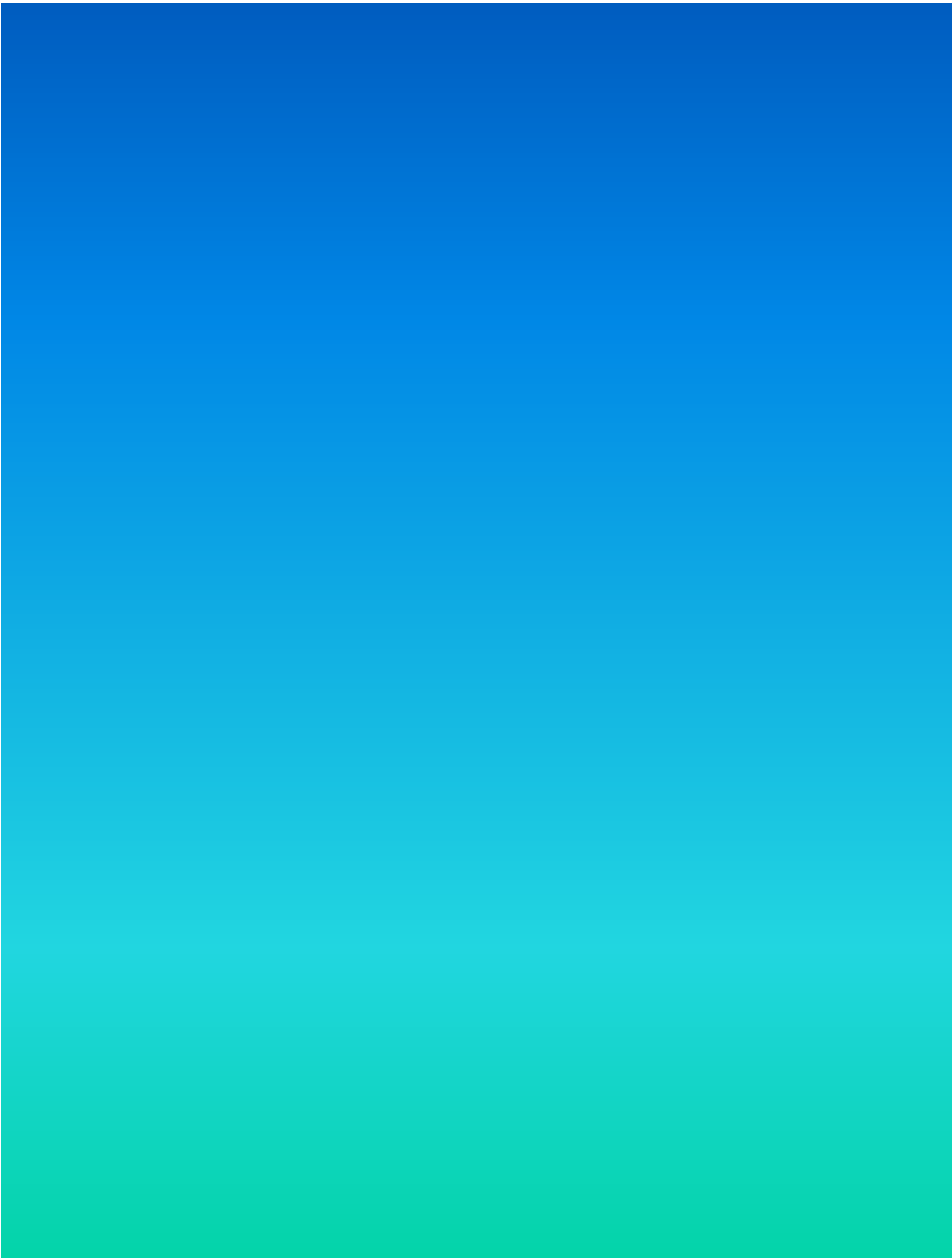


THE NATIONAL LABOR RELATIONS BOARD



PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR 2007



Message from the Chairman



Robert J. Battista
Chairman

As Chairman of the National Labor Relations Board (NLRB), it is my pleasure to present the NLRB's Performance and Accountability Report for Fiscal Year (FY) 2007. Contained in this document are the NLRB's audited financial statements and Agency performance information related to the goals in the NLRB's Strategic Plan.

In 2007, we updated and revised our six-year Strategic Plan to meet the requirements of the Government Performance and Results Act of 1993. In doing so, we undertook a detailed review of our performance measures with the intention of strengthening them and making them more meaningful to the public. The results of these efforts was the creation of three new overarching measures which support two strategic goals, and annual targets that support the short- and long-term goals. We believe the new measures are more outcome-based, better aligned with the NLRB's mission, and more meaningful and understandable to the public we serve.

In FY 2007, the Board adopted a new case processing initiative that focused on resolving the oldest and most difficult pending cases. We were successful. Indeed, during this period we issued 48 of our oldest 50 cases.

Another way to look at the success of our case production efforts is that at the end of FY 2006, the median number of days that an unfair labor practice case was with the Board was 809 days. Now, after our GPRA effort in FY 2007, the median number of days an unfair labor practice case in our current inventory has been with the Board is 181 days. The same is true of representation cases. At the end of FY 2006, the median number of days a representation case was at the Board was 409 days. The median number of days in our current case inventory is 88.

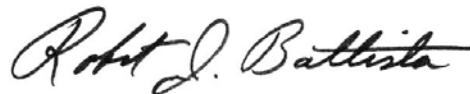
In FY 2007, the Board reduced the inventory of pending cases for the fifth year in a row (from 305 at the beginning of the fiscal year to 207 at the end). I am heartened that pending cases are at the lowest level in at least 30 years.

While overall production declined, the Board issued 391 decisions during FY 2007, including eight major opinions. Of this total, 287 were unfair labor practice cases (C cases) and 104 were representation cases (R cases). In the previous fiscal year, the Board issued 477 decisions (324 C cases, 153 R cases).

During the period covered by this report, the NLRB pursued a number of information technology initiatives from two general perspectives. First is increasing the ability of the public to transact business online with the Agency. Toward that end we have expanded an e-filing program that allows parties to file all documents with the Board using our Web site. The second is using technology to improve internal NLRB case management systems. The Board has built a computerized case management system in which we handle all internal case processing, including the storage, circulation, and approval of documents. Our latest initiative, begun in FY 2007, is developing an enterprise-wide case management system that manages cases from the charge or petition to the end of the process at the Board-level (see page 33 for a discussion of the Next Generation Case Management System). Outcomes from this project will include creating an electronic case file enabling the public to access more case documents from the NLRB Web site; making it possible for the public to determine case status by going online; and giving NLRB employees the ability to work remotely from any Internet access point independent of geography.

As the Chairman of the NLRB, I certify that the NLRB's management controls and financial systems meet and conform with the requirements of the Federal Managers' Financial Integrity Act and that those financial management systems are also in compliance with the Federal Financial Management Improvement Act of 1996. (A more detailed discussion of the Agency's internal controls and financial system can be found starting on page 24 of this report.) I have also made every effort to verify the accuracy and completeness of the financial and performance data presented in this report.

I have served as Chairman of the NLRB since 2002. My first term expires on December 16, 2007. During my tenure, I have worked with a talented group of employees who are dedicated to ensuring that the National Labor Relations Act is enforced in a fair and impartial manner. My first term at the NLRB has been a rewarding experience for me both personally and professionally. I am proud to have the opportunity to lead this great organization.



