Metro Tech Center 100 Myrtle Avenue, 5th Floor Brooklyn, NY 11201-4201	Leased	NY7402	ANY07506	23,238	9/11/2016	12/10/2023
R-31 West Los Angeles	11150 West Olympic Blvd, Suite 700 Los Angeles, CA 90064-1824	Leased	CA7365	ACA10028	18,774	2/19/2013	2/18/2026
R-32 Oakland	Oakland Federal Building 1301 Clay Street, Room 300-N Oakland, CA 94612-5211	Federal	CA0281	ACA00440	18,009	11/9/2018	10/31/2028
DOJ-Washington, DC	1015 Half Street, SE - Suite 6034 Washington, DC 20570-0001	Leased	DC0719	ADC07116	Incl. w/ Headquarters	6/30/2015	6/29/2025
DOJ-New York	Jacob K. Javits 26 Federal Plaza, Suite 41-120 New York, New York 10036-5503	Federal	NY0282	ANY09511	4,047	9/11/2017	9/10/2027
DOJ-San Francisco	Ronald Dellums Oakland Federal Building 1301 Clay Street, Suite 1550S Oakland, CA 94612	Federal	CA0281	ACA12244	2,022	11/1/2022	10/31/2032

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APPENDICES

APPENDIX A

Acronyms

AAPI	Asian Americans and Pacific Islanders
ABA	American Bar Association
ADA	Antideficiency Act
ADR	Alternative Dispute Resolution
ALJ	Administrative Law Judge
AMB	Acquisitions Management Branch
AS	Administrative Systems
BMS	Backpay Management System
CATS	Case Activity Tracking System
CCSLB	Contempt, Compliance and Special Litigation Branch
CCU	Centralized Compliance Unit
CDM	Continuous Diagnostic Monitoring
CEP	Cultural Enhancement Program
CFO	Chief Financial Officer
CLM	Contract Lifecycle Management
COOP	Continuity of Operations
COR	Contracting Officer Representative
CPAO	Congressional and Public Affairs Office
CR	Continuing Resolution
CWTSato	(Carlson Wagonlit) NLRB's travel Management Service
CY	Calendar Year
Data Act	Digital Accountability and Transparency Act
DCIA	Debt Collection Improvement Act
DEIA	Diversity, Equity, Inclusion, and Accessibility
DHS	Department of Homeland Security
DMF	Death Master File
DNP	"Do Not Pay" List
DOJ	Department of Justice
DOL	Department of Labor
EDW	Enterprise Data Warehouse
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
E-File	Electronic Filing
FAA	Federal Arbitration Act
FAR	Federal Acquisition Regulation
FASAB	Federal Accounting Standards Advisory Board
FCPIA	Federal Civil Penalties Inflation Adjustment Act
FEVS	Federal Employee Viewpoint Survey
FFATA	Federal Funding Accountability and Transparency Act
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FOIA	Freedom of Information Act

FPB	Facilities and Property Branch
FPDS-NG	Federal Procurement Data System – Next Generation
FRDAA	Fraud Reduction and Data Analytics Act of 2015
FRPP	Federal Real Property Profile
FTR	Federal Travel Regulations
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GPO	Government Publishing Office
GPRA	Government Performance and Results Act
GPRAMA	Government Performance and Results Modernization Act
GSA	General Services Administration
HCPO	Human Capital Planning Officer
IAA	Interagency Agreement
IBC	Interior Business Center
ILAB	Bureau of International Labor Affairs
INT	Interest Income
IOC	Indicator of Compromise
IPERA	Improper Payments Elimination and Recovery Act of 2010
IPERIA	Improper Payments Elimination and Recovery Improvement Act of 2012
IPIA	Improper Payments Information Act of 2002
IRP	Internal Control, Risk, and Performance
IT	Information Technology
ITSM	Information Technology Services Management
IUS	Internal Use Software
IWG	Interagency Working Group
JCMS	Judicial Case Management System
LOA	Letters of Agreement
LVER	Local Veterans Employment Representative Program
MD&A	Management's Discussion and Analysis
MOU	Memorandum of Understanding
NAC	Network Access Control
NIST	National Institute of Standards of Technology
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
NxGen	Next Generation Case Management System
OA	Occupancy Agreement
OBIA	Oracle Business Intelligence Application
OBIEE	Oracle Business Intelligence Enterprise Edition
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OCPA	Office of Congressional and Public Affairs
OED	Office of Employee Development
OEEO	Office of Equal Employment Opportunity
OFCCP	Office of Federal Contract Compliance Programs
OGC	Office of the General Counsel
OGE	Office of Government Ethics
OHR	Office of Human Resources
OIG	Office of Inspector General
OLMS	Office of Labor Management Standards
OMB	Office of Management and Budget
OPA	Office of Public Affairs
OSC	Office of Special Counsel
OSHA	Occupational Safety and Health Administration

PACER	Payments, Claims and Enhanced Reconciliation
PAR	Performance and Accountability Report
PAS	Presidential Appointees with Senate Confirmation
PD	Position Description
PIF	Presidential Innovation Fellows
PIAA	Payment Integrity Information Act of 2019
PP&E	Property, Plant, and Equipment
QR	Quick Response
RA	Reasonable Accommodation
SAM	System for Award Management
SBA	Small Business Administration
SEPM	Special Emphasis Program Manager
SES	Senior Executive Service
T&A	Time and Attendance
TIC	Trusted Internet Connection
TIN	Taxpayer Identification Number
TOP	Treasury Offset Program
UCC	Unified Communications Contract
ULP	Unfair Labor Practice
USPS	United States Postal Service
VRA	Veteran's Recruitment Appointment
WAN	Wide-Area Network
WH	White House
WHD	Wage and Hour Division
WHIAAPI	White House Initiative on Asian Americans and Pacific Islander

APPENDIX B

Glossary

Adjudicate: Formal judgment or decision about a disputed matter.

Adversarial: Of a trial or legal procedure in which the parties in a dispute have the responsibility for finding and presenting evidence.

Amicus Curiae: Friend of the court.

Arbitrator: An independent person of body officially appointed to settle a dispute.

Backpay: Payment for work done in the past that was withheld at the time, or for work that could have been done had the worker not been prevented from doing so.

Case: The general term used in referring to a charge or petition filed with the Board. Each case is numbered and carries a letter designation indicating the type of case.

Certiorari: A writ or order by which a higher court reviews a decision of a lower court.

Charge: A document filed by an employee, an employer, a union, or an individual alleging that a ULP has been committed by a union or employer.

Collective Bargaining: Negotiation between organized workers and their employer or employers to determine wages, hours, rules, and working conditions.

Complaint: A document that initiates "formal" proceedings in a ULP case. It is issued by the Regional Director when he or she concludes on the basis of a completed investigation that any of the allegations contained in the charge have merit and the parties have not achieved settlement. The complaint sets forth all allegations and information necessary to bring a case to hearing before an ALJ pursuant to due process of law. The complaint contains a notice of hearing, specifying the time and place of the hearing.

Compliance: The carrying out of remedial action as agreed upon by the parties in writing; as recommended by the administrative law judge in the decision; as ordered by the Board in its decision and order; or as decreed by the court.

Consent Election: A Regional Director will hold a prehearing conference to attempt to resolve bargaining unit issues and questions of voter eligibility without having to resort to a full hearing. This type of election eliminates the need for a formal hearing if all parties voluntarily reach an agreement.

Decisions: Decisions by the Board and NLRB Administrative Law Judges.

Deferral: Under certain circumstances, it may be appropriate for a Regional Director to hold up making a determination on the merits of a charge pending the outcome of proceedings on related matters. Such matters may be pending in the parties' contractual grievance procedure or before the Agency or other federal, state, or local agencies or courts.

Dismissed Cases: Cases may be dismissed at any stage. For example, following an investigation, the Regional Director may dismiss a case when he or she concludes that there has been no violation of the law, that there is insufficient evidence to support further action, or for other legitimate reasons. Before the charge is dismissed, the charging party is given the opportunity to withdraw the charge by the Regional Director. A dismissal may be appealed to the Office of the General Counsel.

Directed Election: An election which the Regional Director directs after evidence is presented at a hearing regarding the existence of questions concerning representation and the appropriateness of the bargaining unit sought by the petitioning party.

Expungement: When a first-time offender of a prior criminal conviction seeks that the records of that earlier process be sealed, making the records unavailable through the state or federal repositories.

Formal Action: Formal actions may be documents issued or proceedings conducted when the voluntary agreement of all parties regarding the disposition of all issues in a case cannot be obtained, and where dismissal of the charge or petition is not warranted. "Formal actions" are those in which the Board exercises its decision-making authority in order to dispose of a case or issues raised in a case. "Formal action" also describes a Board decision and consent order issued pursuant to a stipulation, even though a stipulation constitutes a voluntary agreement.

Gissel **Bargaining Order:** *Gissel* bargaining orders are orders to bargain with a union that may no longer have majority support because of serious employer ULPs that have poisoned the possibility of a fair election.

Impact Analysis: Provides an analytical framework for classifying cases so as to differentiate among them in deciding both the resources and urgency to be assigned each case. All cases are assessed in terms of their impact on the public and their significance to the achievement of the Agency's mission. The cases of highest priority, those that impact the greatest number of people, are placed in Category III. Depending on their relative priority, other cases are placed in Category II or I.

Injunctive Relief: A temporary remedy sought in case of egregious violations of the Act pending final action by the Board in which Counsel for the General Counsel asks a district court judge to issue an order requiring the charged party to cease and desist from engaging in violations of the Act and may also seek certain affirmative actions in order to return to status quo.

Injunctive Proceedings: The adjudicatory process by which Counsel for the General Counsel seeks injunctive relief, as described directly above, from a district court judge.

Interstate Commerce: In the U.S., any commercial transaction or traffic that crosses state boundaries or that involves more than one state. Government regulation of interstate commerce is founded on the commerce clause of the Constitution (Article I, section 8), which authorizes Congress "To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes."

Investigative Subpoena: Use of a subpoena during a case investigation to ascertain facts on which to base an initial administrative decision regarding the merits of charge allegations in jurisdictional issues.

Litigation: Litigation by Board attorneys in federal court, including petitions for temporary injunctions, defending Board decisions in court, and pursuing enforcement, contempt and compliance actions.

"Make-Whole" Remedy: A remedy that provides a victim of an unfair labor practice with full restoration of his or her status prior to the unfair labor practice, which includes backpay, consequential damages, and other remedial relief.

Meritorious Unfair Labor Practice Charge: Charge allegations evidencing statutory violations.

"Mixed-Guard" Union: A union that has both security guards and non-guards as members.

"Nip-in-the Bud" Cases: Cases arising from allegations of unfair labor practices committed during union organizing campaigns.

Overage Case: A case is reported "overage" when it is still pending disposition after its time target was exceeded.

P&P Committee: Practice and Procedure Under the NLRA Committee.

Petition: A petition is the official NLRB form filed by a labor organization, employee, or employer. Petitions are filed primarily for the purpose of having the Board conduct an election among certain employees of an employer to determine whether they wish to be represented by a particular labor organization for the purposes of collective bargaining with the employer concerning wages, hours, and other terms and conditions of employment.

The NLRB currently has the following types of petitions:

- Form NLRB-502 (RC) - RC Petition – Certification of Representative
- Form NLRB-502 (RD) - RD Petition – Decertification (Removal of Representative)
- Form NLRB-502 (RM) - RM Petition – Certification of Representative (To be filed by Employer/Petitioner)
- Form NLRB-502 (UD) - UD Petition – Deauthorization of Union Shop Authority (Removal of Obligation to Pay Dues)

Petitioner: The party who presents a petition to the court or a person or entity who files a representation case petition with the Agency.

Prosecutorial: Acts related to the process of litigating against a charged party when meritorious charge allegations are found.

Protected Concerted Activity: The NLRA protects employees' rights to engage in protected concerted activities with or without a union, which are activities to improve working conditions, such as wages and benefits.

Remedies: Remedies obtained to resolve unfair labor practices, including backpay and offers of reinstatement.

Reinstatement: To put a victim of an unfair labor practice back to his or her job.

Representation Cases: Initiated by the filing of a petition—by an employee, a group of employees, a labor organization acting on their behalf, or in some cases by an employer.

Secret-ballot Elections: A voting method in which voter's choices in an election or referendum are anonymous, forestalling attempts to influence the voter by intimidation and potential vote buying.

Settlements: A resolution between disputing parties about a legal case, reached either before or after litigation begins.

Sua Sponte: A Latin phrase describing an act of authority taken without formal prompting from another party.

Social Media: Various online technology tools that enable people to communicate easily via the Internet to share information and resources. These tools can encompass text, audio, video, images, podcasts, and other multimedia communications.

Status Quo: A Latin phrase meaning the existing state of affairs, particularly with regards to social or political issues.

Statutory: Required, permitted, or enacted by statute.

Stipulated Election: The parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent.

Taft-Hartley Act: The Labor Management Relations Act, better known as the Taft-Hartley Act (enacted June 23, 1947) is a U.S. federal law that restricts the activities and power of labor unions. The Taft-Hartley Act amended the NLRA, informally the Wagner Act, which Congress passed in 1935.

Temporary Injunction: A court order prohibiting an action by a party to a lawsuit until there has been a trial or other court action, the purpose of which is to maintain the status quo and preserve the subject matter of the litigation until the trial is over.

Unfair Labor Practice (ULP): An unfair labor practice is unlawful conduct by either a labor organization or an employer that violates the Act.

Union: An organized association of workers formed to protect and further their rights and interests.

Withdrawals: Case resolution resulting from a charging party or petitioner deciding to withdraw the filing of an ULP charge or representation case petition.

