

National Labor Relations Board

Performance and Accountability Report

FY 2019



Protecting Democracy in
the Workplace Since 1935



HOW THIS REPORT IS ORGANIZED

This Performance and Accountability Report (PAR) (revised as of 12/09/2019) consists of the following sections:

01 The Management's Discussion and Analysis (MD&A) Section provides an overview of the National Labor Relations Board's (NLRB's) mission, organization, mission-related goals, performance and financial system highlights as well as the Agency's operational and casehandling highlights for Fiscal Year (FY) 2019. 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 (FMFIA).

The Performance Section compares the NLRB's performance to its strategic goals as set forth in its FY 2019 to FY 2022 Strategic Plan. The Strategic Plan includes two mission-related goals and two support goals to help achieve the Agency's vision and mission. 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 the customer.

The Financial Section is composed of the NLRB's financial statements, their related footnotes, and the Independent Auditors' Report.

Other Information provides the Top Management and Performance Challenges identified by the Inspector General in this FY, and the NLRB's summary of audit and management assurances, which details the Agency's review of compliance with the Improper Payments Elimination and Recovery Improvement Act (IPERIA). For an update on the Board's progress in addressing management and performance challenges from FY 2019 please see <https://www.nlr.gov/reports-guidance/reports/oig-semiannual-reports>.

Appendix A lists the acronyms cited throughout this report, Appendix B is a glossary of terms cited throughout this report, Appendix C presents historical performance data and Appendix D represents the complete strategic goal structure.

An electronic version of the NLRB FY 2019 Performance and Accountability Report is available on the NLRB's website at www.nlr.gov.

The NLRB's Strategic Plan is also available at this website along with graphs and data that reflect the NLRB's work.

TABLE OF CONTENTS

Message From The Chairman	4
Board Members	5
Message From The General Counsel	6
2019 Year In Review	14
Agency Operations	14
Technology Advances	15
Public Information Program	16
FY 2019 Statistical Highlights	18
<hr/>	
About the NLRB	22
The National Labor Relations Act	22
The National Labor Relations Board	22
Employee Rights Under The NLRA	23
Statutory Structure	24
Organization	26
Casehandling Functions	27
Unfair Labor Practice Proceedings	27
Representation Proceedings	28
Compliance Proceedings	29
Administrative Functions	29
Casehandling Highlights	30
Performance Highlights	36
Financial and Systems Highlights	38
Operational/Performance Highlights	38
Budget	38
Finance	39
Charge Card Program	39
Systems	40
Analysis of Financial Statements	41
Limitations of Principal Financial Statements	42
Compliance with Laws and Management Assurances	43
Antideficiency Act	43
Debt Collection Improvement Act	43
Digital Accountability and Transparency Act	43
OPEN Government Data Act	44
Federal Information Security Management Act	44
Government Charge Card Abuse Prevention Act	44
Improper Payments Elimination and Recovery Improvement Act	45

Prompt Payment Act	45
Federal Financial Management Improvement Act	45
Federal Managers' Financial Integrity Act	45
Statement of Assurance	47
<hr/>	
Program Performance	50
Performance Goals and Objectives	50
Measuring Performance	51
Factors Affecting Agency Performance	72
Case Intake	72
Settlements	72
Board Member Terms	72
Potential Effect of Statutory Changes	72
Reliability of Performance Data	73
Program Evaluation	73
<hr/>	
Message From The Chief Financial Officer	76
Independent Auditor's Report	78
NLRB Response To Audit Report	87
Principal Financial Statements	89
Notes To Principal Statements	93
<hr/>	
Inspector General's Top Management & Performance Challenges	112
Summary of Audit and Management Assurances	116
Improper Payments Elimination and Recovery Improvement Act	117
Freeze the Footprint	119
<hr/>	
Appendices	122
Appendix A – Acronyms	122
Appendix B – Glossary	124
Appendix C – Historical Performance Measures	127
Appendix D – Goal Structure	179

MESSAGE FROM THE CHAIRMAN



As Chairman of the National Labor Relations Board (NLRB), I am pleased to submit the Performance and Accountability Report for Fiscal Year 2019. This annual report provides insight into the finances and activities of the NLRB, an independent federal agency established in 1935, which serves the interests of employees, employers, and unions. Contained in this report are the NLRB's audited financial statements and performance information related to the goals set forth in the Agency's Strategic Plan.

I have had the privilege of serving on the NLRB and as Chairman since April 2018. I am honored to work alongside hardworking professionals dedicated to the even-handed enforcement of our statute, the National Labor Relations Act (NLRA). I am proud to have the opportunity to work with such talented colleagues who make significant sacrifices in their public service. Working

together, our dedicated Agency promotes labor-management stability that allows for job creation and the opportunity for improved wages, benefits and working conditions.

Fiscal Year 2019 was an active and transitional year for the NLRB. The Board focused on more-efficiently and expeditiously processing its cases and was able to reduce the median age of pending cases from 233 days to 157 days, a nearly 33% reduction. In addition to issuing over 303 decisions in contested cases during the year, the Board embarked on an ambitious rulemaking agenda, which included issuing a notice of proposed rulemaking addressing the joint employer standard, election protections and coverage of student workers under the NLRA.

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, and I have made every effort to verify the accuracy and completeness of the financial and performance data presented in this report. A more detailed discussion of the Agency's internal controls can be found starting on page 43 of this report.

A handwritten signature in black ink that reads "John F. Ring". The signature is written in a cursive, flowing style.

John F. Ring
Chairman

BOARD MEMBERS

From Left to Right:
Chairman John F. Ring
Board Member Lauren McFerran
Board Member William J. Emanuel
Board Member Marvin E. Kaplan



MESSAGE FROM THE GENERAL COUNSEL



Introduction

It is my continued privilege to serve as the General Counsel of the National Labor Relations Board. As I enter my third year in this position, I am pleased to report on the Agency's many accomplishments during Fiscal Year 2019 in pursuing and effectuating the Agency's mission of protecting the rights of employees to choose whether or not to bargain collectively with their employers and to engage in concerted activities in aid of these rights, of establishing reasonable collective bargaining rules for employers and unions, and of resolving labor disputes.

As General Counsel, I have a dual role in prosecuting cases under the Act in legal proceedings at the administrative, Board, and the federal district, appellate and Supreme Court levels as well as overseeing the operations of approximately

90% of the Agency. The General Counsel is responsible for prosecuting unfair labor practice charges brought before the Agency, processing representation petitions filed with our regional offices, enforcing the Board's orders, and for supervising the operations of our Regional and satellite offices throughout the nation as well as our staff at Headquarters who are responsible for case-handling, operational, administrative, financial, security, facilities, technology and personnel functions. It has been my goal, while ensuring the maintenance of quality case processing, to improve the efficiency and effectiveness of the Agency's operations at all levels and the management of our resources in order to better serve the public.

The prompt resolution of labor disputes is an essential purpose of the National Labor Relations Act (the Act) and a key part of the Agency's mission. Expedient case processing by the Agency is necessary to achieve the early resolution of labor disputes. Over the years, Agency case processing times have increased, causing the delayed resolutions of disputes. One of my major objectives as General Counsel is to reverse this trend and to ensure the processing of cases in a timely manner and to improve our service to the public while maintaining the quality of our investigations and prosecutions.

To that end, at the beginning of Fiscal Year 2019, the Agency issued the FY 2019 - FY 2022 Strategic Plan in which I established case processing objectives for the investigation, and settlement or prosecution of unfair labor practice charges in our Regional offices. The goal was to reduce average case processing time by 5% each year for four years, for a total reduction in case

processing time at the end of the fourth year of 20%. I am pleased to report that in just one year, the Regional offices far exceeded the first annual 5% goal and reduced the average case processing time from filing to disposition by 17.5%. I also instituted measures to ensure that, despite fluctuations in case load within and among Regional offices, all facets of the case handling process will be met, primarily by the increased sharing of resources among regions.

In addition to improving case processing and our service to the public, I have also continued to focus on the substantive legal issues to present to the Board to ensure the fair treatment of employees by their employers and unions. We have striven to ensure that our decision-making is fair to the interests of all parties coming before the Agency and that employees' rights and free choice are considered and protected. As I reflect on the second year that I have served as General Counsel, I am pleased to present this report because of the Agency's outstanding achievements in case processing improvements, case accomplishments and increased efficiency of operations. The collaborative and dedicated efforts of the Agency's employees at all levels and in all offices enabled these successes and our increased level of service to the public. These efforts to achieve the goals we established ensure the effective and efficient pursuit of the mission of this Agency, the continued health of the Agency's operations, and the accomplishment of the substantive goals of the Agency to resolve labor disputes and protect employee free choice.

Case Processing

In my first year as General Counsel, I analyzed the Agency's case processing statistics and processes over the years. That analysis revealed that during the past decades, the amount of time to process cases at all levels of the Agency had lengthened and case backlogs had increased. In the 1980s, the median processing time from the filing of a charge to the issuance of a merit complaint was between 44 and 55 days. By the end of the 2018 Fiscal Year, the median processing time had risen to 128 days. The number of unresolved cases grew, which resulted in increased, backlogs and overage cases. For example, at the end of Fiscal Year 2012, there were 524 pending overage cases. By the end of Fiscal Year 2018, there were 724 pending overage cases pending – a 38% increase in case backlog. These lengthened case processing times and backlogs surprisingly occurred during a period in which unfair labor practice case intake dropped from 21,622 to 18,871 – a nearly 13% decrease.

To reverse this disturbing trend, the Agency adopted the Strategic Plan at the beginning of Fiscal Year 2019, calling on all General Counsel-side Agency Divisions to reduce case processing time by 5% per year for a period of four years and to take steps to reduce backlogs. As discussed in GC Memorandum 19-02, Reducing Case Processing Time, issued in December 2018, our goal was to reduce case processing time in the Regions by 20% by the end of the fourth year. To do so, I invested the General Counsel Divisions and the Regions with wide discretion to develop systems and processes to meet these Agency strategic goals.

At the end of Fiscal Year 2019, the results achieved by all of the Divisions and Regions have been outstanding – far exceeding expectations. During this Fiscal Year, as mentioned above but bears repeating, Regional Offices nearly met our four-year 20% goal by reducing the time of filing to disposition of unfair labor practice cases from 90 to 74 days – a decrease of 17.5%. The Regions also reduced the time from informal settlement to final disposition of an unfair labor practice case from 173 days to 153 days, a decrease of 11.5% and improved the timeliness of representation

case handling by processing 90.7% of representation cases in 100 days or less. The Regional Office settlement rate was 99.3% this past Fiscal Year, resolving over 5,000 cases prior to issuing complaint and over 800 cases post-complaint. Additionally, compliance was achieved in over 400 cases in which Board orders issued. The Agency also recovered \$56 million dollars in backpay, fees, dues, fines and reimbursements for employees. These are outstanding results in a Fiscal Year in which 18,552 unfair labor practice charges and 2,095 representation cases were filed in our Regional Offices. These results could not have been achieved without the dedication of all General Counsel NLRB employees, especially our field employees.

At the same time that they processed cases faster, Regions resolved a greater percentage of cases than in the past, increasing case settlement rates from 97.5% to 99.3% from Fiscal Year 2018 to 2019. Also, our 10(j) injunction success rate rose from 89% to 91% during the same period. Finally, we continued to find merit in unfair labor practice charges at the same rate as in prior years.

At Headquarters, the Agency's other Divisions also stepped up to meet our Strategic Plan objectives with excellent results. The Office of Appeals, which reviews appeals by individuals, unions and employers who believe their unfair labor practice allegations have been wrongly dismissed by a regional office, which received 1,399 cases last Fiscal Year, reduced its case backlog from 294 cases in Fiscal Year 2018 to 98 cases in Fiscal Year 2019. Overall, the Office of Appeals closed 400 more cases in Fiscal Year 2019 than in the previous year. Our Appeals Office also processed 245 more appeals than it received during the Fiscal Year.

Similarly, the Division of Advice, which provides guidance to the Agency's Regional Offices regarding difficult and novel issues arising in the processing of unfair labor practice charges, reduced the average age of closed cases for Fiscal Year 2019 to 38.6 days – a reduction of 9.8% from the previous year. The Advice office also reduced its average case processing time to 51.1 days – a 12.4% reduction in case processing time from Fiscal Year 2018.

Our other Headquarters branches also far exceeded processing targets. The Injunction Litigation Branch, which, among other things, reviews injunction requests and makes recommendations concerning such requests, closed cases in an average of 9.1 days – a 34.5% reduction from Fiscal Year 2018. Our Freedom of Information Act (FOIA) Branch, which processes FOIA requests reported that in Fiscal Year 2019, the branch responded within 20 working days to 67.5% of FOIA requests and 90% of FOIA appeals. FOIA Branch also reduced its request backlogs from 87 in Fiscal Year 2018 to 37 in Fiscal Year 2019 – a decrease of 57.5%.

These processing results are important because they have a real impact on the public we serve. The Agency's expeditious response to charging parties, prompt investigation and earlier complaint issuance provide quicker justice to wronged parties, better resolution of disputes and ultimately greater protections to employees.

Casehandling

In addition to case processing issues, during Fiscal Year 2019, I continued to focus on the various legal issues and matters I outlined in GC Memorandum 18-02 as well as others that I deemed necessary to be presented by briefing to the Board or addressed through memoranda to the Regions and the public. Many of these issues concerned the protection of employees' right to privacy and

confidentiality, their right to information from and fair representation by their unions, and their right to freely choose whether to become a member of a union. I also took positions in briefs arguing for a more equitable balancing of employee, union and employer interests with respect to, among other things, use of employers' business communications systems. The General Counsel's office also addressed perennially vexing issues concerning joint employment and employee misclassification. In all instances, the goal was to provide clearer guidance to all parties concerning their rights and obligations under the Act to enable better compliance with the law and avoid needless litigation due to unclear legal standards.

The issue of protection of employee privacy and confidentiality in the workplace arose in several different contexts this past year. It first arose in connection with the issue of the lawfulness of confidentiality provisions in arbitration agreements and whether agreements to maintain the confidentiality of arbitration proceedings were lawful under the Act. In the wake of the U.S. Supreme Court decision in *Epic Systems Corp. v. Lewis*, 584 U.S. ___, 138 S. Ct. 1612 (2018), in which the Court held that arbitration agreements requiring individual arbitration of claims in lieu of collective or class-based claims were lawful under the Act, it was necessary to re-examine the lawfulness of arbitration agreement provisions, including those requiring confidentiality of the proceedings. Pursuant to this re-examination, I argued in *Pfizer Inc.*, 10-CA-175850, 07-CA-176035 (*Pfizer*) and *California Commerce Club, Inc.* 21-CA-14969 (*California Commerce Club*) that *Epic Systems* compels the conclusion that confidentiality provisions requiring the parties to keep the information disclosed during and part of the arbitration hearing, which is not otherwise public information, are lawful provided they do not impact employees' Section 7 rights to discuss their claims. The *Pfizer* and *California Commerce Club* cases are currently pending decision by the Board.

Employee privacy and confidentiality were also central issues in the *Apogee Retail LLC d/b/a Unique Thrift Store*, 27-CA-191574, 27-CA-198058 (*Unique Thrift*) case in which I requested that the Board overturn its holding in *Banner Estrella Medical Center*, 362 NLRB No. 137 (2015) that employer workplace rules that offer confidentiality to employees who make workplace complaints are unlawful under the Act. The *Banner Estrella* decision does not give proper weight or consideration to the shared interests of employees and employers in keeping confidential sensitive workplace investigations and ignores employees' rights to be free of invasions of privacy. The inability of protecting confidentiality, including the identity of complainants, chills employees from coming forward with complaints of, among other things, discrimination, harassment, unsafe working conditions and thus undermines employees' rights to be free of those conditions. The *Unique Thrift* case is pending decision by the Board.

During Fiscal Year 2018, we saw a substantial number of charges in which employees alleged violation of the duty of fair representation against their union under Section 8(b)(1)(A) of the Act. In these charges, employees claimed that their union failed to communicate with them about their grievances or failed to respond to inquiries for information or documents or otherwise failed to pursue grievances that they had committed to pursuing. In these cases, unions had asserted a "mere negligence" defense to avoid liability for such failures. My office issued GC Memorandums 19-01 and 19-05 concerning the contours of the "mere negligence" defense as guidance to enable employees to better understand the duty owed to them by their union representative and to help unions discern their duty owed to employees in these situations. Thus, I advised that a union's

failure to communicate decisions related to a grievance or to respond to inquiries for information or documents by an employee constitutes more than mere negligence and, instead, rises to the level of arbitrary conduct unless there is a reasonable excuse or meaningful explanation.

In this same vein, we saw an increasing number of allegations by employees involving failures by unions to provide them with adequate information to determine whether to become union members or core members and to provide clear requirements for dues checkoff revocation. I therefore issued GC Memorandum 19-04 to advise employees of their rights and unions of their obligations to employees concerning employees' *General Motors* rights to be non-members of a union and their *Beck* rights to be objectors and pay only core member dues and fees. Accordingly, we advised that, in my view, unions should, when they initially sought to collect dues and fees from employees, do the following: (1) Advise employees of their rights to be members or non-members of the union; (2) advise employees of their right to be non-member objectors to the payment of fees not germane to the representational activities of their union and that they could pay reduced fees if they objected; (3) provide employees with sufficient information to determine whether they wished to be objectors, such as the amount of fee reduction; and (4) provide employees with instructions on how to file such objections to fee payments if they wished to do so. In addition, Section 302(c)(4) of the Labor Management Relations Act (LMRA) provides that employees are entitled to revoke their union dues checkoff authorization at least annually and upon expiration of their collective bargaining agreement. Union checkoff revocation procedures often provide window periods for such revocations, which are sometimes inconsistent with the requirements of the LMRA. GC Memorandum 19-04 outlined the types of procedures that the General Counsel's office believes comply with the requirements of the LMRA and which would not.

On the heels of my issuance of GC Memorandum 19-04, the Board also issued a decision involving *Beck* objector rights in *United Nurses and Allied Professionals (Kent Hospital)* 367 NLRB No. 94 (UNAP). In that decision, the Board held that lobbying activity by unions, although sometimes relating to terms of employment or incidentally affecting collective bargaining, is not part of the union's representational function, and therefore lobbying expenses are not chargeable to *Beck* objectors. Accordingly, I issued guidance to the Regional offices and the general public to assist in the interpretation and application of the case in GC Memorandum 19-06. As set forth in GC Memorandum 19-06, we will no longer require agency fee objectors to explain during an investigation why a particular expenditure is nonchargeable and to provide evidence or promising leads to support that contention. Rather, compliance with *Kent Hospital* requires that a union not only categorize its lobbying expenses as nonchargeable, but also account for any other secondary costs used to support its lobbying activities. To do so, a union may reasonably prorate a percentage of its overhead costs as nonchargeable based on the overall percentage of nonchargeable expenses.

We also addressed the issue of employee and union use of employer business communications systems when we responded to the Board's invitation in *Caesars Entertainment Corporation d/b/a Rio All-Suites Hotel and Casino*, 28-CA-060841 (*Caesars Entertainment*) case to address whether the Board should adhere to, modify, or reject the legal standard set forth in *Purple Communications, Inc.*, 361 NLRB No. 162 (2016). *Purple Communications* held that employees have a presumptive right to use their employer's email system to engage in Section 7 activities. In the *Caesars Entertainment* brief, my office urged the Board to overrule *Purple Communications* and return to the Board holding in *Register Guard*, which balanced the interests of employers in the property rights and security

interests of their electronic communications systems against the interests of employees in their ability to communicate with each other, considering the multiple means of communication employees may have to communicate outside of their employer's communications system. We thus urged that, in general, because employees have multiple means of communication, employers should not be required to make their systems available to employees for union communications, except where the Board determines that employees are unable to communicate in any way other than through the employer's email system. Finally, we argued that the *Register Guard* standard should apply not only to e-mail, but to other employer-owned computer resources not made available by the employer to the public.

In September 2018, the Board issued a Notice of Proposed Rulemaking concerning the standard that the Board should use for determining whether a joint employer relationship exists. In December 2018 and January 2019, we submitted extensive comments and supplemental comments, respectively, to the Board's proposed rules on this issue. Specifically, we endorsed the Board's proposed rule as a step in the right direction for clarity for all parties. We also recommended, among other things, even more and greater guidance in this important issue with respect to specifying and limiting the instances in which a joint employer analysis and finding is necessary and providing more specific standards based on individual industrial needs and requirements.

When I arrived at the NLRB in November 2017, prior General Counsels had put in place an initiative to a new violation alleging that the misclassification of independent contractors is a stand-alone violation of Section 8(a)(1) of the Act. I rescinded this initiative shortly after I arrived in Fiscal Year 2018. In Fiscal Year 2019, the Board agreed with my position and issued a decision in *Velox Express, Inc.*, 368 NLRB No. 61 (2019), which held that an employer's misclassification of employees as independent contractors was not in and of itself violative of Section 8(a)(1) of the Act.

Another area addressed in Fiscal Year 2019 concerned arbitration deferrals under the standards set forth in *Dubo Manufacturing Corporation* 142 NLRB 431 (1963). As set forth in GC Memorandum 19-03, I sought to correct a prior GC memorandum applying the principles in the *Babcock Wilcox Construction Company*, 361 NLRB 1127 (2014) decision to *Dubo* deferrals. GC Memorandum 15-02 opined that the Board had extended *Babcock* to Section 8(a)(3) and (1) cases where *Dubo* deferral is raised. I believe that GC Memorandum 15-02 was incorrect in this aspect and that, by its own terms, the *Babcock* decision does not apply to *Dubo* deferrals. Because *Babcock* did not modify *Dubo* deferral, which is supported by different rationales than those supporting *Collyer* deferral, I reaffirmed the role of *Dubo* in the administration of the Act and clarified the circumstances and procedures applicable to *Dubo* deferrals. As set forth in GC Memorandum 19-03, contrary to the instruction set forth in GC Memorandum 15-02, Regions were instructed to continue to defer to arbitration under *Dubo* Section 8(a)(1) and (3) cases meeting the standards for deferral set forth therein, and to otherwise consider *Dubo* deferral in any Section 8(a)(1), (3) and (5) and Section 8(b)(1)(A) and (3) case where the allegations of the charge fall within its scope and the Charging Party or individual grievant has previously filed a grievance in a contractual process leading to binding arbitration. The policy reasons for deferral under *Dubo* remain important to the mission of the Agency. As prescribed by the Act, the deferral to arbitration under *Dubo* encourages stability in labor relations and resolution of work disputes by allowing for the private disposition of claims through procedures adopted by the parties. It also recognizes the Board's long disfavor of allowing a party to force litigation in multiple forums.

I have continued to rely on Section 10(j) as an important tool for effective enforcement of the Act and will continue to do so throughout my term as General Counsel, believing that, in certain cases, temporary injunctive relief under Section 10(j) provides the only means of ensuring the protection of employees' Section 7 rights and the Board's remedial processes. During Fiscal Year 2019, my Office received from its Injunction Litigation Branch recommendations for 15 cases to be sent to the Board for 10(j) authorization. My office sent 14 cases to the Board for 10(j) authorization, receiving authorization to proceed, at least in part, in all of them. Our success rate was 91%, which included five wins in district court, one loss and six settlements. A notable settlement occurred after 10(j) proceedings were authorized in a case from our Region 16, Fort Worth, TX office. GRI Texas Towers, Inc. f/k/a Gestamp Wind Steel US, Inc. (GRI), an Amarillo, Texas based wind turbine manufacturer, entered into a settlement agreement after authorization to seek injunctive relief against GRI was authorized by the Board. In the settlement agreement, GRI agreed to pay more than \$135,000 in backpay, interest and expenses to ten employees who were either discharged or suspended during a union organizing campaign. GRI also agreed to reinstate eight workers and to recognize and bargain with the Plumbers and Pipefitters Local Union No. 404.

Administration

During this Fiscal Year the Agency has continued to review its footprint and resource utilization in an effort to realize further efficiencies. For example, field offices which moved to new locations in Fiscal Year 2019 reduced their square footage, losing unused or underutilized space. New offices were well equipped, thereby providing maximum efficiency in a smaller footprint.

We dedicated significant, overdue spending on our information technology to upgrade and in some cases replace some of our major internal systems that had been long neglected. In Headquarters and in the field, the staff of the General Counsel continues to be well connected across data, voice, video and wireless communication. Through Next Generation Case Management System (NxGen), as well as continued implementation of web-based systems for employee real-time communication, performance evaluation, timekeeping, scheduling, awards, and related human capital functions, the Agency has reached high levels of efficiency in case processing and managing its administrative responsibilities. Last year, we spent over \$25 million on the Agency's technology needs.

We also continued our commitment to improving our internal training. In the last Fiscal Year, we were pleased to provide new manager and supervisor training for the first time in many years. We also held litigation training for our field attorneys, our language specialists, Nxperfs, office managers, senior field examiners and compliance officers and held, for the second year, a senior leadership meeting that included all Headquarters managers and Regional Directors. We are committed to providing Agency employees with the training and tools to perform their job more effectively.

Financial Matters

For the first time in many years our Agency did not face the uncertainty of Continuing Resolutions but rather received an annual budget of \$274.2 million for Fiscal Year 2019 and avoided inclusion in the 35-day long partial government shutdown. Through the implementation of an early retirement and incentive offering to employees in Fiscal Year 2018, the Agency better positioned itself in Fiscal Year 2019 to make additions and adjustments to its Headquarters and Field Office staffing, thereby

improving any imbalances. During Fiscal Year 2019 we filled several positions both in the field and in headquarters that will best position the Agency for continued success.

Interagency Cooperation and Outreach

My Office has reestablished its outreach activities with the Equal Employment Opportunity Commission (EEOC) and it continues its important intergovernmental relationships with components of the Department of Labor (DOL), Department of Homeland Security (DHS), and a variety of other government and private organizations concerned with labor law matters. In addition, through our dedicated Headquarters and Field Office personnel, we regularly conduct educational outreach efforts designed to inform employees, unions, small business and other Agency stakeholders of the rights and obligations deriving from our Act, and where and how they may file charges or petitions seeking to invoke the assistance of our Agency. Through our continued enhancement of electronic capabilities, including our NLRB App., the Agency has made its services and resources available around the clock, so that employees and others may access information and case processing functions when most convenient to them.

Conclusion

In closing the second Fiscal Year of my service as General Counsel of the NLRB, I continue to be proud of the hard work of our dedicated staff and am exceedingly pleased with the excellent and, indeed, outstanding results our employees have achieved in meeting the strategic goals of the Agency. We have made great strides to position the Agency for continued health and success in the coming years. I look forward to continue building on the Agency's legacy of quality performance its mission to resolve labor and protect, provide equitable rules for collective bargaining and protect employee choice in the workplace, I look forward to reporting on our future initiatives and achievements in these areas.



Peter B. Robb
General Counsel

2019 YEAR IN REVIEW

Agency Operations

Board Pilot Program for Expediting Case Processing

The Board launched a case-processing pilot program to focus on more timely handling of pending cases and issuance of decisions. Based on a collective commitment by Board Members, the pilot program prioritizes the timely processing of cases in recognition that long delays in the issuance of Board decisions undermines the purposes of the Act and mission of the Agency. Over the course of FY 2019, the Board remained relentlessly focused on eliminating delays and moving cases as quickly as possible. In doing so, the Board also worked to identify opportunities to make the process more efficient and intends to further study ways to achieve overall improvements in its case-handling procedures. Although there is more work to do, the focus on case processing has had some initially positive results. During FY 2019, the Board successfully reduced the median age of all pending cases by 33%.

Board Engagement in Regulatory Agenda

The Board majority has expressed a strong interest in engaging in more rulemaking. Although the NLRB has not historically used rulemaking as its primary method for establishing precedent, the current Board believes there are significant advantages to doing so.

Below are the Board's current rulemaking initiatives:

Joint Employer Standard

The Board issued a Notice of Proposed Rulemaking (NPRM) regarding the standard for determining joint employer status in September 2018. The Board received nearly 29,000 comments. This significant number of comments reflects the public's strong interest in the Board providing greater clarity in this important area of the law. The Agency is reviewing those comments in its consideration of the issuance of a Final Rule on this topic.

Election Protection

On August 12, 2019, the Board issued an NPRM proposing three amendments to the representation election rules to better protect employees' statutory right of free choice by removing unnecessary barriers to the fair and expeditious resolution of such questions through the preferred means of Board-conducted secret-ballot elections:

- **Blocking Charge Policy:** The NPRM proposes replacing the current blocking charge policy with a vote-and-impound procedure. As proposed, elections would no longer be blocked by pending unfair labor practice charges (ULPs), but the ballots would be impounded until the charges are resolved.

- **Voluntary Recognition Bar:** The NPRM proposes returning to the rule of *Dana Corp.*, 351 NLRB 434 (2007). As proposed, unit employees must receive notice that voluntary recognition has been granted, and provides a 45-day open period within which to file an election petition.
- **Section 9(a) Recognition in the Construction Industry:** The NPRM proposes that in order to prove the establishment of a Section 9(a) relationship in the construction industry and the existence of a contract bar to an election, extrinsic evidence is required to demonstrate that recognition was based on a contemporaneous showing of majority employee support.