Robert J. Battista
Chairman

BOARD MEMBERS



Front Row (left to right): Board Member Wilma B. Liebman, Chairman Robert J. Battista, Board Member Peter C. Schaumber

Back Row (left to right): Board Member Peter C. Kirsanow and Board Member Dennis P. Walsh

Message From The General Counsel



Ronald Meisburg
General Counsel

The General Counsel of the National Labor Relations Board (NLRB) is responsible for the investigation and prosecution of the unfair labor practice cases filed in the NLRB's Regional, Subregional, and Resident Offices. As the General Counsel of the NLRB, I exercise general supervisory authority over this network of field offices. This network consists of 32 Regional Offices, 3 Subregional Offices, and 16 Resident Offices, and is staffed by approximately 1,200 employees.

While the NLRB can only act upon those cases brought before it, in an effort to inform working men and women of all of their rights under the National Labor Relations Act (NLRA), as the General Counsel of the NLRB, I have initiated an expansion of the Agency's outreach program. For over 70 years the NLRB has been actively involved in the protection of employee rights to self-organization, the conduct of secret ballot representation elections, and the enforcement of employer and union obligations to engage in good-faith bargaining. However, under the NLRA, workers are also afforded workplace protections for engaging in other lesser-known protected concerted activities, and it is these protections of which workers need to be informed.

Under the expanded outreach program, NLRB agents, independently or also in partnership with others such as the Equal Employment Opportunity Commission, are initiating contact with schools, community groups, churches, business organizations, and others to provide information about the NLRB, and the rights and obligations under the NLRA applicable not only to employers and unions, but also to individual workers. Many of our Regional Offices issue periodic newsletters to the public to apprise them of significant decisions and initiatives. In addition, the Web site has been updated to improve access and usability for the public we serve. In particular, a new feature has been added to the NLRB's Web site advertising a speaker's bureau to permit individuals and groups to request that an NLRB representative address gatherings to present information about the Agency. Our employees respond to these requests and speakers are assigned, as appropriate.

Outreach is an important aspect of the public positioning of this Agency as a vigorous vindicator of the rights created under the NLRA. If the public does not know who we are and what we do, this Agency's ability to enforce the Act is curtailed.

As noted by Chairman Battista, in FY 2007, as part of the updating of the Agency's Strategic Plan, a review of the Agency's performance measures resulted in the implementation of three overarching measures that are more outcome-based, better aligned with the mission of the NLRB, and more meaningful to the public we serve. The change moves the Agency's performance measurement approach from one of emphasis on individual segments of the casehandling process to one that focuses on the time taken to process an entire case, from start to finish. However, the NLRB has a long history of performance measurement with stringent time targets for each casehandling stage and these measures will continue to be used as internal guides in assessing the performance that is ultimately measured by the overarching performance measures.

The General Counsel of the NLRB, on delegation from the Board, exercises general supervision over the administrative functions of the Agency, including financial management. I am pleased that this year's financial audit resulted in an unqualified opinion from our auditors, thereby vindicating the trust the public places in us as a guardian of its resources.

As the General Counsel of the NLRB, I am committed to informing the public of its workplace rights and protections under the National Labor Relations Act and ensuring its enforcement in a fair and impartial manner. This commitment is evidenced by the proper stewardship of resources, assuring that Agency employees have the appropriate tools to enforce the Act, and the accountability mechanisms we maintain for the casehandling process.



Ronald Meisburg
General Counsel

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MANAGEMENT DISCUSSION AND ANALYSIS



MANAGEMENT DISCUSSION AND ANALYSIS

OVERVIEW OF THE NLRB

ABOUT THE NLRB

The National Labor Relations Board (NLRB) is an independent Federal agency created by Congress in 1935 to administer and enforce the National Labor Relations Act (NLRA or Act), which is the primary Federal statute governing labor relations in the private sector ^{1/}. The purpose of the law is to serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees.

The Act embodies a bill of rights, which establishes freedom of association for purposes of collective bargaining. It defines and protects the rights of employees, unions, and employers, and seeks to eliminate certain unfair labor practices on the part of employers and unions so as to promote commerce and strengthen the Nation's economy. Under the Act, the NLRB has two primary functions:

1. to conduct secret-ballot elections among employees to determine whether or not the employees wish to be represented by a union; and
2. to prevent and remedy statutorily defined unfair labor practices by employers and unions.

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

MISSION

The mission of the National Labor Relations Board is to carry out the statutory responsibilities of the National Labor Relations Act, as efficiently as possible, in a manner that gives full effect to the rights afforded to all parties under the Act.

VISION

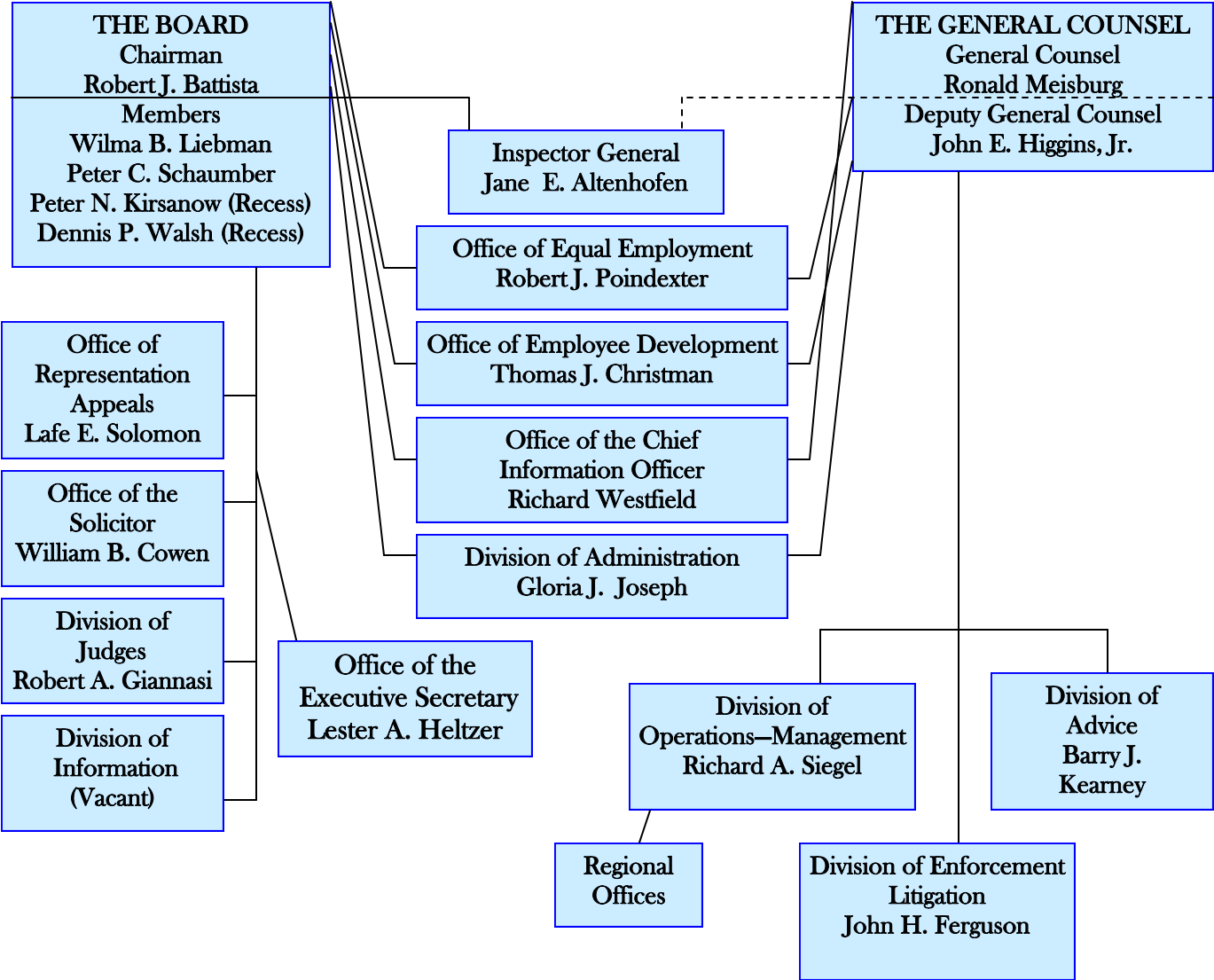
The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees free choice on union representation and by preventing and remedying statutorily defined unfair labor practices. The NLRB maintains a customer-focused and a results-oriented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

^{1/} Major amendments to the Act were enacted in 1947 (the Taft-Hartley Amendments) and in 1959 (the Landrum-Griffin Amendments).