APPENDIX C

Historical Performance Measures (FYs 2022–2026)

FY 2022 GOAL 1 (MISSION): ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REMEDIES

FY 2022 GOAL NO. 1, OBJECTIVE 1, MEASURE 1

Measure 1: The Field Office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100.1 days	100.1 days	100.1 days	100.1 days	100.1 days
ACTUAL	84.8 days	N/A	N/A	N/A	N/A

Based upon an average, Field Offices met the goal by reaching case determination in 90 percent of unfair labor practice cases within 91 days pursuant to Memorandum GC 22-05, Goals for Initial Unfair labor Practice Investigations.

The measure was met this fiscal year even with the 22 percent increase in case intake and significant understaffing due to budgetary flat-funding. The new timeliness goals were implemented late in the fiscal year, and the Agency is in current development of a reporting system to accurately record and track all relevant case handling and progress for future reports.

FY 2022 GOAL NO. 1, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	81%	N/A	N/A	N/A	N/A

FY 2022 was an exceptionally busy year for the Board as overall case intake rose significantly while its staffing resources remained the same. Nevertheless, the Board actually increased the efficiency of its processing of both unfair labor practice and representation cases, as the median overall case processing time from case assignment to decision issuance was reduced by 14.3 percent from FY 2021, from 91 days for FY 2021 to 78 days for FY 2022. In addition, as noted below, the Board successfully prioritized the issuance of its oldest cases. The increasing number of total cases, however, contributed to the Board not quite meeting the 90 percent goal for this measure related to unfair labor practice cases, missing the goal by a relatively small margin (9 percent).

FY 2022 GOAL NO. 1, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	N/A	N/A	N/A	N/A

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

FY 2022 GOAL NO. 1, OBJECTIVE 2, MEASURE 1

Measure 1: Conduct annual quality reviews of all Field Offices' unfair labor practice case files with overall ratings.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	N/A	N/A	N/A	N/A

The Division of Operations-Management has completed its review of all Field Offices' unfair labor practice case files. After substantially changing the quality review process and announcing the program to the Field Offices, Operations reviewed examples representative of the breadth of the Field's case-related performance, furnishing timely feedback and guidance. The quality review encompassed not only a review of the substantive work but also of Agency systems and processes related thereto. Overall ratings have been provided to the Field Offices. The work of the Field Offices is being performed at the highest level in approximately 75 percent of the casehandling work reviewed and at a high level for the remaining casehandling reviewed.

FY 2022 GOAL NO. 1, OBJECTIVE 3, MEASURE 1

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	89.2%	N/A	N/A	N/A	N/A

Closed or advanced cases to the next stage in fewer than 300 days in 124 of 139 cases, or 89.2 percent exceeding the 85 percent of the strategic goal target.

FY 2022 GOAL NO. 1, OBJECTIVE 3, MEASURE 2

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	82.9%	N/A	N/A	N/A	N/A

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases Closed cases or advanced cases to the next stage in fewer than 300 days in 59 cases closed during FY 2022, but took longer than 300 days to close or advance to the next stage in 12 cases (82.9 percent) short of the 85 percent goal.

FY 2022 GOAL 2 (MISSION): PROTECT EMPLOYEE FREE CHOICE WITH TIMELY AND EFFECTIVE MECHANISMS TO RESOLVE QUESTIONS CONCERNING REPRESENTATION

FY 2022 GOAL NO. 2, OBJECTIVE 1, MEASURE 1

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	95%	N/A	N/A	N/A	N/A

The Regions met this measurement, with a pre-election agreement rate of 95 percent for cases not involving issues regarding the way elections are conducted.

FY 2022 GOAL NO. 2, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	89%	N/A	N/A	N/A	N/A

The Board's focus on the timely issuance of decisions in representation cases in FY 2022 resulted in the Board missing the 90 percent goal for this measurement by a very small margin (1 percent). Importantly, the Board significantly increased the efficiency of its processing of representation cases, as the median processing time for requests for review from assignment to decision issuance was reduced by 42 percent from 74 days for FY 2021 to 43 days for FY 2022.

FY 2022 GOAL NO. 2, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	N/A	N/A	N/A	N/A

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

FY 2022 GOAL NO. 2, OBJECTIVE 2, MEASURE 1

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency's website.

On January 26, 2022, the Agency publicized and maintained the option to file election petitions electronically in both English and Spanish on its website, through press releases, and on social media. The Agency created brochures in Spanish to explain the NLRB's process with a link to the Spanish e-filing system.

FY 2022 GOAL 3 (SUPPORT): ACHIEVE ORGANIZATION EXCELLENCE AND SERVE AS A MODEL EMPLOYER

FY 2022 GOAL NO. 3, OBJECTIVE 1, MEASURE 1

Measure 1: Maintain a target employee engagement index score of 67 percent on the Federal Employee Viewpoint Survey (FEVS), and in subsequent years establish new initiatives with the goal of increasing employee engagement.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	67%	67%	67%	67%	67
ACTUAL	75%	N/A	N/A	N/A	N/A

The Human Capital Planning Office continues to meet with managers and supervisors to address FEVS results and work toward improving employee morale and employee engagement. Work continues at leveraging best practices to strengthen a culture of higher employee engagement. In this regard, the NLRB achieved a 75 percent Employee Engagement Index Score on the 2022 FEVS.

FY 2022 GOAL NO. 3, OBJECTIVE 2, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) of the "Talent Management Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	N/A	N/A	N/A	N/A

The NLRB achieved a 72 percent Talent Management Index score on the FY 2022 FEVS. Recruitment, retention, and developmental activities have been ongoing throughout the year with various initiatives. The Agency currently leverages its recruitment, retention, and developmental opportunities by using the Presidential Management Council, Interagency Rotation Program (PMC/IRP) program, and by having past participants discuss their experience with how the program assisted with their career growth. Also, the Strategic Recruitment Program continues to partner with employees in Headquarters and the Field Offices on recruitment outreach initiatives. These initiatives provide opportunities for employees to attend career fairs and speak on recruitment panels at universities and colleges.

FY 2022 GOAL NO. 3, OBJECTIVE 3, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) for the "Job Satisfaction Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	N/A	N/A	N/A	N/

The NLRB achieved a 72 percent Job Satisfaction Index score on the FY 2022 FEVS

FY 2022 GOAL NO. 3, OBJECTIVE 3, MEASURE 2

Measure 2: Satisfaction percentage rating (65 percent or above) for the "Support for Diversity Index" using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	67%	N/A	N/A	N/A	N/A

The NLRB achieved a 67 percent Support for Diversity Index score on the FY 2022 FEVS.

The NLRB's development of a Strategic Plan for DEIA ties together existing practices with new initiatives which support and are expected to improve the current Diversity Index score.

The Agency appointed a Chief Diversity Officer who will lead several priorities and goals under the NLRB's DEIA Strategic Plan. A primary goal is to support initiatives focused on creating an inclusive workplace culture. To implement this goal, the NLRB is planning a robust DEIA training program to educate employees and enhance our tools. Training and education on topics such as unconscious bias, anti-racism, cultural competency and awareness, civility, workplace sensitivity, change management, and reasonable accommodation and accessibility are invaluable when collaborating with people of different abilities, cultures, races, ethnicities, genders, beliefs, and experiences.

FY 2022 GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST

FY 2022 GOAL NO. 4, OBJECTIVE 1, MEASURE 1

Measure 1: Achieving a clean audit opinion by ensuring that OCFO's operations are guided by appropriate processes and internal controls.

OCFO – Acquisition Management Branch

NLRB has submitted timely the DATA Act information to OMB monthly by respective FY 2022 reporting dates.

Issued the NLRB's Contracting Officer Representative (COR) Handbook. The COR Handbook is a comprehensive resource for CORs' managers and first-time, as well as experienced, CORs. The COR Handbook covers the procurement process beginning at the inception of a requirement through the closeout of the contract.

Issued the NLRB's Purchase Card Management Plan. As required by OMB Circular No. A-123, Appendix B Revised – A Risk Management Framework for Government Charge Card Programs, this plan outlines the policies and procedures within the NLRB that are critical to the management of the charge card program, to ensure that a system of internal controls is followed and to mitigate the potential for fraud, misuse, abuse, and delinquency.

NLRB continues to support minority business enterprises for contract awards.

Small Business Goal Status*						
Socio- economic Category	SBA Government Wide Small Business Goals	NLRB Statistics Q1 FY 2022	NLRB Statistics Q2 FY 2022	NLRB Statistics Q3 FY 2022	NLRB Statistics Q4 FY 2022	NLRB Statistics Overall FY 2022
Small Disadvantaged*	5%	11.1%	53.4%	72.7%	46.6%	51.3%
8(a)**	0%	11.1%	53.4%	69.5%	40.8%	46.6%
Veteran Owned**	0%	1%	0%	3.7%	2.3%	2.4%
Service Disabled	3%	0%	0%	0.4%	2.3%	1.7%
Women Owned	5%	5.3%	18.5%	8.8%	3%	5.4%
HUBZone	3%	-0.8%	45.8%	64.4%	24%	33%
Small Business	23%	48.6%	67.5%	83.3%	50.4%	58.3%

*In FY 2022, the NLRB was below in one out of the five government wide goals for small disadvantaged businesses because of de-obligations and spending being put in areas that were either for an existing contract or the requirement exceeded small business capabilities.

**8(a) and Veteran Owned are not designated as separate categories by the SBA when establishing Goals. The NLRB defines our small business goals by separating these two categories.

OCFO – Budget Branch

- Developed and managed the Agency's FY 2022 Continuing Resolutions.
- Formulated the NLRB FY 2022 Operating Plan and obtained Board approval.
- Submitted the FY 2023 Congressional Justification on time.
- Developed Status of Funds Reports and provided budget briefings to the Agency Leadership.
- Maintained an Agency Unfunded Requirements List.
- Uploaded NLRB FY 2022 Quarterly Apportionments in Oracle Federal Financials in a timely manner.
- Conducted mid-year reviews with program offices.
- Completed the FY 2022 year-end closing process.
- Submitted the FY 2024 Budget Request to OMB.

OCFO – Finance Branch

- Submitted timely Governmentwide Treasury Account Symbol Adjusted Trial Balance System (GTAS) report to Treasury's Bureau of the Fiscal Service (BFS) on a monthly and/or quarterly basis by its respective FY 2022 reporting dates: December 16, January 18, February 17, March 17, April 18, May 13, June 13, July 18, August 15, and September 15. FY 2022 year-end reporting was completed on October 18, 2022, meeting Treasury's deadline.
- Submitted timely quarterly FY 2022 Intragovernmental Material Difference Report (MDR) to BFS by the reporting windows which were closed on the following dates: January 25th (due January 31st), April 25th (due April 29th, 2022), July 25, 2022 (due July 29, 2022).
- Submitted timely Treasury Report on Receivables (TROR) to BFS on a quarterly basis by the reporting windows. January 27, 2022, April 29, 2022. August 2, 2022, and September's report is on target for submission by November 11, 2022.
- Submitted timely Central Accounting Reporting System (CARS)/Statement of Transactions (SOTs) reporting to BFS monthly by its respective reporting window close (3rd workday of the month).
- Provided timely quarterly updates on the corrective action plan activities to the Office of the Inspector General. The Agency close various audit findings and recommendations issued in previous financial statements audits and Backpay accounting audits.

Internal Control, Risk, and Performance Branch

- Executed quantitative and qualitative risk assessments including a fraud risk assessment for OCFO operations.
- Conducted OMB Circular No. A-123 Planning and Documentation Updates.
- Developed Test Plans and performed tests of the Operating Effectiveness of Internal Controls.
- Coordinated the evaluation and assessment of Entity Level Controls (ELCs).
- Documented the result from the test of Operating Effectiveness of internal controls and ELC and Fraud Risk assessments in a Gap Analysis Report.
- Finalized the Agency's Internal Control Policy.

FY 2022 GOAL NO. 4, OBJECTIVE 1, MEASURE 2

Measure 2: Continue to support telework by employees and contractors, as well as virtual access to Agency processes by members of the public, to create opportunities to reduce costs associated with maintaining the Agency's footprint in its Headquarters and Field Offices, in accordance with General Service Administration (GSA) directives.

The Agency has implemented a strong telework program that provides flexible telework arrangements for Agency employees. The Agency negotiated a reentry-related telework program with one of its unions and a permanent telework program with its other union in reaching a successor collective-bargaining agreement. The Agency conducted an annual space assessment of all NLRB offices. This study identified how much square footage should be provided to each office based on staffing levels and the Agency's space standards. A cost estimate was generated to reduce or eliminate the space. The Agency executed lease improvement and space reduction projects when funds became available.

FY 2022 GOAL NO. 4, OBJECTIVE 2, MEASURE 1

Measure 1: Make progress towards an employee satisfaction percentage rating (65 percent or above) for the Agency's ethical culture using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	71%	N/A	N/A	N/A	N/A

The Ethics Office supports Agency leadership in maintaining a vigorous and robust ethical culture by fully and timely complying with all relevant federal laws, regulations, applicable executive orders, management directives, and policies related to ethics in the workplace by meeting all regulatory requirements under the Ethics in Government Act (EIGA) and 5 C.F.R.§ 2638.104. Evidence of our success in this area can be illustrated by the Office of Government Ethics (OGE) Inspection Report which was issued on June 14, 2022. OGE did not identify any deficiencies in the NLRB's Ethics Program.

During FY 2022, the Agency provided new hire training for all newly hired employees within 90 days of their appointment, ensured that all financial disclosure filers completed Annual Ethics Briefings as required, submitted all required reports to OGE (i.e., data calls, 1353 Semi-Annual Reports for Travel Reimbursement, Annual Questionnaire, Program Review Requests), coordinated with our partners in the Office of Human Resources (OHR) to communicate with new hires and newly appointed supervisors about their ethical obligations, and provided post-employment guidance to anyone separating from government service. The Agency also provided Political Appointees and Schedule C employees with important information about the Biden Ethics Pledge (Executive Order 13989) in the context of both recusals and gifts. To further support this category of employee, the Agency reviewed all speaking engagement invitations to ensure that the meeting or conference did not implicate Paragraph 2 of the Pledge and that the sponsor or any other entity was not offering a prohibited gift.