Student Rule

On September 23, 2019, the Board published a NPRM proposing to exclude from coverage under Section 2(3) of the NLRA students who perform services for financial compensation in connection with their studies at private colleges and universities. The basis for this proposed rule is the Board's current position, subject to public comment, that the relationship undergraduate and graduate students have with their school is predominately educational, rather than economic.

As announced in the Spring 2019 Unified Agenda of Regulatory and Deregulatory Actions, the Board is also considering further revisions to its current representation-case procedures and potential rulemaking to address standards for access to an employer's private property.

Technology Advances FY 2019

In FY 2019, the Office of the Chief Information Officer (OCIO) made significant strides in advancing technologies in the areas of consolidating on-premise data centers, improving security posture, advancing legacy applications to cloud technologies, and NxGen applications process enhancements.

The OCIO established a comprehensive roadmap to achieve the Office of Management and Budget (OMB) Memorandum M-16-19 initiatives for data center optimization. The OCIO established guidelines, metrics and milestones in the following areas:

- Organization and Communications
- Streamlining the Environment
- Enterprise Data Center Discovery
- Agency Data Center Optimization Plan Formulation
- Detailed Discovery
- Application and Server Migration
- System Decommissioning
- Data Center Closures

In the months from October 2018 through July 2019, the OCIO team successfully executed on the planned migration to Microsoft Azure Cloud. By August 2019, the OCIO completed 100% cloud adoption and had shut down on-premises Data Centers.

Major milestones in FY 2019:

1. Migrated 100% on-premise workloads to Microsoft Azure Cloud services
2. Shut down on-premises data centers
3. Retired and replaced legacy NxGen E-Service platform with My Account Portal and integration with login.gov
4. Refreshed NxGen product suite technology stacks and adopted latest Azure Cloud services
5. Made great strides in design and development of the new Judicial Case Management System (JCMS) application that will replace legacy JCMS
6. Redesigned and re-architected the search functionality for nlr.gov to improve legal research enhancing the search capabilities of the NLRB customers and stakeholders
7. Developed and implemented the Translation Information Management System (TIMS) 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

The OCIO will continue to strengthen NxGen applications, modernize JCMS application, and evolve its “*Cloud Smart*” approach, which will enable OCIO to serve and support the Agency’s mission needs with right technology solutions.

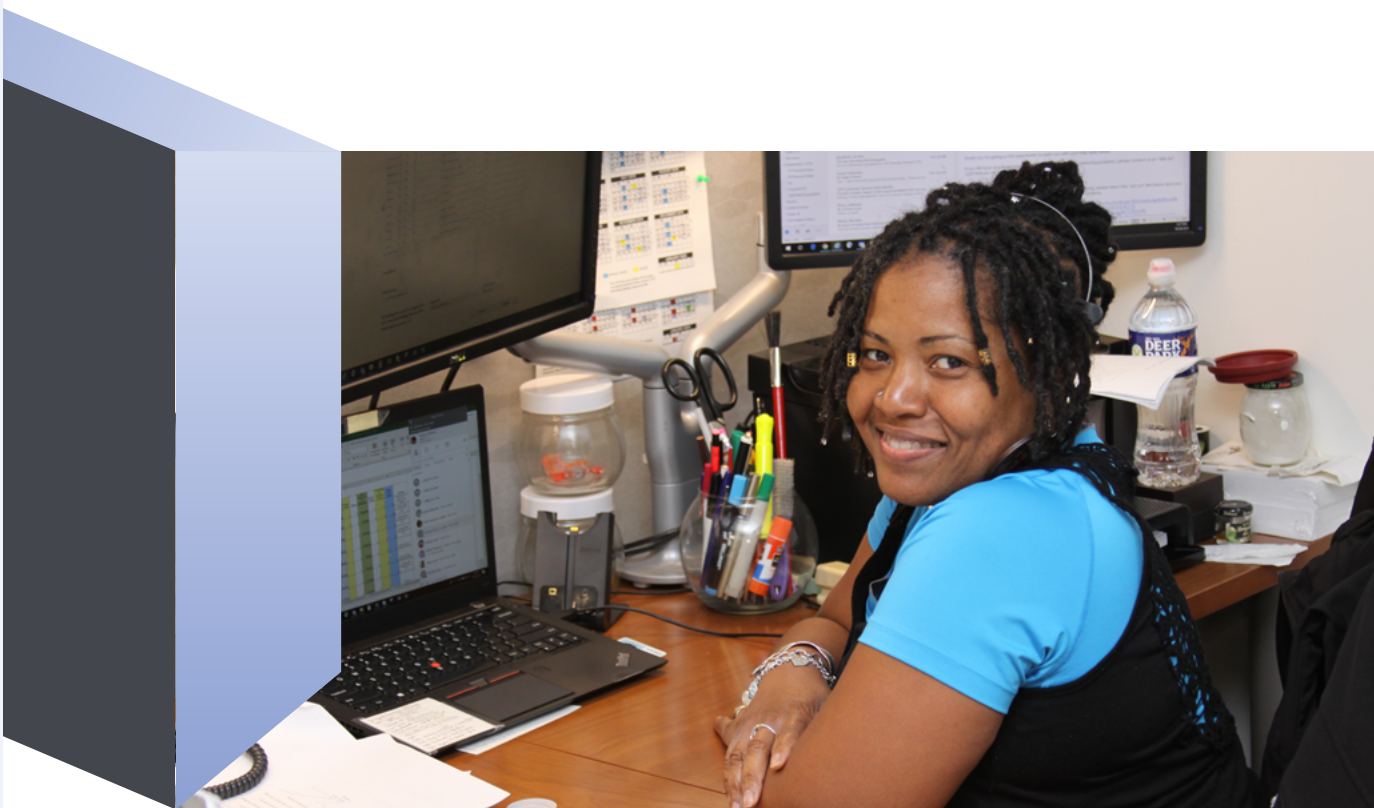
Public Information Program

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 in Headquarters, Board agents in the field offices provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2019, the Agency’s Regional Offices received 45,773 public inquiries regarding workplace issues. In responding to these inquiries, Board agents spend a considerable amount of time explaining the rights and responsibilities under the NLRA, accepting charges, or referring parties to other federal or state agencies. 2,081 Charges and Petitions were filed through the Agency’s website without assistance from Agency personnel.

The public may also contact the Agency through a toll-free telephone service (1-866-667-NLRB) designed to provide easy and cost-free access to information. Callers to this number will hear messages recorded in English and Spanish 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. In FY 2019, the toll-free telephone service received 23,878 calls.

Public outreach is encouraged and has been embraced at all levels of the Agency. Over the past few years, the Board Members, General Counsels, Regional Managers, and Board agents participated in numerous speaking engagements at events sponsored by law schools, the American Bar Association, the U.S. Chamber of Commerce, and various employer, union and worker advocacy groups.

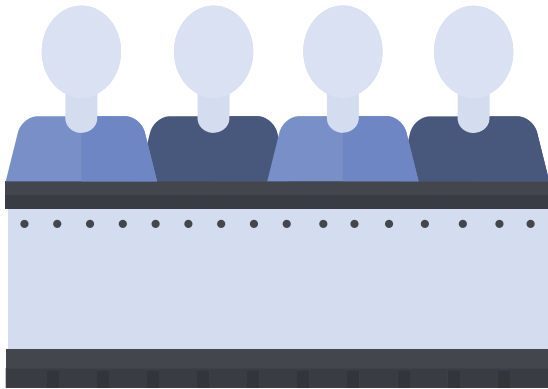
Agency representatives also engaged in outreach events involving other federal agencies, business organizations, workers’ rights centers, human resources professional groups, and labor organizations



to educate them on the NLRA and the role of the NLRB in impartially enforcing the Act. In addition, Regional Offices publish newsletters and participate in televised or radio public talk shows.

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 assistants and contracts with service providers whose job is to provide interpretation and translation services in various languages to assist our field office casehandling. The public website contains Agency publications about the NLRA and processes, which are translated into Spanish, Chinese, Creole, Korean, Russian, Somali and Vietnamese. The number of electronic document templates available in Spanish continues to increase and the database of translated representation case notices and ballots has expanded to include 31 languages. Finally, the Agency has teamed up with other federal agencies in conducting listening sessions among the Asian American and Pacific Islander community to educate them about the rights of workers and to listen to their concerns regarding treatment at their workplaces and confusion about the Agency's processes.

FY 2019 STATISTICAL HIGHLIGHTS



The Board issued
303 DECISIONS

in contested cases:

224 ULP CASES and
**86 REPRESENTATION
CASES WERE FILED.**

**98.2
PERCENT**

of all initial elections
were conducted
within

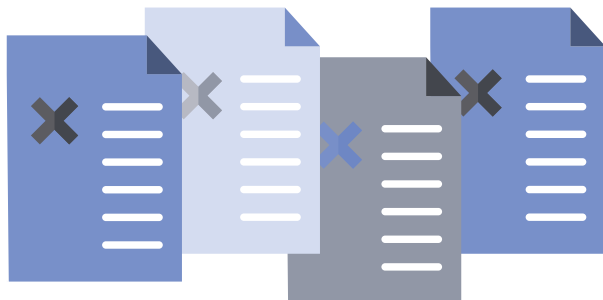
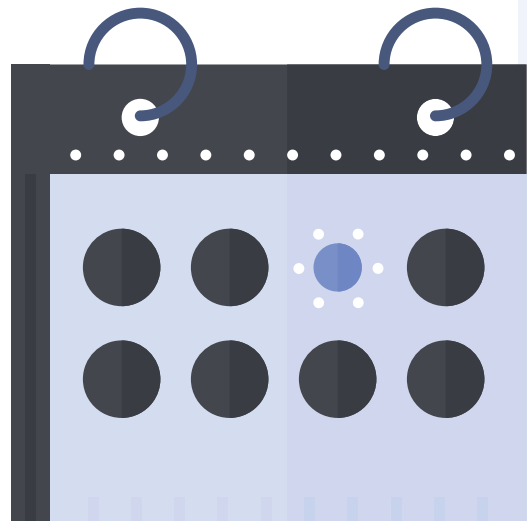
**56
DAYS**

of filing of the
petition.

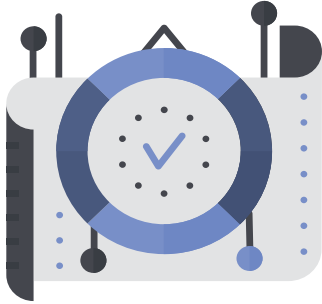
Initial elections
in union
representation
cases were
conducted in a
median of

**25
DAYS**

from the filing
of the petition.



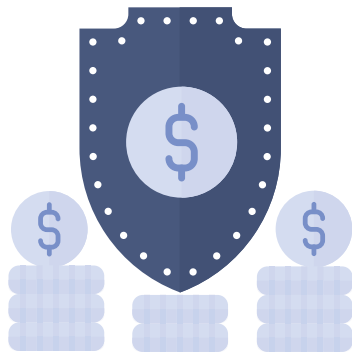
Regional Offices issued
**916
COMPLAINTS.**



78.9 PERCENT
of meritorious ULP
charges resolved
within 365 days.



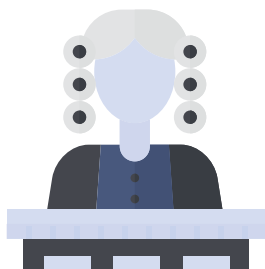
Regional Offices prevailed in
84 PERCENT
of Board and administrative law judge (ALJ)
decisions which were won, in whole or in part.



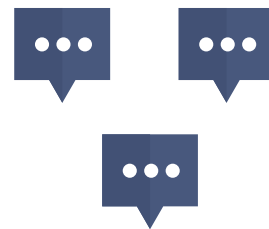
\$56,537,220

was recovered on behalf of employees
as backpay or reimbursement of fees,
dues, and fines, and **1,431** employees
were offered reinstatement.

The Division of Judges closed
141 HEARINGS, issued **159 DECISIONS**, and achieved
483 SETTLEMENTS in cases
on its trial docket.



The Agency received
45,773 inquiries through its
Public Information Program,
and **23,878** calls through its
toll-free number.



01

Management's Discussion and Analysis



Protecting Democracy in
the Workplace Since 1935

ABOUT THE NLRB

The National Labor Relations Act (NLRA)

- 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, which establishes freedom of association for purposes of collective bargaining and concerted activities to improve terms and conditions in the workplace
- Addresses the rights and obligations of employees, labor unions, and private employers

The National Labor Relations Board (NLRB)

The NLRB is an independent federal agency created in 1935 to administer and enforce the NLRA by conducting secret-ballot elections among employees to determine whether or not the employees wish to be represented by a union; and by preventing and remedying statutorily defined ULPs by employers and unions.

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 84-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.nlr.gov>:

MISSION STATEMENT

Protecting workplace democracy and the rights of employees, unions and employers under the National Labor Relations Act, in order to promote commerce and strengthen the Nation's economy.



- **Charges and Complaints** – Data related to charges 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 recession of union security agreements received by Regional Offices, elections held, and outcomes
- **Decisions** – Data related to decisions by the Board and NLRB Administrative Law Judges
- **Litigation** – Data related to litigation by Board attorneys 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

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” is group activity that seeks to improve wages or working conditions in a particular workplace.
- 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 union dues and fees.

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 Board and the General Counsel maintain a Headquarters in Washington, D.C., and the Agency also maintains a network of Regional¹ (“Field”) offices and two satellite Judges’ offices. 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/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 terms². The President designates one of the Board Members as Chairman. Board Member John F. Ring was designated as Chairman on April 12, 2018.

The Agency currently has four Board Members, with one vacancy.



¹Including Subregional and Resident Offices.

²Even 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 a portion of a five-year term.

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, as well as of 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. Peter B. Robb was nominated by the President for General Counsel and appointed to a four-year term beginning on November 17, 2017.

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

	Sworn In	Term to Expire
John F. Ring Chairman	4/16/2018	12/16/2022
Lauren McFerran Member	12/17/2014	12/16/2019
Marvin E. Kaplan Member	8/10/2017	8/27/2020
William J. Emanuel Member	9/26/2017	8/27/2021
Peter B. Robb General Counsel	11/17/2017	11/16/2021

ORGANIZATION



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 citizen-centered and results-oriented philosophy to best serve the needs of the American people.

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 promote commerce and strengthen the nation's economy.

The two mission-related goals of the NLRB are:

- Promptly and fairly resolve through investigation, settlement of prosecution, unfair labor practices under the National Labor Relations Act
- Promptly and fairly resolve all questions concerning representation of employees

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 administrative law judge, 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 trial record, according to the statute and the body of case law that has been developed by the Board and the federal courts.

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees free choice on union representation and by preventing and remedying statutorily defined unfair labor practices. The NLRB maintains a citizen-centered and a results-oriented philosophy to best serve the needs of the American people.

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 United States 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 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 NLRB 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. In determining whether the use of Section 10(j) is appropriate in a particular case, the principal question is whether injunctive relief is necessary to preserve the Board's ability to effectively remedy the alleged ULP, and whether the alleged violator would 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 adversarial³. 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

³ 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.



Counsel, process representation petitions and conduct elections on behalf of the Board based on a delegation of authority made in 1961. As a result, the General Counsel and the Board have historically worked together in developing procedures for the conduct of representation proceedings. The Board 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. 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 personnel functions of the Agency.

CASEHANDLING HIGHLIGHTS

The NLRB acts only on those 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 2019, the public filed 18,552 ULP charges of which 36 percent were found to have merit. Also, in FY 2019, the NLRB received 2,095 representation petitions, including 1,993 petitions to conduct secret-ballot elections in which workers in appropriate units select or reject unions to represent them in collective bargaining with their employers, as well as 30 petitions for elections in which workers voted on whether to rescind existing union-security agreements. The NLRB also received 3 petitions seeking amendment and 62 petitions seeking clarification of an existing bargaining unit, as well as 7 WH (wage & hour) cases.

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees' free choice on union representation and by preventing and remedying statutorily defined unfair labor practices. The NLRB maintains a citizen-centered and results-oriented philosophy to best serve the needs of the American people.

The cases on the following pages highlight this philosophy and reflect the NLRB's mission of protecting democracy in the workplace:

Arbitration Agreements

Cordúa Restaurants, Inc.

16-CA-160901, et al., reported at 368 NLRB No. 43 (2019)

Following the Supreme Court's decision in *Epic Systems v. Lewis*, 584 U.S. ___, 138 S.Ct. 1612 (2018), where the Supreme Court held that mandatory arbitration agreements containing class- and collective-action waivers do not violate the NLRA, the Board in *Cordúa* decided three important related issues. First, the Board found that the promulgation of a mandatory arbitration agreement containing class- and collective-action waivers is not unlawful, even in response to Section 7 activity, because under *Epic Systems*, an agreement requiring that employment-related claims be resolved through individual arbitration does not restrict Section 7 rights in any way. Second, the Board found that an employer may tell employees they will be discharged if they refuse to sign a mandatory arbitration agreement. Under *Epic Systems*, such statements are not unlawful threats; they are explanations of the lawful consequences of failing to sign the agreement. Third, consistent

with long-standing Board precedent, the Board found that employers are prohibited from disciplining or discharging employees for engaging in concerted legal activity, which includes filing a class or collective action with fellow employees over wages, hours, or other terms and conditions of employment. Chairman Ring was joined by Members Kaplan and Emanuel in the majority. Member McFerran dissented in part.

Prime Healthcare Paradise Valley, LLC

21-CA-133781 and 21-CA-133783, reported at 368 NLRB No. 10 (2019)

In a unanimous decision, the Board held that Prime Healthcare's mandatory arbitration agreement violated Section 8(a)(1) because it restricted employees' access to the NLRB and its processes. Applying the standard set forth in *Boeing Co.*, 365 NLRB No. 154 (2017), the Board found that the challenged provision, when reasonably interpreted, would interfere with the exercise of the right to file charges with the Board. In balancing the nature and extent of the potential impact on Section 7 rights with any justification for that rule, as *Boeing* requires, the Board held that, as a matter of law, there is not and cannot be any legitimate justifications for provisions that restrict employees' access to the Board or its processes. The Board noted that this complete freedom is indispensable to the effectuation of national labor policy under the Act. Chairman Ring, and Members McFerran, Kaplan, and Emanuel participated.

Chargeable Union Expenses

United Nurses and Allied Professionals (Kent Hospital)

01-CB-011135, reported at 367 NLRB No. 94 (2019)

The Supreme Court held in *Communications Workers v. Beck* that employees who are not members of a union may not be required, as a condition of employment, to pay for union expenses that do not involve its representational function, as part of their dues, if they object to such payments. In *Kent Hospital*, the Board held that lobbying activity, although sometimes relating to terms of employment or incidentally affecting collective bargaining, is not part of the union's representational function, and therefore lobbying expenses are not chargeable to *Beck* objectors. The Board also held that it is not enough for a union to provide objecting nonmembers with assurances that its compilation of chargeable and nonchargeable expenses has been appropriately audited; rather, a union must provide independent verification that the audit had been performed. The Board found that the Union violated Section 8(b)(1)(A) by both failing to provide nonmember objectors with an audit verification letter in support of the Union's claim of expenses chargeable to a *Beck* objector and by charging nonmember objectors for lobbying expenses. Chairman Ring was joined by Members Kaplan and Emanuel in the majority. Member McFerran dissented.

Duty to Bargain

MV Transportation, Inc.

28-CA-173726, reported at 368 NLRB No. 66 (2019)

The Board adopted the "contract coverage" standard for determining whether a unionized employer's unilateral change in a term or condition of employment violates the Act. In doing so, the Board overruled the "clear and unmistakable waiver" standard, which had been rejected by several federal courts of appeals. Under the "contract coverage" standard, the Board will examine the plain language

of the parties' collective-bargaining agreement to determine whether the change made by the employer was within the compass or scope of contractual language granting the employer the right to act unilaterally. If it was, the Board will honor the plain terms of the parties' agreement and the employer will not have violated the Act by making the change without bargaining. If the agreement does not cover the employer's disputed action, the employer will have violated the Act unless it demonstrates that the union waived its right to bargain over the change or that it was privileged to act unilaterally for some other reason.

Applying the contract coverage standard retroactively, the majority found that some of the Respondent's disputed changes to work policies (concerning the addition of light duty work assignments and the setting of disciplinary standards for safety, schedule adherence, security sweeps/breaches, and driving) fell within the compass or scope of language in the collective-bargaining agreement that granted the Respondent the right to assign employees, to discipline employees, and to issue reasonable rules and policies related to employee discipline. Accordingly, the Board found that the Respondent did not violate the Act by unilaterally implementing these work policies. Chairman Ring was joined by Members Kaplan and Emanuel in the majority opinion. Member McFerran concurred in part and dissented in part.

Independent Contractor

SuperShuttle DFW, Inc.

16-RC-010963, reported at 367 NLRB No. 75 (2019)

The Board overruled *FedEx Home Delivery*, 361 NLRB 610 (2014), and returned to the common-law agency test for determining independent-contractor status. The Board found that the *FedEx* majority impermissibly diminished the significance of entrepreneurial opportunity in the Board's independent-contractor analysis and had instead revived an "economic dependency" standard that Congress explicitly rejected with the Taft-Hartley amendments of 1947. Consistent with the Supreme Court's decision in *NLRB v. United Insurance Co. of America*, 390 U.S. 254 (1968), the Board reiterated that when making independent-contractor determinations, the Board will consider all of the common-law factors in the total factual context of each case.

Applying the common-law test to this case, the Board concluded that the franchisees are not statutory employees under the Act, but rather independent contractors excluded from the Act's coverage. The Board found that the franchisees' leasing or ownership of their work vans, their method of compensation, and their nearly unfettered control over their daily work schedules and working conditions provided the franchisees with significant entrepreneurial opportunity for economic gain. The Board found that these factors, along with the absence of supervision and the parties' understanding that the franchisees are independent contractors, outweighed the factors supporting employee status. Therefore, the Board dismissed the representation petition. Chairman Ring was joined by Members Kaplan and Emanuel in the majority opinion. Member McFerran dissented.

Velox Express, Inc.

15-CA-184006, reported at 368 NLRB No. 61 (2019)

The Board held that employers do not independently violate Section 8(a)(1) of the Act by misclassifying employees as independent contractors. The Board held that an employer's communication to its workers of its opinion that they were independent contractors does not, standing alone, violate the Act, even if that opinion turns out to be mistaken. The Board found that such communication does not inherently threaten those employees with termination or other adverse action if they engage in activities protected by the Act, nor does it communicate that it would be futile for them to engage in such activities.

The Board applied its recent decision in *SuperShuttle DFW, Inc.*, 367 NLRB No. 75 (2019), to find that the workers were employees, not independent contractors, and thus protected by the NLRA. Based on that determination, it held that the employer violated the NLRA when it discharged one of these employees for bringing to management's attention group complaints about the way the employer was treating its workers. The Board majority held, however, that the employer's misclassification of its employees as independent contractors was not a separate violation. Chairman Ring was joined by Members Kaplan and Emanuel in the majority opinion. Member McFerran concurred in part and dissented in part.

Property Access Cases

Bexar County for the Performing Arts Center Foundation d/b/a Tobin Center for the Performing Arts
16-CA-193636, reported as 368 NLRB No. 46 (2019)

The Board overruled *New York New York Hotel & Casino*, 356 NLRB 907 (2011) and held that contractor employees generally are not entitled to the same Section 7 property access rights as the property owner's own employees. Instead, a property owner may exclude from its property off-duty employees of an onsite contractor seeking access to the property to engage in Section 7 activity unless (i) those employees work regularly and exclusively on the property, and (ii) the property owner fails to show that they have one or more reasonable nontrespassory alternative means to communicate their message. The Board noted that alternative means could include the use of adjacent public property, newspapers, radio, television, billboards, and social media.

Applying the new standard, the Board found that the employer did not violate Section 8(a)(1) of the Act by barring off-duty employees of the San Antonio Symphony from leafletting outside of San Antonio's Tobin Center during a performance by the local ballet. The Board found that the Symphony employees did not work exclusively at the Tobin Center and did not regularly conduct business or perform services there. The Board also found the Symphony employees had reasonable alternative nontrespassory channels of communicating their concerns to the theater-going public. Chairman Ring was joined by Members Kaplan and Emanuel in the majority opinion. Member McFerran dissented.

Kroger Mid-Atlantic

05-CA-155160, reported as 368 NLRB No. 64 (2019)

The Board overruled *Sandusky Mall Co.*, 329 NLRB 618 (1999), enf. denied in relevant part 242 F.3d 682 (6th Cir. 2001) and similar cases, which required employers to grant access to nonemployee union agents for any purpose if the employer has allowed substantial civic, charitable, and promotional activities by other nonemployees. The Board noted that *Sandusky Mall* had been roundly rejected by the courts of appeals. Under the Board's new standard, to establish that a denial of access to nonemployee union agents was unlawful, the General Counsel must prove that an employer denied access to other nonemployee union agents while allowing access to other nonemployees for activities similar in nature to those in which the union agents sought to engage.

Applying the new standard, the Board held that Kroger was within its rights to remove union representatives from the parking lot of one of its Virginia stores. The Board noted that the General Counsel did not show that Kroger has ever permitted any nonemployees to engage in protest activities on its premises comparable to the boycott solicitation at issue in the case. Chairman Ring was joined by Members Kaplan and Emanuel in the majority decision. Member McFerran dissented.

UPMC and its Subsidiary, UPMC Presbyterian Shadyside, Single Employer, d/b/a UPMC Presbyterian Hospital

06-CA-102465 et al., reported at 368 NLRB No. 2 (2019)

The Board found that, absent discrimination, an employer does not have a duty to permit the use of its public cafeteria within an employer's private property by nonemployees for promotional or organizational activity. The Board overruled *Ameron Automotive Centers*, 265 NLRB 511 (1982) and *Montgomery Ward & Co.*, 256 NLRB 800 (1981), enf. 692 F.2d 1115 (7th Cir. 1982) to the extent those cases held that nonemployee union organizers could not be denied access to cafeterias that are open to the public if the organizers used the facility in a manner consistent with its intended use. Instead, the Board found that, absent discrimination, an employer does not have a duty to permit the use of its public cafeteria by nonemployees for promotional or organizational activity. In this case, the Board found that University of Pittsburgh Medical Center Presbyterian Shadyside did not discriminate by removing a nonemployee organizer who was meeting with employees because UPMC had previously prohibited nonemployee third party organizations from soliciting and distributing in its cafeteria. Chairman Ring was joined by Members Kaplan and Emanuel in the majority decision. Member McFerran dissented in part.

Withdrawal of Recognition

Johnson Controls, Inc.

10-CA-151843, reported at 368 NLRB No. 20 (2019)

The Board addressed a recurring problem that arises when an employer receives valid evidence that a majority of employees no longer wish to be represented by a union, exercises its right to anticipatorily withdraw recognition once its contract expires, but the union thereafter acquires new evidence that allegedly re-establishes its majority status. The Board found that the new evidence is not well-suited to evaluation in an unfair labor practice case, because it necessarily involves evidence of support from employees who had previously rejected the union. Instead, the Board held

that the appropriate way to resolve this uncertainty is through an election. Accordingly, the Board held that an employer may rely on the evidence in its possession when it announced its anticipatory withdrawal, unless the union timely filed an election petition, and announced several modifications to its election rules to allow petitions to be processed in a timely manner in these situations. If no petition is timely filed, the employer may rely on its evidence to withdraw recognition.

In this case, Johnson Controls withdrew recognition after it was given a petition by its employees that showed a majority no longer wanted to be covered by the union. Because the union failed to file a timely election petition, the Board found that Johnson Controls acted lawfully. Chairman Ring was joined by Members Kaplan and Emanuel in the majority. Member McFerran dissented.

Supreme Court Cases

The Board did not have any cases heard on the merits in the Supreme Court, but successfully opposed opposing parties' petitions seeking Supreme Court review in three cases (*In-N-Out Burger v. NLRB*, 894 F.3d 707 (5th Cir. 2018), *cert. denied*, 139 S.Ct. 1259 (February 25, 2019); *Capital Medical Center v. NLRB*, 909 F.3d 427 (D.C. Cir. 2018), *cert. denied*, 139 S.Ct. 1445 (April 1, 2019); *Casino Pauma v. NLRB*, 888 F.3d 1066 (9th Cir. 2018), *cert. denied* 139 S.Ct. 2614 (May 20, 2019)).

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 comprehensive Strategic Plan (FY 2019-FY 2022) and the Performance and Accountability Report.

The NLRB's Strategic Plan states the Agency's strategic goals, objectives, initiatives, performance measures, and management strategies. There are two mission-related goals, and two support goals. The majority of 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. Most of the data collected tracks the time spent at each step of the case processing "pipeline". 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 have moved fully into 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 of the Agency. Each division, including Headquarters and the Regions, 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 73.

The NLRB's mission-related goals represent the core functions of the Agency in its enforcement of the NLRA. Goal 1 focuses on individual segments of the casehandling process such as the average number of days from filing to disposition and average number of days from Board Order Issued to Closing. Goal 2 focuses on the overall time it takes to process an entire case. The goals are outcome-based and aligned with the mission of the Agency.