**STATUTORY
STRUCTURE OF
THE NLRB**

The Board has five Members and primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings. Board Members are appointed by the President to 5-year terms, with Senate consent, the terms of one Member expiring each year. The current members are Robert J. Battista (Chairman), Wilma B. Liebman, Peter C. Schaumber, Peter N. Kirsanow, and Dennis P. Walsh.

**NATIONAL LABOR RELATIONS BOARD
ORGANIZATIONAL CHART**



*Statutory Role
(cont'd.)*

The General Counsel is appointed by the President to a 4-year term, with Senate consent, and is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB Regional Offices. The current General Counsel is Ronald Meisburg. Each Regional Office is headed by a Regional Director, appointed by the Board, who is responsible for making initial determination in cases within the geographical area served by the region.

The NLRB has an unusual structure among executive branch agencies. Agency leadership culminates in 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 five-member Board, and the General Counsel. In performing delegated functions, and in some aspects statutorily assigned functions, the General Counsel acts on behalf of the Board. However, with respect to the investigation and prosecution of unfair labor practice cases, the General Counsel has sole prosecutorial authority under the statute, independent of the Chairman or the Board.

UNFAIR LABOR PRACTICE PROCEEDINGS ^{2/}

The NLRA contains a code of conduct for employers and unions and regulates that conduct in unfair labor practice proceedings.



On March 27, 2007, the Board heard an oral argument in the case *The Guardian Publishing Company d/b/a The Register Guardian*. The case raised the issue of whether an employer can ban the non-business related use of its e-mail system. In this case, the President of the local union, representing company employees, sent union-related e-mails to employees over the company's e-mail system for which he was disciplined. The discipline led to unfair labor practice charges which were found to be meritorious by the Regional Director and litigated before an NLRB Administrative Law Judge and then appealed to the five-member Board.

^{2/} Appendix C is a chart of an unfair labor practice case processing

*Statutory Role
(cont'd.)*

Unfair labor practices are remedied through adjudicatory procedures under the NLRA in which the Board and the General Counsel have independent functions.

Congress created the position of General Counsel in its current form in the Taft-Hartley amendments of 1947. At that time, it gave the General Counsel sole responsibility—*independent of the Board*—to investigate charges of unfair labor practices, and to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding unfair labor practice (ULP) cases.

The General Counsel investigates ULP charges through the Agency's network of Regional, Subregional, and Resident Offices (field offices). Approximately 23,000 ULP charges are filed each year in the 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 (ALJ), who issues a decision which 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.

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 (other than the General Counsel) may seek review of the Board's decision in the U.S. Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board itself 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



At the *Guardian Publishing Company* oral argument, the attorney for the General Counsel argued that the company's communications policy violated the NLRA because it banned employees' e-mail communications about union affairs without offering any justification for such a rule.

*Statutory Role
(cont'd.)*

seeks injunctive relief under Section 10(e) and (f) 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 unfair labor practices 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 unfair labor practice alleged, 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 his Regional staff, files the case with an appropriate Federal district court.

In addition, Section 10(l) of the Act requires the Board to seek a temporary Federal court injunction against certain forms of union misconduct, principally involving work stoppages or picketing with an unlawful secondary objective.

REPRESENTATION PROCEEDINGS ^{3/}

In contrast to ULP proceedings, representation proceedings conducted pursuant to the Act are not adversarial proceedings. Representation cases are initiated by the filing of a petition—by an employee, a group of employees, an individual or a labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents 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 in such cases is to investigate the petition and, if necessary, to conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the Act. The NLRB must also determine which employees are properly included in the bargaining unit and therefore eligible to vote, conduct the election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election, and, if the election is determined to have been fairly conducted, to certify its results.

In the processing of representation cases, the General Counsel and the Board have shared responsibilities. The Regional Offices, which are under the day-to-day supervision of the General Counsel, process representation petitions and conduct

^{3/} Appendix D is a chart on representation case processing.

*Statutory Role
(cont'd.)*

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 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

In order 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. Staff must be prepared to work with employees whose rights have been violated to calculate backpay, work with respondents when terminated employees are entitled to reinstatement or having their records expunged in unlawful disciplinary actions, or monitor the bargaining process when the Board has ordered the parties to bargain. Noncompliance or disputes on findings may require additional hearings or actions by the judicial system.

APRIL 12, 1937

What is the significance of this date?

It was on this date that the Supreme Court upheld the constitutionality of the National Labor Relations Act (NLRA). Like many Federal agencies that were part of President Franklin Roosevelt's New Deal, the NLRB had found its very existence in doubt and its employees on April 11, 1937 feared that their jobs would disappear forever. Since the beginning of the President's New Deal, the Supreme Court had put many Federal agencies out of business, finding that Congress did not enjoy power under the Constitution's Commerce Clause to regulate commercial activities like labor disputes and wages unless they directly affected interstate commerce. On April 12, 1937, the Supreme Court ruled that the NLRA was a valid exercise of Congressional power.

Of the cases involving the NLRA that were before the Supreme Court in 1937, the two most noted cases were *Jones & Laughlin Steel* and *Friedman-Harry Marks*. However, *Friedman-Harry Marks* was the only case that did not involve a large, multi-state corporation. *Friedman-Harry Marks* concerned the manufacturing operation of an employer with a single facility located in Richmond, VA. It was exactly the kind of employer about which the Supreme Court had been previously skeptical regarding its effect on interstate commerce. At the time the NLRA was passed, Supreme Court precedent generally held that manufacturing a product in a single location did not affect interstate commerce, and that producing a product that might be sent to another state was merely a *step* in preparation for interstate commerce. The NLRB's first General Counsel, Charles Fahy, fought to include *Friedman-Harry Marks* among the Board's test cases to ensure that the Supreme Court approved "the full spectrum of the Act's potential reach and administration."

On April 12, 1937, by a vote of 5 to 4 the Supreme Court reversed the judgments of the courts of appeals in both *Jones & Laughlin Steel* and *Friedman-Harry Marks* to find the NLRA constitutional. As the Court wrote in its decision in *NLRB v. Jones & Laughlin Steel*: "[T]he stoppage of [manufacturing operations] by industrial strife would have a most serious effect upon interstate commerce. In view of [the company's] far flung activities, it is idle to say that the effect would be indirect or remote. It is obvious that it would be immediate and might be catastrophic. We are asked to shut our eyes to the plainest facts of our national life and to deal with the question of direct and indirect effects [on commerce] in an intellectual vacuum." Further in its decision, the Court recognized the ability of workers to organize and to select representatives of their own choosing as a "fundamental right."