In addition, the Ethics Office supported the NLRB's commitment to a strong ethical culture by creating an Ethics Pre-employment Guide to inform prospective employees about limitations imposed by ethics rules and regulations so that they would be able to make an informed decision before accepting an offer of employment. The guide also informed these individuals that after accepting employment, they may reach out to the Ethics Office with questions about the rules or their application to a particular situation. The Ethics Office also developed and distributed government and legal ethics resources on a variety of topics to support the mission work of the Agency; provided comprehensive ethics guidance to individual employees by request; and evaluated initiatives proposed by various offices to ensure that the initiatives were executed in an ethical manner. The Ethics Office also provided one-on-one Ethics Briefings when needed, including to officials new to government service and attorneys coming to the Agency from private practice.

Lastly, the Ethics Office is tasked with managing the Agency's Financial Disclosure Program in accordance with EIGA and the Stop Trading on Congressional Knowledge (STOCK) Act. This involves providing one-on-one assistance to confidential and public financial disclosure filers; ensuring that staff who hold "Acting" positions for more than 60 days in a calendar year file New Entrant and Termination reports as they transition in and out of a filing position; reviewing all reports for compliance and sufficiency within 60 days of receipt and providing guidance concerning potential conflicts based on the review of these reports.

FY 2022 GOAL NO. 4, OBJECTIVE 2, MEASURE 2

Measure 2: Continue to respond to FOIA inquiries in a timely manner.

FOIA PAR Performance Measures:	FY 2022 Accomplishments:
Respond to at least 65 percent of initial FOIA requests within 20 working days.	During FY 2022, the Agency received 1,963 FOIA requests, of which 1,678 were processed in twenty days or fewer for a timeliness compliance rate of 85.5 percent.
By the end of the fiscal year, close the ten oldest cases (as reported in the prior FOIA Annual Report) that are not subject to litigation and/or do not require consultation and response from outside Agencies and/or the White House.	During FY 2022, the Agency closed 85.7 percent (six of seven) of the oldest cases as reported in the FY 2021 FOIA Annual Reports that are not subject to litigation and/or do not require consultation and response from outside entities. (Note: This calculation reflects the exclusion of three of the oldest cases reported in the FY 2021 FOIA Annual Report because they remain open due to ongoing litigation and are thus excluded from this measure.)
Respond to at least 80 percent of statutory appeals within 20 working days.	During FY 2022, the Agency processed 18 FOIA appeals, 16 of which were processed in twenty days or fewer for a timeliness compliance rate of 89 percent.
Post on the Agency website the Division of Advice memoranda and case closing emails by the 30th of the month following the month in which the case closed.	During FY 2022, Division of Advice memoranda and case closing emails were processed and timely posted on the Agency website each month in full compliance with the performance measure.
Maintain a year-to-year backlog of less than 10 percent of all FOIA requests received.	During FY 2022, the Agency received 1,963 FOIA requests, of which 18 remained backlogged at the close of the fiscal year, for backlog rate of less than 1 percent (0.9 percent).

FY 2022 GOAL NO. 4, OBJECTIVE 3, MEASURE 1

Measure 1: Reach an ERM maturity level-3 by FY 2026.

- Developed the ERM Policy, Agency Risk Appetite Statement, and Risk Management Council (RMC) Charter.
- Assessed Agency ERM maturity based on the developed ERM Maturity Model.
- Developed ERM Implementation Roadmap based on the results of the Agency's ERM maturity.
- Ensured all Agency Risk Champions received the required ERM Training.
- Initiated the documentation of the Agency's risk registers while exploring automation solutions to standardize this process.
- Worked collaboratively with OCIO in developing an Automated ERM System that will be used in tracking, assessing, and prioritizing the Agency's most significant risks.

FY 2022 GOAL 5 (MISSION): IMPROVE PUBLIC AWARENESS OF AGENCY MISSION AND ACTIVITIES

FY 2022 GOAL NO. 5, OBJECTIVE 1, MEASURE 1

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Time Period FY 2022	Users – English	Pageviews – English	Unique Pages – English	Users – Spanish	Pageviews – Spanish	Unique Pages - Spanish
Q1 2022	511,069	1,790,730	1,463,724	3,373	10,906	9,517
Q2 2022	657,310	2,138,269	1,791,996	5,153	11,213	9,752
Q3 2022	912,530	2,611,622	2,260,126	7,318	13,543	11,969
Q4 2022	869,980	2,496,420	2,128,430	13,022	16,901	14,903
Total	2,950,889	9,037,041	7,644,276	28,866	52,563	46,141

Account	X (formerly known as Twitter) followers	Facebook followers	Instagram followers	Total follower count
NLRB	20,700	23,000	726	44,426
NLRBGC	9,652	5,500	469	15,621
NLRBes	169	N/A	N/A	169
NLRBGCes	278	N/A	N/A	278
Total followers by platform	30,799	28,500	1,195	60,494

FY 2022 GOAL NO. 5, OBJECTIVE 1, MEASURE 2

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

The Student Ambassador program has increased its capacity during this fiscal year.

The program reached 24 high school students from diverse communities. These students then indirectly reached their classmates at their high school events. Eight of the high school students came from a New York City Magnet High School. The program included four high school students who are foreign language speakers. These students then, as part of their projects, interviewed family members and told them about the Act. The students were from the Dominican Republic, Nicaragua, Togo, and the Ivory Coast. The program also conducted 62 outreach events for post-secondary and graduate students at 38 public and private colleges and universities located throughout the U.S.

Historical Performance Measures (FYs 2018-2021) for Goals 1 and 2

Goal 1: Promptly and fairly resolve through investigation, settlement or prosecution, unfair labor practices under the NLRA. This goal is new as of FY 2019 and there is not five years of historical data available to present.

Measure 1: Realize a 5 percent annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	101 days	95 days	90 days
ACTUAL	106 days	74 days	70.5 days	66 days

Measure 2: Realize a 5 percent annual decrease in the average time between issuance of complaint and settlement by ALJ or issuance of ALJ decision.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	230 days	218 days	206 days
ACTUAL	242 days	264 days	283 days	286 days

Measure 3: Realize a 5 percent annual decrease in the average time between issuance of ALJ decision and Board order.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	556 days	527 days	497 days
ACTUAL	585 days	513 days	544 days	305 days

Measure 4: Realize a 5 percent annual decrease in the average time between issuance of a Board order and the closing of a meritorious ULP case.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	616 days	583 days	551 days
ACTUAL	648 days	541 days	578.5 days	869 days

Goal 2: Promptly and fairly resolve all questions concerning representation of employees.

Measure: The percentage of representation cases resolved within 100 days of filing the election petition.

Year	Target	Actual
FY 2018	85.8%	88.8%
FY 2019	85.8%	90.7%
FY 2020	85.8%	84.2%
FY 2021	85.9%	82.3%

Historical Performance Measures (FYs 2018-2021) for Goals 3 and 4

FY 2018 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Strategies:

Employee Development

- The Agency continued to move forward with the transition to USA Performance. Guidance was issued on July 3, 2018, to managers and supervisors on completing the first rating phase using USA Performance for all Non-Bargaining Unit Employees.
  - OPM conducted an audit to make certain that the essential points of the Agency's performance management system are in compliance. This was validated by OPM staff during the Human Accountability Assessment Framework (HCAAF) audit in April 2018. OPM advised that NLRB systems provided robust tools and resources to support the process.
- Security Branch hosted Active Shooter Preparedness Training for the Headquarters employees. The Security Branch is ensuring through Office Managers that all Field Offices have received this critical training. The last time this was coordinated through the Field Offices was in FY 2016.
- Office of Employee Development (OED) developed online content for legal writing and provide legal writing coaching for Headquarters employees.
- Office of Employee Development (OED) continued updating the Management Development Program curriculum to align with the Federal Supervisory and Managerial Frameworks and Guidance to address critical future skills needed by the Agency.
  - Additionally, upon the acquisition of additional staff, HCPO plans to work with leadership to develop a core set of HRstat metrics to use in tracking and analyzing competencies and skills gap data for NLRB's mission critical occupations. The Security Branch worked with OED to release the FY 2016 Continuity of Operations Training for Agency personnel, for the third year in row via Skillport.
- HCPO developed a draft Human Capital Operating Plan pursuant to the newly revised regulations at 5 CFR 250. The draft outlines human capital goals, objectives, and strategies and is currently being reviewed by management.

- The Agency continued to comply with OPM's hiring reform efforts by using the 80-day hiring model.

Workforce Management

- The Agency continues to provide information and pertinent training regarding disability in the workforce, workplace laws and regulations, as well as information on Agency recruitment. During the 4th Quarter, OHR embarked on a new partnership with several Senior Community Employment Service Program (SCSEP) affiliates for Headquarters and Chicago and New York Field Offices.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system. The process is being used with all non-bargaining unit employees. The rollout for bargaining unit employee will occur during FY 2019.
- OHR management team finalized narratives for their program areas to ensure that all HR professionals deliver a unified New Employee Orientation (NEO).
- Office of Equal Employment Opportunity (OEEO) continues to lead the Agency-wide effort to develop programs for the Agency through the EEOC's Management Directive 715 (MD715).
  - OEEO held two quarterly meetings with a cross section of organizational units, including OHR, OED and the Division of Operations-Management (Ops).
  - It was determined that many EEO and inclusion efforts have a technology component, including handling EEO data, responding to Agency reporting requirements and 508 accessibilities. OEEO consulted with OCIO in the 2nd Quarter to ensure improved reporting in the MD715 report. It was determined that OCIO will be a regular partner in all quarterly model EEO meetings. Each office is required to identify, develop, measure, and report out on its progress on issues related to barriers to full opportunity. These efforts will result in a more relevant and responsive MD715 report and plan.
- OEEO, OHR and OED delivered comprehensive mandatory training for managers and supervisors on the Agency's revised Reasonable Accommodation Policy.
- OED led the effort to develop comprehensive mentoring and career development programs for administrative support professionals and for all employees.
  - OED identified resources to develop Individual Development Plans for Agency employees.
- OEEO is leading the effort to develop an Agency-wide Diversity and Inclusion Council, as a best practice among federal agencies and as part of the Agency's Diversity and Inclusion Strategic Plan (FY 2012 and FY 2016), to fully engage all employees by serving as a platform for discussion of diversity and inclusion issues and to develop recommendations to leadership. This proposed council would serve as the platform for recognition of Agency Employee Resource Groups.

Motivation

- HCPO conducted 16 FEVS organizational assessments with senior executives on the CY 2017 FEVS results with a focus on identifying Agency trends/barriers behind low survey scores; reviewing and prioritizing targeted areas of change; identifying outcomes that enables the organization to transition to higher FEVS scores; identifying best practices for managing staff to higher levels of engagement; engaged in root cause analyses and action planning efforts for challenge areas.

- HCPO developed an FEVS Action Planning Toolkit for organizations to utilize in developing action strategies to effect change.
- During the assessment meetings, the HCPO also discussed, inter alia, the two FEVS Agency-wide strategic areas of focus: effective leadership and communication. As a result, leadership will continue to engage in FEVS action planning efforts and implement best practices designed to drive higher levels of employee satisfaction and engagement, with a particular focus on improving the work environment.

- The HCPO completed a comprehensive analysis of the FY 2017 FEVS results and provided each division/office with a comprehensive organizational assessment briefing of the FEVS results. During those briefings, a target of increasing the number of employees responding to the FY 2018 FEVS was set at a five percent increase over the FY 2017 FEVS participation rate.
  - The implemented strategies included the HCPO building successive weekly communications with managers and supervisors during the survey administration period where they would encourage their staff to participate; a communication plan that provided division/office heads with a weekly report on their organization's participation levels; an FEVS Management Toolkit to leverage in promoting the FEVS; and FEVS promotional flyers distributed in NLRB's work space promoting the survey administration period.

FY 2018 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses a legacy case tracking solution called NxGen which is an enterprise case management system.

NxGen presently manages:	
Internal users	1,242
Cases	352,032
Case Actions of the Agency	1,225,231
Documents, images, and videos, each linked to its Action and Case	10,375,671

The Agency expanded electronic distribution of case documents for 15 document types resulting in 626 documents being sent to the USPS electronically, and in savings for the Agency.

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency.

Number of E-Filings Received	50,682
Number of Documents Received	79,293
Number of Board and ALJ Decisions E-Served	593
Total Number of parties E-Serviced Decisions	27,249
Number of E-Deliveries of Case Documents	4,148

The total number of case documents available for public access in FY 2018 was 1,259,762.

Please see *https://www.nlrb.gov/open/public-documents* for a complete list of the document types available to the public.

- To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating approximately 100 of the Agency's processes/forms using SharePoint, InfoPath, web services and Microsoft Azure components. The processes completed in FY 2018 are:
  - Administrative Professional Award Nomination
  - Advanced Annual and Sick Leave
  - Duress Alarm Test
  - Facilities Request
  - Honorary Award Nomination
  - Property Pass
  - Recruitment Strategy
  - Superior Qualifications
  - Training Request
- The Administrative Systems team also completed the modernization of two applications; Archivalware and WIP/CiteNet, to remediate security vulnerabilities associated with end-of-life operating system support and allow for the continued growth of the systems with respect to access control and data management.
- The Administrative Systems team also completed several projects designed to make the SharePoint-based intranet a robust, dynamic, and secure location for employee collaboration:
  - Development of a new Events and Announcements application was deployed. This will allow contributors the ability to input events or announcements to be posted on the Intranet homepage, the Events and Announcements home page and email notifications to be sent for greater visibility and awareness.
  - Launched a redesign of the Service Catalog to provide easy to use categorization of services and allows for growth to add additional services as processes are automated. Included in a recent updated release was an alternate view of all services alphabetized A-Z for another easy way to find and launch the services.
  - Implemented a dynamic Staff Directory which allows employees to easily find office and staff information through browse and/or search.
  - Created various private office workspaces with document libraries, discussion boards, and calendars for group collaboration.