The Performance Measures for Strategic Goal 1 address the timeliness of case processing at different stages for the resolution of meritorious unfair labor practice charges and unfair labor practice charges. On an annual basis, there are typically more than six times as many ULP cases than representation cases. Both types of cases often involve complicated issues for Regions to address.

The Performance measure for Strategic Goal 2 focuses on the time taken to resolve a representation case, from beginning to end, including time spent on the case by Field and Headquarters Offices. In representation cases, elections result from petitions filed by unions, employees, or employers seeking a secret ballot determination as to whether a majority of employees support union representation.

Goal 1, Initiative 1 - Performance Measures:

Year	Annual Goal	Actual Performance
FY 2018	Baseline	106 days
FY 2019	101 days	74 days
FY 2020	95 days	
FY 2021	90 days	
FY 2022	85 days	

Measure 1: Realize a 5% 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	Annual Goal	Actual Performance
FY 2018	Baseline	242 days
FY 2019	230 days	264 days*
FY 2020	218 days	
FY 2021	206 days	
FY 2022	195 days	

Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

Year	Annual Goal	Actual Performance
FY 2018	Baseline	585 days
FY 2019	556 days	513 days*
FY 2020	527 days	
FY 2021	497 days	
FY 2022	468 days	

Measure 3: Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board Order.

Year	Annual Goal	Actual Performance
FY 2018	Baseline	648 days
FY 2019	616 days	541 days
FY 2020	583 days	
FY 2021	556 days	
FY 2022	518 days	

Measure 4: Realize a 5% annual decrease in the average time between issuance of Board Order and the closing of the case.

Goal 2, Initiative 1 – Performance Measure:

Year	Annual Goal	Actual Performance
FY 2018	85.8%	88.8%
FY 2019	85.8%	90.7%
FY 2020	85.8%	
FY 2021	85.9%	
FY 2022	85.9%	

Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition.

*Revised as of 12/09/19

FINANCIAL AND SYSTEMS HIGHLIGHTS

Operational/Performance Highlights

The Office of the Chief Financial Officer (OCFO), comprised of the Budget, Acquisitions, and Finance Branches, reports directly to the Chairman and General Counsel. This structure integrates and enhances Agency financial management. Specifically, the OCFO focuses on effectiveness and efficiency in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations.

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

Below are some highlights from FY 2019 OCFO activities:

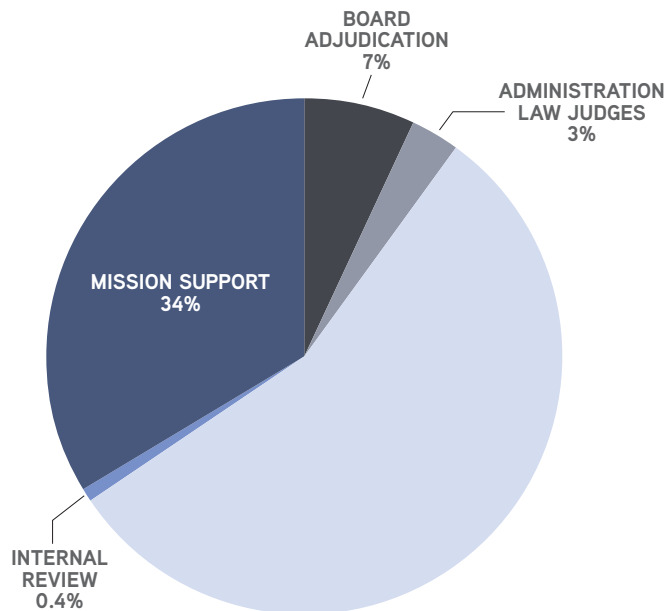
Budget

The FY 2019 Budget provided \$274.2 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 2019, the Agency allocated \$268.5 million to support these five areas.

The Budget Office is working to track the FY 2020 Continuing Resolution by ensuring all mandatory funding needs are addressed until a full year budget is enacted.

The Agency's new Budget Officer has made process improvement a top priority for the Budget Office. During FY 2019, the Budget Office adopted an improvement strategy that establishes a transparent and repeatable process that engages the Program Areas and the Agency Leadership to create a prioritized investment plan supporting strategic outcomes and guiding hiring and resource decision making. To accomplish this strategy, the Budget Office conducted surveys by holding a series of discussions with the Programs at the workgroup level. The outreach effort was administered during the period of

FY 2019 BUDGET BY PROGRAM ACTIVITY



April through July 2019. The Budget workgroup used the survey results to develop ways to improve customer satisfaction, identify workplace issues, and take steps to resolve them as it relates to formulating and executing the Agency's budget.

As part of the Budget Office continuous improvement, earlier this Spring, the Budget Officer issued Plan Development Guidance to Program Areas to identify the budgetary requirements and provide the outyear budget estimates. During this planning phase, the Program Areas identified and submitted justification for FY 2019 requirements in priority order. The Budget Office processed those requirements for the Agency's Leadership review so resource allocation decisions can be made based on the priorities of the Agency as it aligns to achieving the goals and the objectives of the Strategic Plan.

In FY 2019, the Budget Office coordinated an unprecedented outreach effort with Program Areas to address unfunded mission critical needs. The Agency was able to award approximately \$15 million to support those prioritized mission critical requirements.

Finance

In FY 2019, the Finance Branch continued to provide customer service to its internal and external customers. The Finance Branch successfully submitted the quarterly Governmentwide Treasury Account Symbol (GTAS) reporting to the U.S. Department of the Treasury, Bureau of the Fiscal Service in a timely manner. In conjunction with the Department of the Interior – Interior Business Center (IBC), the Finance Branch conducted multiple E2 travel training sessions for Agency employees on the authorization, the voucher, and the approval processes.

Per the Federal Travel Regulations and the General Services Administration (GSA), federal government employees are required to use the GSA-contracted online services or their Travel Management Center (TMC) to arrange travel for official business. As a result of providing the aforementioned training sessions over the last two years, the Agency has improved its online usage rate in the E2 Solutions application of 76%; thereby increasing the Agency's adherence to federal regulations.

During FY 2019, the Finance Branch worked closely with the Division of Operations Management to successfully increase the accuracy of Backpay disbursement request submissions from Regional Offices with respect to payments for discriminatees.

Charge Card Program

GSA's SmartPay 3 program officially started November 30, 2018. The NLRB Purchase and Travel Card programs are in the process of being fully implemented with all the SmartPay 3 features that the NLRB did not implement in SmartPay 2 such as electronic banking. Some of the benefits for using the GSA SmartPay 3 Program as a payment solution include:

- Safety and Transparency – Provides secure solutions for efficient payment transactions
- Electronic Access to Data – Provides agencies/organizations with immediate access to complete transaction level data, helping to mitigate fraud, waste, and abuse
- Refunds – Agencies/Organizations earn refunds based on a single rate which considers both volume of spend and speed of pay

- Worldwide Acceptance – Provides access to merchants around the globe
- Tax Advantage – The SmartPay 3 travel card program is exempt from state taxes in select states

NLRB worked with Citibank to train purchase cardholders on the new online processes. Cardholders went from a manual paperwork process to an electronic online banking environment. The NLRB travel card SmartPay 3 program faced more challenges during the implementation. Nevertheless, the OCFO worked closely with its partners IBC and Citibank to provide training to travel cardholders. The Policies for both programs are being revised to include new program requirements.

Systems

The NLRB obtains the majority of its financial systems and services from the Department of the Interior's IBC and has no plans to operate its own financial systems. NLRB is responsible for overseeing IBC and ensuring that financial systems and internal controls are in place to fulfill legislated and regulatory financial management requirements. IBC provides the following systems:

- Oracle Federal Financials (OFF) – Integrated system of record for all financial transactions.
- Federal Payroll and Personnel System (FPPS) – Personnel system of record, which interfaces with the Oracle system.
- E2Solutions - eTravel system provided by Carlson Wagonlit (CWTSato), the NLRB's Travel Management Service, which also interfaces with the Oracle system.
- IPP – A Web-based system that provides one integrated, secure system to simplify the management of vendor invoices. It is offered at no charge to federal agencies and their vendors. A few benefits of IPP are as follows:
 - » IPP can help federal agencies avoid Prompt Payment penalties by supporting more efficient invoice processing while automating invoice collection, validation and approval workflows.
 - » Vendors can manage their receivables more easily using one system to transact with multiple agencies.
 - » IPP saves federal agencies and vendors time and money by automating formerly paper-based processes, and it is offered at no charge.
 - » IPP improves financial management by promoting standard processes to manage government invoices with increased controls.
 - » IPP is supported by the U.S. Department of the Treasury, which oversees all upgrades and enhancements.

Oracle Business Intelligence Enterprise Edition (OBIEE)

The NLRB is investing in a new query and reporting tool available from Oracle. The tool will replace Discoverer, which will soon no longer be supported. The Oracle Business Intelligence Application (OBIA) is a business intelligence suite, including ad hoc query and analysis, dashboards, enterprise reporting, mobile analytics, scorecards and predictive analytics, on an architecturally integrated

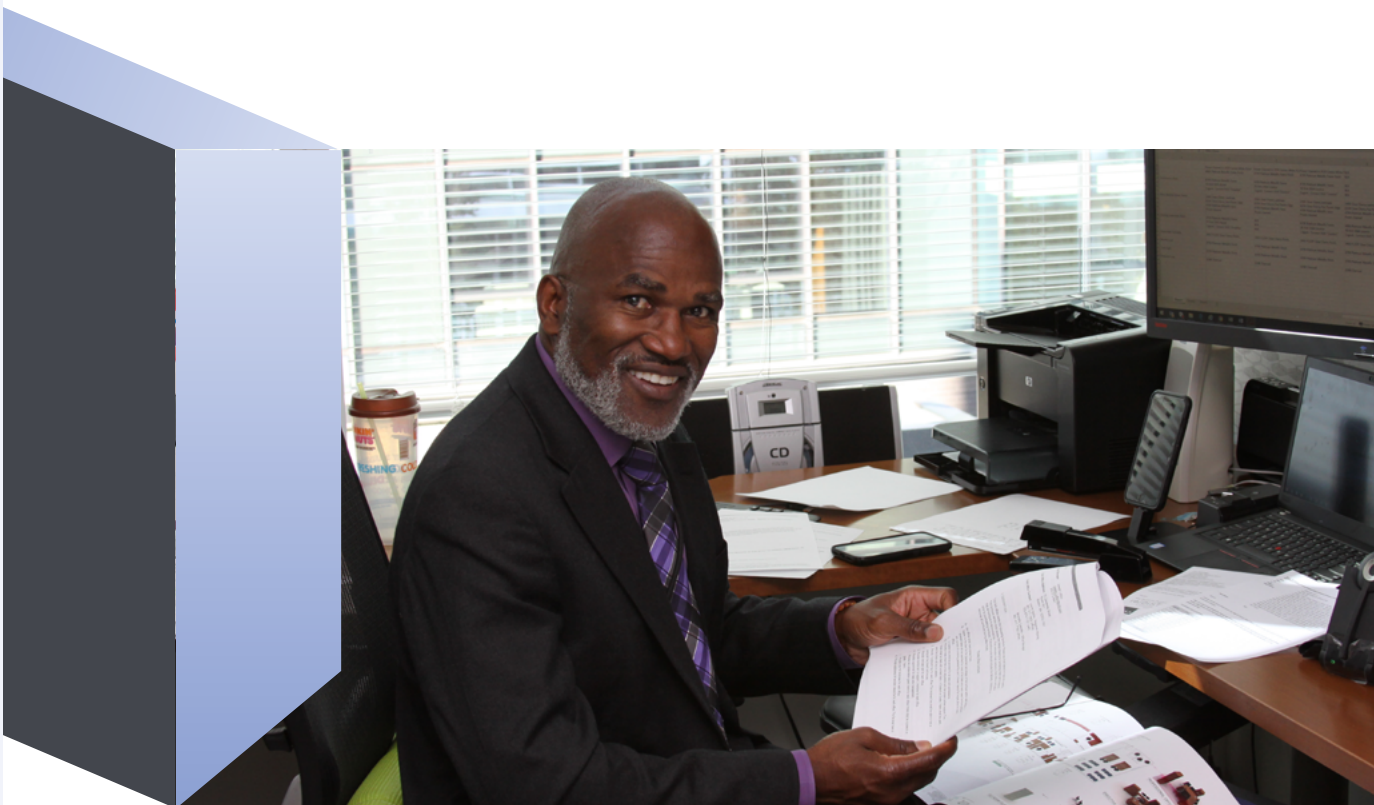
business intelligence foundation. The central component of the suite is Oracle Business Intelligence Enterprise Edition (OBIEE), which features a Common Enterprise Information Model for centralized metadata management, common query request generation and data access. The NLRB anticipates that these products will provide the information to enable our Agency to drive innovation, optimize operations, and deliver more relevant and timely information to decision makers.

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 this Performance and Accountability Report.

Balance Sheet – The NLRB assets were \$64 million as of September 30, 2019. The Fund Balance with Treasury of \$52 million represents the NLRB's largest asset at 81 percent. The fund balance is the undisbursed balances from appropriated funds for the past six Fiscal Years.

Property, Plant, and Equipment of \$11.3 million represents the NLRB's second largest asset at 18 percent which is mostly related to internal use software and leasehold improvements. This was a \$5.2 million increase from the prior year due to additional acquisitions and leasehold improvements while still incurring depreciation and amortization for existing property, plant, and equipment.



The NLRB liabilities were \$29.2 million as of September 30, 2019. Liabilities consist of amounts owed to vendors, governmental trading partners, and Agency employees. Accounts Payable for intragovernmental activities increased 95 percent primarily due to interagency agreements, the timing of IPAC billings and accruals. Employee unfunded annual leave was 43 percent of liabilities, the NLRB's largest liability. The FECA Actuarial liability decreased by \$148 thousand or 6 percent.

Statement of Net Cost – The NLRB's appropriation is used to resolve representation cases or ULP charges filed by employees, employers, unions, and union members. Of the \$273 million net cost of operations in FY 2019, 90 percent was used to resolve ULP charges and 10 percent was used for representation case activities.

Statement of Changes in Net Position – The NLRB's net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. From FY 2018 to FY 2019, there was a change in net position of \$13.6 million. This was, in part, due to an increase in appropriations used during the year related to a decrease in interagency agreements and vendor contract services. There was also a decrease in imputed financing for employee benefits which was impacted by lowered staffing levels and cost factors adjusted for all pension plans.

Statement of Budgetary Resources – The Statement of Budgetary Resources shows budgetary resources available and the status of these resources at the end of the period. It represents the relationship between budget authority and budget outlays and reconciles obligations to total outlays. For FY 2019, the NLRB had available budgetary resources of \$280.7 million, the majority, \$274.2 million were derived from new budget authority. Obligations were \$269.3 million for FY 2019, and total outlays for FY 2019 were \$263.3 million. The status of budgetary resources had a \$2.7 million increase in apportioned funds due to several contracts that were awarded significantly under their budgeted price or were not able to be awarded prior to the close of the FY 2019.

Limitations Of Principal Financial Statements

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

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

COMPLIANCE WITH LAWS AND MANAGEMENT ASSURANCES

Antideficiency Act (ADA)

The Antideficiency Act prohibits federal agencies 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 United States, 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 reappropriation, or in excess of the amount permitted by Agency regulations.

There were no known violations of the Anti-Deficiency Act during FY 2019 at the NLRB.

Debt Collection Improvement Act (DCIA)

The Debt Collection Improvement Act of 1996, also known as the DCIA, is a United States' legal act, regulating the collection of bad debts owed to the U.S. government. It controls the whole debt recovery procedure and collection tools used for collection of non-tax US federal debts. As non-tax debts are considered all types of loans funded by the federal government, e.g. federal education loans, housing and urban development amounts (the so-called HUD debts), Small Business Administration (or SBA loans), unpaid child support sums, etc. The main function of the Improvement Act of 1996 is to maximize recovery of default amounts and late payments referring to federal non-tax bad debts. The DCIA acts together with the Treasury Financial Management Service (FMS) and controls US non-tax delinquent amounts, which have remained unpaid more than 180 days. After this period, such debts are to be transferred to the U.S. Department of the Treasury.

Digital Accountability And Transparency Act (DATA ACT)

The DATA Act expands the Federal Funding Accountability and Transparency Act (FFATA) of 2006 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 have the opportunity to understand the impact of federal funding for federal programs/entities.

As required by the OMB Memorandum M-15-12, issued on May 8, 2015, the NLRB drafted a DATA Act of 2014 Implementation Plan in order to increase transparency of federal spending as required the DATA Act and FFATA Act.

The Acquisition Management Branch (AMB) inputs contract and Interagency Agreements (IAAs) directly into the Federal Procurement Data System - Next Generation (FPDS-NG). The number of contracts and IAAs are less than 50, which has made this a manageable workload for the staff.

The NLRB's service provider, IBC, has identified 47 of the required reportable data elements that will be provided for reporting from existing systems. The remaining elements are being analyzed by the NLRB.

The NLRB has already taken steps to identify the data information needed to be captured for reporting. The FY 2017 Congressional Justification restructured the five major Program Activities and established the unique award ID as the Oracle Financial system generated Purchase Order number. The NLRB also already submits object class and program activity data from the Oracle financial system to OMB and has done this since FY 2013.

OPEN Government Data Act (Public Law 115-435)

- Directs all federal agencies to publish their information as machine-readable data, using searchable, and open format.
- Requires the federal government to use open data to improve decision making.
- Requires every agency to maintain a centralized Enterprise Data Inventory that lists all data sets.
- Mandates a centralized inventory for the whole government – codifying the platform currently known as data.gov.
- Establishes and formalizes Chief Data Officers (CDO) at federal agencies with data governance and implementation responsibilities.

Federal Information Security Management Act (FISMA)

The Federal Information Security Management Act of 2002, 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.

Government Charge Card Abuse Prevention Act

On October 17, 2014 the President signed an Executive Order (EO) 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 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 was assessed through enhanced monitoring procedures to detect fraud, waste, and abuse.

The Improper Payments Elimination And Recovery Improvement Act (IPERIA)

The Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant erroneous payments. For all programs and activities in which the risk of erroneous payments is significant, agencies are to estimate the annual amount of erroneous payments made in those programs. The NLRB's risk assessment indicated that the salaries and expenses program was not susceptible to significant improper payments. A detailed report of the NLRB's improper payments activities is presented in the Other Information section on page 117.

Prompt Payment Act

The Prompt Payment Act was enacted in 1982 to ensure the federal government makes timely payments. Bills are to be paid within 30 days after receipt and acceptance of material 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 \$273.91 in FY 2019.

Federal Financial Management Improvement Act (FFMIA)

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 (FMFIA)

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

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 financial 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 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 the Agency’s control environment, risks, control activities, and performance results are communicated throughout the Agency
Monitoring	Assessing 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 50 designated managers on an Agency-wide basis. In completing this annual review, the designated managers, in conjunction with subordinate staff as needed, used personal judgment as well as other sources of information. These sources included: knowledge gained from day-to-day operations; Inspector General Audits and investigations; program evaluations; reviews of financial systems; annual performance plans; and previous management reviews. The designated managers were responsible for conducting reviews of program operations, assisting program offices in identifying risks and conducting internal control reviews, issuing reports of findings, and making recommendations to improve internal controls and risk management.

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

The Statement of Assurance provided on page 47 is required by the FMFIA and OMB Circular 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 2019 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, 2019 in accordance with the FMFIA and OMB Circular 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 U.S. Department of the Treasury. The Agency also reviews the SSAE-18’s for all systems operated by IBC to ensure that independent auditors have also certified that the necessary controls are in place, so the NLRB can rely on those systems.



**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC**

November 4, 2019

ANNUAL STATEMENT OF ASSURANCE

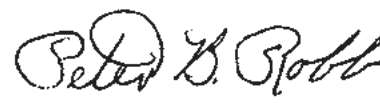
Management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The NLRB assessed the effectiveness of internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the NLRB can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2019 was operating effectively, and no material weaknesses were found in the design or operation of the internal controls.

In accordance with the requirements of OMB Circular No. A-123, Appendix A, the NLRB assessed the effectiveness of internal control over financial reporting, which includes internal control related to the preparation of the annual financial statements, safeguarding of assets, and compliance with applicable laws and regulations governing the use of budget authority and other laws and regulations that could have a direct and material effect on the financial statements. The result of this evaluation provides reasonable assurance that the NLRB's internal control over financial reporting was operating effectively as of September 30, 2019.

The NLRB also conducted reviews of financial management systems. Based on the results of these reviews, the NLRB can provide reasonable assurance that the financial management systems comply with the applicable provisions of the FMFIA as of September 30, 2019.

The NLRB has submitted all of the quarterly FY 2019 procurement DATA Act submissions to Department of Treasury as required by the DATA Act.


John F. Ring
Chairman


Peter B. Robb
General Counsel

02

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 two mission-related goals of the NLRB's 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 all parties 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 Performance and Accountability Report.



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 two 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 (GPRA) and the Government Performance and Results Modernization Act (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 the conducting of 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 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 our 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* 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 four-year period covered by the current Strategic Plan (FY 2019-2022). The actual results achieved for the performance measures and management strategies for FYs 2014-2018 can be found in Appendix C. Some of the goals below originated in FY 2019, so there is no historical data for those goals prior to 2019.

Strategic Goal 1 (Mission):

Promptly and fairly resolve through investigation, settlement or prosecution, unfair labor practices under the National Labor Relations Act.

Objective:

1. Achieve established performance measures for the resolution of meritorious unfair labor practice charges.

Initiatives:

1. Achieve a collective 20% increase in timeliness of case processing under established performance measures for the resolution of all meritorious unfair labor practice charges.
2. Achieve enhanced performance for the resolution of all unfair labor practice charges.
3. Ensure that all matters before the Agency are handled in a fair and consistent manner.

Goal 1, Initiative 1 - Performance Measures:

Measure 1: Realize a 5% annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint.

This measure focuses on meritorious (prosecutable) ULP cases, and the time taken from initial filing until either effectuating a remedy or setting the case for litigation. After the filing of charges, Regions undertake investigation, determination, notification to the parties of its determination, opportunity for voluntary adjustment, and movement to the next phase of case processing. During this process the Region acquires relevant evidence from all parties, including neutral parties as appropriate, conducts legal research, and assesses whether the ULP allegations are meritorious.

For allegations the Region finds meritorious, the Region seeks appropriate remedy, such as reinstatement, backpay or back dues, and bargaining in good faith. The remedy may be effectuated by private resolution (adjusted withdrawal or adjusted dismissal) or Board-approved settlement. In the absence of a resolution, the Region issues a complaint, formalizing the allegations and sets the case for hearing before an ALJ.

In FY 2019, the NLRB realized a 22% annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint. In FY 2018 the average time from filing to disposition was 94 days.

GOAL NO. 1, Initiative 1, Measure 1				
Decrease in the average time required to resolve meritorious unfair labor practice charges				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	101 days	95 days	90 days	85 days
ACTUAL	74 days			

Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

This measure focuses on the time between issuance of a complaint and completion of the work of the Division of Judges regarding that complaint either through settlement of the case by an administrative law judge, or issuance of a decision by an administrative law judge.

After an individual, employer, or union files a ULP charge, a Regional Director evaluates the merits of the charge and decides whether to issue a complaint. If a complaint issues, a hearing is scheduled with an administrative law judge. The Division of Judges attempts to settle cases pending before them, and if settlement efforts are unsuccessful, the case proceeds to hearing. Following the hearing, the administrative law judge issues a decision regarding the merits of the alleged ULPs.

This is a new measure the Agency is collecting data on so there is no prior year numbers to compare.

GOAL NO. 1, Initiative 1, Measure 2				
Decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of a decision				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	230 days	218 days	206 days	194 days
ACTUAL	264 days*			

*Revised as of 12/09/19

Measure 3: Realize a 5% annual decrease in the average time between issuance of administrative law judge decision and Board order.

This measure focuses on the time between when an administrative law judge issues a decision in a ULP case, and when the Board issues its subsequent decision or order.

Once an ALJ issues a decision, the decision is not final until adopted by the Board. The parties, including the GC, can choose to appeal the ALJ’s decision to the Board. The Board issues a final order resolving the ULP case, which includes consideration of any appeals that may have been filed regarding the ALJ’s decision.

This is a new measure the Agency is collecting data on so there is no prior year numbers to compare.

GOAL NO. 1, Initiative 1, Measure 3				
Decrease in the average time between issuance of an administrative law judge decision and a Board order.				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	556 days	527 days	497 days	468 days
ACTUAL	513 days*			

Measure 4: Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

This measure focuses on the Board securing relief, such as reinstatement, backpay, back dues, rescission of discipline, resumption of bargaining in good faith, and the posting of a Notice, after the Board administratively determining that an employer or labor organization has committed a ULP.

Ordinarily, the Regional Office will attempt to secure compliance in the 30-day period following the Board’s order. If compliance cannot be obtained, the Region will refer the case to the Appellate and Supreme Court Litigation Branch of the Division of Enforcement Litigation, which typically proceeds to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board’s order.

Following final court judgment, any disagreements about what steps are necessary before the case can be closed on compliance are resolved either in compliance proceedings before the Board or a reviewing court, or in extreme cases, in contempt proceedings.

ULP cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation of the NLRA are complete. This measure includes all litigated cases, including those appealed to the U.S. Court of Appeals.

In FY 2019, the NLRB realized a 17.2% annual decrease in the average time between issuance of a Board order and closing of the case. In FY 2018 the average time from filing to disposition was 94 days.

GOAL NO. 1, Initiative 1, Measure 4				
Decrease in the average time between issuance of a Board order and the closing of the case.				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	616 days	583 days	556 days	518 days
ACTUAL	541 days			

Goal 1, Initiative 2 - Performance Measures:

Measure 1: Realize a 5% annual decrease in the average time required to resolve unfair labor practice charges through withdrawal, dismissal, settlement or issuance of complaint.

This measure tracks the passage of time from the initial filing a ULP charge with a Region of the Board through the Region's investigation, determination, notification to the parties of its determination, opportunity for voluntary adjustment, and movement to the next phase of case processing. During this process the Region acquires relevant evidence from all parties, including neutral parties as appropriate, conducts legal research, and assesses whether the ULP allegations are meritorious. Where the allegations are not meritorious, the Region so advises the charging party and affords the charging party the opportunity to withdraw, dismissing the non-merit allegations or charge in its entirety if the charging party does not withdraw.

For allegations the Region finds meritorious, the Region seeks appropriate remedy, such as reinstatement, backpay or back dues, and bargaining in good faith. The remedy may be effectuated by private resolution (adjusted withdrawal or adjusted dismissal) or Board-approved settlement. In the absence of a resolution, the Region issues a complaint, formalizing the allegations and sets the case for hearing before an ALJ.

In FY 2019, the NLRB realized a 17.5% decrease in the average time between issuance of a complaint and settlement by administrative law judge or issuance of administrative law judge decision. In FY 2018 the average time from filing to disposition was 90 days.

GOAL NO. 1, Initiative 2, Measure 1				
Decrease in the average time required to resolve unfair labor practice charge				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	86 days	81 days	77 days	72 days
ACTUAL	74 days			

Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

This measure focuses on the time between issuance of a complaint and completion of the work of the Division of Judges regarding that complaint either through settlement of the case by an administrative law judge, or issuance of a decision by an administrative law judge.

After an individual, employer, or union files a ULP charge, a Regional Director evaluates the merits of the charge and decides whether to issue a complaint. If a complaint issues, a hearing is scheduled with an administrative law judge. The Division of Judges attempts to settle cases pending before them, and if settlement efforts are unsuccessful, the case proceeds to hearing. Following the hearing, the administrative law judge issues a decision regarding the merits of the alleged ULPs.

This is a new measure the Agency is collecting data on so there is no prior year numbers to compare.

<i>GOAL NO. 1, Initiative 2, Measure 2</i>				
Decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of a decision				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	230 days	218 days	206 days	194 days
ACTUAL	149 days*			

Measure 3: Realize a 5% annual decrease in the average time between issuance of administrative law judge decision and Board order.

This measure focuses on the time between when an administrative law judge issues a decision in a ULP case, and when the Board issues its subsequent decision or order.

Once an ALJ issues a decision, the decision is not final until adopted by the Board. The parties, including the GC, can choose to appeal the ALJ’s decision to the Board. The Board issues a final order resolving the ULP case, which includes consideration of any appeals that may have been filed regarding the ALJ’s decision.

This is a new measure the Agency is collecting data on so there is no prior year numbers to compare.

<i>GOAL NO. 1, Initiative 2, Measure 3</i>				
Decrease in the average time between issuance of an administrative law judge decision and a Board order.				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	556 days	527 days	497 days	468 days
ACTUAL	496 days*			

Measure 4: Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

This measure focuses on the Board securing relief, such as reinstatement, backpay, back dues, rescission of discipline, resumption of bargaining in good faith, and the posting of a Notice, after the Board administratively determining that an employer or labor organization has committed a ULP.

Ordinarily, the Regional Office will attempt to secure compliance in the 30-day period following the Board’s order. If compliance cannot be obtained, the Region will refer the case to the Appellate and Supreme Court Litigation Branch of the Division of Enforcement Litigation, which typically proceeds to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board’s order.