April 12, 1937 is the day that is forever known in NLRB history as "Constitutionality Day," the day the Board commemorates its beginnings, its mission, and its national impact.

*Statutory Role
(cont'd.)*

ADMINISTRATIVE FUNCTIONS

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency, with the exception of the administrative law judges, who are under the general supervision of the Board, 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 functions of the Agency and over the officers and employees in the Regional Offices.

EFFECT OF DIVISION OF AUTHORITY ON AGENCY PERFORMANCE

The General Counsel and the Board share a common goal of ensuring that the Act is fully and fairly enforced on behalf of all those who are afforded rights under the Act, but the division of authority mandated by the Act necessarily means that the two branches of the Agency will have separate objectives and strategies relating to those aspects of their statutory functions which are uniquely their own. The statutory framework in the processing of ULP cases separates the prosecutorial functions of the General Counsel from the adjudicatory functions of the Board. However, the Board and the General Counsel work together in developing one comprehensive Strategic Plan and annual Performance Plan.

***STRATEGIC
GOALS***

The goals of the NLRB as outlined in the Agency's Strategic Plan represent the core functions of the Agency in enforcing the NLRA. These strategic goals translate the Agency's mission into major policy directions and are focused on the unique characteristics of the organization.

Strategic Goal #1

Resolve all questions concerning representation impartially and promptly.

- ***Performance Measure #1***

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

Strategic Goal #2

Investigate, prosecute, and remedy cases of unfair labor practice by employers or unions, or both, impartially and promptly.

- ***Performance Measure #2***

The percentage of ULP charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge.

- ***Performance Measure #3***

The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge.

FISCAL YEAR 2007 HIGHLIGHTS

PERFORMANCE HIGHLIGHTS

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

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

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

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

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

*Performance
Highlights
(cont'd.)*

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

FACTORS THAT AFFECT AGENCY PERFORMANCE

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

BUDGET

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

CASE INTAKE

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

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

SETTLEMENTS

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

*Performance
Highlights
(cont'd.)*

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

PRESIDENTIAL APPOINTEES

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

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

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

TERMS OF BOARD MEMBERS AND GENERAL COUNSEL

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

*Performance
Highlights
(cont'd.)*

RELIABILITY OF PERFORMANCE DATA

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

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

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

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

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

PROGRAM EVALUATION

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

*Performance
Highlights
(cont'd.)*

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

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

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

FINANCIAL HIGHLIGHTS

ANALYSIS OF FINANCIAL STATEMENTS

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

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

*Financial
Highlights
(cont'd.)*

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

LIMITATIONS ON PRINCIPAL FINANCIAL STATEMENTS

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

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

FINANCIAL PLANNING COMMITTEE (FPC)

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

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

FPC HIGHLIGHTS

In FY 2007, the NLRB began the process of converting to an eTravel solution, E³Solutions. Currently, the system is being rolled-out to Agency headquarters and field offices. This system will replace Travel Manager which is presently being used by headquarters and select field offices. Through this eTravel solution, employees are able to make travel reservations online and prepare the travel order and the travel voucher which will be transmitted electronically to the Finance Branch for payment. The goal of eTravel is to eliminate paper copies of travel documents.

*Financial
Highlights
(cont'd.)*

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

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

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

IMPROPER PAYMENTS INFORMATION ACT (IPIA)

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

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

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

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

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

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

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

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

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

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

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

THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1996 (FFMIA)

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



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Washington, DC

November 7, 2007

STATEMENT OF ASSURANCE

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

Handwritten signature of Robert J. Battista in cursive.

Robert J. Battista
Chairman

Handwritten signature of Ronald Meisburg in cursive.

Ronald Meisburg
General Counsel

STRATEGIC INITIATIVES

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

FIRST CONTRACT BARGAINING

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

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

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

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

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

REMEDIES INITIATIVE

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

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

OUTREACH PROGRAM

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

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

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

*Strategic
Initiatives
(cont'd.)*

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

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

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

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

WHAT ARE PROTECTED CONCERTED ACTIVITIES?

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

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

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

*Strategic
Initiatives
(cont'd.)*

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

ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM (ADR)

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

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

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

NLRB OUTREACH

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



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

***PRESIDENTIAL
MANAGEMENT
INITIATIVES***

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

WORKFORCE PLANNING

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

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

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

COMPETITIVE SOURCING

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

BUDGET & PERFORMANCE

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

*Presidential
Initiatives
(cont'd.)*

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

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

IMPROVED FINANCIAL PERFORMANCE

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

Momentum will be fully integrated with the Agency's new E-travel compliant travel manager system, E²Solutions, which was implemented in August 2007. Additionally, as mentioned previously, to increase efficiencies the Agency is outsourcing the invoice payment function, beginning in September 2007. The improved integration of these systems and functions will enhance financial reporting capabilities, facilitate more efficient and effective program and administrative performance, and enable continued compliance with the Chief Financial Officers Act of 1990.

TECHNOLOGY AND E-GOV ADVANCES

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

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

These initiatives were designed to:

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

*Presidential
Initiatives
(cont'd.)*

- Standardize the Agency’s electronic case management systems on enterprise applications.
- Optimize internal NLRB case processing by providing NLRB employees with uncomplicated access to the tools, data, and documents they require.
- Provide Agencywide electronic case records and document management to improve:
 - Case Flow
 - Capability to provide electronic court filings
 - Access to Documents
- Reduce the paperwork burden on individuals, governments, businesses, labor unions, universities, and other organizations.

NEXT GENERATION CASE MANAGEMENT (NGCM)

The Next Generation Case Management (NGCM) project started in August 2006 with the goal of building an enterprise-wide, common case management platform using Siebel Public Sector Case Management software and Documentum as the Agency Enterprise Content Management solution. The NGCM project will enable the NLRB to replace or optimize manual, paper-based processes and “stovepipe” legacy systems with a standards-based solution leveraging commercial off-the-shelf tools and a service-oriented architecture approach.

To build a solid foundation for NGCM, the NLRB has analyzed the mission of the Agency and, based on the analysis, revised mission-related and administrative processes as appropriate to utilize the new technologies. Likewise, the new technologies were carefully selected to ensure that they align with NLRB’s current and anticipated business needs and government regulations. The NLRB is building an enterprise-level, Agencywide solution to satisfy the needs of all its offices.

IMPROVED WEB SITE WITH CITIZEN-CENTERED PORTAL

The NLRB places a high priority on offering publicly-available case information to case participants, citizens, and employees based on their specific needs, rather than using a “one-size-fits-all” model for information distribution.

The NLRB portal-based public interface is a major new component of our long-term unified case management vision: to provide better services, more efficient casehandling, greater transparency, and continue to improve quality. The portal provides a gateway for the public, including participants in NLRB cases, Agency offices, and existing systems to communicate with one another in the course of transacting business, as well as offering documents online to the general public that can be requested under the Freedom of Information Act .

The portal solution provides NLRB stakeholders a single point of entry for all content and processes that can be accessed from the public facing Web site.

*Presidential
Initiatives
(cont'd.)*

This portal solution provides a solid foundation for a long term technology strategy.

As with improvements to the Web site and the addition of the portal, the Board's E-Filing project increases the capability of the public to transact business with the Agency online. In June 2003, the Board developed an E-Filing project, which enabled the public to file documents online. In January 2005, this program was expanded to include all documents in all cases before the Board. Recently, the Agency has expanded the E-Filing program to the General Counsel, the Division of Judges, and the Office of Appeals. This new capability has been integrated and released simultaneously with the new Web site and portal.