Financial Management:

- To enhance internal controls of the purchase card program, AMB, in coordination with the Budget Office continues to enforce a process by which quarterly target amounts for purchase card spending are sent to each Headquarters and Regional Offices. These amounts are disseminated at the beginning of each quarter to the Office of Operations Management. Operations Management is responsible for communicating specific dollar amounts to the respective Regional Offices, and for tracking the overall expenditures from the Regional Offices. In additional to quarterly target amounts sent to the Headquarters Offices, all Headquarters PCHs submit a Form 13 (Requisition/Procurement Request Form) for certification and approval of appropriated funds prior to making any purchase via their Government issued purchase card. This process helps certify that appropriated funds are approved and available for purchase.

- AMB continues to utilize the bulk purchasing program for paper and toner across the Agency. The program allows for better coordination, distribution, and cost-savings of required items. In FY 2018, bulk orders have taken place in November, February, May, and August 2018.
- As demonstrated in the chart below, the NLRB has exceeded the statutory goals established by federal executive agencies in all categories except one, namely the service-disabled veteran owned businesses. NLRB will work towards achieving the statutory goal for service-disabled veteran owned businesses in FY 2019.
- From October 1, 2017, – September 30, 2018, a total of $28,057,166.00 and 244 contract actions were reported within the Federal Procurement Data System (FPDS). Out of this amount, $18,211,493.00 and 119 actions went to small businesses. This is a 22 percent increase in awards given to small business from the previous year. In FY 2017, NLRB awarded 41.70 percent to small businesses. In FY 2018, this percentage increased to 65 percent.

Category	Gov-Wide Goal	2018	2017	2016	2015	2014	2013
Small Business	23%	65%	41.7%	36.5%	39.7%	31.6%	34.1%
Women Owned Small Business	5%	5%	7.47%	11.1%	12.4%	13.5%	17.8%
Small Disadvantaged Business	5%	52%	28.3%	8.0%	10.7%	11.0%	7.3%
Service-Disabled Veteran Owned Small Business	3%	1%	1.6%	2.4%	0.3%	0.9%	0.3%
HUBZone	3%	41%	23.3%	3.4%	2.1%	2.2%	0.8%

Agency Outreach

The Agency met with local consulates of various countries to educate consular officials about the NLRB's protections and processes.

The Agency provided direct outreach to immigrant populations by:

- Speaking in Spanish and other languages at events organized by the consulates or other community and non-profit groups, such as the Mexican Embassy, the Workplace Justice Project, and workers' rights clinics, to educate the public about the NLRA
- Staffing booths at informational fairs
- Responding to inquiries from individuals who seek consular services
- Participating in Platicas en Consulado (Consul on Wheels)
- Participating in various Labor Rights Week activities in numerous locations throughout the country sponsored by different consulates, including Mexico, El Salvador, Philippines, and Guatemala
- Appearing on Spanish-radio talk show

Other Agency activities directed at the immigrant population included:

- Meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes, including a delegation from South Korea, Shaanxi Federation of Trade Unions, and State Tobacco Monopoly Administration of China

Activities directed at the youth population include:

- Leading discussions for high school and middle school classes concerning the development of the NLRA
- Participating in the Great American Teach In

The Agency continues to partner with The Department of Homeland Security (DHS), The Department of Labor (DOL) and (Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ, and Equal Opportunity Employment Commission (EEOC) in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws.

The Agency has joined with other state and federal agencies by:

- Participating in the Vulnerable Workers Project
- Participating in "listening sessions" coordinated by the Asian American and Pacific Islanders community
- Participating in Wage Theft Task Force discussions
- Participating in SBA Ombudsman roundtables and listening sessions

The Agency produced an informational pamphlet entitled "Protecting Employee Rights," which contains an expanded discussion of an employee's right to engage in concerted activity and other rights under the NLRA, which is available on the NLRB website and in hard copy, in English and Spanish.

The Agency maintains webpages for each individual Regional Office. This webpage contains news articles relevant to the particular region. To ensure that these pages remain fresh, news articles are tagged by the Agency's Office of Public Affairs and automatically loaded on the Region's webpage.

The Agency maintains an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.

The Agency maintains an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.

The Agency inserted QR codes to its correspondence to direct the public to the website.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Prepared and distributed the FY 2017 Annual Ethics Briefing to all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics. The Ethics Office presented the briefing through the Agency's learning management system and covered conflicting financial interests, impartiality, misuse of position, gifts, and the NLRB's Supplemental Regulations. As of the December 31st due date, 92 percent of Agency filers had completed the FY 2018 Annual Ethics Briefing. Employees who did not complete the training by the specified due date indicated that their delay was due to technical issues and schedule conflicts (mission related or scheduled leave). However, all filer employees completed the training requirement on or before January 5, 2018.

- Distributed the FY 2017 Annual Ethics Briefing to all Agency supervisors and managers. By making this briefing available to supervisors and managers, the Ethics Office ensured that all management employees are in a position to identify potential ethics issues and avoid situations that distract from the mission of the Agency.

Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of During FY 2018, the Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Reissued Speaking Engagement memo to all Agency employees. This document provided general guidance about speaking engagements and emphasized the difference between speaking in an official versus a personal capacity. In addition, the memo encouraged the use of the NLRB Waiver Addendum which affirms that by consenting to the recording of a presentation, an NLRB employee is not permitting the sponsor to use their official title or likeness to advertise or endorse the recording, or endorse any other products or services offered by the organization.
- Distributed guidance memo to all Agency employees that addressed monetary and in-kind donations to disaster relief programs, and individual donations to coworkers who were victims of Hurricanes Maria and Irma.
- Partnered with the Office of the Chief Financial Officer (OCFO) to draft a policy statement relating to the acceptance of travel reimbursement from a non-federal source.
- Assisted Board and General Counsel in evaluating ethics recusal obligations.
- Partnered with the OCIO to index legal ethics Tips of the Month by subject matter. This feature of SharePoint should make it easier for Board agents to find legal ethics resources more efficiently.
- Assisted the General Counsel's office in developing a process for approving speakers for NLRB sponsored events.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY 2018, the Ethics Staff:

- Revised and reissued a memo to all Agency employees concerning speaking engagements and encouraged the use of the NLRB Waiver Addendum to comply with the misuse provisions in the Standards of Conduct. This document also reminded employees about the prohibition on soliciting travel reimbursement which is found in the gift regulations.
- Provided customized ethics training to newly confirmed political appointees and their front office staffs.

- Developed a post-employment webcast which is provided to all employees who retire or resign from government service. This webcast supplements the Agency's post-employment guidance documents by providing general guidance covering the Federal Government post-employment restrictions applicable to all government employees, as well as specific post-employment restrictions from the ABA Model Rules of Professional Conduct applicable to Agency attorneys. It helps to ensure the confidentiality of information that belongs to the Agency.
- Began development of the FY 2018 Annual Ethics Briefing which will be offered to all financial disclosure filers, as well as all supervisors and managers, before the end of the calendar year.

Measure:	Goal	2018	2017	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	89%	92%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2018, the Ethics Office received 927 inquiries. 826 (89 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2016 were reviewed within 60 days. During this review the Ethics Office confirmed that all filers had been provided appropriate ethics guidance relating to their reportable assets, outside arrangements, and outside employment activities.
- The annual financial disclosure cycle began on January 1st. NLRB filers use electronic filing systems to comply with the Office of Government Ethics' filing requirement.
- In mid-January the Ethics Office began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2017. In all cases, the Ethics Office completed the review of each report within 60 days of receipt and notified the filer of any real or potential conflicts.

During FY 2018, the Agency completed its review of:

- 31 Annual Confidential Financial Disclosure Reports (OGE 450)
- 105 Annual Public Financial Disclosure Reports (OGE 278e)
- 13 New Entrant Public Financial Disclosure Reports (OGE 278e)
- 119 Monthly Transaction Reports (OGE 278T)
- 11 Termination Reports (OGE 278)

Note: *Review and approval of New Entrant and Annual filings resulted in 118 memos that remind and educate filers about their reporting obligations, potential conflicts, and recusal obligations.*

Internal and External Audit Responses:

- Responses to internal auditors have been prepared and all deadlines have been successfully coordinated regarding the OIG audit recommendations.
- OCIO addresses data calls related to DHS Binding Operational Directive 18-01, Enhanced Email and Web Security.
- OCIO responded to data calls in relation to BOD 18-02, High Value Assets (HVA).

- OCIO submitted FISMA quarterly reports to DHS.
- Juniper ScreenOS and Firewall and VPN Server Data Call in Q1.
- CISCO vulnerability Data Call in Q2.

FOIA:

Measure:	2018	2017	2016	2015	2014
Respond to initial FOIA requests within 20 working days	41 days; 54.8%	46 days; 35.9%	33 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15 percent of requests	1%	10.5%	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	20 working days	20 working days	32.25 working days	24 working days	20 working days

Summary

- From October 1, 2017, to September 30, 2018, the FOIA Branch received 1,312 requests and responded to 780 of those requests within 1-20 days. Thus, 54.8 percent of the FOIA requests were processed within the 20-day statutory time period.
- During FY 2018, the FOIA Branch sought an extension of time to process a FOIA request beyond the 20-day statutory time period in 1 percent of the FOIA requests received.
- During FY 2018, the FOIA Branch received 12 FOIA Appeals. The average response time was 20 working days. The Agency did not seek an extension of time to respond to the FOIA appeals.
- The NLRB had a FOIA request backlog of 294 at the end of FY 2017. At the end of FY 2018, the NLRB had a FOIA request backlog of 90, which reflects a backlog decrease of 69.39 percent.

Reports

Each year, the FOIA Branch prepares an Annual Report, which contains statistics on the number of FOIA requests and appeals received, processed, and pending during the fiscal year, and the outcome of each request. The NLRB FOIA Annual Reports and the NLRB FOIA Quarterly Reports are available on the:

1) NLRB website at ***https://www.nlrb.gov/reports***,

2) DOJ website at ***https://www.justice.gov/oip/reports-1***, and

3) FOIA.gov website ***https://www.foia.gov/***

The FOIA requires each agency Chief FOIA Officer to report to the Attorney General on their performance in implementing the law and the efforts to improve FOIA operations. The NLRB Chief FOIA Officer Reports are publicly available on the:

1) NLRB website at: ***https://www.nlrb.gov/reports***, and

2) DOJ website at ***https://www.justice.gov/oip/reports-1***

Proactive Disclosure

In response to receiving several monthly requests for certain records filed or issued by the twenty-six Regional Offices, the FOIA Branch created a webpage where requesters may directly search for these records. These records are: Representation Petitions and Certifications in RD, RM, and RC cases; and Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, and CE cases. The FOIA Branch began posting the January 2017 records online at: ***https://www.nlrb.gov/region-monthly-uploads***. On a monthly basis, the FOIA Branch maintains and updates this webpage with new responsive records in accordance with the FOIA.

In July 2017, the FOIA Branch became a FOIAonline participating agency. As the FOIA case management system, FOIAonline provides the FOIA Branch with technology tools for FOIA tracking, processing, and posting. Additionally, the NLRB has proactively made more responsive records available to the public on the FOIAonline website ***https://foiaonline.gov/foiaonline/action/public/home***.

Training

The FOIA Branch continues to promote and use the DOJ training tools such as the FOIA Professional e-Learning Module and the Federal Employee e-Learning Module, which are available to all Agency employees on the NLRB e-Learning platform.

If you are unfamiliar with the FOIA, please view the ***DOJ FOIA Training for Federal Government Employees*** available on the NLRB's Skillport and contact your colleagues in the FOIA Branch.

FY 2019 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Strategies:

Employee Development

- The Agency continued to move forward with the transition to USA Performance.
  - The transition of all employees to the automated performance management system was concluded effective June 1, 2019.
  - The performance management team responded to questions and assisted all employees during their transition.
  - OHR continues to transition appraisals for all Agency employees to Electronic Official Personnel Folder (eOPF) from the USA Performance system.
- Office of Employee Development (OED) offered monthly webinars for administrative professionals, periodic retirement seminars, and other training topics in addition to the robust catalog of online training content covering general skills, technical topics, and legal education.
- OED launched an online Individual Development Plan (IDP) form and conducted training on the IDP process and form for employees and supervisors.
- HCPO developed a draft Human Capital Operating Plan pursuant to the newly revised regulations at 5 CFR 250. The draft outlines human capital goals, objectives, and strategies and is currently being reviewed by management.
- The Agency continued to comply with OPM's hiring reform efforts by using the 80-day hiring model.

- The Office of Equal Employment Opportunity (OEEO) participated as resource personnel on the General Counsel's Joint Labor-Management EEO Advisory committee, enabling employee participation as agents of diversity and inclusion, through their collective-bargaining representative.
- During FY 2019, the security Branch reduced the number of backlogged reinvestigations from 462 to 336.

Workforce Management

- The Agency continued to provide information and pertinent training regarding disability in the workforce, workplace laws and regulations, as well as information on Agency recruitment. OHR embarked on a new partnership with the Senior Community Employment Service Program (SCSEP) affiliates, for the Agency's Headquarters office and initiated new partnership with Melwood, an organization that employs individuals with differing abilities.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system.
- OHR management team continued to revise its New Employee Orientation (NEO) to ensure a unified and stellar presentation to new employees. Some of the changes in FY 2019 include:
  - Personalized orientation specifically to the orientee
  - Information about the Employee Assistance Program and eOPF
  - Included policy documents such as Equal Employment Opportunity (EEO) policy statement, Policy statement on the Prevention of Unlawful Harassment, including Sexual Harassment and the Alternative Dispute Resolution (ADR).
- OEEO submitted the Agency's annual Management Directive (MD 715) Report to the equal Employment Opportunity Commission (EEOC) during the 4th Quarter of FY 2019.
  - OEEO held two quarterly meetings with a cross section of organizational units, including OHR, the Office of Employee Development (OED), the Division of Operations-Management (Ops) and the OCIO, to build a fully integrated model EEO program under MD 715 goals.
- OEEO collaborated with OHR to develop revisions to the Agency's Reasonable Accommodation Procedures, in order to comply with guidance from the EEOC.