Following final court judgment, any disagreements about what steps are necessary before the case can be closed on compliance are resolved either in compliance proceedings before the Board or a reviewing court, or in extreme cases, in contempt proceedings.

ULP cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation of the NLRA are complete. This measure includes all litigated cases, including those appealed to the U.S. Court of Appeals.

In FY 2019, the NLRB realized a 17.2% annual decrease in the average time between issuance of a Board order and closing of the case. In FY 2018 the average time between issuance of a Board order and the closing of the case was 653 days.

<i>GOAL NO. 1, Initiative 1, Measure 4</i>				
Decrease in the average time between issuance of a Board order and the closing of the case.				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	616 days	583 days	551 days	518 days
ACTUAL	540 days			

Goal 1, Initiative 3 - Performance Measures:

Measure 1: Ensure that Regional case processing procedures evolve with the Agency’s strategic goals and technological advancements.

- Migrated 100% on-premise workloads to Microsoft Azure Cloud services, providing high availability, scalability, redundancy, and increased performance.
- Replaced legacy NxGen E-Service platform with My Account Portal and integration with login.gov, enhanced E-Filing and customer notification.
- Refreshed NxGen product suite technology stacks and adopted latest Azure Cloud services, provided increased security and improved case processing procedures.

- Developed and implemented the Translation Information Management System (TIMS) which allows Agency employees the ability to request interpreting and translation services to a group of Language Specialists within the Agency, enhancing case processing.

Measure 2: Conduct annual quality reviews of Regional unfair labor practice case files and institute modifications to case processing as appropriate.

The quality review process is broken down into the three phases below. The reviewer looks at the quality of case work to ensure Regions follow current guidance and Board law.

Phase 1 – Investigation And Determination

Number of cases reviewed: TEN (10). Cases selected will include one 8(a)(1) case, two 8(a)(3) cases, one 8(a)(5) case, and two CB cases. At least one case will involve a potential 10(j) situation. The remainder will be left to the reviewer’s discretion.

Phase 2 – Implementation

Number of cases reviewed: SEVEN (7). Cases selected will include two cases in which the Region issued a long form dismissal and one case in each of the following categories: complaint, non-Board settlement, informal Board settlement, litigated ULP trial, and formal compliance.

Phase 3 – R Case Review

Number of cases reviewed: THREE (3). One case in each of the following categories: pre-election hearing, post-election hearing, large election (typically <100 employees). In each of these matters, the review will cover the entire file.

Strategic Goal 2 (Mission):

Promptly and fairly investigate and resolve all questions concerning representation of employees.

Objective:

1. Achieve established performance measures for the timely resolution of all questions concerning representation of employees.

Initiatives:

1. Achieve established performance measures for the resolution of representation cases.
2. Ensure that all matter before the Agency are handled in a fair and consistent manner.

Goal 2, Initiative 1 – Performance Measures

Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition.

This measure focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and the Board sides of the Agency.

An employer, labor organization, employee, or group of employees may file a petition in an NLRB Regional Office requesting an election to determine whether a majority of employees in an appropriate bargaining unit wishes to be represented by a labor organization. When a petition is filed, the Agency works with parties toward a goal of reaching a voluntary agreement regarding conducting an election, as opposed to a Regional Director directing an election, if appropriate. This measure reflects the percentage of representation cases closed within 100 days. A case is closed when the question as to whether or not a labor organization will represent employees has been finally resolved.

Representation cases are resolved and closed in a number of ways:

- Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early stage in processing may be based on a variety of reasons, for example: the employer does not meet the Agency’s jurisdictional standards; the petitioner fails to provide an adequate showing of interest to support the petition; and/or the petition was filed in an untimely manner.
- Cases may also be withdrawn by the petitioner for a variety of reasons, such as lack of sufficient support among the bargaining unit.
- The majority of cases are resolved upon issuance of either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election).
- In a small percentage of cases, there are post-election challenges or objections to the election. The case is not closed until the challenges and/or objections have been resolved.

In FY 2019, the NLRB exceeded its goal of 85.8 percent by 5.0 percent to close all representation cases within 100 days from the filing of the petition.

GOAL NO. 2, Initiative 1, Measure 1				
Percentage of Representation Cases Resolved Within 100 Days				
YEAR	FY 2019	FY 2020	FY 2021	FY 2022
TARGET	85.8%	85.8%	85.9%	85.9%
ACTUAL	90.7%			

Counting of days: The 100 days is calculated from the date the petition is formally docketed.

Goal 2, Initiative 2 - Performance Measures:

Measure 1: Ensure that Regional case processing procedures evolve with the Agency's strategic goals and technological advancements.

- Migrated 100% on-premise workloads to Microsoft Azure Cloud services, providing high availability, scalability, redundancy, and increased performance.
- Replaced legacy NxGen E-Service platform with My Account Portal and integration with login.gov, enhanced E-Filing and customer notification.
- Refreshed NxGen product suite technology stacks and adopted latest Azure Cloud services, provided increased security and improved case processing procedures.
- Developed and implemented the Translation Information Management System (TIMS) which allows Agency employees the ability to request interpreting and translation services to a group of Language Specialists within the Agency, enhancing case processing.

Measure 2: Conduct annual quality reviews of Regional representation case files and institute modifications to case processing as appropriate.

The quality review process is broken down into the three phases below. The reviewer looks at the quality of case work to ensure Regions follow current guidance and Board law.

Phase 1 – Investigation and Determination

Number of cases reviewed: TEN (10). Cases selected will include one 8(a)(1) case, two 8(a)(3) cases, one 8(a)(5) case, and two CB cases. At least one case will involve a potential 10(j) situation. The remainder will be left to the reviewer's discretion.

Phase 2 – Implementation

Number of cases reviewed: SEVEN (7). Cases selected will include two cases in which the Region issued a long form dismissal and one case in each of the following categories: complaint, non-Board settlement, informal Board settlement, litigated ULP trial, and formal compliance.

Phase 3 – R Case Review

Number of cases reviewed: THREE (3). One case in each of the following categories: pre-election hearing, post-election hearing, large election (typically <100 employees). In each of these matters, the review will cover the entire file.

Strategic Goal 3 (Support):

Achieve Organizational Excellence and Productivity in the Public Interest

Objectives:

1. Recruit, develop, and retain a highly motivated, productive, talented, and diverse workforce to accomplish our mission.
2. Promote a culture of professionalism, mutual respect, and organizational pride.

Initiatives:

1. Invest in and value all employees through professional development, workplace flexibilities, fair treatment, and recognition of performance in the public interest.
2. Develop and implement recruitment strategies to ensure a highly qualified, productive and diverse workforce.
3. Improve employee satisfaction and employee engagement.
4. Ensure that employees understand the Agency's mission and how they contribute to its accomplishments.
5. Cultivate and promote Agency programs that encourage collaboration, flexibility, diversity and mutual respect to enable individuals to contribute to their full potential.

Strategic Goal 3 is a management strategy-based goal that is comprised of two objectives with their own set of initiatives. Each initiative has a set of measures that were created in order to identify the management actions that need to be taken to achieve the goal. For the full outline of the goal please see Appendix D on page 179.

Organizational Excellence ensures the ongoing efforts to engage and motivate employees will increase the commitment to the Agency mission. These efforts will also attract qualified and diverse applicants, to improve the quality and productivity of the Agency. The continuous commitment of assessing the organizational excellence enables the Agency to proactively enhance the organization's overall service and commitment to customers and employees. Accomplishments in FY 2019 include:

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.

- » Office of Human Resources (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.
- Human Capital Planning Officer (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 (OEEEO) 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 a 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).
- OEEEO submitted the Agency's annual Management Directive (MD 715) Report to the EEOC during the 4th quarter of FY 2019.

- » OEEEO held 2 quarterly meetings with a cross section of organizational units, including the OHR, OED, the Division of Operations-Management (Ops) and the OCIO, to build a fully integrated model EEO program under MD 715 goals.
- OEEEO 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 Employee Viewpoint Survey (EVS) organizational assessments with senior executives on the 2018 EVS 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 EVS 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 2018 Federal Employee Viewpoint Survey (FEVS) results and provided each division/office with a comprehensive organizational assessment briefing of the EVS 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 EVS Management Toolkit for management to promote the EVS; and distributing an EVS promotional flyers in NLRB's work space that promotes the survey administration period.
 - » Additionally, the HCPO fostered greater transparency with the Agency's EVS action planning efforts surrounding EVS results and encouraged an open two-way communication between leadership and employees on the EVS 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 EVS. The NLRB's 2018 EVS participation rate exceeded the 2018 governmentwide EVS participation rate by 21 percentage points.

Strategic Goal 4 (Support):

Manage Agency resources efficiently and in a manner that instills public trust.

Objectives:

1. Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the Agency's mission and increase transparency.
2. Evaluate and improve the Agency's Outreach Program.
3. Conduct all internal and external Agency business in an ethical and timely manner.

Initiatives:

1. Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system.
2. Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency.
3. Effective management of fiscal resources.
4. Right-sizing and closing Field Offices and Headquarters office space by up to 30% over the next five years in accordance with GSA guidelines.
5. Enhance Agency's Outreach Program.
6. Promote an ethical culture within the NLRB through leadership, communications, awareness, resources, and oversight.
7. Respond to internal audits in a timely manner.
8. Respond to external audits in a timely manner.
9. Respond to FOIA and other public inquiries in a timely manner.

Strategic goal 4 consists of management strategies that are comprised of three objectives. Each set of objectives has its own set of initiatives. Each initiative has a set of measures that were created in order to identify the management actions that need to be taken to achieve the goal. For the full outline of the goal please see Appendix D on page 179.

Federal Employees are charged with managing programs and federal funds in an efficient and effective manner. As stewards of these federal funds, the Agency is making every effort to instill public trust. Accomplishment in FY 2019 include:

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-Served 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 <http://www.nlr.gov/open/public-documents> for a list of the document types available to the public and <https://www.nlr.gov/news-outreach/graphs-data> for updated metrics for FY 2019 Charges & Complaints, Petitions & 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 & 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 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, and the U.S. Department of the Treasury to address questions on backpay and travel.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and the U.S. Department of the 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 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 Congressional and 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 DHS, DOL (Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Office of Federal Contract Compliance Programs (OFCCP)), OSC, Department of Justice (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 2019 Annual Ethics Briefing for all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics (OGE). 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 2019 Ethics Survey and provided several recommendations to leadership to continue to develop a robust ethical culture at the NLRB.
- Reissued Combined Federal Campaign (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 Fiscal Year 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	2020	2021	2022
Percentage of inquiries resolved within 5 business days	85%	88.9%	-	-	-
Percentage of submitted financial disclosure reports reviewed within 60 days	100%	100%	-	-	-

- During FY 2019, the Ethics Office received 839 inquiries. 743 (88.6%) were resolved within 5 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 2018. 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 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, 0.22% 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 FY 2019, 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.nlr.gov/news-outreach/foia>,
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.nlr.gov/news-outreach/foia>, and
2. DOJ website at <https://www.justice.gov/oip/reports-1>.

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, 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.

Case Intake

The Agency's FY 2019 case intake totals 20,647 and includes 18,552 ULP cases and 2,095 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: ongoing nationwide efforts to improve the wages and working conditions of workers in the retail 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; expanded use of mandatory arbitration clauses in employment matters; bankruptcies; jurisdiction over 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.

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 without formal litigation. 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 Member terms and the filling of a vacant seat by an individual who will not be a Board Member for a full-term impairs Board productivity, as successive Board Members often have to get up to speed on the same case matter. Currently, the Board is not at full composition since one vacancy caused by the expiration of a Board Member's terms has not been filled.

Potential Effect Of Statutory Changes

As a general matter, changes in the law can affect NLRB operations and could have consequences on the Agency's case load. Statutory changes, for example, could lead to an increase in ULP charges

and/or election petitions filed with the Agency, with corresponding increases in investigations and proceedings conducted by Agency personnel. Statutory changes may also directly mandate additional litigation by the Agency, e.g., seeking injunctive relief in federal district court.

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 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 2019, the Division of Judges closed 141 hearings, issued 159 decisions and achieved 483 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2019, the United States Court of Appeals ruled on Board decisions in 50 enforcement and review cases. Of those cases, 90 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, Division of Legal Counsel and Office of Representation Appeals, 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 American Bar Association 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 annually 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, Impact Analysis prioritization of cases, and compliance with

Agency decisions. Personnel from the Division of Operations-Management also conduct site visits during which they evaluate Regional casehandling and administrative procedures. In addition, to assessing the quality of litigation, Operations-Management reviews all ALJ and Board decisions that constitute a significant prosecutorial loss. 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 regularly monitors Regional Office activities, including the settlement and litigation success rates of ULP cases. In FY 2019, Regional offices settled 99.3 percent of meritorious ULP cases and won 90 percent of ULP and Compliance matters in whole or in part. A total of over \$56 million was recovered in backpay, fines, dues and fees and over 1,400 employees were offered reinstatement. As to monitoring representation cases, in FY 2019, 98.2 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 2019, the Injunction Litigation Branch received 77 cases from Regional Offices to consider whether to seek discretionary injunctive relief under Section 10(j) of the Act. The Board authorized the Injunction Litigation Branch to proceed with 10(j) actions in 13 cases in FY 2019, and Regional Offices filed 10(j) petitions in 10 cases. 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 91 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 outreach 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 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. The Ethics Office uses an electronic spreadsheet to track when an employee reaches out to the Office with an ethics inquiry. The Office logs the question and collects several pieces of data about the inquiry, including the date that the inquiry was made and the date that guidance was provided. The spreadsheet calculates the number of days between the two dates in order to track inquiry response times.

03

Financial Section



Protecting Democracy in
the Workplace Since 1935

A MESSAGE FROM THE CHIEF FINANCIAL OFFICER



November 14, 2019

I am pleased to present the NLRB consolidated financial statements for the Fiscal Year 2019 Performance and Accountability Report. For the sixteenth consecutive year an independent auditor has rendered an unmodified or “clean” opinion on the NLRB financial statements. The auditors identified a single significant deficiency in our financial reporting during this audit cycle.

The Office of the Chief Financial Officer (OCFO) is responsible for improving efficiency and effectiveness in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. The OCFO’s focus continues to be on process improvement and internal controls.

During my first year at the NLRB we performed an organizational assessment of the OCFO organization and matched skills with tasks to produce efficiencies, in addition to identifying capability gaps. We trained and hired new personnel to strengthen the OCFO organization.

In April 2019, the OCFO brought on board a new Budget Officer who has made significant improvements to the NLRB budget process. The Budget Office adopted a transparent and repeatable investment plan that prioritized resource allocation for the Agency.

During Fiscal Year 2019, the OCFO implemented the SmartPay 3 Program for both the purchase and travel cards. The implementation was a coordinated effort among Citibank, the IBC, and the NLRB. As part of the implementation effort, the OCFO held group training, web-training, and one-on-one training sessions.

During FY 2019, the OCFO addressed three audit recommendations from previous audits:

- 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.

I wish to acknowledge and thank the OCFO staff for their dedication to the NLRB's mission and their diligent efforts in maintaining an unmodified opinion on our financial statements. Their demonstrated knowledge of the NLRB programs and processes and their constant desire to provide excellent customer service is commendable.

The NLRB maintains its commitment to continuous improvement in financial management, internal controls, and in the production of timely, accurate, reliable, and transparent financial information.



Isabel Luengo McConnell
Chief Financial Officer

INDEPENDENT AUDITOR'S REPORT

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

November 15, 2019

To: John F. Ring
Chairman

Peter B. Robb
General Counsel

From: David P. Berry 
Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2019 Financial Statements
(OIG-F-24-20-01)

This memorandum transmits the audit report on the National Labor Relations Board (NLRB) Fiscal Year 2019 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 19-03, *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 15, 2019, and the conclusions expressed in the report. However, 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.



1737 King Street
 Suite 250
 Alexandria, VA 22314
 Phone: 703.229.4440
 Fax: 703.859.7603
 www.castroco.com

Independent Auditor's Report on the Financial Statements

Inspector General
 National Labor Relations Board

We have audited the accompanying balance sheets of the National Labor Relations Board (NLRB) as of September 30, 2019 and 2018 and 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.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of 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

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits 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. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the agency's preparation and fair presentation 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 the agency's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Opinion on the Financial Statements

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the NLRB as of September 30, 2019 and 2018, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Independent Auditor's Report
Page 2

Required Supplementary and Other Information

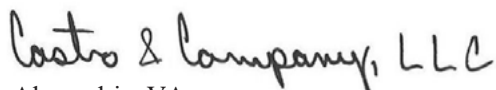
U.S. generally accepted accounting principles require that the information in the *Required Supplementary Information*, including *Management's Discussion and Analysis*, be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. The supplementary information is the responsibility of management and was derived from, and relates directly to, the underlying accounting and other records used to prepare the basic financial statements. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The information presented in the Messages from the Chairman, General Counsel, and Chief Financial Officer, list of Board Members, Other Accompanying Information, and Appendices is presented for purposes of additional analysis and are not required as part of the basic financial statements. Such information has not been subjected to auditing procedures applied by us in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by Government Auditing Standards

In accordance with U.S. *Government Auditing Standards* and OMB Bulletin No. 19-03, we have also issued our reports dated November 15, 2019, 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 other matters that are required to be reported under *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. *Government Auditing Standards* and OMB Bulletin 19-03 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.



Alexandria, VA
November 15, 2019



1737 King Street
Suite 250
Alexandria, VA 22314
Phone: 703.229.4440
Fax: 703.859.7603
www.castroco.com

**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, 2019 and 2018, 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 15, 2019. 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. 19-03, *Audit Requirements for Federal Financial Statements*.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2019, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of NLRB's internal control, determining whether controls had been placed in operation, assessing control risk, and performing tests of NLRB's controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not to express an opinion on the effectiveness of NLRB's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of NLRB's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the OMB Bulletin No. 19-03. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA), such as those controls relevant to ensuring efficient operations.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purposes described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We consider the following deficiency in internal control, described below, to be a significant deficiency.

Independent Auditor's Report on Internal Control
Page 2

NLRB's Response to Findings


NLRB's response to the findings identified in our audit is described in the accompanying Audit Response Letter. NLRB's response was not subject to auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

We noted less significant matters involving internal control and its operations which we have reported to NLRB management in a separate letter dated November 15, 2019.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and the result of that testing, and not to provide an opinion on the effectiveness of NLRB's internal control. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering NLRB's internal control. Accordingly, this communication 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.



Alexandria, VA
November 15, 2019

SIGNIFICANT DEFICIENCY

I. Improvements in the Internal Controls over Accounts Payable and Quality Reviews of Related Accrued Expenses are Needed

During our interim and year-end procedures, we continued to note differences as a result of improper recording of accruals. Certain accruals recorded by Finance were incorrect, as methodologies used contained accruals for services for which invoices were already paid and recognized in the General Ledger, but for which the accrual was not adjusted, causing overstatements of Accounts Payable (A/P) and understatements of the Undelivered Orders (UDO) balance. In addition, certain accruals were incorrect as a result of NLRB not properly accruing for the correct or entire period for which services had been received, resulting in an understatement of the A/P balance and overstatement of the UDO balance.

During our testing of UDOS and A/P, we selected a sample of 31 UDO transactions as of 9/30/19. The purpose of our testing was to assess management controls and compliance with applicable laws, regulations, and procedures relative to the NLRB's open obligations and corresponding accruals to support the validity of the UDO balances. The results of our year-end testing identified the following exceptions in eight (8) of the 31 transactions tested:

- Differences noted as a result of incorrect accruals: Four (4) under-accruals totaling \$188,715 that understated the A/P balance and overstated the UDO balance and four (4) over-accruals totaling \$1,090,006 that overstated the A/P balance and understated the UDO balance as of 9/30/19. The total absolute error was \$1,278,721 as of 9/30/19.

Additionally, we selected a sample of 28 UDO transactions as of 6/30/19. The results of our interim testing identified the following exceptions in seven (7) of the 28 transactions tested. Exceptions noted included the following:

- Differences noted as a result of incorrect accruals: Six (6) under-accruals totaling \$645,090 that understated the A/P balance and overstated the UDO balance and one (1) over-accrual totaling \$72,424 that overstated the A/P balance and understated the UDO balance as of 6/30/19. The total absolute error was \$717,515 as of 6/30/19.

During our audit procedures over Property, Plant and Equipment, we also noted that NLRB recorded an accrual of \$2,290,657 for rent expense for the month of September 2019 without going back to ensure NLRB had not already been billed as of 9/30/19. This error was discovered as a result of our audit procedures and corrected by NLRB after we brought this error to management's attention.

In prior fiscal years, we recommended that the accrual methodologies be reviewed and approved by appropriate program office personnel or the Contracting Officer's Representative (COR), with quality control review procedures and approvals performed and documented by Finance personnel. However, NLRB did not perform a sufficient detailed review of accruals to ensure estimates were accurate and complete, including going back after initial accruals were calculated to verify if the amount was still correct.

Independent Auditor's Report on Internal Control
Page 4

Additionally, we recommended that NLRB management train responsible program office and Finance personnel on how to monitor obligations and report accruals on an ongoing basis to enhance compliance with the applicable requirements. However, NLRB has not conducted proper training with appropriate program office personnel or CORs, at minimum, on an annual basis.

GAO's Standards for Internal Control in the Federal Government states,

Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. Internal control serves as the first line of defense in safeguarding assets. In short, internal control helps managers achieve desired results through effective stewardship of public resources.

Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition, management designs control activities so that all transactions are completely and accurately recorded.

Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.

Management perform ongoing monitoring of the design and operating effectiveness of the internal control system as part of the normal course of operations. Ongoing monitoring includes regular management and supervisory activities, comparisons, reconciliations, and other routine actions. Ongoing monitoring may include automated tools, which can increase objectivity and efficiency by electronically compiling evaluations of controls and transactions.

Management should remediate identified internal control deficiencies on a timely basis.

Statement of Federal Financial Accounting Standards No. 1, Accounting for Selected Assets and Liabilities, states,

Accounts payable are amounts owed by a Federal entity for goods and services received from, progress in contract performance made by, and rents due to other entities... When an entity accepts title to goods, whether the goods are delivered or in transit, the entity should recognize a liability for the unpaid amount of the goods. If invoices for those goods are not available when financial statements are prepared, the amounts owed should be estimated.

Independent Auditor's Report on Internal Control
Page 5

Not performing an accurate review of open obligations, expenditures, and accounts payable resulted in an under/overstatement in A/P and under/overstatement in the obligations. As a result, NLRB recorded an overstatement of \$3,191,948 in accounts payable and related expenditures on the financial statements originally submitted for audit as of and for the period ended September 30, 2019.

Additionally, the financial data used to generate management and financial reports required by applicable laws and regulations was not accurate. As a result, those charged with governance did not have reliable financial information to manage the operations of the Agency.

Recommendation:

1. Develop an accounts payable accrual worksheet for open contracts that is updated by the CORs to track period of performance, contract type, services/goods received, invoices received and paid, and accrual methodology used that is submitted, along with adequate supporting documentation, to Finance for discussion as part of the accrual review process.

Our testing confirmed a lack of remediation of previous years' findings; therefore, additional recommendations are not deemed necessary at this time.



1737 King Street
Suite 250
Alexandria, VA 22314
Phone: 703.229.4440
Fax: 703.859.7603
www.castroco.com

**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, 2019 and 2018, 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 15, 2019. 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. 19-03, *Audit Requirements for Federal Financial Statements*.

The management of NLRB is responsible for complying with laws and regulations applicable to NLRB. We performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 19-03, including the requirements referred to in the Federal Managers’ Financial Integrity Act of 1982. We limited our tests of compliance to these provisions, and we did not test compliance with all laws and regulations applicable to NLRB.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the NLRB’s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of compliance disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-03.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on the NLRB’s compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the NLRB’s compliance. Accordingly, this communication 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.

A handwritten signature in black ink that reads 'Castro & Company, LLC'.

Alexandria, VA
November 15, 2019

NLRB RESPONSE TO AUDIT REPORT



United States Government
NATIONAL LABOR RELATIONS BOARD
 1015 Half Street, SE
 Washington, DC 20570

Date: November 13, 2019

To: David Berry
 Inspector General

From: Isabel Luengo McConnell
 Chief Financial Officer

Subject: Response to the Audit of the National Labor Relations Board Fiscal Year 2019
 Financial Statements

Purpose:

The purpose of this memorandum is to respond, on behalf of the NLRB management, to your audit report on the NLRB's fiscal year 2019 Internal Control over Financial Reporting. The Agency is proud of its success in achieving an unmodified audit opinion on the financial statements for the 16th consecutive year.

The Agency acknowledges the significant deficiency stating that *Improvements in the Internal Controls over Accounts Payable and Quality Reviews of Related Accrued Expenses are Needed*. The Agency concurs and is committed to resolving the audit finding. Below is the Agency's response to the auditor's recommendation.

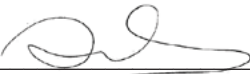
Recommendation:

Develop an accounts payable accrual worksheet for open contracts that is updated by the CORs to track period of performance, contract type, services/goods received, invoices received and paid, and accrual methodology used that is submitted, along with adequate supporting documentation, to Finance for discussion as part of the accrual review process.

Response:

Management agrees with the recommendation. The Agency will develop an accrual worksheet, review the current accrual methodology, and train responsible program offices and the Office of the Chief Financial Officer personnel on how to monitor obligations and report accruals on an ongoing basis to improve the accuracy of accrual estimates.

Finally, the Agency remains committed to refining and improving the policies, processes, and procedures of financial reporting and internal controls to fully address the auditor's recommendation.



Isabel Luengo McConnell
Chief Financial Officer

PRINCIPAL FINANCIAL STATEMENTS

Auditor's Reports And Principal Financial Statements

Principal Statements

National Labor Relations Board

Balance Sheets

As of September 30, 2019 and 2018

(in dollars)

	FY 2019	FY 2018
Assets		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 51,973,066	\$ 43,448,897
Advances and Prepayments (Note 4)	49,554	59,774
Total Intragovernmental Assets	52,022,620	43,508,671
Assets with the Public		
Accounts Receivable, net (Note 5)	625,898	600,481
Advances and Prepayments (Note 4)	31,004	12,243
General Property, Plant, and Equipment (Note 6)	11,316,933	6,087,336
Total Assets	\$ 63,996,455	\$ 50,208,731
Liabilities		
Intragovernmental:		
Accounts Payable	\$ 1,973,223	\$ 1,010,586
Employer Contributions and Payroll Taxes Payable	1,717,598	1,571,250
FECA Liabilities (Note 7)	399,534	334,950
Total Intragovernmental	4,090,355	2,916,786
Liabilities with the Public		
Accounts Payable	3,829,180	4,551,660
Fed Employee Benefits - FECA Actuarial Liability (Note 7)	2,273,821	2,422,305
Unfunded Annual Leave (Note 7)	12,495,788	13,204,349
Employer Contributions and Payroll Taxes Payable	6,530,974	5,979,961
Total Liabilities	29,220,118	29,075,061
Commitments and Contingencies (Note 16)		
Net Position		
Unexpended Appropriations	38,099,936	30,504,674
Cumulative Results of Operations	(3,323,599)	(9,371,004)
Total Net Position	34,776,337	21,133,670
Total Liabilities and Net Position	\$ 63,996,455	\$ 50,208,731

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

**National Labor Relations Board
Statements of Net Cost**

For the Years Ended September 30, 2019 and 2018
(in dollars)

	FY 2019	FY 2018
Program Costs		
Resolve Unfair Labor Practices		
Net Cost	\$ 245,273,507	\$ 251,776,211
Resolve Representation Cases		
Net Cost	27,768,358	27,944,055
Total		
Costs	273,041,865	279,720,266
Net Cost of Operations	\$ 273,041,865	\$ 279,720,266

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, 2019 and 2018

(in dollars)

	FY 2019	FY 2018
Unexpended Appropriations		
Beginning Balance	\$ 30,504,674	\$ 19,008,616
Budgetary Financing Resources:		
Appropriations Received	274,224,000	274,224,000
Other Adjustments	(2,418,984)	(1,252,112)
Appropriations Used	(264,209,754)	(261,475,830)
Total Budgetary Financing Sources	7,595,262	11,496,058
Total Unexpended Appropriations	\$ 38,099,936	\$ 30,504,674
Cumulative Results of Operations		
Beginning Balances	\$ (9,371,004)	\$ (6,189,191)
Budgetary Financing Sources:		
Appropriations Used	264,209,754	261,475,830
Other	0	6,783
Other Financing Sources (Non-Exchange):		
Imputed Financing	14,879,516	15,062,623
Other	0	(6,783)
Total Financing Sources	279,089,270	276,538,453
Net Cost of Operations	(273,041,865)	(279,720,266)
Net Change	6,047,405	(3,181,813)
Cumulative Results of Operations	(3,323,599)	(9,371,004)
Net Position	\$ 34,776,337	\$ 21,133,670

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

**National Labor Relations Board
Statements of Budgetary Resources**

For the Years Ended September 30, 2019 and 2018
(in dollars)

	FY 2019	FY 2018
Budgetary Resources		
Unobligated balance from prior year budget authority, net (discretionary and mandatory)	\$ 6,523,120	\$ 6,306,237
Appropriations (discretionary and mandatory)	274,224,000	274,224,000
Total Budgetary Resources (Note 14)	\$ 280,747,120	\$ 280,530,237
Status of Budgetary Resources		
New Obligations and upward adjustments (total)	269,317,032	272,431,239
Unobligated balance, end of year:		
Apportioned, unexpired accounts	5,699,240	3,034,382
Unexpired unobligated balance, end of year	5,699,240	3,034,382
Expired unobligated balance, end of year	5,730,848	5,064,616
Unobligated balance, end of year (total)	11,430,088	8,098,998
Total Budgetary Resources	\$ 280,747,120	\$ 280,530,237
Outlays, Net:		
Outlays, net (total) (discretionary and mandatory)	\$ 263,280,846	\$ 261,654,930

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

NOTES TO PRINCIPAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent federal agency established in 1935 to administer the National Labor Relations Act (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, called unfair labor practices (ULP), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP charges before Administrative Law Judges (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

These 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 records of the NLRB in accordance with U.S. generally accepted accounting principles (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements, revised as of June 28, 2019*. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal government. These financial statements present proprietary and budgetary information.