The NLRB's Web site was recognized in March 2007 as one of the five best of 158 Federal Government Web sites as evaluated by the National Security Archive, a non-governmental research institute and library at George Washington University.

INFRASTRUCTURE MODERNIZATION AND CONSOLIDATION

The NLRB has developed a unified network architecture, based on standard Internet technologies and which is hosted externally. By modernizing and consolidating the infrastructure in such a manner, the NLRB is able to maintain survivability by providing redundancy, disaster recovery, consolidated storage, and robust interconnection with offices of the NLRB and the public. In addition, the Agency is able to take advantage of advances in technology of local and wide area networks, high-availability computing, information lifecycle management, enterprise software, and communications systems; thereby maintaining the highest level of computer data processing service to the NLRB staff and the public.

The Infrastructure Modernization and Consolidation program:

- Is foundational to the aforementioned projects and all information technology investments planned by the Agency;
- Is a core component of the Agency's designed viable and executable contingency plan for the continuity of operations ;
- Provides a viable and consistently-available option for employees in telecommuting-eligible positions who desire workplace flexibility;
- Improves the Agency's capability to integrate information technology security into our enterprise architecture processes; and
- Enables the Office of the Chief Information Officer to benchmark the Agency's information technology organization against other possible service providers.

PROGRAM PERFORMANCE



PERFORMANCE INFORMATION

PERFORMANCE GOALS AND OBJECTIVES

The two goals of the NLRB's Strategic Plan represent the core functions of the Agency in enforcing the NLRA. They thus reflect both the short- and long-term goals of the Agency. These strategic goals, as fully described in this section of the Performance and Accountability Report (PAR), translate the Agency's mission into major policy directions and are focused on the unique characteristics of the organization.

GOAL NO. 1 **Resolve all questions concerning representation impartially and promptly.**

Objectives:

The Act recognizes and expressly protects the right of employees to freely and democratically determine, through a secret-ballot election, whether they want to be represented for purposes of collective bargaining by a labor organization. In enforcing the Act, the Agency does not have a stake in the results of that election. It merely seeks to ensure that the process used to resolve such questions allows employees to express their choice in an open, uncoerced atmosphere. The NLRB strives to give sound and well-supported guidance to all parties and to the public at large with respect to representation issues. Predictable, consistent procedures have been established to better serve our customers and avoid unnecessary delays. The Agency will process representation cases promptly in order to avoid unnecessary disruptions to commerce and minimize the potential for unlawful or objectionable conduct.

The objectives are to:

- A. Encourage voluntary election agreements by conducting an effective stipulation program.
- B. Conduct elections promptly.
- C. Issue all representation decisions in a timely manner.
- D. Afford due process under the law to all parties involved in questions concerning union representation.

Strategies:

1. Give priority in timing and resource allocation to the processing of representation cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public. A core objective of the Act is to conduct secret ballot elections among employees to determine whether the employees wish to be represented by a union.

*Goals
(cont'd.)*

2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
4. Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.
5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases.
6. Assure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeals and Hearing Officer Reports, and, where appropriate, the records in the cases.
7. Analyze and prioritize the critical skills needs and address these skills needs using a cost-effective instructional delivery system that ensures timely access to the needed training in a work environment that encourages employees to effectively utilize their diverse talents in achieving Agency goals.
8. Provide an information technology environment that is mainstream with other Federal agencies and the public, and will provide NLRB employees with technology tools and access to research and professional information comparable to that of their private sector counterparts.

GOAL NO. 2**Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions, or both, impartially and promptly.**

Certain conduct by employers and labor organizations leading to workplace conflict has been determined by Congress to burden interstate commerce and has been declared an unfair labor practice (ULP) under Section 8 of the NLRA. This goal communicates the Agency's resolve to investigate charges of ULP conduct fairly and expeditiously. Where violations are found, the Agency will provide such remedial relief as would effectuate the policies of the Act, including, but not limited to, ordering reinstatement of employees; ensuring that employees are made whole, with interest; directing bargaining in good faith; and ordering a respondent to cease and desist from unlawful conduct. The Agency will give special priority to resolving disputes with the greatest impact on the public and the core objectives of the Act. These objectives are to:

Objectives:

- A. Conduct thorough ULP investigations and issue all ULP decisions in a timely manner.
- B. Give special priority to disputes with the greatest impact on the public and the core objectives of the Act. One of these core objectives is to prevent and remedy statutorily defined unfair labor practices by employers and unions.

*Goals
(cont'd.)*

- C. Conduct effective settlement programs.
- D. Provide prompt and appropriate remedial relief when violations are found. Afford due process under the law to all parties involved in ULP disputes.

Strategies:

1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in unfair labor practice matters and the rights and obligations of employers, employees, unions, and the Board under the Act.
2. Evaluate the quality of ULP casework regularly to provide the best possible service to the public.
3. Utilize impact analysis to provide an analytical framework for classifying ULP cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.
4. Share best practices in the processing of ULP cases to assist regions in resolving ULP issues promptly and fairly.
5. Emphasize the early identification of remedial and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.
6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.
7. Emphasize and encourage settlements as a means of promptly resolving ULP disputes at all stages of the casehandling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in ULP cases.
9. Analyze and prioritize the critical skills needs and address these skills needs using a cost effective instructional delivery system that ensures timely access to the needed training in a work environment which encourages employees to effectively utilize their diverse talents in achieving Agency goals.
10. Provide an information technology environment that is mainstream with other Federal agencies and the public, and will provide management with the information it needs to manage the Agency and provide NLRB employees with technology tools and access to research and professional information comparable to that of their private sector counterparts.

PERFORMANCE MEASURES

FY 2007 RESULTS

GOAL NO. 1, TABLE 1

Percentage of Representation Cases Resolved Within 100 Days

YEAR	TARGET
FY 2007	79% <i>(ACTUAL)</i> 79%
FY 2008	80%
FY 2009	81%
FY 2010	82%
FY 2011	83.5%
FY 2012	85%

Counting of Days:

The Agency starts counting the 100 days on the date that the petition is formally docketed.

In FY 2007, the NLRB updated its Strategic Plan. This updated plan covers the five-year period 2007- 2012. In updating its plan, the Agency developed three new overarching performance measures to replace the previous measures that had been in place. The new measures emphasize the time taken to resolve cases, from beginning to end, including both the Board and General Counsel sides of the Agency. This moves the NLRB's performance measurement approach from emphasis on individual segments of case processing, as in previous years, to one that focuses on time taken to process an entire case. While the previous measures were effective in facilitating timely, efficient, and well-managed casehandling, and will continue to be used as internal guides to assessing performance, the new measures emphasize outcomes, and serve to answer the question most important to the public: What is the Agency's overall success in bringing effective resolution to labor disputes in a timely manner?

FY 2007 is the first year of the NLRB reporting the results associated with the three overarching performance measures put in place this fiscal year. Because there is no previous years' data available to compare with the FY 2007 results, the tables in this section of the PAR will show the proposed annual targets for the three measures for the five-year period covered by the current Strategic Plan (2007-2012), with the actual targets achieved in FY 2007. Listed below are the NLRB's two strategic goals along with the new performance measures associated with each goal.

GOAL NO. 1: Resolve all questions concerning representation impartially and promptly.

MEASURE NO 1: The percentage of representation cases resolved within 100 days of filing of the election petition. (Table 1)

An employer, labor organization, 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 wish 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 the conduct of an election. However, if a voluntary agreement is not reached the parties do have other rights of appeal and administrative action within the Agency. This measure reflects the percentage of representation cases where there are no further rights of appeal or administrative action required. The question of whether the labor organization will represent the employees has finally been resolved.