Motivation

- HCPO conducted 17 FEVS organizational assessments with senior executives on the FY 2018 FEVS results which became available in FY 2019 for review and analysis. The assessments focused on identifying Agency trends/barriers behind low survey scores; reviewing and prioritizing targeted areas of change; identifying outcomes that enable the organization to transition to higher FEVS scores; identifying best practices for managing staff to higher levels of engagement; and action planning efforts for challenge areas.
- The HCPO completed a comprehensive analysis of the FY 2018 FEVS results and provided each division/office with a comprehensive organizational assessment briefing of the FEVS results.
  - Included in the comprehensive analysis were discussions of strategies with leadership to promote higher employee participation.
  - The strategies involved the HCPO building successive weekly communications with managers and supervisors during the survey administration period that encourage all employees to participate;

developing a communication plan that provides division/office heads with a weekly report on their organization's participation levels; leveraging an FEVS Management Toolkit for management to promote the FEVS; and distributing an FEVS promotional flyers in NLRB's work space that promotes the survey administration period.

- Additionally, the HCPO fostered greater transparency with the Agency's FEVS action planning efforts surrounding FEVS results and encouraged an open two-way communication between leadership and employees on the FEVS results.
- Leadership committed to make a more concerted effort to both transmitting and receiving feedback information, which would inherently translate into a higher employee participation rate in the FEVS. The NLRB's FY 2018 FEVS participation rate exceeded the FY 2018 Government-wide FEVS participation rate by 21 percentage points.

FY 2019 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency. In FY 2019:

Number of Documents Received	79,381
Number of E-Filings Received	49,852
Total Number of parties E-Serviced Decisions	41,689
Number of E-Deliveries of Case Documents	5,695
Number of Board and ALJ Decisions E-Served	656

Providing accessible information to the public is an important part of the NLRB's mission:

Total Number of Case Documents Available for Public Access	1,489,477
Number of NLRB Document Types Available for Public Access	560

Please see ***https://www.nlrb.gov/open/public-documents*** for a list of the document types available to the public and ***https://www.nlrb.gov/reports*** for updated metrics for FY 2019 Charges and Complaints, Petitions and Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

- To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath, web services, and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers work to complete the automation of the process. Following are the processes that were either completed or are ongoing in FY 2019:
  - Case Records Unit Weekly Statistics
  - Facilities Request enhancements
  - Form 13 – Purchase Request
  - Form 4197 – Employee Exiting
  - Bicycle Benefits Program Reimbursement Certification

- HR Employee Suggestion Form
- HR Workforce Relations Activity Tracker
- HR Performance Management Activity Tracker
- Individual Development Plan
- Records Disposition
- Request a Photographer
- Request for Retirement Annuity Estimate
- Temporary Records Loan
- Transcripts and Exhibits
- Transportation Reimbursement Form

- The Administrative System's Team also completed the following:
  - Deployed 95 Polycom Trio8500 conference phones in the Agency to enhance the unified communications platform.
  - Deployed an enhancement to the Personnel Security Case Management System (PSCMS) to automate the background initiation process. NLRB sponsors enter the candidate's information which is routed to the candidate to complete the form which is then routed to the Security Branch for processing. This remediated a security risk for securely routing sensitive information.
  - Developed and implemented the Translation Information Management System which allows Agency employees the ability to request interpreting and translation services to a group of Language Specialists within the Agency. The system manages the workflow processes associated with the request and the allocation of resources to manage the requests.
  - Developed Google Analytics Dashboard for public website metrics which allows Agency employees the ability to view metrics related to most popular pages, number of visitors per month, most popular browsers and devices. Date ranges can be set to show trends. Added additional separate dashboards for the eFiling, eService, and Charge and Petition applications.
  - Implemented enhancements to the Agency Events and Announcements system to assist with communication to all Agency employees.
  - Completed the design and development of a Performance Awards Matrix system that allows for the collection of performance data from managers and supervisors to easily calculate awards for employees.

Financial Management:

- For FY 2019 the Budget office engaged in quarterly reviews with Program Managers (PMs) throughout the Agency providing accountability to ensure the execution of funds was completed efficiently and effectively throughout the year. The quarterly reviews also provided the opportunity to take remedial action to address any budget issue identified in the FY 2019 Spend Plan Reviews with Leadership.
  - The Budget Office developed a Spend Plan Analysis tool to track expenses and report on projections, allowing routine briefings to Agency Leadership on budget status, projections, and estimated funding surplus levels.

- The OCFO addressed three audit recommendations from previous audits during FY 2019:
  - Audit of FY 2014 Financial Statements (OIG-F-19-15-01) – Recommended a reconciliation for each GSA agreement to ensure that the obligations were valid, and the documentation existed to clearly support that the goods or services were ordered.
  - Audit of the FY 2016 Financial Statements (OIG-F-21-17-01) – Recommended an assessment of the OCFO organizational structure to ensure that the OCFO was adequately staffed to comply with accounting and financial reporting standards.
  - Audit of the Data Act: (OIG-AMR-83-18-01) – Recommended that the OCFO coordinate with other users of the Oracle financial system to determine if they had similar Data Act findings.
- The OCFO coordinated a multiple organization coalition that included OMB, IRS, Treasury to address questions on backpay and travel.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- In response to the OMB Directive M-19-13, strategic sourcing/category management initiatives, the Agency collects data on those initiatives and reports out annually on progress towards increasing the utilization of the initiatives.
- Small Business Goal Status.

Category	Gov-Wide Goal	2019	2018	2017	2016	2015
Small Business	23%	68.78%	65%	41.70%	36.51%	39.75%
Women Owned Small Business	5%	9.83%	5%	7.47%	11.19%	12.46%
Small Disadvantaged Business	5%	58.48%	52%	28.33%	8.02%	10.71%
Service-Disabled Veteran Owned Small Business	3%	0.75%	1.62%	2.42%	0.31%	0.97%
HUBZone	3%	38.57%	23.33%	3.43%	2.13%	2.27%

Office Space Management

- In accordance with General Services Administration (GSA) guidelines, 15 Field Offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- Distributed newsletters describing recent case developments electronically using govdelivery in the Regional Offices.
- Produced an informational pamphlet entitled "Protecting Employee Rights," which contained an expanded discussion of an employee's right to engage in concerted activity and other rights under the NLRA, which is available on the NLRB website and in hard copy, in English and Spanish.
- Maintained webpages for each individual Regional Office that contain news articles relevant to that region. To ensure that these pages remain fresh, news articles are tagged by the Agency's Office of Public Affairs and automatically loaded on the Region's webpage.

- Maintained an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.
- Maintained an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.
- Conducted regional outreach that provided information about the Act and the Agency's processes to unions and small business owners. This included outreach to law firms representing employers, employees, and unions, and organizations representing trade groups (such as LERA and SHRM), professional societies, and groups sponsored by various embassies and consulates, including Mexico, El Salvador, Guatemala, and the Philippines. The Agency also appeared on radio programs to discuss various aspects of the Act. Various offices also participated in Labor Rights Week, sponsored by various Central American consulates.

To better educate workers and employers the NLRB:

- Continued to partner with The Department of Homeland Security (DHS), The Department of Labor (DOL), (Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ, EEOC in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment, and Immigration Laws.
- Partnered with DOL, EEOC, and DOJ to develop and implement employer.gov, a companion site to worker.gov, to provide information about the Agency relevant to employers.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Prepared the FY 2019 Annual Ethics Briefing for all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics. Presented an in-person briefing during the Agency's Leadership Conference held in D.C. on September 18, 2019. The training covered conflicting financial interests, impartiality, misuse of position, gifts, the NLRB's Supplemental Regulations, and the importance of protecting confidential Agency information.
- Analyzed data obtained through the FY 2019 Ethics Survey and provided several recommendations to leadership to continue to develop a robust ethical culture at the NLRB.
- Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Reissued Speaking Engagement memo to all Agency employees. This document provided general guidance about speaking engagements and emphasized the difference between speaking in an official versus a personal capacity. In addition, the memo encouraged the use of the NLRB Waiver Addendum which affirms that by consenting to the recording of a presentation, an NLRB employee is not permitting the sponsor to use their official title or likeness to advertise or endorse the recording, or endorse any other products or services offered by the organization.

- Developed a short five-question survey designed to evaluate the effectiveness of the NLRB's ethics program. The collected information will help engage Agency Leadership in discussions about how to continue to build a strong and robust ethical culture at the NLRB.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY 2019, the Ethics Staff:

- Distributed reminder email which highlighted the limitations the Hatch Act places on federal employee partisan political activity. The message also summarized additional Office of Special Counsel (OSC) guidance issued in July which addressed federal employee conversations about current events, policy issues, and matters of public interest that, depending on the circumstances, could violate the Hatch Act.
- Revised and reissued the Outside Employment memo to all Agency employees which provided a reminder that outside employment includes the provision of unpaid services such as charitable work and speaking and writing engagements. This memo also served as a reminder that the NLRB's Supplemental Regulations require all employees to obtain written approval before engaging in outside employment.
- Distributed short one-page email blasts designed to remind all employees about key ethics regulations to include: misuse of position, financial conflicts, the Hatch Act limitations, impartiality in performing official duties, gifts, and the importance of protecting confidential Agency information.

Measure:	Goal	2019	2018	2017	2016	2015
Percentage of inquiries resolved within five business days	85%	88.9%	89%	92%	83%	87.7%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2019, the Ethics Office received 839 inquiries. 743 (88.9 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2019 were reviewed within 60 days.
- In mid-January ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2017. In all cases, the review of each report was completed within 60 days of receipt and filers were notified of any real or potential conflicts.

During FY 2019, the Agency completed its review of:

- 140 Monthly Transaction Reports (OGE 278T)
- 83 Annual Public Financial Disclosure Reports (OGE 278e)
- 29 Annual Confidential Financial Disclosure Reports (OGE 450)
- 12 Termination Reports (OGE 278)
- 5 New Entrant Public Financial Disclosure Reports (OGE 278e)

During FY 2019 the Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the STOCK Act.

Internal and External Audit Responses:

- Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2019.

FOIA:

From October 1, 2018, to September 30, 2019, the Agency:

- Received 1,351 FOIA requests in FY 2019 and responded to 1,419 (FY 2019 + prior year backlog/pending) of those requests within 1-20 days. Thus, 69.65 percent of the FOIA requests were processed within the 20-day statutory time period.
- Sought an extension of time to process three requests beyond the 20-day period for FOIA requests received. Thus, .22 percent of the FOIA requests were extended an additional ten days on the due date.
- The Agency received 11 FOIA appeals and responded to 12 (FY 2019 + prior year backlog/pending) FOIA appeals. The average amount of days to process these appeals was 17.33 working days. The lowest number of working days to process these appeals was three. The highest number of working days to process these appeals was 22. Eleven appeals were processed within 20 days. Thus, 91.66 percent of the FOIA appeals were processed within the 20-day statutory time period.
- Did not see an extension of time for the FOIA appeals received in FY 2019.

Reports

Each year, the FOIA Branch prepares an Annual Report, which contains statistics on the number of FOIA requests and appeals received, processed, and pending during the fiscal year, and the outcome of each request. The NLRB FOIA Annual Reports and the NLRB FOIA Quarterly Reports are available on the:

1) NLRB website at ***https://www.nlrb.gov/reports***,

2) DOJ website at ***https://www.justice.gov/oip/reports-1*** , and

3) FOIA.gov website ***https://www.foia.gov/***

The FOIA requires each agency Chief FOIA Officer to report to the Attorney General on their performance in implementing the law and the efforts to improve FOIA operations. The NLRB Chief FOIA Officer Reports are publicly available on the:

1) NLRB website at: ***https://www.nlrb.gov/reports***, and

2) DOJ website at ***https://www.justice.gov/oip/reports-1***

FY 2020 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE AND PRODUCTIVITY IN THE PUBLIC INTEREST

Employee Development

- During FY 2020, OHR transitioned all Agency employees to USA Performance, the automated performance management system.
  - The Agency's Performance Management Program continued to provide training and coaching with robust tools and resources to make certain the essential points of the Agency's Performance Management System met the key activities for the four (4) appraisal cycles.
- The Office of Employee Development (OED) continues to offer a wide array of online and blended media training offerings to enhance employee development at the Agency. During FY 2020, there were 9,860 individual courses completed in Skillport, 786 course enrollments through West LegalEdcenter, and monthly training on the Agency's internal case management system (NxGen) through the Training Tuesday program.
  - Additionally, OED offered monthly live training sessions via webinar on general skills and leadership topics. In FY 2020, OED expanded its online training offerings to include an online simulation for Trial Training and conducted a virtual teambuilding event for the Board-side staff and a virtual conference for Regional Directors.
- OED continued to offer Individual Development Plan (IDP) tools via an online form available to all employees.
  - The IDP tool includes self-assessments, goal planning worksheets, and an IDP form that employees can use to plan for and track their development activities.
- OED aligned the Agency's Leadership Development Program (LDP) with the supervisory and managerial training frameworks provided by OPM and with the Senior Executive Service (SES) Executive Core Qualifications. The LDP provides development resources for aspiring supervisors, new and current managers and supervisors, aspiring executives, and existing executives.
  - The LDP guide and offerings are made available on the Agency's intranet site. OED has also completed a Training Needs Assessment to identify Agency-wide development needs in critical job fields and has developed a competency model framework to chart career progression and inform gap analysis.
- OHR continues to hire in accordance with federal guidelines and follows procedures to attract a diverse workforce that includes Veterans.
- In 4th Quarter of FY 2020, OEEO launched annual mandatory training for Agency managers and supervisors to meet training requirements from the Office of Special Counsel. In addition, the OEEO director briefed newly appointed Regional Directors and Deputy General Counsels on the Agency's Equal Employment Opportunity (EEO) program and on federal sector EEO regulations regarding whistleblower protections, prohibited personnel practices and prohibitions against retaliation.