The Balance Sheet presents agency assets and liabilities, and the difference between the two, which is the agency's net position. Agency 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. Agency 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 its 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 as a whole.

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 No. A-11, *Preparation, Submission, and Execution of the Budget, June 28, 2019*.

The Agency 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 (AICPA) as the entity to establish GAAP for the Federal government. The Federal Financial Management Integrity Act (FFMIA) of 1996 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 Agency uses the Department of the Interior's financial management system and that system is FFMIA compliant. Thus, the Agency's financial management system complied with the requirements of FFMIA and produced records in accordance with USSGL at the transaction level.

The financial statements should be read with the realization that they are for a component of the United States Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources and legal authority to do so.

The accounting structure of federal agencies is designed to reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. The budgetary accounting principles, on the other hand, are designed to recognize the obligation of funds according to legal requirements, which in many cases is prior to the occurrence of an accrual based transaction. The recognition of budgetary accounting transactions is essential for compliance with legal constraints and controls over the use of federal funds.

The information as 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 on the basis of 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. Please see chart below with the calculations for FY 2019 and FY 2018, through September 30.

	FY 2019	FY 2018
	Percentage	Percentage
C Cases (Unfair Labor Practices)	90%	90%
R Cases (Representation)	10%	10%
	100%	100%

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the U.S. Department of the Treasury (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. Financing Sources

The NLRB receives funds to support its programs through annual appropriations. These funds may be used to pay program and administrative expenses, primarily salaries and benefits, space occupancy, travel, and contractual service costs.

For accounting purposes, appropriations are recognized as financing sources, and as appropriations used at the time expenses are accrued. Appropriations expended for general property, plant and equipment are recognized as expenses when the asset is consumed in operations (depreciation and amortization).

E. Fund Balance with the Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by Treasury, and the agency's records are reconciled with those of Treasury. Funds with Treasury represent the NLRB's right to draw on the Treasury for allowable expenditures.

In addition, funds held with Treasury also include escrow funds that are not appropriated but are fiduciary in nature. The fiduciary funds are not recognized on the Balance Sheet.

F. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable typically consists of two types of debts: 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 are 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.

G. 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, in order to most accurately match expenses with the time period in which the benefits are received from the software. The NLRB uses the straight-line method of amortization.

The Next Generation Case Management System (NXGen) project was a multiple year undertaking in which a large portion of the system was rolled out in FY 2011. This IUS project continues to include adjustments to the asset. IUS additionally supports systems such as e-Gov, E-Filing, and provides the public with web-based access to NLRB data.

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, as described above.

H. 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 Freedom of Information Act (FOIA) requests that must be transferred to the Treasury at the end of each Fiscal Year.

I. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by the NLRB absent an appropriation. Liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

J. 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.

Intragovernmental

The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of the NLRB which had not been billed or paid by the NLRB as of September 30, 2019 and 2018, respectively.

Federal Employees Workers' Compensation Program

The Federal Employees Compensation Program (FECA) 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 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 DOL but not yet reimbursed by the NLRB. The NLRB reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a two to three-year time period between payment by DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by 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 the claimant on a case-by-case basis to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 84.0 and 86.5 years for male and female, respectively.

Accrued Annual Leave

Accrued annual leave represents the amount of annual leave earned by NLRB employees but not yet taken.

K. Contingencies

The criteria for recognizing contingencies for claims are:

1. a past event or exchange transaction has occurred as of the date of the statements;
2. a future outflow or other sacrifice of resources is probable; and
3. the future outflow or sacrifice of resources is measurable (reasonably estimated).

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.

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported; where no cost is more likely than any other, the lowest possible cost in the range is reported. This item will normally be paid from appropriated funds.

L. Unexpended Appropriations

Unexpended appropriations represent the amount of the NLRB's unexpended appropriated spending authority as of the Fiscal Year-end that is unliquidated or is unobligated and has not lapsed, been rescinded, or withdrawn.

M. Annual, Sick, and Other Leave

Annual and Sick Leave Program.

Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Annual leave earned but not taken, within established limits, is funded from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

N. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program

Most 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 Office of Personnel Management (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 one of two retirement programs, either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees Retirement System (FERS), a defined benefit and contribution plan. On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most of the NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. 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 7 percent of pay for CSRS employees.

FERS consists of Social Security, a basic annuity plan, and the Thrift Savings Plan. The Agency and the employee contribute to Social Security and the basic annuity plan at rates prescribed by law. In addition, the Agency is required to contribute to the Thrift Savings Plan a minimum of 1 percent per year of the basic pay of employees covered by this system and to match voluntary employee contributions up to 3 percent of the employee's basic pay, and one-half of contributions between 3 percent and 5 percent of basic pay. The maximum amount of base pay that an employee participating in FERS may contribute is \$19,000 in calendar year (CY) 2019 to this plan. Employees belonging to CSRS may also contribute up to \$19,000 of their salary in CY 2019 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2019 is \$6,000. For CY 2019, the regular and catch-up contributions may not exceed \$25,000. 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 on its financial statements FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. Reporting such amounts is the responsibility of OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with SFFAS Number 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 Number 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 was also provided by OPM regarding the full cost of health and life insurance benefits.

As of year ended September 30, 2019, the NLRB, utilizing OPM provided cost factors, recognized \$5,415,804 of pension expenses, \$9,439,315 of post-retirement health benefits expenses, and \$24,397 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$14,879,516 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM. In comparison, in FY 2018, the NLRB recognized \$5,038,665 of pension expenses, \$9,998,886 of post-retirement health benefits expenses, and \$25,072 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$15,062,623 as an imputed financing source from OPM.

O. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (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 NLRB's Headquarters and Regional Offices, and the personal property leases are for Fleet vehicles and copiers.

P. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the NLRB's operations.

Q. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with GAAP requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

R. 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.

S. Subsequent Events

Subsequent events and transactions occurring after September 30, 2019 through the date of the auditor's opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors' opinion also represents the date that the financial statements were available to be issued.

Note 2. Fund Balance with Treasury

Treasury performs cash management activities for all federal agencies. NLRB's Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2019 and September 30, 2018 consists of the following:

<i>(in whole dollars)</i>	FY 2019	FY 2018
Entity Fund Balance with Treasury	\$51,973,066	\$43,448,897
Non-Entity Fund Balance with Treasury	0	0
Total	\$51,973,066	\$43,448,897

Fund Balance with Treasury by Fund Type:

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior Fiscal Years, which are not available to fund new obligations.

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

Status of Fund Balance with Treasury as of September 30, 2019 and September 30, 2018 consists of the following:

Fund Balance with Treasury:

<i>(in whole dollars)</i>	FY 2019	FY 2018
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	\$ 5,699,240	\$ 3,034,382
Unavailable	5,730,848	5,064,616
Obligated Balance Not Yet Disbursed	40,542,978	35,349,899
Total	\$ 51,973,066	\$ 43,448,897

Note 3. Fiduciary Activities

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 in FY 2019 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. NLRB is authorized to collect funds on behalf of discriminatees.

The fiduciary funds collected by 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. During FY 2019, no fiduciary funds were invested.

NLRB executed a Memorandum of Understanding (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. 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. NLRB's fiduciary activities are disclosed in this note. In FY 2019, the Escrow Account, Restraining Order Cases (420X6152) account was established and had no activity as of Fiscal Year end.

Schedule of Fiduciary Activity

As of September 30, 2019 and 2018

<i>(in whole dollars)</i>	FY 2019	FY 2018
Fiduciary net assets, beginning of year	\$7,429,889	\$2,516,279
Fiduciary revenues	2,755,845	24,018,804
Disbursements to and on the behalf of beneficiaries	(2,796,180)	(19,105,194)
Increase (Decrease) in fiduciary net assets	(40,335)	4,913,610
Fiduciary net assets, end of year	\$7,389,554	\$7,429,889

Fiduciary Net Assets

As of September 30, 2019 and 2018

Fiduciary Fund (420X6154)	FY 2019	FY 2018
Fiduciary Assets		
Fund Balance with Treasury	\$7,389,554	\$7,429,889
Total Fiduciary Net Assets	\$7,389,554	\$7,429,889

Note 4. Advances

Intragovernmental

Intragovernmental Advances were paid to the Department of Transportation for the employee transit subsidy program.

Non-Federal

Non-Federal Advances were paid for postage meter funding.

Note 5. Accounts Receivable, Net of Allowances for Doubtful Accounts

The FY 2019 intragovernmental accounts receivable is zero and the FY 2018 amount was zero.

<i>(in whole dollars)</i>	FY 2019	FY 2018
With the public		
Accounts receivable	\$733,023	\$685,067
Allowance for doubtful accounts	(107,125)	(84,586)
Accounts receivable, net	\$625,898	\$600,481

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.

<i>FY 2019 (in whole dollars)</i>	Asset Cost	Accumulated Depreciation/Amortization	Net Asset Value
Equipment	\$2,771,610	\$2,733,400	\$38,210
Construction in Progress	0	0	0
Leasehold Improvements	6,935,780	2,508,908	4,426,872
Internal Use Software (IUS)	40,402,408	36,317,389	4,085,019
IUS in Development	2,766,832	0	2,766,832
Total Property, Plant and Equipment	\$52,876,630	\$41,559,697	\$11,316,933

<i>FY 2018 (in whole dollars)</i>	Asset Cost	Accumulated Depreciation/Amortization	Net Asset Value
Equipment	\$2,896,802	\$2,798,573	\$98,229
Construction in Progress	819,775	0	819,775
Leasehold Improvements	5,882,208	1,815,330	4,066,878
Internal Use Software (IUS)	35,605,934	34,503,480	1,102,454
IUS in Development	0	0	0
Total Property, Plant and Equipment	\$45,204,719	\$39,117,383	\$6,087,336

Note 7. Liabilities Not Covered by Budgetary Resources

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 Freedom of Information Act 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, 2019 and September 30, 2018, is as follows:

<i>(in whole dollars)</i>	FY 2019	FY 2018
Liabilities Not Covered by Budgetary Resources		
Intragovernmental		
FECA – Unfunded	\$399,534	\$334,950
Total Intragovernmental	\$399,534	\$334,950
Liabilities with the Public		
Estimated Future FECA	\$2,273,821	\$2,422,305
Accrued Annual Leave	12,495,788	13,204,349
Total Liabilities Not Covered by Budgetary Resources	15,169,143	15,961,604
Total Liabilities Covered by Budgetary Resources	14,050,975	13,113,457
Total Liabilities	\$29,220,118	\$29,075,061

Note 8. Non-Entity Assets

Non-Entity assets represent miscellaneous receipts collected and related accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court fines and fees collected for Freedom of Information Act requests that must be transferred to the Treasury at the end of each Fiscal Year.

The composition of non-entity assets as of September 30, 2019 and September 30, 2018, is as follows:

<i>(in whole dollars)</i>	FY 2019	FY 2018
Non-Entity Assets		
Fund Balance with Treasury	\$0	\$0
Accounts Receivable	0	0
Total Non-Entity Assets	0	0
Entity Assets	\$63,996,455	\$50,208,731
Total Assets	\$63,996,455	\$50,208,731

Additionally, 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 9. Cumulative Results of Operations

<i>(in whole dollars)</i>	FY 2019	FY 2018
FECA paid by DOL	\$(161,687)	\$ (213,567)
FECA – Unfunded	(399,534)	(334,950)
Estimated Future FECA	(2,273,821)	(2,422,305)
Accrued Annual Leave	(12,495,788)	(13,204,349)
General Property, Plant and Equipment, Net	11,316,933	6,087,336
Other	690,298	716,831
Cumulative Results of Operations	\$ (3,323,599)	\$ (9,371,004)

Note 10. 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.

<i>(in whole dollars)</i>	FY 2019	FY 2018
Resolve Unfair Labor Practices		
Intragovernmental Costs	\$79,460,104	\$55,658,126
Costs with the Public	165,813,403	196,118,085
Total Net Cost – Resolve Unfair Labor Practices	\$245,273,507	\$251,776,211
Resolve Representation Cases		
Intragovernmental Costs	\$8,995,984	\$6,177,366
Costs with the Public	18,772,374	21,766,689
Total Net Cost – Resolve Representation Cases	\$27,768,358	\$27,944,055
Net Cost of Operations	\$273,041,865	\$279,720,266

Note 11. Operating Leases

GSA Real Property. NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of 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 sets forth terms and conditions for the space the Agency will occupy for an extended period of time. 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 2020 through FY 2024.

Rental expenses for operating leases for the quarter ended September 30, 2019 were \$23,014,818 for Agency lease space and \$2,546,797 for Agency building security. For FY 2018 the operating lease costs were \$22,656,352 and the Agency building security portion was \$2,202,406.

Future Space Lease Payments

<i>(in whole dollars)</i> Fiscal Year	GSA Real Property Cost
2020	\$25,120,870
2021	\$25,874,496
2022	\$26,650,731
2023	\$27,450,253
2024	\$28,273,761
After 5 Years	\$29,121,974
Total	\$162,492,085

GSA Fleet. The future fleet payments reflect the expense for 15 vehicles used for official NLRB business throughout the United States. Expenses for the fleet vehicles for the quarter ended September 30, 2019 were \$64,361; for FY 2018 the costs were \$65,066.

Future Fleet Lease Payments

<i>(in whole dollars)</i> Fiscal Year	GSA Fleet Cost
2020	\$104,030
2021	\$107,151
2022	\$110,365
2023	\$113,676
2024	\$117,087
After 5 Years	\$120,599
Total	\$672,908

Commercial Copiers. The commercial copier rental expense reflects lease contracts for copy machines located at the NLRB Headquarters and Field Offices. For FY 2019 the commercial copier yearly contract is \$381,724; for FY 2018 the cost was \$453,838.

Future Copier Lease Payments

<i>(in whole dollars)</i> Fiscal Year	Copier Lease Cost
2020	\$154,288
2021	\$154,288
2022	\$154,288
2023	\$188,290
2024	\$193,939
After 5 Years	\$199,757
Total	\$1,044,850

Note 12. 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, 2019 and 2018 consisted of:

<i>(in whole dollars)</i>	FY 2019	FY 2018
Office of Personnel Management:		
Pension Expenses	\$5,415,804	\$5,038,665
Federal Employees Health Benefits	9,439,315	9,998,886
Federal Employees Group Life Insurance Program	24,397	25,072
Total Imputed Financing Costs	\$14,879,516	\$15,062,623

Note 13. Appropriations Received

The NLRB received \$274,224,000 in warrants for both Fiscal Years ended September 30, 2019 and 2018.

Note 14. Statement of Budgetary Resources

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 total Budgetary Resources of \$280,747,120 as of September 30, 2019 and \$280,530,237 as of September 30, 2018, 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 amount of budgetary resources obligated for unpaid delivered and undelivered orders was \$40,542,978 for FY 2019 and \$35,349,356 for FY 2018. The NLRB's apportioned unobligated balance available at September 30, 2019 was \$5,699,240 and at September 30, 2018 was \$3,034,382.

Note 15. Reconciliation of Net Cost to Net Outlays

SFFAS No. 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 No. 53 provided for the budget and accrual reconciliation (BAR) to replace the statement of financing. The BAR explains the relationship between 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.

	Intra- governmental	With the Public	Total FY 2019
NET COST	\$88,456,088	\$184,585,777	\$273,041,865
Components of Net Cost That Are Not Part of Net Outlays:			
Property, plant, and equipment depreciation			
Other	(87,083)	(196,401)	(283,484)
Increase/(decrease) in assets:			
Accounts receivable		(625,898)	(625,898)
Other assets	49,554	31,004	80,558
(Increase)/decrease in liabilities:			
Accounts payable	(1,973,223)	(3,829,180)	(5,802,403)
Salaries and benefits	(1,717,598)	(275,270)	(1,992,868)
Other liabilities (Unfunded leave, Unfunded FECA, Actuarial FECA)	399,534	(1,565,260)	(1,165,726)
Other financing sources:			
Federal employee retirement benefit costs paid by OPM and imputed to the agency			
Total Components of Net Cost That Are Not Part of Net Outlays	(3,328,816)	(6,461,005)	(9,789,821)
Components of Net Outlays That Are Not Part of Net Cost:			
Asset Activity Summary			
Acquisition of capital assets		25,843	25,843
Total Components of Net Outlays That Are Not Part of Net Cost			
Other Temporary Timing Differences		2,959	2,959
NET OUTLAYS	\$85,127,272	\$178,153,574	\$263,280,846
Related Amounts on the Statement of Budgetary Resources			
Outlays, net			263,280,846
Distributed offsetting receipts			0
Agency Outlays, Net			\$263,280,846

Note 16. Commitments and Contingencies

In addition to future commitments discussed in Note 11, Operating Leases, 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 and undelivered orders – See Note 14, Statement of Budgetary Resources.

The NLRB is involved in various lawsuits incidental to its operations. While the ultimate outcome of these matters is not presently determinable, it is the opinion of management that the resolution of outstanding claims will not have a materially adverse effect on the financial position of the NLRB.

04

Other Information



Protecting Democracy in
the Workplace Since 1935

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 18, 2019

To: Board and General Counsel

From: David Berry
Inspector General

A handwritten signature in black ink, appearing to read "David Berry".

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 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 National Labor Relations Board's (NLRB or Agency) 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 particular circumstances, and many of the challenges at the NLRB have been consistently similar to those at other agencies. In our prior year's memorandum, we identified five management and performance challenges.

CHALLENGES

Manage the Agency

In prior reports, we explained that because of the technical expertise required to administer the enforcement of the National Labor Relations Act (NLRA), the NLRB tends to promote its employees to management rather than recruiting seasoned managers from outside the Agency. As a result, the NLRB's management team is dominated by attorneys and examiners. Those individuals are generally smart and well-intentioned public servants who time and again demonstrate a true commitment to enforcing the NLRA; however, they rarely have the opportunities to establish and hone a broad array of management skills.

The NLRB had a significant change in leadership over the last 2 years. As noted in our prior report, the change in leadership was coupled with the loss of very senior and key Senior Executive Service personnel. New leadership is generally followed by change. Affecting change and addressing legacy issues are always challenging but doing so while rebuilding a management team is all the more difficult. Although three longer-term vacant Senior Executive Services position were filled at the Headquarters in Fiscal Year (FY) 2019, 6 of the 26 Regional Director positions were vacant at the end of the fiscal year. Despite these challenges, the General Counsel reported that, for FY 2019, the Regional Offices made what he describes as “exceptional strides to meet our strategic goal to reduce case processing time by 20% over four years.”

Manage the Agency's Financial Resources

Both the FY 2010 and FY 2011 audits of the financial statements contained a finding by the independent auditing firm that there was a significant deficiency in internal control. Although the findings were largely related to problems in the procurement process, our audit of end-of-the-year spending demonstrated that there was a lack of sound budgeting and planning processes that are essential to proper fiscal management.

In July 2012, the Board created the Office of the Chief Financial Officer (OCFO), implementing the final recommendation of the FY 2010 audit of the financial statements. That office now oversees the budget, procurement, and payment processes.

The creation of the OCFO was not a quick fix. The *Audit of the NLRB Fiscal Year 2014 Financial Statements* found both a material weakness and two matters that were each a significant deficiency in internal control. The *Audit of the NLRB Fiscal Year 2015 Financial Statements* found that the matter identified as a material weakness was not fully remediated and continued as a significant deficiency, but the other two matters were remediated. The *Audit of the NLRB Fiscal Year 2016 Financial Statements* found that the matter first identified in FY 2014 as a material weakness continued as a significant deficiency through FY 2016, and added a new matter as a significant deficiency. The *Audit of the NLRB Fiscal Year 2017 Financial Statements* found that one of the two matters that was a significant deficiency in internal control was fully remediated and the other one was remediated to the point that it was appropriate for the Management Letter.

In mid FY 2018, the Chief Financial Officer (CFO) position became vacant and an operational-side manager was designated as the Acting CFO. During that vacancy and the *Audit of the NLRB Fiscal Year 2018 Financial Statements*, we did not observe significant improvement in the management of the Agency's financial processes, and we continued to identify issues in the internal control environment involving the financial management of the Agency.

In January 2019, the CFO position was filled. The new CFO, however, inherited circumstances that appear to hinder her ability to make immediate improvements to correct prior deficiencies and address new issues. We are, however, encouraged by the new CFO's

apparent grasp of the situation and her steadfast desire to implement a well-managed financial process.

Manage the NLRB's Human Capital and Maintain 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. Factors outside the NLRB's control that may directly affect its ability to maintain a stable and productive workforce include, but are not limited to, reduced or flat appropriations and the loss of key personnel through retirements.

In our audit work we have, over an extended period of time, observed the 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 personnel changes. The challenge is to recruit qualified personnel who can improve management practices while understanding the NLRB's past practices.

The hiring freeze that was imposed in the second quarter of FY 2017 and the continual annual threats of a significant reduction in the NLRB's appropriation have made the management of human capital a *Herculean* task. In FY 2018, the Board and General Counsel began to address this issue by filling critical vacancies and offering early retirements to positions that could be eliminated or restructured.

While those attempts were a start, throughout FY 2019, as discussed above, there remained vacancies in significant management positions, and we continued to hear from Field offices that they are understaffed. The perspective of the Field offices appears to be at odds with the determination by the General Counsel regarding appropriate staffing levels based upon case processing by the individual Regional Offices. While using case intake to determine appropriate staffing levels is not new, the methodology of the calculation to determine the workforce capacity needed to process cases changed. Managing that change from both a Headquarters and Field perspective while ensuring the quality of the investigative work product and maintaining a highly motivated workforce is challenging. With regard to filling vacancies, in FY 2019 we did observe that when vacant positions are posted and then filled, there appeared to be a more orderly workforce planning process than had been in place in prior years.

Manage the Agency's 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. Our FY 2016 FISMA review noted our observation that a significant number of IT security procedures were not in place and that most of what the IT security staff was doing was on an ad hoc basis – the lowest level. During the *Audit of the NLRB Fiscal Year 2017 Financial Statements*, the auditors confirmed our observations. For the FY 2017 OIG FISMA review, the entire review was

based upon assessing the maturity of the Agency's information security program. That review found that four of the five IT security functions were at an ad hoc basis and that overall the maturity level assessment was "not effective."

Our FY 2018 OIG FISMA review found improvement with the maturity levels increasing in 26 (48 percent) of the 54 metric domains from 2017. We also reported, however, that in FY 2018 all five of the IT function areas fell short of meeting the targeted Managed and Measurable maturity level. During FY 2019, the Office of the Chief Information Officer implemented 14 of 18 the IT audit recommendations.

Implement Audit Recommendations

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 48 open audit recommendations. Since that time, we added 37 and we closed 37 recommendations. As of October 1, 2019, there was a total of 48 unimplemented recommendations. The oldest unimplemented recommendations are from audit reports issued in FY 2015. A recommendation is not closed until we verify that the implementing action appropriately addressed the issue that necessitated the recommendation.

SUMMARY OF AUDIT AND MANAGEMENT ASSURANCES

I. Summary of Financial Statement Audit

<i>Audit Opinion:</i> Unmodified					
<i>Restatement:</i> No					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
Lack of Information Technology Updated Policies and Procedures	1	0	1	0	0
Lack of Quality Control Procedures Caused Financial Reporting and Accounting Discrepancies	1	0	1	0	0
Lack of Sufficient General Information Technology Controls and Monitoring	1	0	1	0	0
Total Material Weaknesses	3	0	3	0	0

II. Summary of Management Assurances

Effectiveness of Internal Control Over Operations (FMFIA §2)

<i>Statement of Assurance:</i> Unqualified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

Compliance With Financial Systems Requirements (FMFIA §4)

<i>Statement of Assurance:</i> Unqualified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

IMPROPER PAYMENTS ELIMINATION AND RECOVERY IMPROVEMENT ACT

Pursuant to the Improper Payments Information Act (IPIA) of 2002 (Public Law No. 107-300), dated November 26, 2002, and amended on July 22, 2010 by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 (Public Law No. 111-204), and again in 2012 with the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012 (Public Law No. 112-248); under the Office of Management and Budget's (OMB) Circular A-123; Appendix C guidance, all agencies under the Executive Branch of the United States are required to comply with IPERIA.

IPERIA requires agencies to review all programs and activities that they administer and identify those which may be susceptible to significant erroneous payments. For all programs and activities in which the risk of erroneous payments is significant, agencies are to estimate the annual amount of erroneous payments made in those programs.

For FY 2019, \$255,185,888 in disbursements were made, of which payroll, benefits, and travel accounted for \$213,244,733, and \$31,325,560 was disbursed in the form of inter-governmental and miscellaneous payments. The NLRB paid \$10,615,595 to vendors, or about 4% of the total disbursements. The Agency's latest IPERIA assessment and review performed by an independent consultant concluded that the NLRB program and activities are at a low risk for improper payments.

The independent review evaluated the procedures in the NLRB's payment and disbursement processes, and tested and assessed the design and effectiveness of controls. Given these controls, the IPERIA assessment estimated that the improper payments rate did not exceed \$10 million and 1.5% of the programs total expenditures, or \$100 million of the total program expenditures. NLRB estimates the improper payments rate to be at most 1.5% and the improper payment amount to be no more than \$3,827,788. Furthermore, the assessment concluded that the NLRB did not have significant improper payments. 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.

Do Not Pay (DNP) Initiative

The mission of the Treasury 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 (DMF), GSA's System for Award Management (SAM) Exclusion Records as well as Treasury's Treasury Offset Program (TOP). DNP uses this network of

systems in order to disseminate to agencies whom should or should not receive public funds in order to reduce or prevent the likelihood of improper payments.

In FY 2019, the DNP portal vetted 10,011 payments for authenticity and validity. The number of payments made amounted to \$33,548,407 in disbursements that passed through DNP’s network of red flag indicating systems. As a result, DNP identified 8 payment totaling \$503.21 that required further review because of a death record match. DNP did not identify any payments which matched a vendor name on the Excluded Parties List (EPL). DNP also identified 10 payments that were matched (AIS-Obit) however, the payee was listed as deceased when that is not the case. Of the total amount of payments made for FY 2019, 6 cases totaling \$210.28 were not adjudicated.

September 2018 - August 2019*						
	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	10,011	\$33,548,407	N/A	N/A	0	\$0
Reviews with SAM Exclusions Public	10,011	\$33,548,407	N/A	N/A	0	\$0

*September 2018’s information was not available at the time the PAR was published last year. It was available after the PAR’s publication. Therefore, the information must be included in this year’s PAR.

- Payments reviewed for improper payments includes the total number of payments disbursed by the Agency through the Payments, Claims and Enhanced Reconciliation (PACER) payment system 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 Do Not Pay 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 Do Not Pay Initiative that were adjudicated as proper by the Agency.

FREEZE THE FOOTPRINT

The Agency leases all buildings under occupancy agreements with the GSA, and as such does not provide square footage to the Federal Real Property Profile (FRPP).