Performance Measures (cont'd.)

GOAL NO. 2, TABLE 2

Percentage of ULP Charges Resolved Within 120 Days

YEAR	TARGET
FY 2007	67.5%
	(ACTUAL) 66%
FY 2008	68%
FY 2009	68.5%
FY 2010	69.5%
FY 2011	70%
FY 2012	71%

Counting of Days:

The 120 days is calculated from the date the charge is docketed.

Representation cases are resolved 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 not meeting the Agency’s jurisdictional standards, the petitioner’s failure to provide an adequate showing of interest to support the petition, and/or the petition being filed in an untimely manner.
- Cases may also be withdrawn by the petitioner for a variety of reasons including the lack of support among the bargaining unit and/or failure to provide an adequate showing of interest.
- The majority of cases are resolved upon 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. These cases are not considered resolved until the challenges and/or objections have been investigated either administratively or by a hearing and a report that has been adopted by the Board.

The overarching measures were introduced in June 2007. Thus, they have been in effect for only the fourth quarter. In FY 2007, overall the Agency was able to close 79 percent of its representation cases within 100 days of the filing of the representation case. Reviewing just the last quarter’s performance was even more impressive: 82.3 percent of all representation cases were closed within 100 days. Both numbers meet the FY 2007 interim goal of 79 percent and the fourth quarter number begins to approach our five-year goal of 85 percent. However, the first realistic test of the Agency’s performance under these newly established measures will be FY 2008, when the Agency will have been under the overarching measure for the entire year.

GOAL NO. 2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions or both, impartially and promptly.

MEASURE NO. 2: The percentage of unfair labor practices (ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge. (Table 2)

*Performance
Measures
(cont'd.)*

GOAL NO. 2, TABLE 3

**Percentage of ULP Cases Closed on
Compliance Within 365 Days**

YEAR	TARGET
FY 2007	74%
	(ACTUAL) 73.5%
FY 2008	75%
FY 2009	75.5%
FY 2010	76%
FY 2011	76.5%
FY 2012	77%

Counting of Days:

The 365 days is calculated from the date the charge is docketed.

A ULP case is resolved when it has been finally processed. The issues raised by the charging party's charge have been answered and where appropriate, remedied. There is no further action to be taken by the Agency.

In FY 2007, the NLRB closed 66 percent of all unfair labor practice cases within 120 days of the docketing of the charge. In the last quarter (the first quarter the Agency was working to achieve these overarching measures), the Agency closed 67.4 percent of its unfair labor practice cases within 120 days, coming within one-tenth of one percent of the interim goal. Performance for the fourth quarter effectively achieves the FY 2007 interim goal of 67.5 percent. As evidenced by its fourth quarter performance, we are confident that the Agency will meet this goal in FY 2008, the first full year that the Agency will have been working under this measure.

MEASURE NO. 3: The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge. (Table 3)

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 which are appealed to the circuit courts of appeals.

In FY 2007, the Agency closed 73.5 percent of all prosecutable unfair labor practice cases in 365 days from the docketing of the charge. In the last quarter (again, the first quarter that Agency was working to achieve these overarching measures), performance was at 72.5 percent. As this was a year in which the Board was successful in moving a number of its oldest cases, it is not surprising that the percentage was affected. Nevertheless, we came very close to meeting the FY 2007 interim goal of 74 percent. As noted with regard to the other overarching measures, the fact that they were not announced until June 2007 makes this year a unique one in terms of assessing the Agency's performance. Nevertheless, we are working toward meeting the interim goal in FY 2008.

FINANCIAL SECTION



LETTER FROM THE DIRECTOR OF ADMINISTRATION

As the Director of Administration at the National Labor Relations Board (NLRB), I am responsible for the overall administrative management of the NLRB, including financial management.

For Fiscal Year (FY) 2007, I am pleased that the NLRB has received a unqualified opinion from the auditors on its financial statements. As a law enforcement agency charged with the protection of democracy in the workplace, it is important that the public knows that the resources it has entrusted to us to carry out the mission of the Agency are being used effectively. The Financial Section of the PAR contains the Fiscal Year 2007 Financial Statements for the NLRB which present a fair and accurate financial picture of the Agency.

In FY 2007, the NLRB updated its Strategic Plan and replaced the performance measures it previously had been using with three new overarching measures that focus more on outcomes and better defines for the public our success in accomplishing our strategic goals. The implementation of these new more robust measures in FY 2007 assisted the Agency in obtaining certification from OPM for the NLRB's pay-for-performance system covering its senior executives.

In FY 2007, the NLRB again was able to successfully manage Agency programs, while operating in a constrained budget environment. In so doing, management was very proactive in maximizing and enhancing efficiencies throughout the year, so as to make the best use of the funding provided. Agency managers were called upon to be particularly flexible and adept during the year, when presented with an accounting accrual problem noted by outside auditors in mid-year. Once the problem was resolved with our accounting system shared service provider, however, managers quickly identified, prioritized, and addressed additional funding needs.

As a result of these efforts, the NLRB was able to effectively manage its caseload, while continuing to maintain a reduced backlog; cover training and contractual benefits costs; fill critical vacancies; cover required space and security costs; and pay for essential information technology requirements, including software for the new automated case management system, and hardware needed to support the Agency telework program.

Agency managers, supervisors, and staff are to be commended for their efforts to maintain the high quality service to the public for which we are known, while also dealing with the many challenges presented throughout the year, effectively, efficiently, and professionally.

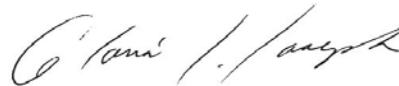
In connection with the FY 2006 audit, the NLRB's Inspector General issued a management letter which contained five findings, one of which involved recommendations that had not yet been implemented from the 2004 audit, and four new recommendations. One of the new recommendations concerned information technology vulnerabilities. While generally the NLRB's Chief Information Officer agreed with the auditors on most of their findings, he did not agree with the conclusion that the recommendations were not labor or resource intensive to implement. Nevertheless, the Agency continues to work to implement the auditors' findings to mitigate the identified vulnerabilities.

The auditors also recommended that the Agency develop procedures to identify, accumulate, and capitalize costs related to system development efforts, and that the Agency undertake a comprehensive review of its capitalized property as well as develop procedures to ensure periodic reviews. The NLRB's Finance Officer is working with the OCIO to identify the appropriate software to capitalize the costs, and will develop procedures to ensure that capitalized costs are identified upon the issuance of a purchase order. In connection with the recommendation concerning capitalized property, the Agency completed a comprehensive review of its capitalized property in November 2006 and now conducts reviews on a quarterly basis.

Finally, the remaining two recommendations from the FY 2004 audit - implementation of a disaster recovery plan and the migration to the Momentum Financial System from the Agency Regional Office Budgeting System - have now been fully implemented.

As the Director of Administration at the NLRB, I also have oversight of the NLRB's management controls program as prescribed by the Federal Managers Financial Integrity Act (FMFIA). Last year, I noted one issue that was a possible internal control issue for the Agency. It concerned the granting of independent procurement authority to the OCIO, which I believed placed the NLRB at an increased level of risk, especially since the procurement of information technology services and equipment involved expenditures in excess of \$10 million annually. Our experiences over the past year have not alleviated my concerns. The arrangement is contrary to the principles of a sound risk management program and remains an internal control issue that should be addressed by Agency management.

The NLRB is committed to providing high quality financial management services. We continually seek ways to improve the NLRB's internal processes and provide excellent customer service in support of the NLRB's mission.