Workforce Management

- OED began working with HCPO to develop an agency-wide succession plan during the 4th Quarter of FY 2020.

- OHR partnered with the OEEO on a self-identifying process for employees to anonymously identify their race, national origin, and disability through Employee Express.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system.
  - The process is used for all NLRB employees to include all bargaining unit, non-bargaining unit, and Professional Association employees. All employees were issued a performance plan at the beginning of the reporting period.
  - Performance appraisals were issued in June for NLRB Union staff members and July for non-union employees.
- OHR seamlessly transitioned the New Employee Orientation (NEO) to a 100 percent virtual and interactive presentation using Skype technology, due to COVID-19.
  - This included coordinating with the Office of the Chief Information Officer (OCIO) for new employees to obtain computer and log-in information and with the Security Branch to receive government credentials.
  - Additionally, the OHR added the NLRB's Office of Equal Employment Opportunity (OEEO) to the NEO.
- OEEO continued to provide resources and serve as a consultant for Agency managers to field questions on ways to handle sensitive EEO issues.
  - OEEO identified appropriate resources for diversity and inclusion training, and presented it to the OEEO staff, all Agency EEO counselors and Special Emphasis Program Coordinators at Headquarters and in all Field Offices.
  - OEEO collaborated with the OED to develop and present training Agency-wide training on unconscious bias.
- During FY 2020, the Security Branch reduced the number of backlogged reinvestigations to 284 from 331.

Motivation

- HCPO completed enhancements to its SharePoint website. The enhancements promote information sharing on a variety of employee engagement topics and include an interactive ideation portal and a toolkit to facilitate communication with the HCPO. It is expected that not only will communications improve between the HCPO and the workforce, but communication and engagement will also improve between employees and managers as a result of these new tools, which should help strengthen overall agency performance and employee engagement.
- The HCPO developed a *Your Voice Matters!* ideation portal on its SharePoint site where employees can access and contribute to driving greater employee engagement by submitting new ideas/suggestions and also by suggesting solutions to existing organizational problems/barriers.
  - The HCPO will review the site daily and help adjudicate submitted ideas/suggestions into action. Additionally, after an idea/suggestion is implemented, a listing of implemented actions will be posted to the site so that employees can be made aware of how they helped managers and supervisors boost employee engagement and address real-time organizational challenges.
- Additionally, the HCPO completed and made accessible a collection of FEVS accomplishments so that employees could know about what actions leadership have implemented in response to their feedback to

the FEVS. These measures enhance transparency, which should motivate employees to participate in the FEVS at a much higher rate.

- The HCPO issued a memorandum to all employees signed by the Chairman and General Counsel on the value of the FEVS and soliciting employee participation in the 2020 FEVS. The HCPO also published FAQs to the FEVS on its SharePoint site, which addressed commonly asked questions regarding the 2020 FEVS.

FY 2020 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-file) to allow constituents to electronically file documents with the Agency. In FY 2020:

Number of E-Filings Received	14,320
Number of Documents Received	24,869
Number of Board and ALJ Decisions E-Served	483
Total Number of parties E-Serviced Decisions	30,694
Number of E-Deliveries of Case Documents	58,520

Providing accessible information to the public is an important part of the NLRB's mission:

Number of NLRB Document Types Available for Public Access	560
Total Number of Case Documents Available for Public Access	1,619,011

Please see ***https://www.nlrb.gov/open/public-documents*** for a list of the document types available to the public and ***https://www.nlrb.gov/reports*** for updates metrics for FY 2020 Charges & Complaints, Petitions & Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

In FY 2020 the following new enhancements were developed for the Agency's public website:

- **MyNLRB –** Allows stakeholders to personalize their website experience with targeted regional news and case information and access to their saved searches.
- **Advanced Data Search –** Provides stakeholders the ability to create, save and download ad hoc searches for case and election data.
- **Spanish Translations –** Provides Spanish translations of approximately 40-50 pages of the public website with the ability for users to switch back and forth between Spanish and English.
- **Interactive Map –** Provides Unfair Labor Practice (C) and Representation (R) case data via an interactive map interface.

To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath, and/or PowerApps/Automate, web services, and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers work to complete the automation of the process. Following are the processes that were either completed, updated with enhancements or are ongoing in FY 2020:

- Case Records Unit Weekly Statistics
- Form 4197 – Employee Exiting
- Professional Liability Insurance Form
- Facilities Request Form
- Retirement Estimate Annuity Form
- Employee Suggestion Form
- Memento of Recognition
- Shred Service Verification Form
- Travel Card Request
- Travel Training Form
- Transportation Reimbursement
- Payroll Ticketing System
- Ethics Skip Counsel
- Ethics Legally Protected Information
- Ethics Inquiry

The Administrative System's Team also completed the following:

- Completed the development of an EEO Case Tracking System to automate their case processing end-to-end and provide a better mechanism for monthly and yearly reporting.
- Completed the development of a case tracking system for the Reasonable Accommodation process.
    - The Reasonable Accommodation process provides a means in which to request and track accommodations for NLRB employees and applicants for employment to ensure that qualified individuals with disabilities enjoy equal access with respect to the: (a) application process; (b) to enable an individual with a disability to perform essential job functions; and (c) to provide equal access to the benefits and privileges of employment; unless to do so would cause undue hardship to the NLRB; and to handle requests as quickly as possible, and in as confidential manner.
- Continued development to automate a case tracking system for the Special Counsel Labor Relations Branch which will track grievances, integrate with the EEO case tracking system and other general inquiries from management.
- Completed the development and deployment of the automation of the GC memorandum process. GC memos are authored in Microsoft Word and upon final approval, a workflow process converts the document to pdf and transfers it to both the Agency Intranet and Agency public website.
- Completed the development and deployment of a reporting dashboard for the Acquisitions Management Branch using Microsoft PowerBI for the entire purchase card dataset. Data is ingested from multiple sources (CitiBank, Oracle Federal Financials and Excel).
- Due to COVID-19, OCIO implemented a process within SharePoint for creating secure sites for the Administrative Law Judges and their bailiffs to manage their Hearings and Cases with external parties. Documents and evidentiary information are made available to parties on a case to ensure Hearings can occur remotely.

Financial Management:

- Provided a response to address Questions for the Records received from the Chair and Ranking Members of the Subcommittee on Department of Labor, Health and Human Services, and Education and Related Agencies.
- Developed monthly Status of Funds Reports and conducted Quarterly Reviews where the NLRB examined overall spending and the budgetary impacts due to the COVID-19.
- Routinely monitored and performed reviews of unliquidated obligations to properly report obligation balances and commitments.
- During FY 2020, the OCFO addressed and closed out thirteen audit recommendations from previous year's audits.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- In response to the OMB Directive M-19-13, strategic sourcing/category management initiatives, the Agency collects data on those initiatives and reports out annually on progress towards increasing the utilization of the initiatives.

Small Business Goal Status*						
Category	Gov-Wide Goal	2020	2019	2018	2017	2016
Small Business	23%	58.79%	68.78%	65%	41.70%	36.51%
Women Owned Small Business	5%	1.298%	9.83%	5%	7.47%	11.19%
Small Disadvantaged Business	5%	52.18%	58.48%	52%	28.33%	8.02%
Service-Disabled Veteran Owned Small Business	3%	0.963%	0.75%	1.62%	2.42%	0.31%
HUBZone	3%	41.56%	38.57%	23.33%	3.43%	2.13%

*In FY 2020 the NLRB was below three out of the five government wide goals because of de-obligations and spend being put in areas that were either for an existing contract or the requirement exceeded small business capabilities.

Office Space Management

- In accordance with General Services Administration (GSA) guidelines, 18 Field Offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- Met with local consulates of various countries to educate consular officials about the NLRB's protections and processes and delegation from the Korean Federation of Trade.
- Led discussions for high school and middle school classes concerning the development of the NLRA, workers' statutory rights, and Board processes.

- Maintained webpages for each individual Regional Office that contain news articles relevant to that region. To ensure that these pages remain fresh, news articles are tagged by the Agency's Office of Public Affairs and automatically loaded on the Region's webpage.
- Maintained an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.
- Maintained an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.
- The Regional Offices conducted outreach that focuses on protected concerted activity vs. union activity. This includes outreach to law firms, labor organizations, trade groups, law school and graduate school groups, and professional societies.

To better educate workers and employers the NLRB:

- Presented to Staten Island District Attorney's Economic Crimes Bureau - Exchange information about what each respective agency does – the NY agency is a task force to prosecute wage crimes, which oftentimes overlaps with cases, e.g., protected concerted activity wage complaints.
- Maintained Memorandum of Understanding (MOUs) with Immigrant and Employee Rights Section of the Civil Rights Division of the Department of Justice; Occupational Safety and Health Administration; USPS; Wage and Hour Division, U.S. Department of Labor; Mine Safety and Health Administration, U.S. Department of Labor; Illinois Labor Relations Commission.

Ethics:

The Ethics Staff continued to communicate with Agency leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Distributed the 2019 Annual Ethics Briefing through the Agency's Learning Management System, which included a recorded message from the Chairman and the General Counsel, to all Agency supervisors and managers. By making this briefing available to supervisors and managers, the Ethics Staff ensures that all management employees are in a position to identify potential ethics issues and avoid situations that distract from the mission of the Agency. All supervisors and managers (non-filers) completed this training requirement by Q1 FY 2020.
- Continued to assist the Board and General Counsel in evaluating ethics recusal obligations and to involve management in the recusal process.
- Renewed annual MOU with the Office of Human Resources to ensure that all newly hired employees and all newly promoted supervisors receive required ethics notifications in compliance with the Executive Branch Ethics Program Amendments, 81 Federal Register 76,271.
- Assisted General Counsel's Office with update to casehandling policy to include the development of a conflicts of interest worksheet to assist Board Agents with identifying potential conflicts of interest before beginning an investigation.
- Developed a protocol for the review and approval of internal NLRB solicitations that benefit coworkers and their families who are victims of the COVID-19 pandemic.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY 2020, the Ethics Staff:

- Provided technical requirements to OCIO staff in order to redesign the Ethics SharePoint page to enhance search capabilities and to develop various webforms designed to help the Ethics Office gain efficiencies in case processing.
- Distributed agency-wide a variety of information which highlighted the limitations the Hatch Act places on federal employee partisan political activity. These messages included: a link to a brief online overview of the Hatch Act; Office of Special Counsel's (OSC) guidance covering how to determine whether an organization is a partisan political group and whether certain activities that an organization engages in would be considered political activity under the Hatch Act; an OSC announcement explaining that face masks which display a partisan political slogan or image may not be worn in the workplace and while on duty; a brief reminder covering how to avoid Hatch Act violations while using Agency email; and an OSC press release explaining the role of the Hatch Act.
- Revised and reissued a memo to all Agency employees concerning participation in protests and demonstrations.
- Provided general ethics reminder to all employees via email to emphasize that ethics staff is available to answer any government or legal ethics question during the COVID-19 pandemic. The importance of maintaining confidentiality while teleworking with others in the employee's household was also emphasized.

Measure:	Goal	2020	2019	2018	2017	2016
Percentage of inquiries resolved within 5 business days	85%	92%	88.9%	92%	95%	83%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2020, the Ethics Office received 633 inquiries. 587 (92 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2020 were reviewed within 60 days.
- In mid-January ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2019. In all cases, the review of each report was completed within 60 days of receipt and filers were notified of any real or potential conflicts.

During FY 2020, the Agency completed its review of:

- 30 Annual Confidential Financial Disclosure Reports (OGE 450)
- 2 New Entrant Confidential Financial Disclosure Report (OGE 450)
- 82 Annual Public Financial Disclosure Reports (OGE 278e)
- 11 New Entrant Public Financial Disclosure Reports (OGE 278e)

- 117 Monthly Transaction Reports (OGE 278T)
- 4 Termination Reports (OGE 278)

During FY 2020 the Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the Stop Trading on Congressional Knowledge (STOCK) Act.

Internal and External Audit Responses:

- Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2020.

Freedom of Information Act:

From October 1, 2019, to September 30, 2020, the Agency:

- Received 1,327 FOIA requests in FY 2020 and responded to 1,393 (FY 2020 + prior year backlog/pending). 1,137 of those requests were responded to within 1-20 days. Thus, 82 percent of the FOIA requests were processed within the 20-day statutory time period.
- Sought three extensions of time to process a request beyond the 20-day period for FOIA requests received. Thus, the Agency statutory extensions for less than one percent (0.23 percent) of its cases received.
- The Agency received 17 FOIA appeals and responded to 18 (FY 2020 + prior year backlog/pending) FOIA appeals. The average amount of days to process these appeals was 13 working days. The lowest number of working days to process these appeals was 2. The highest number of working days to process these appeals was 20. Thus, 100 percent of the FOIA appeals were processed within the 20-day statutory time period.
- Did not seek an extension of time for the FOIA appeals received in FY 2020.

FY 2021 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE AND PRODUCTIVITY IN THE PUBLIC INTEREST

Employee Development

- The Office of Employee Development (OED) continues to work with the Human Capital Planning Office (HCPO) to develop an agency-wide succession plan and OED continues to offer an online Individual Development Plan (IDP) tool. In FY 2021, OED conducted IDP workshops for employees and supervisors to educate individuals on the benefits of IDPs and the process for developing a meaningful IDP.
- OED leverages internal communication mechanisms to promote employee development. For example, OED provides monthly articles on employee development topics for inclusion in the agency's internal newsletter that is provided to all employees

- Additionally, OED has facilitated multiple online events using webinar technology for audiences of up to 300 attendees.