05

Appendices



APPENDIX A

Acronyms

ABA	American Bar Association	FISMA	Federal Information Security Management Act
ADA	Antideficiency Act	FMFIA	Federal Managers' Financial Integrity Act
ADR	Alternate Dispute Resolution	FPB	Facilities and Property Branch
ALJ	Administrative Law Judge	FPDS-NG	Federal Procurement Data System – Next Generation
AMB	Acquisitions Management Branch	FPPS	Federal Payroll and Personnel System
CCSLB	Contempt, Compliance and Special Litigation Branch	FRPP	Federal Real Property Profile
CFO	Chief Financial Officer	FY	Fiscal Year
COOP	Continuity of Operations	GAAP	Generally Accepted Accounting Principles
CWTSato	(Carlson Wagonlit) NLRB's travel Management Service	GPRA	Government Performance and Results Act
Data Act	Digital Accountability and Transparency Act	GPRAMA	Government Performance and Results Modernization Act
DCIA	Debt Collection Improvement Act	GSA	General Services Administration
DHS	Department of Homeland Security	HCPO	Human Capital Planning Officer
DMF	Death Master File	IAA	Interagency Agreement
DNP	"Do Not Pay" List	IBC	Interior Business Center
DOJ	Department of Justice	IPERA	Improper Payments Elimination and Recovery Act
DOL	Department of Labor	IPERIA	Improper Payments Elimination and Recovery Improvement Act
EEO	Equal Employment Opportunity	IPIA	Improper Payments Information Act
EEOC	Equal Employment Opportunity Commission	IUS	Internal Use Software
EVS	Employee Viewpoint Survey	MD&A	Management's Discussion and Analysis
FAR	Federal Acquisition Regulation	MOU	Memorandum of Understanding
FASAB	Federal Accounting Standards Advisory Board		
FEVS	Federal Employee View Point Survey		
FFATA	Federal Funding Accountability and Transparency Act		

NLRA	National Labor Relations Act	OGE	Office of Government Ethics
NLRB	National Labor Relations Board	OHR	Office of Human Resources
NPRM	Notice of Proposed Rulemaking	OIG	Office of Inspector General
NxGen	Next Generation Case Management System	OMB	Office of Management and Budget
OBIA	Oracle Business Intelligence Application	OSC	Office of Special Counsel
OBIEE	Oracle Business Intelligence Enterprise Edition	OSHA	Occupational Safety and Health Administration
OCFO	Office of the Chief Financial Officer	PACER	Payments, Claims and Enhanced Reconciliation
OCIO	Office of the Chief Information Officer	PAR	Performance and Accountability Report
OED	Office of Employee Development	SAM	System for Award Management
OEE0	Office of Equal Employment Opportunity	SBA	Small Business Administration
OFCCP	Office of Federal Contract Compliance Programs	TOP	Treasury Offset Program
		ULP	Unfair Labor Practice
		WHD	Wage and Hour Division

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.

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.

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 administrative law judge 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.

Decisions: Data related to 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.

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.

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.”

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

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

Overage Case: To facilitate or simplify Impact Analysis, case processing time goals – from the date a charge is filed through the Regional determination – are set for each of the three categories of cases, based on priority. A case is reported “overage” when it is still pending disposition on the last day of the month in which its time target was exceeded. Cases that cannot be processed within the timelines established under the Impact Analysis program for reasons that are outside the control of the Regional Office are not considered to be overage.

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.

Petitioner: The party who presents a petition to the court.

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

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

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

Reinstatement: To put back or establish again, as in a former position or state.

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 court action 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.

Taft-Hartley Act: The Labor Management Relations Act, better known as the Taft-Hartley Act (enacted June 23, 1947) is a United States 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: An unfair labor practice is illegal conduct by either a labor organization or an employer that violates the National Labor Relations 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 for Goals 1 and 2

Goal 1: Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act.

Measure: The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgement within 365 days of the filing of the ULP charge.

Year	Target	Actual
FY 2014	82.5%	83.9%
FY 2015	82.5%	80.4%
FY 2016	82.6%	82.7%
FY 2017	82.7%	82.4%
FY 2018	82.8%	80.00%

Measure: The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order to Court judgement within 120 days of the filing of the charge.

Year	Target	Actual
FY 2014	72.3%	72.3%
FY 2015	72.3%	70.6%
FY 2016	72.4%	70.8%
FY 2017	72.4%	68.9%
FY 2018	72.5%	69.4%

Goal 2: Promptly and fairly resolve all questions concerning representation of employees.

<i>Measure:</i> The percentage of representation cases resolved within 100 days of filing the election petition.		
Year	Target	Actual
FY 2014	85.3%	88.1%
FY 2015	85.4%	87.1%
FY 2016	85.5%	87.6%
FY 2017	85.7%	89.9%
FY 2018	85.8%	88.8%

Historical Performance Measures for Goals 3 and 4

FY 2014 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies

Objective 1: Initiative 1

- The Division of Administration (DofA) established a Human Capital Planning Section (HCPS) to administer the Agency’s human capital management program. The draft Plan containing human capital goals, objectives, and strategies is expected to be completed in the first quarter of FY 15.
- Office of Human Resources (OHR) partnered with OPM’s Human Resources Solutions to pilot “USA Performance”, a newly developed automated web-based performance appraisal system tool. It is designed to streamline the manual performance management process and increase visibility and transparency in performance management process. The use of USA Performance aligns performance plans with strategic goals, and ensures compliance with Federal performance management regulations. The pilot began in June 2014, with performance of senior executives and the next phase will involve GS and prevailing grade employees.
- OHR meets regularly with Headquarters and field managers to assist in collaborative efforts with employees and the unions on a variety of workplace issues such as maxiflex, telework, and performance management programs.
- DofA’s Security branch was successful in reducing the reinvestigation backlog to approximately 750 from 1,018. The Agency expects the office to remain on target to complete the 20 percent goal, listed in the management strategies, next year.
- The DofA’s Office of Employee Development (OED) expanded Skillport training software; electronically organized its developmental resources for Field Agents, including instructor modules, videos narrative resources; developed prototypes and piloted user-friendly online training for board agents; provided teambuilding to consolidated regions; and presented a 12-hour course on the “Seven Habits of Highly Effective People” to new Regional directors and a 90 minute workshop on “Promoting a Culture of Personal Accountability” that dealt with how to motivate people to take ownership of their work, an important skill for managing teleworkers.

Objective 1: Initiative 2

- OHR began developing a Quality Assurance and Quality Control Unit to assess and improve the accountability process. The following action steps will be taken as a result of OPM's hiring reform:
 - Evaluate current designated examining authority and merit promotion hiring timeframes;
 - » Identify the impact of negotiated agreements on hiring timelines;
 - » Analyze and recommend methods for measuring improvement in timeliness;
 - » Develop a schedule to meet hiring timeliness;
 - » Identify actions needed to address barriers;
 - » Prioritize occupations within respective divisions;
 - » Train OHR staff on all tools available through USA staffing.
- OHR has begun working with stakeholders to standardize over 1,300 of the Agency's position descriptions.
- The Agency's Office of Equal Employment Opportunity (OEEEO) timely submitted the Agency's annual MD715 report for Fiscal Year 2013 to the EEOC, which provides a demographic analysis of the Agency workforce by gender, race, national origin, and disability, in all stages of employee life (e.g., hiring, grade level distribution, training, promotions, separations).
- OEEEO also provided a State of the Agency report to senior leadership to assist with strategies and enhance the diversity of its workforce.
- OEEEO and OHR initiated a collaborative work group to develop a Strategic Recruitment Plan for the Agency. As part of the plan, OEEEO posted to its web page recruitment resources for reaching out to diverse student populations of African American, Hispanic, Asian American and Pacific Islander, and Native American populations. It also sent out email communications to these resource organizations promoting recruitment through the Agency's Honors Attorneys program. OEEEO is also developing the Special Emphasis Program Manager role for each of these populations, as well as for disabled employees and veterans, to enhance the Agency's outreach initiatives to these communities.
- The Agency hired a new Disability Coordinator, who maintains applications for applicants that have contacted the Agency to be considered for employment under the "Schedule A" Hiring Authority, and OHR plans to host a number of training presentations for managers and supervisors on "Schedule A" Hiring, as well as on the Selective Placement Program.

Objective 2: Initiative 1

- DoFA's Security Branch made improvements to its webpages, such that employees can find a host of information on physical security, personnel security, continuity of operations, classes offered by Department of Homeland Security, and policies from the Interagency Security Committee, and OPM Federal Investigative Service. Further, an Administrative Policies and

Procedures Manual (APPM) on Personnel Security was updated and published and one on Physical Security is in draft form.

- DofA's Facilities and Property Branch (FPB) developed an extensive Communication Plan that continues to inform employees about the Headquarters relocation, including managing expectations related to the cultural transition to a reduced-space work environment, and it provided physical tours. The project, which is dubbed, "Total Workplace Solutions," also includes a web page devoted to all aspects of the new relocation including timing, neighborhood businesses, furniture, technology and other requirements.
- In addition, the FPB established a Headquarters Space Advisory Committee, which includes representatives from all Divisions and both employee Unions, to communicate updates on the new Headquarter Space Initiative and keep employees throughout the workforce informed on the latest project information.
- HCPS launched a Human Capital web page in order to provide a platform to distribute a wealth of information and guidance about NLRB's human capital planning efforts.
- HCPS received and analyzed the 2013 Federal Employee Viewpoint Survey results and provided an executive level briefing to Senior Management and is in the process of doing the same with the recently published FY 14 FEVS results.
- OHR developed the Honorary Awards program, where a number of employees were acknowledged during an awards ceremony, and it implemented a regular schedule for providing service awards.

Objective 2: Initiative 2

- OHR benchmarked other agencies to identify ways to improve the on boarding program, and, along with Senior Managers, revamped the Agency's on-boarding process.
- OHR provided one-on-one and group instructions to managers to assist them in providing guidance in understanding their role in communicating expectations to Agency employees on performance management.
- The former Director of Administration produced a quarterly Significant Happenings Report to report the work of the employees within the Division to senior management, and planned a Division-wide Recognition Day to celebrate the work of the Division and foster camaraderie, which was attended by the General Counsel, Deputy General Counsel, Assistant General Counsel, and Board Members.

Objective 2: Initiative 3

- The following policy statements were released to Board agents in 2014: Equal Employment Opportunity Policy Statement; Policy Statement on the Prevention of Unlawful Harassment, Including Sexual Harassment; Alternative Dispute Resolution (ADR) Policy Statement; and the Diversity and Inclusion Policy Statement.
- The MD-715 was timely submitted electronically in first quarter of 2014 calendar year to the EEOC providing FY 13 information.

- The NLRB offered Agency-wide diversity training, which was mandatory for managers and supervisors, on Transgender in the Workplace in 2012, made the sessions available on the OED website, and issued a related Agency-wide memo.
- With encouragement from senior leadership, the OEEEO, OHR, and OED have partnered to develop a more robust diversity and inclusion training program. In furtherance, of this goal, senior leaders and representatives from various divisions have attended and accessed external programs.
- In 2003, the Agency established a mentoring program on the General Counsel-side for newly-hired and newly-transferred professionals and support staff in order to support the mandate that the Agency have workforce that reflects the diversity of our Nation. In FY 2014, the General Counsel asked that the program be revamped and the Mentoring Committee is working on doing so, including exploring best practices in mentoring at other federal agencies.
- The OEEEO relies on the Agency’s cadre of collateral duty Special Emphasis Program Coordinators (SEPCs) to assist the Agency in its efforts to build and maintain an inclusive work environment. OEEEO conducted four-one hour videoconference training sessions in 2013 and 2014. The training supports the SEPCs in carrying out their responsibilities and duties and also provides a forum to share ideas and best practices.
- OHR has educated and encouraged management to utilize the Local Veterans Employment Representative Program to recruit for various positions. As a result, the Agency has hired at least eight veterans through the program.

FY 2014 Strategic Goal 4 (Support): Manage Agency Resources in a Manner That Instills Public Trust

Objective 1: Initiative 1

Measure:

- The Agency’s enterprise case management system, Next Generation Case Management System (NxGen), was made to replace 11 separate legacy systems and integrate into a single unified solution that leverages multiple technologies.

NxGen presently manages:	
Internal Users	1,350
Cases	263,355 (+10%*)
Case Actions of the Agency	766,343 (+27%*)
Documents, images, and videos, each linked to its Action and Case	4,678,794 (+47%*)

* All percentages are year-over-year calculations

Measure:

- The Agency soon will complete the consolidation of its separate legacy case tracking systems into an enterprise case management solution, a success that is rare within the Federal government. The last remaining Agency Office, the Contempt, Compliance, and Special Litigation Branch, will be migrated into NxGen beginning in the first quarter of FY 2015.

Measure:

- In FY 2014, the Agency expanded its electronic distribution of case documents with an E-Delivery pilot involving six Regions, one party (USPS) and new 10 document types. The pilot recently has been expanded to two document types for all Regions. To date, 2,101 documents have been sent to the USPS electronically, resulting in notable savings to the NLRB and a great convenience to the USPS.

10/1/2013 – 9/30/2014	
Number of E-Filings Received	29,127 (+15%*)
Number of Documents Received	43,031 (+13%*)
Number of Board and ALJ Decisions E-Served	737
Total Number of parties E-Served Decisions	55,191 (+3%*)
Number of E-Deliveries of Case Documents	2,101 (new process)

* All percentages are year-over-year calculations

Measure:

- The NLRB is committed to achieving the goals set forth in the President’s Open Government Directive. The three principles of transparency, participation, and collaboration inform current and future plans for the Agency’s information systems. With the near complete implementation of the NxGen, the Agency is able to provide improved information regarding its cases and significantly increase the number and type of case documents made available to the public. In FY 2014, the Agency also made substantial progress towards a new external search interface and public data warehouse that will continue to deliver on the goals of Open Government.

Number of NLRB Document Types Available for Public Access	197
Total Number of Case Documents Available for Public Access	346,109

Please see <http://www.nlr.gov/open/public-documents> for a list of the document types available to the public.

Objective 1: Initiative 2

Measure:

- In FY 2013, the Agency made the decision to expand the capabilities of the Office 365 Suite and utilize the cloud-based SharePoint offering. The Office 365 SharePoint solution provides all of the necessary components of a technology service catalog and complements the existing Intranet. In FY 2014, the Agency's governance and development teams focused on streamlining business processes through forms automation with workflow and routing.
 - » As an example of these efforts, and to support the Agency's new Collective Bargaining Agreement, the Administrative Systems team recently completed the development of and is piloting a comprehensive solution to automate the processes for requesting, routing and approval, and reporting for the following schedules: Telework, Alternate Work (e.g., Gliding Flex, Maxi Flex and 5-4-9), and Leave. Upon approval by a supervisor or manager, the requests are created as items on a shared Outlook calendar for each individual office so that all employees can determine where to contact someone if they are working, but not physically in the office. All approved items are then made available to the individual office's timekeeper for filing, processing and record keeping. Aggregate reports are also available to HR, which will significantly reduce manual data calls that are performed each year in preparation for reports sent to the Office of Personnel Management (OPM).

Measure:

- Currently, the Agency utilizes disparate networks for its data and video conferencing services and manages 52 legacy phone systems from different voice service providers in the Field and Headquarters. The segregation of data, voice, and video services results in an inefficient use of Agency resources and creates communication and collaboration silos within critical business processes. Additionally, the Agency's present communications infrastructure provisions remote access for certain business processes only to Agency laptops, with limited support for mobile and tablet devices.
- The objectives of the Agency's Unified Communication and Collaboration (UCC) effort are to provide enhanced functionality to Agency staff while achieving cost savings through such strategies as consolidating networks and taking advantage of lower cost technical alternatives and contract vehicles. Specifically, the Agency is trying to create a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all locations including the office, at home and on the road. The Agency awarded a UCC contract on September 24 and the Agency expects the implementation to take between eight and 12 months. After the initial investments in the UCC build-out and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice and video networks, and anticipates the enhanced services to demonstrably improve administrative efficiencies.

Measure:

- With the increasing requests for collaboration, the Agency embarked upon efforts to implement SharePoint team sites to manage the need for document collaboration, discussion forums, wiki pages, and site mailboxes. Team sites are being created for all departments and divisions so that each office will have a secure place to store documents, create conversations, receive email alerts when changes occur, and collaborate on work products. Additionally, individual team sites are being created to support the various needs of the Agency. For example, to assist with the reduction of printed materials for conferences, team sites were created to review/edit presentations and conference materials and then store all materials to be made available to the participants. Furthermore, the Agency is addressing the need for document collaboration by geographically dispersed employees by providing access to the Office Online applications. This allows multiple employees the ability to simultaneously work on Word, Excel and PowerPoint documents, which provides increased collaboration and avoids confusion with managing multiple versions of documents that then need to be merged together.

Objective 1: Initiative 2

Measure:

- All required reports to external regulatory bodies were prepared in accordance with established time lines.

Measure:

- OCFO has developed a formalized annual training plan for all allowance holders. During FY14, finance-related training was held as part of the Office Managers and Field Managers trainings. Topics included Oracle Federal Financial processes, eTravel processes, and Federal Travel Regulations.

Measure:

- The OCFO Budget office has worked closely with the program offices and NLRB Senior Leadership to develop a detailed budget spend plan which serves to inform NLRB management for decision making.

Measure:

- During FY15 OCFO Finance Office plans to communicate obligation status reports to program offices through an automated monthly email. The development of the report has been completed within FY14 and the automated email generation will begin in FY 15. This report will help program managers to monitor their budgets at a more detailed level.

Measure:

- The Contracting Officers as well as the purchase card holders utilize the General Services Administration's (GSA), Federal Strategic Sourcing Initiative (FSSI) in the ordering of supplies and services. By doing so, the NLRB has increased its utilization of strategic sourcing from a savings rate of 14.47 percent in FY13 to 18 percent. In FY14, the NLRB increased its utilization of strategic sourcing higher with a savings rate of 34 percent; yielding a savings of \$106,168.

Measure:

- As demonstrated in the chart below, the NLRB increased the percentage of contract awards to small, disadvantaged owned businesses from Fiscal Year 2012 to Fiscal Year 2013 in all categories. During Fiscal Year 2014, the NLRB awarded the Unified Communications contract almost \$2M to a large business which impacted the small business categories. The Acquisition Management Branch will focus on making small businesses the supplier of choice in FY 2015.

Fiscal Year	Total Small Business	Woman Owned	Small Disadvantaged	Veteran Owned
FY 2012	31.3%	7.9%	12.3%	3.9%
FY 2013	34.2%	17.9%	7.4%	4.9%
FY 2014	29.1798%	12.4208%	10.1716%	4.4219%

Objective 2: Initiative 1**Management Strategies:**

- The Agency formed an outreach committee, comprised of board agents from divisions, branches and offices throughout the Agency. The committee continues to explore new modes and methods to educate the public, particularly those, such as youth and immigrant populations, that may be unfamiliar with the Agency and the Act and may be more vulnerable to exploitation due to their lack of knowledge of workplace rights.
- In order to educate more audiences through non-traditional outreach, particularly those prone to exploitation, the Agency is trumpeting successes and recent cases of interest, as well as including human interest stories, so that the public can more easily relate to the information being shared. The CPAO is issuing news releases of recent cases, such as Board and court decisions, settlement agreements, and cases involving injunctive relief or compliance.
- The Agency is invigorating local relationships for joint outreach and local working group forums where there are regular meetings with board agents from other agencies to work on various joint projects/materials. These federal, state and local agencies include, but are not limited to, EEOC, local Human Rights Commissions, Wage and Hour, OSHA, Whistleblower, Unemployment Compensation, and Office of Special Counsel. Two Headquarters managers are tasked with facilitating quarterly roundtable discussions with Regional outreach coordinators to ensure sharing of best practices/materials. The Agency is also reviewing MOUs entered into decades ago and re-establishing connections with counterparts.
- As to Letters of Agreement (LOA), the Agency is continuing efforts to reach out to foreign embassies/ministries/consulates and finalize letters of agreement for education of workers and business owners. In FY 2013, the Agency executed a LOA with the Mexican embassy and selective consulates, and in FY 2014, with the Ministry of Ecuador. Efforts to parlay those

national agreements into local agreements between Regions and consulates, and to provide materials to Regions for assistance with education per the LOA are ongoing.

- The Agency is culling and editing current outreach materials so that Board Agents have presentations with a uniform brand for Powerpoints and other formats in a central repository for use nationwide.

Objective 3: Initiative 1

Measure:

- Over the past year, the Chairman and General Counsel have jointly promoted several ethics program initiatives to all employees and visibly participated in the values-based training program presented in FY 2014. The training engaged employees in discussions of ethical decision making principles and considered how ethical decisions are made within the context of our own personal core values and those of the Agency. The training also stressed personal responsibility in the ethical decision making process.
- The General Counsel and Chairman also increased the staff of the Ethics Branch to ensure that sufficient resources are devoted to the program to facilitate effective program management and outreach to all employees.
- The NLRB Ethics Staff have met with the Board Members and the General Counsel collectively and separately to discuss a range of government and legal ethics issues.
- The NLRB's Designated Agency Ethics Official has full access to Agency leadership and can approach them for assistance when the need arises.
- In addition, the combining of the NLRB's Legal Ethics Program with the Government Ethics Program has provided NLRB employees with a cohesive, comprehensive program, thus raising the visibility of the program among employees. Employees now know that they have one office where they can go with ethics questions and issues, where their questions will be addressed from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- The ethics staff was proactive in expanding the number of training products available to all NLRB employees. They developed a number of one-page, easy-to-read Job Aids designed to help employees identify potential government ethics issues and provide additional guidance where informational gaps might exist. The Job Aids focused on conflicts of interest, including both financial conflicts and appearance issues; the acceptance of gifts from outside sources; the acceptance from and the giving of gifts to coworkers; the Hatch Act; outside employment; the outside practice of law; and the government's 14 Principles of Ethical Conduct. The Chairman and General Counsel promoted the usefulness of the Job Aids and identified them as a valuable tool for promoting an ethical culture at the NLRB in a memo to all NLRB employees. Job Aids on legal ethics topics have been prepared as well.

- The Ethics web page on the NLRB's Intranet was revamped and rebranded as the "Ethical Highway." Thru the web page, ethics guidance materials are readily available to all NLRB employees. Articles on ethics appear monthly in the NLRB's employee newsletter, the All Aboard, alternating between legal ethics topics and subjects involving the government's rules and regulations. Monthly tips on legal ethics ("On the Road with the Ethics Code") are issued to the NLRB's Field Offices, and each Region has an ethics coordinator who assists in promoting them.
- The New Employees Ethics Orientation has been converted to an online module in the Agency's learning management system and is assigned to new employees as part of the on-boarding process. Completion of the module can be tracked within the system. This ensures that all new employees receive an orientation to the government's ethics rules and regulations and provides a brief overview of the screening wall that separates the adjudicatory and prosecutorial sides of the Agency. Forty-seven new employees were trained in FY 2014. The module has also been packaged as a refresher course for incumbent employees, which they can access anytime through the same system.
- The Ethics Staff provided in-person briefings on both government and legal ethics to the Agency's summer student interns, student volunteers, and detailees, and will continue to provide briefings at Agency conferences where they can reach large, diverse audiences. In August 2014, an ethics presentation was provided at the NLRB Regional Management Conference in Washington, DC. During the latter portion of FY 2014, the Ethics Staff introduced two ethics training initiatives. In June, they began a new legal ethics training program for attorneys and field examiners in the NLRB's Field Offices that covers skip counsel issues and attorney-client privilege. During the course, Agency employees complete a "Testing Your Knowledge" quiz to test their knowledge in these areas.
- In September, the Ethics Staff launched a training campaign for all Agency employees on the benefits and pitfalls of using email in the NLRB's casehandling process. This training is being presented in weekly broadcasts and uses a variety of delivery methods, such as webcasts, podcasts, and job aids, to convey information. The Chairman and General Counsel promoted the program to employees prior to the launch of the campaign which helped to raise awareness of the importance of the training. The training campaign began in September and will conclude in December 2014. In addition, each weekly segment will be posted on the "Ethical Highway" page of the NLRB Insider after its initial broadcast.

Measure:

- As of September 30, 2014, 87 percent of ethics inquiries were resolved within 5 business days. Of the 557 inquiries received from November 14, 2013 through September 30, 2014, 447 required guidance memos that addressed the inquiry from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- As of September 30, 2014, 100 percent of the financial disclosure reports received were reviewed and certified within the 60-day regulatory time period. Where a reviewer identified

either a potential or actual conflict of interest, a memo was prepared and sent to the filer providing ethics advice and guidance.

Measure:

- The NLRB uses an electronic financial disclosure system, FDOonline, for the filing and review of the Confidential Financial Disclosure Reports which are filed by designated employees within the Agency.
- While FDOonline contains a component for filing Public Financial Disclosure Reports (OGE Form 278), the NLRB's Designated Agency Ethics Official decided to wait to require the electronic filing of public reports until after the Office of Government Ethics unveils the new electronic system it is currently testing. Until such time as that system is made available for use, Public Financial Disclosure Reports are still filed in paper copy, even though filers are encouraged to use the online, fillable version of the OGE Form 278 developed by the Office of Government Ethics.

Objective 3: Initiative 2

Measure

- Responses to internal auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an agency response. The OCIO responded completely and timely to internal audits and information requests, including:
 - » Audit of the NLRB Fiscal Year Financial Statements
 - » Audit of FY 2013 Sequestration – Preparation, Implementation, and Impact
 - » Cloud Computing Audit
 - » Federal Managers' Financial Integrity Act (FMFIA)

Objective 3: Initiative 3

- Responses to external auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an agency response.
- The CFO participated in the GAO's Regulatory Cost Benefit Analysis (GAO 451043).
- The OCIO responded completely and timely to external information requests, including:
 - » Questions posed in the Office of Management and Budget Memorandum M-14-04, Fiscal Year 2013 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management
 - » The quarterly requirements for FISMA, Trusted Internet Connection (TIC), and Senior Agency Official for Privacy (SAOP) reporting
 - » Exhibit 53 and the corresponding Information Technology section for the Congressional Budget Justification

- » NARA's Annual Records Assessment and the OMB Records Directive (M-12-18) Report
- The OCIO responded appropriately to external technology mandates, including:
 - » Having successfully consolidated its infrastructure, the Agency is taking full advantage of cloud computing's benefits (Cloud First, *Federal Cloud Computing Strategy*) to maximize capacity utilization, improve IT flexibility and responsiveness, and minimize cost. Current efforts include utilizing:
 - » Microsoft's cloud-based, software and platform as services solutions, Office 365 and Azure for:
 - Email repositories and services; the Agency repurposed the nearly one million dollar investment in its email infrastructure to extend the lifespan of its NxGen on-premises infrastructure
 - Replacing its end-of-life collaboration platform with Microsoft's SharePoint solution
 - Supplanting its near end-of-life network attached storage and desktop backup with Microsoft's Office 365 One Drive for Business solution
 - » Amazon's Elastic Compute Cloud to:
 - Host its NxGen case management development environment
 - Save approximately \$500,000 over the next 6 years by hosting its legacy Momentum financial data rather than accepting the proposal of the Department of the Interior's (DOI) Interior Business Center (IBC)
 - » The ServiceNow cloud Information Technology Services Management (ITSM) platform, which the OCIO uses to be more transparent, provides Agency staff with multiple ways to get quality support, and as the technology enabler of its internal effectiveness initiatives
 - » GovDelivery cloud services to deliver all case participant communications, including for its electronic services initiative.
- The Agency was acknowledged for having achieved compliance with OMB's TIC Initiative, version 2.0. As such, it is one of a few small civilian agencies that have complied with this mandate

Objective 3: Initiative 4

Measure:

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of seven days for requests received from October 1, 2013 to September 30, 2014. The Agency received 4,458 requests for this period and responded to 4,093 of those requests in 1-20 days. Thus, 91.81 percent of the FOIA requests were processed within the 20-day statutory time period.

Measure:

- The Agency sought an extension of time to process a request beyond the 20-day period in 7.08 percent of the FOIA requests received during this time period.

Measure:

- The Agency received 20 FOIA Appeals from October 1, 2013 to September 30, 2014. The average elapsed days to process the appeal was 22 working days. In 9 of the 20 FOIA appeals, a final determination was made within 20 working days. Two of the appeals received during this period were pending as of September 30, 2014.

FOIA centralization is underway and will be expanding in the coming months. Centralization of FOIA processing will ensure greater consistency and efficiencies in FOIA handling. In August, the NLRB's FOIA Branch hired a new Branch Chief, who has provided assistance towards full centralization of the processing of Regional FOIA requests.

FY 2015 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies:

Objective 1: Initiative 1:

- The Office of Human Resources (OHR) collaborated with executive officials to refine and expand its performance management program. It held training sessions for Executive staff, Regional staff and Headquarters managers and supervisors on relevant areas of the performance management system. The training focused on the significance of establishing performance plans, providing timely mid-year progress reviews, ensuring that all employees are given appraisals, aligning performance plans with the Agency's strategic goals, and ensuring that performance plans hold employees accountable for achieving results appropriate to their level of responsibility.
- A comprehensive Strategic Human Capital Plan is being developed.
- OHR and the Division of Legal Counsel collaborate regularly to ensure adherence to Agency policies and collective bargaining agreements.
- Management and union representatives successfully work on a Reasonable Accommodations Policy, which was approved by the EEOC.
- OHR issued guidance that expounded on workplace flexibilities for childbirth, adoption, foster care and elder care.
- OHR, on behalf of various NLRB organizational units, issued many recognition awards to employees during FY 2015, including length of service, project and retirement awards.
- OHR held its annual Administrative Professional Day Recognition Ceremony on April 23, 2015 to honor the Agency's outstanding administrative professionals.
- The Agency held its second annual Honorary Awards Program, which recognized eleven employees in a number of different categories.

- The Agency developed and implemented an Agency-wide Cultural Enhancement Program, which will enhance the ability of our increasingly diverse workforce to better work together, and to better understand the cultural differences among the public we serve. The program was launched with holding an “all hands” meeting which featured internal and external speakers who addressed the importance of inclusion and civility to a productive workplace. This was followed by online interactive module and podcasts in which a diverse group of employees shared their life and work experiences, as well as videos and online forums for employees to continue to discuss these topics.
- The Office of Employee Development (OED) also developed and rolled out online training materials, enabling Headquarters employees to better utilize Outlook 2013, Lync and Word 2010, and produced scenario-based videos on ethics topics.
- OED updated the Agency’s Management Training Program by developing components such as: enhanced individual development planning and mentoring; obtaining the skills needed for the next level of management; and a pre-supervisory program.
- The General Counsel and the Deputy General Counsel addressed Regional and Headquarters staff in Divisions/Branches/Offices acknowledging and congratulating them on their achievements, and seeking suggestions for Agency improvements.