Gloria Joseph
Director of Administration

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

November 13, 2007

To: Robert J. Battista
Chairman

From: Jane E. Altenhofen
Inspector General

A handwritten signature in cursive script, reading "Jane E. Altenhofen".

Subject: Audit of the National Labor Relations Board Fiscal Year 2007 Financial Statements
(OIG-F-12-08-01)

This memorandum transmits Carmichael, Brasher, Tuvell & Company's (CBTC) audit report on the National Labor Relations Board (NLRB) Fiscal Year (FY) 2007 Financial Statements.

The Accountability of Tax Dollars Act of 2002 requires NLRB to prepare and submit to the Congress and the Director of the Office of Management and Budget (OMB) annual audited financial statements. We contracted with CBTC, 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 07-04, *Audit Requirements for Federal Financial Statements*, issued by OMB.

Results of Independent Audit

CBTC issued an unqualified opinion on the NLRB FY 2007 financial statements. CBTC previously issued an unqualified audit opinion on the FY 2006 information included with the consolidated and combined statements. CBTC is not required to and did not provide an opinion on internal control. In its audit report, CBTC did not identify any significant deficiencies. A significant deficiency is a deficiency in internal control, or a combination of deficiencies, that adversely affects the Agency's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the Agency's financial statements that is more than inconsequential will not be prevented or detected. CBTC also reported that they did not identify noncompliance with laws and regulations tested.

NLRB's Director of Administration agreed with the report findings. The Director of Administration's response, dated November 9, 2007, follows CBTC's report.

Evaluation of CBTC's Audit Performance

In connection with the contract, we reviewed CBTC'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. CBTC is responsible for the attached auditor's report dated November 7, 2007, and the conclusions expressed in the report. However, our review disclosed no instances where CBTC did not comply, in all material respects, with generally accepted government auditing standards.

The Office of Inspector General appreciates the courtesies and cooperation extended to CBTC and our staff during the audit. If you have any questions, please contact me or Emil T. George, Assistant Inspector General for Audits.

Attachment

cc: General Counsel

INDEPENDENT AUDITORS' REPORT

To Jane E. Altenhofen, Inspector General
National Labor Relations Board

The Accountability of Tax Dollars Act of 2002 made the National Labor Relations Board (NLRB) subject to the annual financial statement reporting requirements of the Chief Financial Officers Act of 1990, which requires agencies to report annually to Congress on their financial status and any other information needed to fairly present the agencies' financial position and results of operations.

The objectives of the audit are to express an opinion on the fair presentation of NLRB's principal financial statements, obtain an understanding of the Agency's internal control, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

We have audited the consolidated balance sheet of NLRB as of September 30, 2007 and 2006, and the related consolidated statements of net cost, changes in net position, and the combined statements of budgetary resources for the years then ended. These financial statements are the responsibility of NLRB's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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. 07-04, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

OPINION ON FINANCIAL STATEMENTS

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net position of NLRB, as of September 30, 2007 and 2006; and the net cost, changes in net position and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

REPORT ON INTERNAL CONTROL

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of its internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04. 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. The objective of our audit was not to provide assurance on internal control or on the effectiveness of NLRB's internal control. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. Consequently, we do not provide an opinion on the effectiveness of NLRB's internal control.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control was for the limited purpose described above and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above. However, we identified certain other matters in internal control that came to our attention during our audit which we communicated in writing to management and those charged with governance.

We considered NLRB's internal control over Required Supplementary Information (RSI) by obtaining an understanding of the Agency's internal control, determining whether these internal controls had been placed in operation, assessing control risk, and performing tests of controls as required by OMB Bulletin No. 07-04. The objective of our audit was not to provide assurance on these internal controls. Accordingly, we do not provide an opinion on such controls. With respect to internal control related to performance measures reported in the Management Discussion and Analysis (MD&A) section of the Performance and Accountability Report, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, and determined whether these internal controls had been placed in operation as required by OMB Bulletin No. 07-04. Our procedures were not designed to provide assurance on internal control over reported performance measures and, accordingly, we do not provide an opinion on such controls.

REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

The management of NLRB is responsible for complying with laws and regulations applicable to the Agency. As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, 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. 07-04. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to NLRB. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

The results of our tests of compliance with the laws and regulations discussed in the preceding paragraph disclosed no instances of noncompliance with laws and regulations that are required to be reported under *Government Auditing Standards* or OMB audit guidance.

Providing an opinion on compliance with laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

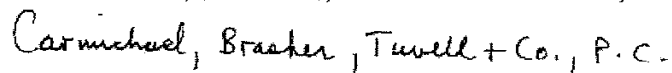
OTHER ACCOMPANYING INFORMATION

Our audit was conducted for the purpose of forming an opinion on the financial statements of NLRB taken as a whole. The accompanying financial information is not a required part of the financial statements.

The other accompanying information included in the MD&A and RSI sections of the Performance and Accountability Report are required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the information. We did not audit the other accompanying information and, accordingly, do not express an opinion or any other form of assurance on it.

This communication is intended solely for the information and use of the management of NLRB, others within the organization, the OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

CARMICHAEL, BRASHER, TUVELL & COMPANY, PC



Atlanta, Georgia
November 7, 2007

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum



TO: Jane E. Altenhofen
Inspector General

FROM: Gloria Joseph *GJ*
Director of Administration

DATE: November 9, 2007

SUBJECT: Response to Draft Audit Report – NLRB Fiscal Year 2007 Financial Statements

We have reviewed the Audit Report submitted by Carmichael Brasher Tuvell & Company (Carmichael) and are pleased that the FY 2007 audit of the NLRB's financial statements has resulted in an unqualified opinion with no recommendations or corrective actions. We agree with the findings of the report and have no comments with respect to the report.

If you have any questions, please do not hesitate to contact me.

cc: Board
General Counsel

AUDITORS' REPORTS AND FINANCIAL STATEMENTS

Principal Statements

National Labor Relations Board

BALANCE SHEET

As of September 30, 2007 and 2006
(in dollars)

	FY 2007	FY 2006
Assets:		
Intragovernmental:		
Fund balance with Treasury (Note 2)	\$ 22,594,083	\$ 24,541,644
Investments, Net (Note 3)	3,196,740	1,668,341
Advances (Note 4)	11,291	64,460
Total intragovernmental	25,802,114	26,274,445
Accounts receivable, Net (Note 5)	37,731	53,840
Advances (Note 4)	20,969	29,419
General property, plant and equipment, net (Notes 6 and 10)	5,993,887	277,468
Total assets	\$ 31,854,701	\$ 26,635,172
Liabilities:		
Intragovernmental:		
Accounts payable (Note 7)	\$ 1,247,449	\$ 375,612
Employer contributions and payroll taxes	1,355,674	1,379,765
FECA liability (Notes 8 and 10)	977,895	920,487
Total Intragovernmental	3,581,018	2,675,864
Accounts payable (Note 7)	4,220,506	3,730,917
Estimated future FECA liability (Notes 8 and 10)	2,506,988	2,135,103
Accrued payroll and benefits	6,009,836	6,172,321
Accrued annual leave (Notes 8 and 10)	13,216,335	13,511,257
Backpay settlement due to others (Notes 8 and 9)	3,680,543	2,532,232
Custodial liability (Notes 8 and 9)	401,903	253,671
Total liabilities	33,617,129	31,011,365
Net position:		
Unexpended appropriations	8,907,172	11,859,347
Cumulative results of operations (Note 10)	(10,669,600)	(16,235,540)
Total net position	\$ (1,762,428)	\$ (4,376,193)
Total liabilities and net position	\$ 31,854,701	\$ 26,635,172

The accompanying notes are an integral part of these statements.