Workforce Management

- The Office of Human Resources (OHR) continues to validate that employees have performance plans through the new USA Performance reporting system.
  - The process is used for all NLRB employees to include bargaining unit, non-bargaining unit, and Professional Association employees. The Performance Management Team provides pertinent information and offers scheduled individualized team and group performance management training throughout the year.
- The FOIA Branch was added to the new employee orientation.
- OHR verified that new hire's federal and state taxes are entered into FPPS correctly.
- All employees have received their performance plan for 2020-2021 and midyear feedback. Expectations are reinforced daily, and employees' performances were highlighted during the TMG audit.
- The Security Branch enrolled Agency personnel in the Rap Back Program which provides electronic reporting on post appointment arrests of Agency employees, contractors, students, and volunteers.
- Security Branch reduced the number of backlogged reinvestigations to 168, which was 285 at the beginning of FY 2021.
  - Since FY 2012 the NLRB implemented the reinvestigation requirement every five years in accordance with 5 Code of Federal Regulations (CFR) 731, the branch has decreased the backlogged investigations from 1,050 to 168.
- The Office of the Equal Employment Opportunity (OEEO) prepared and posted No FEAR data on the Agency's public website. OEEO submitted Agency EEO Compliance report to EEOC on May 10, 2021.
- OEEO continued collaborative efforts to collect Agency workforce data from Human Resources, the Office of Employee Development, the Division of Operations-Management in preparation for the Agency's annual Management Directive (MD) 715 report for FY 2020, which enabled the timely submission of the report to the EEOC on June 15, 2021.
- OEEO prepared and submitted the State of the Agency briefing report for the FY 2019 MD715 report in FY 2021. This report summarizes Agency accomplishments and challenges in attaining model EEO status and outlines strategies to reach goals.
- OEEO supported Agency's efforts to accomplish the goals of Executive Order (EO) 13985 on Advancing Racial Equity and Support for Underserved Communities through the Federal Government through its participation on the Agency Equity workgroup and by providing resource material for the group.
  - In support of EO 13985, OEEO participated in the Agency's Equity Workgroup to assist in the development of the Agency's 200-day Equity Report.

Motivation

- HCPO kicked off a multi-year collaboration with the Division of Legal Counsel to improve employee engagement. This effort should result in higher responses to the Federal Employee Viewpoint Survey (FEVS) in subsequent years for this organization.
- HCPO continued to make available to employees, via the HCPO's SharePoint site, access to its virtual suggestion box where employees can submit suggestions and submit creative and innovative ideas on how to strengthen employee engagement and offer ideas on workplace improvements.
- OHR's Performance Management Team has completed the automated revitalized Suggestion Award Program.
  - o The program will encourage employees to submit constructive new ideas that will directly contribute to the economy, efficiency, or directly improve operations and or services within the Agency. Release date for this program is tentatively scheduled for the Fall of 2021.
- OHR's Performance Management Team ensures that nominations are collected for the Administrative Professional Award and Honorary Awards Programs using an automated nomination process via SharePoint. This process proves to be very instrumental in making the nomination process easy, efficient, and convenient to all parties. Award ceremonies were held in April and June 2021 respectively.
  - The Special Act and On-the-Spot-Award Program was funded to offer monetary recognition to deserving employees for their performance efforts during the fiscal year.

FY 2021 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-file) to allow constituents to electronically file documents with the Agency. In FY 2021:

Number of E-Filings Received	50,069
Number of Cases Filed Through E-File Charges and Petitions (OCP)	10,777
Number of Documents Received	139,726
Number of Board and ALJ Decisions E-Served	278
Total Number of parties E-Serviced Decisions	22,873
Number of E-Deliveries of Case Documents	69,588

Providing accessible information to the public is an important part of the NLRB's mission:

Number of NLRB Document Types Available for Public Access	563
Total Number of Case Documents Available for Public Access	1,742,081

Please see ***https://www.nlrb.gov/open/public-documents*** for a list of the document types available to the public and ***https://www.nlrb.gov/reports*** for updates metrics for FY 2020 Charges & Complaints, Petitions & Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

During FY 2021, the following enhancements were completed for the Agency public website which increased or made case data more transparent to constituents:

- Interactive Map – Uses an interactive map to show C and R case data for each region.
- Advanced Data Search – Creates and downloads customized reports for case and election data.
- MyNLRB – Allows users to authenticate using Login.gov and personalize their experience for tracking individual cases, saved searches and aggregated regional content.
- Spanish site – Provides approximately 50 pages of documents translated into Spanish to reach a larger part of the constituency.
- Career Portal – Places a new focus on attracting top talent to the NLRB.

The OCIO continues to work with the FOIA Branch to design and develop a process for relating NLRB cases on the Agency public website with FOIA requests.

To streamline Agency processing, the Administrative Systems Team is focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath and/or PowerApps/Automate, web services and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers are working to complete the automation of the process. Following are the processes that were either completed, updated with enhancements or are ongoing in FY 2021:

- Automated Funds Request
- Bicycle Benefits Reimbursement
- Courier Authorization
- COVID-19 Employee Paid Leave
- COVID-19 Vaccination Certification Form
- Driver's License Verification
- Employee Suggestion Form
- Ethics Inquiry Form
- Ethics Skip Counsel
- Ethics Legally Protected Information
- Facilities Request Form
- Memento of Recognition
- Payroll Ticketing System
- Performance Award Matrix
- Professional Liability Insurance
- Purchase Card Transaction Request
- Records Management Weekly Statistics
- Retirement Estimate

- Superior Qualifications
- Temporary Property Removal
- Travel Training Form
- Transportation Reimbursement

The Administrative Systems Team also completed the following:

- Completed the design and development of a Reasonable Accommodation (RA) Case Management system which tracks the entire workflow of an RA case and integrates with the Form 13 purchase request. System is in final testing and is planned to be deployed in FY 2022.
- Completed the implementation of Microsoft Teams and subsequent retirement of Skype for Business. Microsoft Teams provides both communication and collaboration in the form of telephony, video, chat, screen sharing, and integration with other Microsoft platforms (SharePoint, Planner, Power platform, Office suite, etc…). Finalized the governance model and worked with many Agency offices for the creation of Teams and channels to increase collaboration.
- Due to COVID-19, OCIO implemented a process within SharePoint for creating secure sites for the Administrative Law Judges and their bailiffs to manage their hearings and cases with external parties. Documents and evidentiary information are made available to parties on a case to ensure hearings can occur remotely.
- In response to the FOIA Branch's inability to send large documents to FOIA requesters, the Administrative System's team designed and developed a secure large file transfer system. FOIA Branch employees have an internal-only interface to upload the files with an expiration date which are only accessible to the email address associated with the file(s). The FOIA requester receives an email with a link to download the file and are unable to forward the email to another party.
- Completed 75 percent of a three terabyte shared drive migration with each office as a cost savings measure to retire the legacy file share servers, migrate all of the files, data and permissions to the related Team's sites which increases collaboration using Teams and SharePoint.
- Designed and developed a Budget and Spending Dashboard using SharePoint and PowerBI which enables the OCFO and senior management the ability track funds actuals and spending from the Agency's Operating Plan.

Financial Management:

- Provided a response to address the Congressional Questions for the Records received from the Chair and Ranking Members of the Subcommittee on Department of Labor, Health and Human Services, and Education and Related Agencies.
- Developed and uploaded the FY 2022 Budget Blueprint data into the OMB MAX Information System.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- Developed the NLRB FY 2023 Budget Request to OMB.
- Developed Status of Funds Reports and briefed Leadership on the Agency's status of the Agency's Funds and available unallocated resources.
- During FY 2021 the OCFO addressed and closed out 18 audit recommendations from previous year's audits.

- Developed a series of budget scenarios for the FY 2022 OMB Passback and developed the Agency Passback Appeal strategy and draft Passback response to OMB.

Small Business Goal Status*						
Category	Gov-Wide Goal	2021	2020	2019	2018	2017
Small Business	23%	68.57%	58.79%	68.78%	65%	41.70%
Women Owned Small Business	5%	4.32%	1.298%	9.83%	5%	7.47%
Small Disadvantaged Business	5%	57.80%	52.18%	58.48%	52%	28.33%
Service-Disabled Veteran Owned Small Business	3%	0.83%	0.963%	0.75%	1.62%	2.42%
HUBZone	3%	48.21%	41.56%	38.57%	23.33%	3.43%

*In FY 2021, the NLRB was below two out of the five government wide goals because of de-obligations and spending being put in areas that were either for an existing contract or the requirement exceeded small business capabilities. Due to the COVID-19 pandemic, requirements were diverted to existing contracts to promptly support the Agency's immediate needs.

Office Space Management

In accordance with GSA guidelines, 22 Field Offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- On September 2, 2021, General Counsel and Mexican Ambassador to the U.S. signed a Letter of Arrangement (LOA) strengthening ties between the NLRB, the Mexican Embassy, and its consulates around the country.
- Additionally, the LOA expands upon the collaboration that has existed for many years between local NLRB offices around the country and the network of Mexican consulates across the U.S., by enhancing efforts to provide Mexican workers, their employers, and Mexican business owners in the U.S. with information, guidance, and access to education regarding their rights and responsibilities under the Act.
- The Regional Offices signed separate LOAs with local consulates, including Philadelphia, Los Angeles, Miami, Texas, and Boston.
- Additionally, Regional Offices participated in Labor Rights Week activities with various Mexican consulates and other federal agencies, including participating in a phone bank, participating in various tabling events with consulate partners, and participating in a radio show to discuss labor rights for immigrants.

The Agency produced and engaged in various outreach activities and efforts, such as:

- Produced a short video discussing Section 7 rights as applied to immigrant workers to be played in Mexican and other embassy waiting rooms.
- Established a student ambassador program to reach out to high school age individuals, which was created by the New York Regions.
- Launched a new Spanish language version of its website, NLRB.gov/es, where members of the public can access resources on their workplace rights and how to file a complaint, learn about the agency's history and current duties, and request a speaker from the NLRB.
- Launched two Spanish language Twitter accounts—@NLRBes for Board-side news and decisions and @ NLRBGCes for news and information from the General Counsel's office.
- Launched a Facebook account for the General Counsel's office and Instagram accounts for the Board-side and General Counsel-side.
- Created a video for social media of the Deputy General Counsel discussing freedom of association.
- Developed a "know your rights" content for social media that explains workers' rights under the NLRA was created.
- Created a flyer and PowerPoint presentations to inform the public about the Agency.
- Conducted outreach to Latino organizations, members of Congress, and media through the Agency's Office of Congressional and Public Affairs.
- Began issuing Spanish-language press releases.
- Participated in clinic for workers with disabilities.
- Conducted outreach to the Asian American Bar Association of New York to host clinic.
- Participated in equal pay forum with the National Council of 100 Women.
- Participated in White House Initiative on Asian American Pacific Islander listening session.
- Participated in Cafecito con los Consulares in San Francisco.

To better educate workers and employers the NLRB:

- Presented to California Labor Trafficking Task Force Subcommittee.
- Presented to Make the Road NJ (focusing on Latino and other minority workers).
- Met with representatives of the Mexican Embassy to provide training, discuss renewal of MOU, and establish joint outreach opportunities.
- Presented updates of the NLRB to Healthcare Labor Relations Advisory Committee (association of legal counsels representing employers in labor relations).
- Presented to management-side labor law firm on developments under the NLRA.
- Met with the U.S. Department of Labor (DOL), Bureau of International Labor Affairs to establish joint outreach opportunities.
- Collaborated with New York Interagency Community on Asian Americans and Pacific Islanders Month events.
- Participated in the Alameda County Labor Trafficking Task Force.

- Delivered Joint Presentation with DOL Wage and Hour concerning essential workers in Detroit.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's GC and Chairman, the Ethics Staff:

- Continued to assist the Board and General Counsel in evaluating ethics recusal obligations.
- Reissued Combined Federal Campaign (CFC) guidance memo and Job Aid to all Agency employees at the start of the FY 2021 CFC campaign. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Participated in transition related tasks to include: preparing various staff for meetings with the Biden Transition Team; working with newly appointed leaders to maintain the NLRB's ethical culture; and meeting with potential nominees and White House ethics officials to discuss the Ethics Office's role in ensuring the integrity of the NLRB's programs and processes.
- Met with GC and Chairman front offices and the Office of Congressional Public Affairs (OCPA) to present research of federal agency social media policies, summaries of First Amendment cases, and issues to consider when developing a comprehensive social media policy for the Agency.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY 2021, the Ethics Staff:

- Distributed the CY 2020 Annual Ethics Briefing through the Agency's Learning Management System to all financial disclosure filers as well as managers and supervisors. This program included a message from the Agency's Designated Agency Ethics Official (DAEO) which emphasized the importance of making compliance with ethics regulations a *personal responsibility of everyone* but noted that it is particularly important for the Agency's managers and supervisors.
- Renewed annual MOU with the Office of Human Resources to ensure that all newly hired employees and all newly promoted supervisors receive required ethics notifications in compliance with the Executive Branch Ethics Program Amendments, 81 Federal Register 76,271.
- Participated in Operation's Regional Directors (RD) Roundtable where the Ethics Office updated Regional Management on trending legal and government ethics issues. The Ethics Office also presented new resources that were developed to assist the field in identifying potential legal ethics concerns.
- Launched new Ethics intranet site which provides a user-friendly organization; new search tools; three new online forms to help the Ethics Office collect relevant facts so that ethics inquiries can be handled more efficiently; and several newly developed legal ethics training resources.
- Provided customized ethics briefing to the newly appointed Political Appointees with Senate Conformation (PAS) and Schedule C appointed employees.
- Provided new hire orientation to all new NLRB employees within 90 days of appointment to the Agency.

- Distributed various training resources and reminders covering key ethics laws and regulations; the Hatch Act; and the importance of maintaining the NLRB's Screening Wall. Many of these resources and reminders were distributed Agency-wide while others were directed to specific categories of employees to support their particular mission work.
- Distributed a memo which provided guidance for employees interacting with NLRB social media accounts via personal social media accounts.
- Presented content at several Agency meetings and conferences. Ethics Staff emphasized that all employees have a personal responsibility to comply with the Rules of Professional Conduct, the Standards of Conduct and the Criminal Conflict of Interest Statutes.
- Assisted various offices in developing policies to ensure compliance with the NLRB's internal screening wall that separates the prosecutorial and adjudicatory sides of the Agency and protects confidential information from disclosure to the other side.
- Distributed post-employment guidance to all employees scheduled to retire or resign from government service and answered specific post-employment inquiries from former employees of all levels.
- During FY 2021, the Ethics Office received 651 inquiries. 622 (95 percent) were resolved within 5 business days.