Objective 1: Initiative 2:

- OHR and the Office of Equal Employment Opportunity (OEEO) worked together on the Strategic Recruitment Committee and are developing a Strategic Recruitment Plan.
- OHR routinely partnered with the Local Veterans Employment Representative Program (LVER) to recruit for commonly filled positions, and placed at least five veterans through this program this Fiscal Year.
- The Agency regularly uses the Veteran’s Recruitment Appointment (VRA) Special Hiring Authority to place disabled veterans.
- OHR worked to bolster the integrity of its recruitment process and adherence to OPM regulations. It created a series of internal procedures and manuals that are used to correctly navigate the process. It worked diligently with OPM to redraft its Excepted Service and Pathways policies to ensure that adequate consideration is provided to viable candidates. Furthermore, in direct correlation to OPM’s Hiring Reform and the 80-Day Hiring Model, OHR attained an average 74-day hiring rate from the beginning of the process to the on-boarding of the employee for FY 2015.
- OHR implemented a process for applicants with disabilities (Schedule A) which includes a specific mailbox for these applications, retention for 30 days, and focused review when a new vacancy arises in the Agency. If an applicant’s qualifications prove to be a match for the job, that information will be forwarded to the hiring manager for further consideration. Presently, applicants are made aware of the program through Agency vacancy announcements on USAJobs and OPM’s website.

- The Agency continued to utilize USAJobs in announcing vacancies to a broad category of applicants, including veterans and persons with disabilities.
- OHR entered into a Memorandum of Understanding with the Department of Veteran Affairs to participate in the “VA for Vets Program,” in order to process non-competitive hiring actions for veterans and to take part in the in “Feds for Vets” initiative.

Objective 2: Initiative 1:

- Facilities and Property Branch (FPB) continued its extensive Communication Plan to keep Headquarters staff informed on matters related to the relocation of the Headquarters facility.
- Following the move, FPB implemented a practice requiring FPB employees to courtesy copy all branch employees on building related requests to ensure that multiple staff are not working on the same task. This practice of sharing information has also resulted in staff feeling more included and aware of work matters transpiring within the branch.
- The Security Branch continued to issue its customer feedback questionnaire, soliciting information to ensure that customer assistance is timely and professional.
- OHR improved communications by distributing numerous documents and notifications via its Ask HR Program.
- The Agency analyzed the 2014 Federal Employee Viewpoint Survey results and is implementing best practices and strategies for strengthening employee engagement and organizational performance through focused leadership and increased communication.
- In response to the Federal Employee Viewpoint Survey results from FY 2014, Agency managers developed action plans that included: greater transparency, sharing of information, and solicitation of employee input.
- Guidance information on Employee Viewpoint Survey (EVS) action planning, and best practices involving effective leadership, communication, and engagement, was posted to the Human Capital Planning internal web page.
- The Human Capital Planning Officer (HCPO) developed a structured communication plan to increase employees’ awareness of the EVS. The response rate to the 2015 EVS increased by 15 percent and there was a 4 percent increase employee engagement scores and a 5 percent increase in global satisfaction scores.

Objective 2: Initiative 2:

- OHR met with incoming Honors Attorneys to seek their feedback on the onboarding process, and how it could be enhanced and improved.
- Training was provided to managers/supervisors on the appraisal process, including how to write performance appraisals, performance management requirements, and their role in communicating expectations to Agency employees on performance management protocols and processes. The training highlighted the importance of getting employees involved in creating their performance plans and having regular feedback discussions with employees.

- The Congressional and Public Affairs Office issued news releases on case successes.
- The General Counsel and the Deputy General Counsel addressed Headquarters staff in Divisions/Branches/Offices acknowledging and congratulating them in their achievements, and seeking suggestions for Agency improvements.
- Significant organizational accomplishments are also regularly highlighted to all staff in the Agency newsletter.

Objective 2: Initiative 3:

- OEEEO collaborated with OED and the Division of Operations-Management to design and implement a foundational and ongoing diversity and inclusion training program for all Agency employees in alignment with Executive Order 13583.
- OHR continues to provide training to Agency hiring managers on special hiring authorities, including Schedule A, in alignment with Executive Order 13548.
- The Management Directive “MD715” is an affirmative EEO program by which federal agencies can assess, identify deficiencies and conduct barrier analysis of obstacles to equal employment opportunity and develop ongoing action plans to correct the self-identified deficiencies and work collaboratively to remove identified barriers. The NLRB submitted its report in March 2015 to the EEOC.
- Agency SES Leadership participated in external diversity and inclusion training.
- OEEEO prepared four policy statements that were adopted and issued by Agency leadership on 1) Agency EEO Policy; 2) Statement on the Prevention of Unlawful Harassment; 3) Agency Statement Promoting Alternative Dispute Resolution; and 4) Diversity and Inclusion Policy Statement.
- OEEEO partnered with OHR to incorporate language describing specific standards for inclusion in supervisors’ and managers’ performance appraisals to measure management accountability on building and maintaining an inclusive work environment.
- The General Counsel’s Mentoring Workgroup analyzed the Agency’s existing mentoring program and made recommendations on how mentoring can be further developed as a tool to maintain a diverse workforce. In response to the General Counsel’s request, the workgroup investigated mentoring models at other federal agencies and their best practices for implantation.
- OEEEO designated staff as Special Emphasis Program Managers (SEPMs) responsible for developing program initiatives that enhance employment opportunities for specific demographic populations and tools to support employee affinity groups.
- OEEEO supports programming initiatives for the Agency’s cadre of collateral duty Special Emphasis Program coordinators.

FY 2015 Strategic Goal 4 (Support): Manage Agency Resources in a Manner That Instills Public Trust

Objective 1: Initiative 1:

Measure:

- The Agency completed the consolidation of its separate legacy case tracking systems into an enterprise case management solution, a success that is rare within the Federal government. The last remaining Agency Office, the Contempt, Compliance, and Special Litigation Branch, was migrated successfully into NxGen in September. NxGen was designed and implemented to replace 11 separate legacy systems and integrate them into a single unified solution that leverages multiple technologies. This was the most comprehensive technology project undertaken at the NLRB, and its success has been essential to the Agency’s mission.

NxGen presently manages:	
Internal users	1,350
Cases	286,117
Case Actions of the Agency	876,076
Documents, images, and videos, each linked to its Action and Case	6,050,259

Measure:

- In FY 2014, the Agency expanded its electronic distribution of case documents with an E-Delivery pilot involving six Regions, one party (USPS) and new 10 document types. In FY 2015, 781 documents were sent to the USPS electronically, resulting in notable savings to the NLRB and a great convenience to the USPS.
- On April 14, 2015, the Agency expanding its electronic filing program to enable constituents to E-File charges and petitions, the two initiating documents for the Agency’s cases. The Agency has received 3,098 electronically filed charge and petitions from the launch of the new service through the end of the Fiscal Year. Over the course of the Fiscal Year, the Agency received 58,662 documents of all types through its E-Filing program and electronically delivered 3,422 documents to nearly sixty-thousand parties.

Measure:

The NLRB has counted millions of votes, investigated hundreds of thousands of unfair labor practice charges, and issued thousands of decisions. The numbers tell an important part of the Agency’s story. Making what we do accessible to the public is an important part of the NLRB’s mission. For example, the total number of case documents available for public access was 692,456, including Tally of Ballot information. This data is downloadable for analysis at <https://www.nlr.gov/news-outreach/graphs-data>.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the document types available to the public.

Objective 1: Initiative 2:**Measure:**

- Through FY 2015, the Administrative Systems (AS) team actively sought to develop automated solutions to streamline Agency processes.
- The AS team completed a development effort to streamline the enrollment and management processes for the Voluntary Leave Bank. Dynamic reporting was also delivered to the managers and committee to provide aggregate statistics on many aspects of the system.
- The AS team also developed a workflow process for authoring, routing and editing, approving and publishing of documents. This repeatable process will allow groups of users to store documents centrally in a secure authoring library, allowing documents to be finalized and then published to a separate location for consumption by a larger audience.
- The AS team completed a development effort for OHR involving organizing and categorizing all positions and position descriptions (PDs) within the Agency, modifying the PD library, assisting the OHR team with the creation of a set of standardized PD, and developing a streamlined process for OHR and Agency supervisors / managers to update all PDs every three years.
- The AS team completed a development effort and migration of content and documents into a SharePoint site for all continuity of operations (COOP) members. Authors can now create, edit, route and receive approval for yearly COOP plans, and all COOP documents are now available at any time and may be accessed remotely.

Measure:

- The Agency awarded its Unified Communications (UC) contract on September 24, 2014, and now expects the implementation to take up to 20 months. After the initial investments in the UC build-out and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice and video networks, and anticipates the enhanced services to demonstrably improve administrative efficiencies.
- The first priorities were to upgrade networks in the Agency's Field Offices and two existing datacenters, and to add network connections to its two new voice datacenters and new Headquarters. These changes add significant bandwidth to the Field Offices, are based on a new, more modern networking technology, and provide greater redundancy to our critical infrastructure. Forty Field Offices are now live on the new network, as are the two existing datacenters, one of the new voice datacenters, and the Agency's Headquarters.
- All employees in Headquarters now use Skype for Business (SfB) for voice calls, voicemail and instant messaging, as the OCIO deployed the necessary Microsoft Office software and delivered over 775 new unified communications devices.
- OCIO and Operations Management are in the process of planning the SfB deployment to the Field Offices.

Measure:

- The AS team continued to build team sites, on request, for geographically dispersed employees to collaborate using Office Online applications, SharePoint lists and discussion forums. Enhanced capabilities continue to be added to allow for user-based filtering of content and more granular management of permissions for documents.
- The AS team completed a development effort for OHR, creating an “Ask HR” knowledge base, which consists of answers to common questions, and if no information is present, a workflow capability will allow a new question to be submitted, routed, and ultimately, become part of the knowledge base.
- The AS team also completed a development effort for the Office of the Chief Financial Officer (OCFO), creating an “Ask the CFO” knowledgebase, which consists of information related to the Acquisitions Management, Finance and Budget branches.

Objective 1: Initiative 3:

Measure:

- Required reports to external regulatory bodies were prepared in accordance with established time lines.

Measure:

- OCFO held monthly meetings with Contracting Officers and Contracting Officer Representatives (COR's) to discuss unliquidated obligation amounts, monitor burn rates, and request funding increases and deobligations.

Measure:

- OCFO continued to develop a formalized annual training plan for all allowance holders. During FY 2015, finance-related training was incorporated during the monthly obligation monitoring meetings, to include COR's who recently on-boarded with the Agency.

Measure:

- The Finance Branch hosted a training session for CORs and provided a tracking tool to enable increased accuracy and timeliness of reporting burn rates, unliquidated obligation amounts, request for increased funding, and request for de-obligation of funding.
- The Budget Branch worked closely with the program offices and senior leadership to develop a detailed budget spend plan, which is a living document of estimates and actual amounts and is updated monthly on the prior months execution.
- The Budget Branch has developed several tools for various budget execution line items to monitor timely obligation and liquidation of funds, such as monitoring GSA rent charges, individual training requests, and mass transit benefit funding levels. Some budget lines have demonstrated variable spending cycles during the year, which requires additional training to program managers on the importance of monitoring those cycles to ensure funding requests cover the requirements.

Measure:

- The Acquisitions Management Branch (AMB) provided training to Purchase Card Holders regarding electronic submission of monthly statements, and provided guidance on purchase card user registration via the Citibank portal.
- AMB also provided monthly and quarterly reports to the Associate General Counsel of Operations – Management, which provided greater insight and transparency on purchasing habits of field offices that it oversees.

Measure:

- The NLRB has increased the percentage of contracts awarded woman-owned and small disadvantaged business categories. With AMB's focus on small businesses as the suppliers of choice, continuing to increase the number of awards to small businesses is achievable.

Objective 2: Initiative 1:**Management Strategies:**Immigration Population

- 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:
 - » Participating in Labor Rights Week activities
 - » Speaking in Spanish and other languages at events organized by the consulates or other community groups to educate the public about the rights afforded under the NLRA
 - » Holding news conferences to disseminate information helpful to immigrant communities
 - » Participating in interviews on Spanish-language radio stations
 - » Staffing phone banks to respond to inquiries from immigrant populations
 - » Staffing booths at informational fairs
 - » Responding to inquiries from individuals who seek consular services
- The Agency has joined with other federal agencies to educate the public by:
 - » participating in the Vulnerable Workers Project
 - » participating in numerous "listening sessions" with those from the Asian American and Pacific Islanders Community
 - » Other Agency activities include:
 - meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes

- meeting with members of the Commission on Human Relations to provide an overview of NLRA rights
- making presentations about the NLRA to officials of the French, Colombian, Spanish, and German embassies
- speaking at naturalization ceremonies to new citizens from approximately 35 countries about rights they have under U.S. labor laws

Youth

- The Agency led discussions for high school and middle school classes in English and Spanish concerning the development of the NLRA and the New Deal, as well as the workers' statutory rights and the Board processes.
- The Agency held mock trials for schools to demonstrate how an unfair labor practice trial is conducted.
- The Agency engaged in the Workplace Street Law Project in Washington, DC, which educates high school students about their rights as workers.
- The Agency signed an MOU with the Ministry of Foreign Affairs of the Republic of Colombia. Various Regional offices also held local signing ceremonies with local Columbian consulates, with follow-up outreach sessions.
- The Agency partnered with DHS, DOL (WHD, OSHA and OFCCP), OSC, DOJ and EEOC in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws.
- The Agency presented at the national EEOC EXCEL Conference in Washington, DC, on concerted activity in social media
- DOJ's Office of Special Counsel hosted two webinars for NLRB field personnel to covering the intersection of the NLRA and immigration law.
- Internal Agency deliberations occurred concerning effective outreach methods, including targeting specific audiences through the use of twitter, You Tube, Facebook, and news aggregators.
 - » Since its release in August 2013, the NLRB app has been downloaded 19,296 times
 - » The Agency implemented a Sharepoint site available to all of its outreach officers. This site includes a centralized area for collecting outreach presentation materials and a discussion board for addressing outreach inquiries
 - » The Agency maintains a link on its public website for outreach requests, which are routed to the appropriate Region
 - » The Agency has inserted QR codes in its correspondence to direct the public to our website.
 - » More Regional Offices are considering producing newsletters in electronic format for delivery through GovDelivery

- Outreach sessions for veterans and employee advocate organizations were held explaining Protective Concerted Activity, in particular.

Objective 3: Initiative 1:

Measure:

- The NLRB requires all Public Financial Disclosure filers, who are the leadership of the Agency (SES and PAS), to complete our annual ethics briefing. This year's briefing served as a reminder to our leadership of all the available ethics training products.
- The "Braking Bad Email Habits" training series emphasized that Agency employees should use their government email in a way that complies with government and legal ethics rules, and avoids the disclosure of confidential case-related information. A related memo was sent to all field professionals to encourage those that had not yet reviewed the material to do so as it was an effective learning tool.
- The Ethics Office provided general ethics guidance to Board Members regarding the use of private social media accounts while serving as a Member of the Board, and met with the Deputy General Counsel, the Chief of Staff to the Chairman, and others to offer guidance in identifying potential conflicts of interest in an administrative program.
- At the request of the General Counsel, the Ethics Office developed and delivered a training session on Civility during the Attorney Trial Training and presented a similar session to Headquarters staff.
- The Ethics Office helped establish a reporting process that would ensure that newly hired and newly promoted employees receive required ethics training and complete required financial disclosure reports (as appropriate) in a timely manner.

Measure:

The Ethics Office continued to seek out opportunities to educate Agency employees about their ethical obligations.

During FY 2015 the following was provided:

- A conclusion to the "Braking Bad Email Habits" series that covered the ethical use of government email.
- A Skip Counsel and Attorney-Client Privilege training program was presented to nine Regional Offices.
- Monthly distribution of the "On the Road with the Ethics Code" Job Aids that provide timely legal ethics information to all board agents.
- Monthly Agency newsletter articles. These articles covered, where to find government and legal ethics information on the Agency website, how to navigate gift giving during the holiday season, and provided real-life examples of the consequences of violating criminal conflict of interest statutes.

- Ethics social media guidance for distribution to the Presidential Appointees.
- The redistribution of a Hatch Act job aid to serve as a reminder about partisan political activity.
- Presented legal ethics topics at two attorney conferences co-sponsored by the NLRB and assisted in planning the ethics programming for a conference.
- Provided ethics briefings to newly appointed Regional Directors.
- Distributed one-page Job Aid covering Seeking Other Employment.
- Partnered with the OED to begin development of two legal ethics training programs for online/on-demand distribution to all legal professionals.
- Developed and presented a training session on Civility. This program was offered to attendees at the Trial Training in August and to professionals in Enforcement Litigation, CCSLB, and the Washington Resident Office.
- Provided guidance to the General Counsel and Board Members regarding speaking events where certain topics may create an appearance issue for the Agency or lead to discussion that could put the speaker at risk of making comments that could be construed as “prejudging” a case, and lead to requests for recusal.

Measure:

- As of September 30, 2015, the Ethics staff received 622 inquiries and 87.7 percent were resolved within 5 business days.

Measure:

- As of September 30, 2015, 100 percent of the financial disclosure reports submitted were reviewed within the 60-day regulatory time period. Where a reviewer identified either a potential or actual conflict of interest, a memo was prepared and sent to the filer providing ethics advice and guidance.

Measure:

- Ethics staff rolled out the Office of Government Ethics (OGE) electronic filing system to all filers of the OGE 278. This included:
 - Meeting with OGE project managers
 - Attending user and administrator training sessions
 - Completing systems and user testing to ensure that NLRB employees would be able to use the system via the NLRB network and agency provided laptops
 - Finalization of NLRB Filer training materials to include: job aids, user guide, demonstration videos, and online training module
- Creation of 278e Integrity webpage on the NLRB Insider where all training materials are archived

- Live training sessions on how to file your 278e in Integrity for the first time

Objective 3: Initiative 2:

- The OCIO responded timely to internal audits and information requests including:
 - » Audit of the NLRB Fiscal Year Financial Statements
 - » Fiscal Year 2014 Review of Internal Controls (FMFIA Survey)
- The OCFO submitted timely Corrective Action Plans as required in response to the Fiscal Year 2014 Financial Statement Audit and also timely prepared a corrective action plan for OIG Travel Audit OIG-AMR-75-15-02. The actions that were taken and submitted to remediate recommendations found in Audit OIG-AMR-65-11-03 “Purchase Cards” were reviewed by the OIG.

Objective 3: Initiative 3:

The OCIO responded timely to external information requests including:

- Questions posed in the Office of Management and Budget Memorandum M-15-01, Fiscal Year 2014-2015 Guidance on Improving Federal Information Security and Privacy Management Practices
- Exhibit 53 and the corresponding Information Technology section for the Congressional Budget Justification
- NARA’s 2014 Records Management Self-Assessment
- FY 15 Q1 Federal Information Security Management Act (FISMA) Data Call
- Trusted Internet Connection (TIC) POA&M February 2014 Data Call
- FY 15 Q2 Federal Information Security Management Act (FISMA) Data Call
- Multiple security- and privacy-related ad hoc data calls, including for MS15-011 software “bug” and Indicators of Compromise (IOCs) related to OPM’s personnel systems data breach.

Objective 3: Initiative 4:

Measure:

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of fourteen days for requests received from October 1, 2014 to September 30, 2015. The Agency received 4,644 requests for this period and responded to 3,543 of those requests in 1-20 days. Thus, 78.34 percent of the FOIA requests were processed within the 20-day statutory time period.

Measure:

- The Agency sought an extension of time to process a request beyond the 20-day period in about 20 percent of the FOIA requests received during the Fiscal Year.

Measure:

- The Agency received 24 FOIA Appeals from October 1, 2014 to September 30, 2015. The average elapsed days to process the appeal was 24 business days.

FY 2016 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies:

Employee Development

- The Office of Human Resources (OHR) continued its partnership with the Office of Personnel Management (OPM) on the implementation of USA Performance, a new performance management reporting system.
 - » OHR issued a memorandum titled Performance Management Validation Cycle to all Agency employees to inform that all management officials had to complete a Performance Management Validation Spreadsheet certifying that they had issued properly executed performance plans to all of their employees.
 - » OHR completed a data validation, which showed that more than 86 percent of employees were issued properly executed performance plans. OHR's goal of 100 percent execution of performance plans will be achieved with the full implementation of USA Performance in June 2017.
- The Office of Employee Development (OED) developed online content for legal writing and provided legal writing coaching for Headquarters employees.
- OED is updating the Management Development Program curriculum to align with the Federal Supervisory and Managerial Frameworks and Guidance released by OPM on September 28, 2015.
- The Security Branch worked with OED to release the 2016 Continuity of Operations Training for Agency personnel via Skillport, and also hosted an Active Shooter Training Event at NLRB Headquarters, which was internally posted for access by all employees.
- In compliance with OPM's hiring reform efforts, OHR implemented a Standard Operating Procedure to provide a detailed explanation and overview of the processes to be followed when a vacancy has been identified and when positions are filled internally.

Workforce Management

- OHR continued to utilize the Workforce Recruitment Program for College Students with Disabilities as a hiring flexibility for managers to recruit qualified postsecondary students and recent graduates with disabilities who are interested in summer internships or permanent jobs.
- OHR leveraged its relationship with U.S. Department of Veterans Affairs through the Feds for Vets Program, which allows for the recruitment of veterans under various special hiring appointing authorities, such as veterans who are 30 percent or more disabled. Under the program, approximately five special hiring appointments were completed and one appointment was converted to a career-conditional appointment.

- The Human Capital Planning Office (HCPO) implemented a communication plan to encourage employees to take the Employee Viewpoint Survey (EVS), which included guidance on monitoring the participation rates, talking points, and FAQs.
- OHR made enhancements to the New Employee Orientation that includes more information about the Agency to help new employees transition successfully.
- The Office of Equal Employment Opportunity (OEEEO) developed and implemented a training program mandatory for all supervisors' managers and senior executive leaders on whistleblower rights and protections for all Agency employees.
- OEEEO recommended that supervisors' and managers' appraisals contain more specific language to measure their efforts to maintain an inclusive work environment, as an action item from the MD715 report submitted to the EEOC.
- OEEEO, OED, and the Division of Operations- Management collaborated in the Agency workgroup on the Culture Enhancement Program and rolled out training podcasts and interviews from a diverse array of Agency employees in segments throughout the Fiscal Year.
- OEEEO sponsored the Agency's network of Asian American and Pacific Islander employees in its request for support from Agency leadership. OEEEO conducted a briefing with Agency leadership on the topic of Employee Resource Groups (ERGs).
 - » There was a briefing by OPM diversity and inclusion experts for Agency leadership to address questions about ERGs.
 - » Consultations with the unions representing Agency employees will assist OEEEO when drafting final recommendations to Agency leadership.
- OEEEO and OHR briefed leadership on the Strategic Recruitment Plan and received critical feedback for the plan. OEEEO and OHR are working to implement the plan in early Fiscal Year 2017.
- OEEEO develops and hosts special emphasis observances at Headquarters, some of which have been made available to field offices through simultaneous broadcast and/or digital recording.

Motivation

- HCPO conducted 16 EVS organizational assessments with senior executives on the 2015 EVS results focusing 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 EVS scores; identifying best practices for managing staff to higher levels of engagement; and action planning efforts.
 - » During the organizational assessments, results were provided and the two EVS Agency-wide strategic areas of focus, effective leadership and communication, were discussed.
 - » Agency leadership will be implementing action plans/best practices designed to drive higher levels of employee satisfaction and engagement within their respective organizations, with a particular focus on improving effective leadership and communication.

- » The HCPO also developed an EVS Action Planning Toolkit for organizations to utilize in developing action strategies to effect change.

FY 2016 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	1,368
Cases	309,700
Case Actions of the Agency	1,001,206
Documents, images, and videos, each linked to its Action and Case	7,543,929

The Agency expanded electronic distribution of case documents in FY 2016 through the USPS for 15 document types, resulting in 626 documents being sent to the USPS electronically and savings for the NLRB.

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency.

Number of E-Filings Received	51,229
Number of Documents Received	79,011
Number of cases filed thru E-Filing Charges and Petitions	9,958
Number of Board and ALJ Decisions E-Served	803
Total Number of parties E-Serviced Decisions	54,262
Number of E-Deliveries of Case Documents	3,546

The total number of case documents available for public access in FY 2016 was 984,663

In FY 2016, the Agency expanded the use and capabilities for electronic filing to enable parties to E-File charges and petitions using an online forms wizard on the NLRB website that automatically creates the charge or petition form.

Number of cases filed thru Charge and Petition Wizard was **805** in FY 2016.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the 564 document types available to the public.

- The Administrative Systems team continued its effort to migrate all content from the current intranet platform, which was mostly static, to a new intranet platform office by office.

- The team automated and launched the process of authoring, editing, approval and publishing of Operations-Management memorandums.
- The team completed the automation of the training request and approval process by developing a web-based form with routing, approval, data storage for advanced reporting, and records management.
- The Agency awarded its UCC contract on September 24, 2014. Through FY 2016, 48 Field Offices, the two existing datacenters, two new voice datacenters, and the Agency's HQ were upgraded to the new network and 47 field offices were migrated fully migrated to Skype for Business.
- In FY 2016, the OCIO deployed over 1020 iPhone 6's and 6-Pluses to the Field.

Financial Management:

- To enhance internal controls of the purchase card program, Acquisition Management Branch (AMB), in coordination with the Budget Office implemented a process by which quarterly target amounts for purchase card spending are sent to each of the 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 addition to quarterly target amounts sent to the Headquarters Offices, all headquarters purchase card holders 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 provided monthly and quarterly reports to the Budget Office which offered greater insight and transparency on purchasing habits and spending. By spending hours analyzing what was being purchased on the p-card and working with the Budget Office, senior leadership had more visibility into that budget line item on the Spend Plan. Analysis of this data also identified purchases that should be on a contract and lead to the establishment of the HQ and field office quarterly bulk purchases.
- In the Agency's continuing effort to increase its financial integrity, financial statement crosswalks were established in order to accurately and efficiently integrate general ledger account balances to the NLRB financial statements. This reduces the timeframe it takes to produce the statements.
- Updated and submitted the NLRB Travel Card Management Plan, as well as travel charge card metrics, to OMB per the A-123 Appendix B guidance.
- Developed and disseminated procedure guides for witness payment processes to allow for more timely payments.
- Developed and disseminated travel reimbursement processes internally with accounting

technicians and externally with office managers and travel arrangers to increase accuracy in travel reimbursements.

- Successfully implemented the Undelivered Orders (UDO) review process, performed on a quarterly basis that assists in liquidating obligations timely and accurately.
- 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 small businesses. AMB continues to focus on small businesses as the supplier of choice, and particularly on increasing the number of awards to service-disabled veteran owned small business.
- During FY 2016, the Agency reported a total of \$20.26M and 372 contract actions in the Federal Procurement Data System (FPDS). Of this amount, \$7.4M and 181 actions went to small businesses.

Fiscal Year SBA Goaling Report					
Category	Goal	2016	2015	2014	2013
Small Business	23%	36.51%	39.75%	31.65%	34.13%
Women Owned Small Business	5%	11.19%	12.46%	13.5%	17.81%
Small Disadvantaged Business	5%	8.02%	10.71%	11.05%	7.36%
Service-Disabled Veteran Owned Small Business	3%	2.42%	0.31%	0.97%	0.32%
HUBZone	3%	3.43%	2.13%	2.27%	0.84%

Agency Outreach

- Designated Immigration Coordinators in each Regional office act as a liaison between the office and Headquarters staff regarding casehandling issues that may affect the immigrant worker community.
- The Agency prepared outreach materials for immigrant communities for use during outreach events, and a letter that outreach coordinators may use to introduce themselves to organizations that serve immigrant communities and offer outreach services. The outreach coordinators have been provided with a “collaboration packet” with the contact information for their outreach counterparts with the EEOC, WHD, and OSHA.
- During FY 2016, the Agency provided direct outreach to immigrant populations by:
 - » Speaking in Spanish and other languages at events organized by the consulates or other community groups, such as the Workplace Justice Project to educate the public about the NLRA
 - » Participating in interviews on Spanish-language radio stations
 - » Responding to inquiries from individuals who seek consular services
 - » Speaking at naturalization ceremonies to new citizens
 - » Participating in Asian Public Interest and Public Service Panels

- » Meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes
- Activities directed at the youth population include:
 - » Leading discussions for high school and middle school classes concerning the development of the NLRA and the New Deal, as well as workers' statutory rights and Board processes
 - » Holding mock trials for schools to demonstrate how an unfair labor practice trial is conducted
 - » Engaging in the Workplace Street Law Project in Washington, DC, which educates high school students about their rights as workers
 - » Participating in a union-sponsored youth-to-youth apprentice training
- The agency is Partnering with The Department of Homeland Security (DHS), DOL (Wage and Hour Division (WHD), OSHA, Office of Labor Management Standards (OLMS), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ and EEOC in an IAWG for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws. The work group seeks to:
 - » Ensure agencies' immigration enforcement and worker protection policies, promote workers' cooperation with labor and employment law enforcement authorities without fear of retaliation;
 - » Ensure federal enforcement authorities are not used by parties seeking to undermine worker protection laws by enmeshing immigration authorities in labor disputes; and,
 - » Ensure the consistent enforcement of federal labor, employment, and immigration laws.
- The Agency has produced a new informational pamphlet, available on the NLRB website in both English and Spanish, titled "Protecting Employee Rights," which contains an expanded discussion of an employee's right to engage in concerted activity and other rights under the NLRA.
- The Agency maintains an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.

Ethics:

- The NLRB requires all Public Financial Disclosure filers, who are the leadership of the Agency (SES and PAS), to complete the annual ethics briefing. Scenarios were provided that demonstrated how well-meaning federal employees could violate government ethics laws and regulations when participating in outside activities, fundraising, and speaking engagements.
- The Ethics Office developed and delivered a Job Aid that covered participation as a member of a Board Directors for a non-federal organization. All employees are required to request permission from their approving official prior to accepting a position on a Board. Approving Officials are directed to consult with the Ethics Office prior to granting approval. A list of information that employees must give to their approving officials is also provided.
- The Ethics Office developed an addendum that is used by all NLRB employees and Presidential

Appointees to affirm that by consenting to the recording of a presentation, the NLRB employee or official is not permitting the sponsor to use their official title or likeness to advertise or endorse the final product. This addendum is consistent with the requirement, reinforced by the Office of Government Ethics (OGE) at its latest symposium, that Executive Branch employees take reasonable steps to ensure that a third party does not misuse a government employee’s position to promote their products or events.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations. Throughout FY 2016 the ethics branch:

- Distributed a Speaking Engagements guidance memo to all Agency employees which provided employees with general guidance regarding speaking engagements, and explained how to distinguish between speaking in an official versus a personal capacity.
- Provided OHR with government ethics information that will be used in the OHR New Hire Orientation presentation.
- Provided guidance to the General Counsel and Board Members regarding speaking events where certain topics may create an appearance issue for the Agency or lead to discussion that could put the speaker at risk of making comments that could be construed as “prejudging” a case, and lead to requests for recusal.
- Provided legal ethics guidance regarding Immigration and Candor to the Tribunal in consultation with the Immigration Unit.

Guidance Provided				
Measure	Goal	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%

- During FY 2016, the Ethics Office received 844 inquiries. 737 (83%) were resolved within 5 business days.
 - » The increase in the number of days to provide guidance is directly related to the significant number of cases in a new area; conflicts involving Board of Director positions. The Ethics Office identified and responded immediately to more routine matters within the targeted time frame. In order to respond more quickly to more complex situations, a template was developed in order to create customized responses for the various types of Board of Director positions. 52% of 53 cases involving Board of Directors exceeded the 5 business day benchmark. However, the Ethics Office kept everyone apprised of their progress prioritized according to need.
- All financial disclosure reports filed in FY 2016 were reviewed within 60 days. During this review we confirmed that all filers had been provided appropriate ethics guidance relating to their reportable assets, outside arrangements, and outside employment activities.

Note: Review and approval of New Entrant and Annual filings (Confidential and Public) resulted in 126 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.

The OCIO and the OCFO responded completely and timely to external information requests including:

- Juniper ScreenOS and Firewall and VPN Server Data Call in Q1
- CISCO vulnerability Data Call in Q2

FOIA: Processing Times			
Measure	2016	2015	2014
Respond to initial FOIA requests within 20 working days	32.7 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15% of requests	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	32.35 workings days	24 workings days	20 workings days

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of 32.7 working days for requests received from October 1, 2015 to June 30, 2016. The Agency received 2,682 requests for this period and responded to 982 of those requests in 1-20 days. Thus, 36.6 percent of the FOIA requests were processed within the 20-day statutory time period.
- The Agency sought an extension of time to process a request beyond the 20-day period in about 25.4 percent of the FOIA requests received during the Fiscal Year.
- The Agency received 23 FOIA Appeals from October 1, 2015 to June 30, 2016. The average elapsed days to process the appeal was 32.35 business days.

The increase in processing times correlates to the centralization. In 2014 FOIA duties were handled by Headquarters and each Field/Regional Office by their respective FOIA Points of Contacts (POCs). For uniformity and consistency in FOIA handling, it was decided to centralize FOIA processing and this began at the end of FY2014 with Headquarters processing, in addition to its own requests, those of Regions 10 and 28. By June of 2015, all FOIA requests were handled at HQ. The consolidation resulted in a very significant increase in the amount of requests handled by Headquarters. In addition, the Branch was dealing with new staff members, who required necessary training to become proficient in handling requests. There were also difficulties associated with the technology that was available to the Branch. However, the technology has been upgraded and the Branch is currently working with OCIO on making additional improvements to the technology. With the staffing and technology issues well in hand, the Agency anticipates significant improvements in processing times in FY 2017.

FY 2017 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies:

Employee Development

- The Office of Human Resources (OHR) continues its partnership with the Office of Personnel Management (OPM) on the implementation and rollout of the new Agency-wide performance management reporting system, *USA Performance*. In September 2017, performance plans for all non-bargaining unit employees were fully integrated.
- The Agency continued to comply with OPM's hiring reform efforts, including the 80-day hiring model.
- Domestic Violence, Sexual Assault, and Stalking Awareness training was released to all employees and 1,452 employees have completed the training. Continuity of Operations Training was released and 1,275 employees have completed the training. The Personal Security On-the-Job Course completion is being monitored to ensure new field employees complete it within the first 90 days on the job.
- OEEO collaborated with a workgroup consisting of OHR and OED, to engage in pre-decisional involvement discussions with the NLRBU and the NLRBPA to develop and implement mandatory training for managers and supervisors on the Agency's Reasonable Accommodation Policy. The workgroup has developed a comprehensive training module and anticipates launching the training in FY 2018.
- The GC Mentoring committee, which includes OEEO, has been focused on developing ways to measure the success of the Agency's mentoring program by ensuring that the mentoring program supports Agency diversity and inclusion goals, and exploring ways to develop mentoring into a more robust individual development vehicle. OEEO's collaboration with this workgroup led to the development and launch of a revised survey for mentees, mentors and mentoring program managers that will enable management to gauge the impact of the program.

Workforce Management

- The Agency instituted a series of trainings that provides pertinent information on the history of disability in the workforce, current workplace laws and regulations, as well as information on Agency recruitment. HR Staff has taken OPM's HR University training entitled "A Roadmap to Success: Hiring, Retaining and Including People with Disabilities" and "Issues, Impacts and Implications of an Aging Workforce" by the Institute on Employment and Disability.
- OEEO led the Agency-wide effort to develop a plan for the Agency to develop into a model federal EEO employer as envisioned and implemented through the EEOC's Management Directive 715 (MD715). OEEO conducted quarterly meetings with a cross section of organizational units, including the Office of Human Resources (OHR), the Office of Employee Development (OED) and the Division of Operations-Management (OPS). Each office was required to identify, develop,

measure and report out on its progress on issues related to barriers to full opportunity. These efforts resulted in a more relevant and responsive MD715 report and plan.

- OEEO collaborated with OGC and OED to develop and launch mandatory training for all Agency managers and supervisors on issues and best practices in supporting transgender employees' transition in the workplace. The training was also made available on a voluntary basis to all Agency employees.
- The Human Capital Planning Office (HCPO) worked on developing a report detailing a deep dive analysis of the changing composition of the workforce and shifting work patterns/trends, including demographics, diversity, size, attrition, performance, and training, to inform core competency requirements for the future workforce.
- The Security Branch completed 23 percent of the backlogged investigation this Fiscal Year.

Motivation

- The HCPO conducted 18 EVS organizational assessments with Agency heads and senior executives EVS 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 EVS scores; identifying best practices for managing staff to higher levels of engagement; and engaging in action planning. During those meetings, the HCPO also discussed the two EVS Agency-wide strategic areas of focus (*effective leadership and communication*) and its impact on improving EVS scores and the workforce culture. As a result, Agency leadership endorsed an action plan, with a particular focus on enhancing employee engagement, commitment and satisfaction.
- The HCPO developed an online Employee Suggestion Box making it easier for employees to now go online and submit suggestions electronically.
- The HCPO held the first ever Sensing Session where non-supervisory personnel within the Division of Administration (DoA) assembled to discuss the customer experience based on feedback received from customers. The sessions examined mapping the customer experience and looking for fresh service ideas to improve it; getting front-line employees from each of the functional branches to collaborate on identifying the causes of problems and finding innovative solutions; and coordinating activities to maximize the speed of service from the customer's point of view. Through this method, DoA employees had an active voice in developing innovative solutions and the sessions marked an important milestone in employee engagement and communication efforts linked to the EVS. The HCPO plans to rollout Sensing Sessions to other organizations with the Agency.
- OHR also administered the annual Administrative Professional Program where six (6) Agency employees were selected for recognition.

FY 2017 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.

The NxGen System presently manages:

Internal users	1,379
Cases	331,074
Case Actions of the Agency	1,115,809
Documents, images, and videos, each linked to its Action and Case	8,977,578

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	51,369
Number of Documents Received	82,459
Number of cases filed thru E-Filing Charges and Petitions	23,356
Number of Board and ALJ Decisions E-Served	563
Total Number of parties E-Serviced Decisions	35,936
Number of E-Deliveries of Case Documents	4,848

The total number of case documents available for public access in FY 2017 was 1,146,108.

In FY 2017, the Agency expanded the use and capabilities for electronic filing to enable parties to E-File charges and petitions using an online forms wizard on the NLRB website that automatically creates the charge or petition form.

Number of cases filed through the Charge and Petition Wizard was 662.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the 564 document types available to the public.

- The Administrative Systems team continued its effort to migrate all content from the current intranet platform, which was mostly static, to a new intranet platform office by office.
- The team automated and launched the process of authoring, editing, approval and publishing of Operations-Management memorandums.
- The team completed the automation of the training request and approval process by developing a web-based form with routing, approval, data storage for advanced reporting, and records management.
- The Agency awarded its UCC contract on September 24, 2014. Through FY 2017, 49 Field Offices, the two existing datacenters, two new voice datacenters, and the Agency’s Headquarters were upgraded to the new network and field offices were fully migrated to Skype for Business.
- In FY 2017, the OCIO deployed over 1,020 iPhone 6’s and 6-Pluses to the Field Offices.

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 Division 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 addition 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.
- In April 2017, AMB, in coordination with the OCIO, issued a large IDIQ award for Information Technology (IT) services, and ensured strategic sourcing opportunities were carefully effectuated. The result of this acquisition provided the Agency with a framework to promote an agile systems development life cycle, and empowered the Agency's IT personnel to adopt new technologies and automate processes which resulted in increased proficiencies and budgetary savings.
- AMB continued 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 2017, bulk orders took place in November, February, May and August.
- AMB implemented Split Pay for travel payments, which allows vouchered transactions which utilized the agency charge card to pay Citibank directly.

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.

From October 1, 2016 – September 30, 2017, a total of \$16M and 339 contract actions were reported within the Federal Procurement Data System (FPDS). Out of this amount, \$6.7M and 176 actions went to small businesses; approximately 41.7 percent of contract dollars and 51 percent of contract actions were awarded to small businesses.

Category	Goal	2017	2016	2015	2014	2013
Small Business	23%	41.7%	36.51%	39.75%	31.65%	34.13%
Women Owned Small Business	5%	7.47%	11.19%	12.46%	13.5%	17.81%
Small Disadvantaged Business	5%	28.33%	8.02%	10.71%	11.05%	7.36%
Service-Disabled Veteran Owned Small Business	3%	1.62%	2.42%	0.31%	0.97%	0.32%
HUBZone	3%	23.33%	3.43%	2.13%	2.27%	0.84%

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, Philippine Embassy, Ecuadoran Consulate, El Salvador Consulate, Labor Alliance Committee on Minority Affairs, Colorado Central Region Farmworker Project, West Harlem Development Corporation, and Workplace Justice Project, Justice, Equality & Safety in the Workplace, to educate the public about the NLRA
- Participating in Labor Rights Week activities organized by the Mexican Embassy and Consulates at various locations throughout the country
- Speaking at naturalization ceremonies
- Participating in interviews on Spanish-language radio stations
- Staffing booths at informational fairs
- Responding to inquiries from individuals who seek consular services
- Participating in Platicas en Consulado (Consul on Wheels)
- Participating in a Univision phone bank
- Speaking at the Federacion De Clubes Zatecanos event sponsored by the Mexican consulate
- Speaking at Filipino Workers Center SAMA-SAME Network Meetings

Other Agency activities directed at the immigrant population include:

- Speaking at naturalization ceremonies to new citizens
- Participating in Asian Public Interest and Public Service Panels
- 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

Activities directed at the youth population include:

- Leading discussions for high school and middle school classes concerning the development of the NLRA and the New Deal, as well as workers' statutory rights and Board processes
- Holding mock trials for schools to demonstrate how an unfair labor practice trial is conducted
- Leading discussions at the Hanna Boys Center/La Luz Center

- Participating in Youth to Youth Apprentice Training program

The Agency continued to partner with DHS, DOL, OSC, DOJ and 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 “listening sessions” coordinated by worker advocacy groups.
- Participating in Wage Theft Task Force discussions
- Meeting with the Illinois Attorney General’s Office
- Meeting with the Michigan Employment Relations Commission
- Participating in a forum sponsored by City of Chicago Department of Human Services
- Participating in a community outreach program sponsored by U.S. Rep. Susan Brooks
- Participating in the EEOC Training Institute Technical Assistance Program Seminar
- Participating in the California Association of Labor Relations Officers annual conference
- Participating in an FMCS open house
- Providing outreach to the New York State Department of Labor Anti Retaliation Task Force
- Participating in SBA Ombudsman roundtables and listening sessions
- Participating in DOL Prevailing Wage Seminar

Ethics

The Ethics Staff continued to meet with the General Counsel’s office to review the status of all ethics projects and to discuss notable ethics issues.

In coordination with the Office of the General Counsel, the Ethics Staff:

- Developed and distributed guidance concerning OPM’s updated Combined Federal Campaign (CFC) regulations to all Agency employees.
- Met with Agency leadership to discuss the limitations placed on CFC fundraising.
- Distributed an updated Speaking Engagements DAEO memo to all Agency employees which provided employees with general guidance regarding speaking engagements, and explained how to distinguish between speaking in an official versus a personal capacity.
- Distributed guidance to all supervisors and managers highlighting the restrictions that apply when a supervisor serves as a campaign coordinator and/or keyworker for the Combined Federal Campaign (CFC).
- Suggested updates to the Agency’s Pro Bono program to comply with government ethics regulations and the Agency’s IT policy.
- Completed a Structural Assessment of the Ethics Office to maximize resources.

- Developed and distributed a Hatch Act webcast to all Agency employees.
- Answered extensive Hatch Act hypotheticals submitted by the NLRBPA.
- Distributed a memo which was intended to remind supervisors and managers that they should not encourage their subordinates to participate in outside activities or causes, including political advocacy events and activities. The memo explained that this conduct would implicate the regulations in the Standards of Conduct concerning misuse of position, as well as the Hatch Act, if the conduct involves political activity. The DAEO discussed this memo with Agency Leadership at a General Counsel staff meeting.
- Assisted the Office of the Chief Financial Officer (OCFO) in the review of the Agency’s travel policy to ensure that it is consistent with 31 U.S.C 1353 which covers Travel Reimbursement from a Non-Federal Source.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY2017, the Ethics Staff:

- Developed a comprehensive ethics orientation package that is used in the onboarding of NLRB Political Appointed Senate Confirmed employees (PAS).
- Provided customized ethics briefing to newly appointed Board Members.
- Met with newly appointed Regional Directors to discuss how the Ethics Office supports each Regional Office.
- Provided Operations Management with guidance concerning the ethics limitations placed on NLRB employees who are engaged in outreach activities.
- Provided Ethics Briefings for the Professional Exchange Program and Honors Attorney Orientation.
- Developed ethics training materials that will be distributed through the Agency’s SharePoint page in the first quarter of FY 2018.
- Developed comprehensive post-employment guidance which emphasizes an attorney’s recusal obligations after departure from the Agency.
- Continued to participate in the Office of Human Resources (OHR) New Hire Onboarding.
- Continued to use the “Ethical Highway” webpage to archive guidance documents, newsletter articles, Tips of the Month, and Job Aids.

Measure:	Goal	2017	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	92%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%

- All financial disclosure reports filed in FY 2017 were reviewed within 60 days. During this review we 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 2016. 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 2017, the Agency has completed its review of:

- 30 Annual Confidential Financial Disclosure Reports (OGE 450)
- 84 Annual Public Financial Disclosure Reports (OGE 278e)
- 9 New Entrant Public Financial Disclosure Reports (OGE 278e)
- 119 Monthly Transaction Reports (OGE 278T)
- 13 Termination Reports (OGE 278)

Note: Review and approval of New Entrant and Annual filings (Confidential and Public) resulted in 126 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.
- OCFO responded to the Data Act audit.
- OCIO responded to one C-CAR data call regarding Kaspersky software.
- OCIO responded to one C-CAR data call regarding WannaCry Ransomware.
- OCIO responded to Risk Management Assessment data calls related to Executive Order 13800 “Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure,” and OMB Memorandum M-17-25.

	FOIA			
Measure:	2017	2016	2015	2014
Respond to initial FOIA requests within 20 working days	46.36 days 35.9 %	32.7 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15% of requests	10.5%	25.4%	20%	7.08%

Respond to statutory appeals within 20 working days	20 working days	32.35 workings days	24 working days	20 working days
---	-----------------	---------------------	-----------------	-----------------

- Based on the information in the FOIAonline, the Agency responded to initial FOIA requests in an average of 46.36 working days for requests received from October 1, 2016 to September 30, 2017. The Agency received 2,217 requests this period and responded to 798 of those requests in 1-20 days. Thus, 35.9 percent of the FOIA requests were processed within the 20-day statutory time period.
- The Agency sought an extension of time to process a request beyond the 20-day period by sending a letter to the requester taking an additional ten working days to respond to the request in approximately 10.5 percent of the FOIA requests received during the Fiscal Year 2017.
- The Agency received 11 FOIA Appeals from October 1, 2016 to September 30, 2017 and responded to ten of these appeals. The Agency responded to eight of those appeals in 1-20 days. Thus, 72.7 percent of the FOIA appeals were processed within the 20-day statutory time period.
- The Agency did not seek an extension of time for the FOIA appeals received from October 1, 2016 to September 30, 2017.
- All FOIA requests and appeals are now processed in Headquarters. In FY 2017, the influx of new staff members, most of whom required significant training until they became proficient in handling requests, and difficulties associated with technology, which has since been upgraded, affected FOIA response rates.

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 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, the Human Capital Planning Officer (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 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, the Office of Human Resources (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 FY19.
- 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 2 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 accessibility. OEEO consulted with the Office of the Chief Information Officer (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 (2012 and 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 EVS organizational assessments with senior executives on the 2017 EVS 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 EVS 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 EVS 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 EVS Agency-wide strategic areas of focus: effective leadership and communication. As a result, leadership will continue to engage in EVS 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 2017 Federal Employee Viewpoint Survey (FEVS) results and provided each division/office with a comprehensive organizational assessment briefing of the EVS results. During those briefings, a target of increasing the number of employees responding to the 2018 EVS was set at a five (5) percent increase over the 2017 EVS 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 EVS Management Toolkit to leverage in promoting the EVS; and EVS 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-Served 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	1,259,762

Please see <http://www.nlr.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 FY2018 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

home page, 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 addition 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 FY18, 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% increase in awards given to small business from the previous year. In FY 2017, NLRB awarded 41.70% to small businesses. In FY 2018, this percentage increased to 65%.

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) (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 2017 Annual Ethics Briefing to all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics. We 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% of Agency filers had completed the 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 2017 Annual Ethics Briefing to all Agency supervisors and managers. By making this briefing available to supervisors and managers, we ensure 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 Combined Federal Campaign (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 Combined Federal Campaign (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 Office of the Chief Information Officer (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 FY2018, 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 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%) were resolved within 5 business days.
- All financial disclosure reports filed in FY 2016 were reviewed within 60 days. During this review we 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 we began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2017. In all cases, we completed the review of each report within 60 days of receipt and we 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

Measure:	FOIA:				
	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% 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 the 2018 Fiscal Year, 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 the 2018 Fiscal Year, 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 Fiscal Year 2017. At the end of Fiscal Year 2018, the NLRB had a FOIA request backlog of 90, which reflects a backlog decrease of 69.39 %.

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.nlr.gov/news-outreach/foia>,
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 publically available on the:

1. NLRB website at: <https://www.nlr.gov/news-outreach/foia>, 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, & RC cases; and Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, & CE cases. The FOIA Branch began posting the January 2017 records online at: <https://www.nlr.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.

APPENDIX D

Strategic Goals:

Goal # 1 (Mission): Promptly and Fairly Resolve Through Investigation, Settlement or Prosecution, Unfair Labor Practices Under The National Labor Relations Act

Objective 1: Achieve established performance measures for the resolution of meritorious unfair labor practice charges.

Initiative 1: Achieve a collective 20% increase in timeliness of case processing under established performance measures for the resolution of all meritorious unfair labor practice charges.

Performance Measures:

- Measure 1: Realize a 5% annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint.
- Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.
- Measure 3: Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.
- Measure 4: Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

Initiative 2: Achieve enhanced performance for the resolution of all unfair labor practice charges.

Performance Measures:

- Measure 1: Realize a 5% annual decrease in the average time required to resolve unfair labor practice charges through withdrawal, dismissal, settlement or issuance of complaint.
- Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.
- Measure 3: Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.
- Measure 4: Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

Initiative 3: Ensure that all matters before the Agency are handled in a fair and consistent manner.

Performance Measures:

- Measure 1: Ensure that Regional case processing procedures evolve with the Agency's strategic goals and technological advancements.

- Measure 2: Conduct annual quality reviews of Regional unfair labor practice case files and institute modifications to case processing as appropriate.

Goal # 2 (Mission): Promptly and Fairly Investigate and Resolve All Questions Concerning Representation of Employees

Objective 1: Achieve established performance measures for the timely resolution of all questions concerning representation of employees.

Initiative 1: Achieve established performance measures for the resolution of representation cases.

Performance Measure:

- Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition.

Initiative 2: Ensure that all matters before the Agency are handled in a fair and consistent manner.

- Measure 1: Ensure that Regional case processing procedures evolve with the Agency's strategic goals and technological advancements.
- Measure 2: Conduct annual quality reviews of Regional representation case files and institute modifications to case processing as appropriate.

Goal # 3 (Support): Achieve Organizational Excellence and Productivity in the Public Interest

Objective 1: Recruit, develop, and retain a highly motivated, talented, and diverse workforce to accomplish our mission.

Initiative 1: Invest in and value all employees through professional development, workplace flexibilities, fair treatment, and recognition of performance in the public interest.

Management Strategies:

- Maintain a current human capital plan that includes human capital goals, objectives, and strategies and a workforce plan that is consistent with the Human Capital Assessment and Accountability Framework (HCAAF) of the Office of Personnel Management (OPM).
- Ensure that the Agency's performance management system is results-oriented and aligned with the Agency's goals and objectives as to quality and productivity.
- Demonstrate significant improvement in OPM's assessment of the Agency's performance management system.
- Ensure that managers collaborate with the Agency's employees and unions to implement Agency policies and collective bargaining agreements that balance performance, productivity and workplace flexibilities.
- Reduce the number of pending background investigations.
- Enhance employee development and learning opportunities through Skillport, West Legal Ed, Training Tuesdays, and other on-line and blended media.

- Develop Individual Development Plans for training and succession planning.
- Identify, through updating the workforce plan, core competencies for managers and actions necessary to close skill gaps as required by OPM.

Initiative 2: Develop and implement recruitment strategies to ensure a highly qualified and diverse workforce.

Management strategies:

- Comply with OPM's hiring reform, which tracks time spent to fill vacancies.
- Identify areas in which the Agency can enhance its diversity and talent through annual analysis of MD-715 guidance.
- Attract qualified and diverse applicants, including veterans and persons with disabilities, by following OPM and Equal Opportunity Commission (EEOC) guidance and utilizing best practices of similar agencies.
- Establish working relationships with veteran's groups and Veterans Administration and Department of Labor veterans' programs to ensure that outreach efforts to veterans are consistent with OPM, congressional and Presidential directives.

Objective # 2: Promote a culture of professionalism, mutual respect, and organizational pride.

Initiative 1: Improve employee satisfaction and employee engagement.

Management Strategies:

- Strive to achieve improved internal communications.
- Identify and implement strategies to increase the number of employees who respond to the Federal Employee Viewpoint Survey.
- Develop a collaborative program to encourage employee creativity and innovation, including the Agency's suggestion program.
- Enhance internal and external recognition programs to acknowledge employee contributions (for example: Honorary Awards).

Initiative 2: Ensure that employees understand the Agency's mission and how they contribute to its accomplishments.

Management Strategies:

- Review and enhance the employee on boarding program.
- Ensure that each employee is provided with a performance plan and a clear understanding of management's expectations.

- Enhance publicity of significant organizational accomplishments.

Initiative 3: Cultivate and promote Agency programs that encourage collaboration, flexibility, diversity, and mutual respect to enable individuals to contribute to their full potential.

Management Strategies:

- Demonstrate leadership accountability, commitment, and involvement regarding diversity and inclusion.
 - » Fully and timely comply with all federal laws, regulations, executive orders, management directives and policies related to promoting diversity and inclusion in the workplace.
 - » Provide on-going diversity and inclusion training for senior leadership.
 - » Evaluate all levels of management on their proactivity in maintaining an inclusive work environment.
- Involve 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 by affording a consistency of opportunity throughout all organizational units.
- Encourage participation in special emphasis observances.

Goal # 4 (Support): Manage Agency Resources Efficiently and in a Manner That Instills Public Trust

Objective 1: Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the Agency's mission and increase transparency.

Initiative 1: Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system.

Performance Measures:

- Increase the rates of electronic service, delivery, and filings, thereby reducing the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations.
- Increase the information shared electronically with the public, making the Agency's case processes more transparent.

Initiative 2: Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing with the Agency.

Performance Measures:

- Streamline the Agency transactional processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time.
- Continue to enhance and utilize a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video, and data from all locations

including the office, at home and on the road.

- Fully utilize a dynamic social collaborative environment for employee engagement.

Initiative 3: Effective Management of fiscal resources.

Performance Measures:

- Develop and/or support the development of the Agency's budget.
- Produce financial reports as required by OMB, Treasury, and Congress.
- Conduct quarterly Program Management Reviews on requirements development and execution to ensure programs stay on time and on budget.
- Monitor unliquidated obligations quarterly for current year execution and re-allocate to other unfunded mission requirements.
- Increase the use of strategic sourcing, purchase card program, and in sourcing to minimize waste and abuse. Continue to support minority business enterprises for contract awards.

Initiative 4: Right-sizing and closing Field Offices and Headquarters office space by up to 30% over the next five years in accordance with GSA guidelines.

Performance Measure:

- Develop five-year Project Plan that identifies field offices for reductions in square footage or for closure.

Objective 2: Evaluate and improve the Agency's Outreach Program.

Initiative 1: Enhance Agency's Outreach Program.

Management Strategies:

- Employ further non-traditional outreach to the following populations:
 - » Unrepresented employees
 - » Unions, Small Business Owners
- Engage with organizations, such as those listed below, to better educate workers and employers:
 - » Joint outreach with sister agencies
 - » Memorandums of Understanding (MOU) with other agencies related to co-extensive investigations
 - »
 - »
 - »

»

Objective 3: Conduct all internal and external Agency business in an ethical and timely manner.

Initiative 1: Promote an ethical culture within the NLRB through leadership, communications, awareness, resources, and oversight.

Performance Measures:

- Involve Agency leadership promoting visibility and commitment to the NLRB Ethics Program.
- Increase employee awareness of ethics responsibilities by maintaining an education program that reaches all NLRB employees at all levels and uses internet technology to expand access to program materials.
- Respond to at least 85% of ethics inquiries within 5 days of receipt.
- Review and certify financial disclosure reports within 60 days of receipt and notify filers of real or potential conflicts.
- Use technology to improve financial disclosure reporting and review process.

Initiative 2: Respond to internal audits in a timely manner.

Performance Measure:

- Prepare responses to internal audit reports as required by the auditor, meeting the deadlines specified in the reports.

Initiative 3: Respond to external audits in a timely manner.

Performance Measure:

- Prepare responses to external audit reports as required by the auditor, meeting the deadlines specified in the reports.

Initiative 4: Respond to FOIA and other public inquiries in a timely manner.

Performance Measures:

- Respond to at least 60% of initial FOIA requests within 20 working days.
- Seek a statutory extension for less than 15% of requests.
- Respond to at least 95% of statutory appeals within 20 working days.
- Seek a statutory extension for less than 20% of appeals.



National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

www.nlrb.gov