Measure:	Goal	2021	2020	2019	2018	2017
Percentage of inquiries resolved within 5 business days	85%	95%	92%	88.9%	92%	95%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

The Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

During FY 2021, Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the Stop Trading on Congressional Knowledge (STOCK) Act.

In mid-January, Ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2020. Completed the review of 99 percent of all reports within 60 days of receipt and the Ethics Office notified the filer of any real or potential conflicts.

During FY 2021, the Agency completed its review of:

- 31 Annual Confidential Financial Disclosure Reports (OGE 450)
- 2 New Entrant Confidential Financial Disclosure Report (OGE 450)
- 82 Annual Public Financial Disclosure Reports (OGE 278e)
- 6 New Entrant Public Financial Disclosure Report (OGE 278e)
- 170 Monthly Transaction Reports (OGE 278T)
- 13 Termination Reports (OGE 278)

Internal and External Audit Responses:

Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2021.

Freedom of Information Act:

From October 1, 2020 to September 30, 2021, the Agency:

- The Agency received 1,436 FOIA requests and responded to 1,410 FOIA requests. The Agency responded to 1,264 FOIA requests in 1-20 days. Thus, 90 percent of the FOIA requests were processed within the 20-day statutory time.
- The Agency sought five extensions of time to process a request beyond the 20-day period for the FOIA requests received from October 1, 2020, to September 30, 2021. Thus, the Agency sought statutory extensions for less than 1 percent of requests.
- The Agency received 11 FOIA appeals and responded to five FOIA appeals from October 1, 2020 to September 30, 2021. The number of average days to process these appeals was 19.4 working days. The lowest number of working days to process these appeals was 18. The highest number of working days to process these appeals was 20. Thus, 100 percent of the FOIA appeals were processed within the 20-day statutory time.
- The Agency did not seek an extension of time for the FOIA appeals received from October 1, 2021, to September 30, 2021.

APPENDIX D

STRATEGIC GOALS

GOAL 1 (MISSION): ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REM EDIES

Objective 1: Achieve timely consideration and appropriate resolution of unfair labor practice charges at every stage of processing.

Measure 1: The Field Office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Management Strategies:

- Maintain and enhance existing interregional assistance programs to ensure that unfair labor practice cases in offices with backlogs are transferred to offices with available staff.
- Using the Board's electronic case management system, continually monitor the status of unfair labor practice cases pending before the Board to ensure that priority cases are on track to issue by the end of the fiscal year.

GOAL 1 (MISSION): ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REM EDIES

Objective 2: Demonstrate high quality performance in the prosecution and adjudication of meritorious unfair labor practice charges.

Measure 1: Conduct annual quality reviews of all Field Offices' unfair labor practice case files with overall ratings.

Management Strategies:

- Provide regular and timely feedback to the Regions of the quality of their unfair labor practice investigation and prosecution.
- Maintain and enhance alternative decision-making procedures to expedite Board and ALJ decisions in unfair labor practice cases; on the Board side, for example, maximize opportunities to circulate cases with pre-prepared draft opinions in order to fast-track the issuance of final decisions.
- Proactively pursue voluntary settlement of unfair labor practice cases, including through the Board's Alternative Dispute Resolution program that is available to parties following the issuance of a decision by an administrative law judge.
- Utilize intra-agency working groups and committees to continually evaluate quality of investigations, litigation, and compliance.
- Evaluate all losses of adjudicated unfair labor practices deemed significant to institute modifications to the Agency's litigation program, as appropriate.

GOAL 1 (MISSION): ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REM EDIES

Objective 3: Promptly pursue remedies for statutory violations.

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

Management Strategy:

- Share best practices in unfair labor practice processing to assist Field Offices in resolving unfair labor practice case issues promptly and fairly.

Definitions:

Advanced to the Next Stage – The following actions consists of advancements: a) the filing of a petition for court enforcement or review, b) referral to contempt, or c) issuance of a Compliance Specification.

Modifications to Case Processing – Through training and performance management, modify practices or approaches that are not consistent with the Agency's quality standards – such modifications will also include identifying new best practices that improve the quality of the Agency's case processing, and disseminating these, through updates to case processing guidance and related training.

Significant Losses of Adjudicated Unfair Labor Practices – Significant losses of adjudicated unfair labor practices are Administrative Law Judge or Board decisions resulting in either dismissal of the entire complaint, or dismissal of allegations that substantially affect the make-whole remedy, such as reinstatement or other terms and conditions of employment.

GOAL 2 (MISSION): PROTECT EMPLOYEE FREE CHOICE WITH TIMELY AND EFFECTIVE MECHANISMS TO RESOLVE QUESTIONS CONCERNING REPRESENTATION

Objective 1: Achieve timely resolution of all questions concerning representation of employees.

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year,will have been pending before the Board for more than 12 months.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Management Strategies:

- Using the Board's electronic case management system, continually monitor the status of representation cases pending before the Board to ensure that priority cases are on track to issue by the end of the fiscal year.
- Maintain and enhance streamlined alternative decision-making procedures, such as circulating cases to the Board with draft opinions, rather than following the process of soliciting votes on case issues prior to a draft decision being prepared to expedite Board decisions in representation cases.
- Maintain and enhance existing interregional assistance programs to ensure that representation cases in offices with backlogs are transferred to offices with available staff.
- Identify and utilize procedures to ensure careful and timely processing of Requests for Review, Special Appeals, and Hearing Officer Reports.
- Stay abreast of other federal and state agencies' approaches to representation case processing and share best practices in representation case processing internally to assist Field Offices in resolving representation case issues promptly and fairly.

Objective 2: Increase employees' opportunities to freely participate in election proceedings by making appropriate and effective use of technology.

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency's website.

Management Strategies:

- Enhance the effectiveness of existing technologies, and investigate the potential benefits offered by new technologies, to maximize employees' opportunities to participate in election proceedings.
- Increase greater access to the Agency's electronic filing system for non-English filers.

GOAL 3 (SUPPORT): ACHIEVE ORGANIZATION EXCELLENCE AND SERVE AS A MODEL EMPLOYER

Objective 1: Improve employee morale and labor relations

Measure 1: Maintain target employee engagement index score of 67 percent on the Federal Employee Viewpoint Survey (FEVS), and in subsequent years establish new initiatives with the goal of increasing employee engagement.

Management Strategies:

- Examine the feasibility of creating employee resource groups (ERGs) to promote better employee engagement by following appropriate OPM and EEOC guidance and utilizing best practices of similar agencies.
- Ensure that managers engage with the Agency's employees and their representatives to help implement and effectuate Agency policies and collective bargaining agreements that balance performance, productivity, and workplace flexibilities.

Objective 2: Increase opportunities for career enhancement through employee development

- Ensure that managers engage with the Agency's employees and their representatives to help implement and effectuate Agency policies and collective bargaining agreements that balance performance, productivity, and workplace flexibilities.

Objective 3: Increase opportunities for career enhancement through employee development
Measure 1: Satisfaction percentage rating (65 percent or above) of the "Talent Management Index" using the annual FEVS results. **Management Strategies:** ▪ Explore the use of employee affinity groups at Headquarters and in Field Offices for recruitment, retention, and developmental activities. ▪ Maintain a current strategic plan that includes human capital goals, objectives, and strategies and a workforce plan that is consistent with the Human Capital Framework (HCF) of the Office of Personnel Management (OPM). ▪ Enhance employee development and learning opportunities through Skillport, West Legal Ed, and other on-line and blended media. ▪ Identify core competencies for managers and actions necessary to close skill gaps. ▪ Promote individual development plans (IDPs) for employees by proactively encouraging participation.

Objective 4: Recruit and retain a talented and diverse workforce
Measure 1: Satisfaction percentage rating (65 percent or above) for the "Job Satisfaction Index" using the annual FEVS results. **Management Strategies:** ▪ Clearly and consistently communicate to employees how their work supports the Agency's ability to achieve its mission. ▪ Regularly seek opportunities to give employees appropriately challenging work assignments to develop their skills, grow their engagement, and enhance their opportunities for advancement. ▪ Create and grow participation in formal and informal mentorship programs for new hires and new supervisors, specifically to include those who identify as a member of an underrepresented group, to maximize their prospects for long-term success in the Agency.

Measure 2: Satisfaction percentage rating (65 percent or above) for the "Support for Diversity Index" using the annual FEVS results.

Management Strategies:

- Involve all Agency employees as participants and responsible agents of diversity, mutual respect, and inclusion.
- Reassess Agency mentoring programs to ensure they are used as tools to maintain a diverse workforce and consistently provide opportunities to participate in such programs in all organizational units.
- Encourage participation in special emphasis observances.
- Fully and timely comply with all relevant federal laws, regulations, applicable executive orders, management directives and policies related to promoting diversity, equity, inclusion, and accessibility in the workplace.
- Demonstrate leadership accountability, commitment, and involvement regarding diversity, equity, inclusion, and accessibility.
- Provide on-going diversity, equity, inclusion, and accessibility training for senior leadership.
- Evaluate all levels of management on their proactivity in maintaining an inclusive work environment.
- Continue to attract qualified and diverse applicants from different demographics, including veterans and persons with disabilities, by following the Office of Personnel Management (OPM) and Equal Employment Opportunity Commission (EEOC) guidance and utilizing best practices of similar agencies.

GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST

Objective 1: Make effective use of Agency's resources by proactively planning how best to deploy those resources, and continually monitor and reevaluate the execution of such plans to ensure we have strong processes and internal controls in place to identify and prevent any misuse or inefficiencies in the allocation of Agency resources.

Measure 1: Achieving a clean audit opinion by ensuring that OCFO's operations are guided by appropriate processes and internal controls.

Management Strategies:

- Effective management of fiscal resources by administering the NLRB's budget through the development and implementation of an annual Operating Plan that aligns the budget resources to the Agency's priorities and the Strategic Plan.
- Meeting contracting goals through strengthened acquisition planning and creating innovative business strategies that achieve cost-effective contracting solutions.

Measure 2: Continue to support telework by employees and contractors, as well as virtual access to Agency processes by members of the public, to create opportunities to reduce costs associated with maintaining the Agency's footprint in its Headquarters and Field Offices, in accordance with General Service Administration (GSA) directives.

Management Strategies:

- Increase information sharing within the Agency through mechanisms that are easy for employees to contribute to and access.
- Employ ongoing, transparent project oversight from the Administrative Systems Integrated Project Team comprised of users/customers and developers.
- Modernize the Agency's systems using technological advances, automation tools, and artificial and business intelligence protocols to continuously improve the productivity of the Agency while maintaining aspects of the current systems based on organizational priorities.
- Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency.

Objective 2: Conduct all internal and external Agency business in an ethical and timely manner.

Measure 1: Make progress towards an employee satisfaction percentage rating (65 percent or above) for the Agency's ethical culture using the annual FEVS results.

Measure 2: Continue to respond to FOIA inquiries in a timely manner.

Management Strategies:

- Fully and timely comply with all relevant federal laws, regulations, applicable executive orders, management directives and policies related to ethics in the workplace.
- Use technology to maintain an ethics education program that reaches all NLRB employees at all levels.
- Ensure substantial compliance with employee ethics training and financial disclosure requirements.

Objective 3: Develop a culture of Enterprise Risk Management (ERM) and Internal Controls to support the Agency's decision-making process.

Measure 1: Reach an ERM maturity level-3 by FY 2026.

Management Strategies:

- Establish and develop an ERM program to include policies and procedures that will strengthen leadership decision making.
- Integrate Internal Control activities into Agency operations.

Definition:

Substantial Compliance – Compliance with the substantial or essential regulatory requirements that satisfies their purpose or objective even though there may be individual deficiencies beyond the organization's control.

GOAL 5 (MISSION): IMPROVE PUBLIC AWARENESS OF AGENCY MISSION AND ACTIVITIES

Objective 1: Improve agency outreach and public engagement, especially among members of underserved communities.

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

Management Strategies:

- Expand Agency outreach programs to better reach underserved communities.
- Begin gathering and analyzing meaningful demographic data about individuals and organizations—on a voluntary and anonymous basis—that use or are considering using Agency services.
- Expand digital resources for non-English speakers
- Augment the Agency's outreach effort by creating a dedicated Outreach Committee chaired by a senior official from the Division of Operations-Management with partners from Field Offices, the Office of Congressional and Public Affairs, and other Headquarters Mission Support Divisions, with responsibility to develop and implement national and field outreach initiatives that expand access to underserved and underrepresented communities.
- Continue the NLRB Equity Assessment Team's exploration of additional ways to achieve the key goal of Executive Order 13985 to advance equity for all in understanding and accessing the Agency's services.
- Employ increased non-traditional outreach to the following underserved populations:
    - Historically Marginalized Populations
    - Immigrant Populations
    - Youth Population
- Improve accessibility and functionality of Agency website and social media. Institute an automated satisfaction survey for website users and evaluate responses for further action.
- Engage with organizations to better educate workers and employers, through activities, such as:
    - Letters of Agreement (LOA) with embassies
    - Joint outreach with sister agencies
    - Memorandums of Understanding (MOU) with other agencies related to coextensive investigations
- Focus on Protected Concerted Activity, Collective Bargaining, and Union Activity:

- Expand public usage of the NLRB's social media network, including the NLRB's Smartphone app and other technology
- Provide additional information on the NLRB's public website
- Continually evaluate opportunities for the Agency to make greater use of existing and new social media platforms
- Develop more internal informational materials housed in a centralized location for use by board agents at recruitment and outreach events

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