National Labor Relations Board
STATEMENT OF NET COST
For the Years Ended September 30, 2007 and 2006
(in dollars)

	FY 2007	FY 2006
Program Costs:		
Resolve representation cases		
Total Gross Cost (Note 11)	\$ 43,589,206	\$ 43,171,033
Resolve unfair labor practices		
Total Gross Cost (Note 11)	222,055,844	221,885,443
Other		
Gross Costs	58,765	266,891
Less: Earned Revenue	58,765	266,891
Total Gross Cost	-	-
Net Cost of Operations (Note 11)	\$ 265,645,050	\$ 265,056,476

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

National Labor Relations Board
STATEMENT OF CHANGES IN NET POSITION
As of September 30, 2007 and 2006
(in dollars)

	Consolidated Total FY 2007	Consolidated Total FY 2006
Cumulative Results of Operations		
Beginning Balances	\$ (16,235,540)	\$ (15,789,070)
Correction of Errors (Note 13)	1,689,486	—
Beginning balance, as adjusted	(14,546,054)	(15,789,070)
Budgetary Financing Sources:		
Appropriations—used	253,749,692	247,717,037
Other Financing Sources (Non-Exchange):		
Imputed financing costs (Note 14)	15,778,464	16,892,969
Loss on disposal of assets	(6,652)	—
Total Financing Sources	269,521,504	264,610,006
Net Cost of Operations	(265,645,050)	(265,056,476)
Net Change	3,876,454	(446,470)
Cumulative Results of Operations (Note 10)	\$ (10,669,600)	\$ (16,235,540)
Unexpended Appropriations		
Beginning Balance	\$ 11,859,347	\$ 11,120,013
Budgetary Financing Sources:		
Appropriations received	251,507,470	252,268,000
Appropriations-used	(253,749,692)	(247,717,037)
Recissions & cancelled appropriations	(709,952)	(3,811,629)
Total Budgetary Financing Sources	(2,952,174)	739,334
Total Unexpended Appropriations	\$ 8,907,172	\$ 11,859,347
Net position:	\$ (1,762,428)	\$ (4,376,193)

The accompanying notes are an integral part of these statements.

National Labor Relations Board
STATEMENT OF BUDGETARY RESOURCES
For the Years Ended September 30, 2007 and 2006
(in dollars)

	FY2007	FY2006
Budgetary Resources:		
Unobligated balance, brought forward, October 1:	5,028,944	4,903,727
Recoveries of prior year unpaid obligations	1,032,460	1,643,869
Budget authority:		
Appropriations (Note 15)	251,507,470	252,268,000
Spending authority from offsetting collections:		
Earned		
Collected	248,439	372,551
Receivable from Federal sources	-	(37,157)
Subtotal	251,755,909	252,603,394
Permanently not available (Note 15)	(709,952)	(3,811,629)
Total Budgetary Resources (Note 16)	\$ 257,107,361	\$ 255,339,361
Status of Budgetary Resources:		
Obligations incurred:		
Direct	\$ 251,688,356	\$ 250,043,526
Reimbursable	58,765	266,891
Subtotal (Note 16)	251,747,121	250,310,417
Unobligated balance:		
Apportioned (Note 16)	276,311	420,908
Unobligated balance not available	5,083,929	4,608,036
Total Status of Budgetary Resources	\$ 257,107,361	\$ 255,339,361
Change in Obligated Balance:		
Obligated balance, net		
Unpaid obligations, brought forward, October 1	\$ 18,395,138	\$ 18,805,914
Uncollected customer payments from Federal Sources, brought forward, October 1	-	(37,157)
Total unpaid obligated balance, net:	18,395,138	18,768,757
Obligations incurred, net	251,747,121	250,310,417
Gross Outlays	(252,761,661)	(249,077,325)
Recoveries of prior year unpaid obligations, actual	(1,032,460)	(1,643,869)
Change in uncollected customer payments from federal sources	-	37,157
Obligated balance, net end of period:		
Unpaid obligations	16,348,138	18,395,138
Net Outlays:		
Gross outlays	252,761,661	249,077,325
Offsetting collections	(248,439)	(372,551)
Net Outlays	\$ 252,513,222	\$ 248,704,774

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

Notes to Principal Statements

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The 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 (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. It 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 before administrative law judges, 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 books and records of the NLRB in accordance with accounting principles generally accepted in the United States of America (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 29, 2007*. 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. While the statements have been prepared from the books and records of the NLRB in accordance with United States GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. 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 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).

The Statement of Net Cost presents the gross costs of programs less earned revenue to arrive at the net cost of operations for both programs 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, dated July 2007.

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 U.S. Government Standard General Ledger at the transaction level.

The fiscal year (FY) 2009 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2007 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in February 2008 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2006 that have been reported in the FY 2008 Budget of the United States and the actual numbers that appear in the FY 2006 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2007 require the presentation of comparative financial statements for all of the principal financial statements. The NLRB is presenting comparative FY 2007 financial statements for the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources, and these statements have been prepared in accordance with generally accepted accounting principles.

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:

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. The NLRB must also determine which employees are properly included in the bargaining unit, conduct the election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election and, if the election is determined to have been fairly conducted, to certify its results.

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. If the NLRB Regional Office believes that a charge has merit, it issues and prosecutes a complaint against the charged party, unless settlement is reached. A complaint that is not settled or withdrawn is tried before an administrative law judge (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.

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from Treasury to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at year-end are expired. At end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the Treasury.

Budgetary accounting measures appropriation and consumption of budget/spending authority or other budgetary resources 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 of purchase. Assets and liabilities, which do not consume current budgetary resources, are not reported, and only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

Transactions are recorded on an accrual accounting basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

D. Financing Sources

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

For accounting purposes, appropriations are recognized as financing sources (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 U.S. Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by the U.S. Treasury (Treasury). The Agency's records are reconciled with those of Treasury. The fund balances with the Treasury are primarily appropriated funds that are available to pay current liabilities and to finance authorized purchases. Funds with the Treasury represent the NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with the Treasury also include escrow funds that are not appropriated but are Backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

See Note 2 for additional information on Fund Balance With Treasury.

F. Investments, Net

The NLRB invests funds in Federal Government securities for Backpay that are held in the escrow account at Treasury. These funds held in Treasury are not appropriated funds. Backpay is the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

The Federal Government securities include marketable Treasury market-based securities issued by the Federal Investment Branch of the Bureau of the Public Debt. Market-based securities are Treasury securities that are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms.

It is expected that Investments will be held until maturity; therefore they are valued at cost and adjusted for amortization of discounts, if applicable. The discounts are recognized as adjustments to interest income, utilizing the straight-line method of amortization for short-term securities (i.e., bills). Investments, redemptions, and reinvestments are controlled and processed by the Department of the Treasury.

The market value is estimated as the sales price of the security multiplied by the bid price as of September 30, 2007 and September 30, 2006, respectively.

There exists a signed Memorandum of Understanding (MOU) between the NLRB and the Treasury establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

See Note 3 for additional information on Investments, Net.

G. Advances

Advances consist of amounts advanced by the NLRB for the transit subsidy program, United States Postal Service for penalty mail and for commercial payment system for postage.

See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of health benefit premiums due the NLRB from Agency employees. 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.

See Note 5 for additional information on Accounts Receivable.

I. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, computer hardware and software. The Agency has no real property.

General property, plant and equipment with a cost of \$15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. 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 five to twelve years. There are no restrictions on the use or convertibility of general property, plant and equipment.

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 acquisition 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 estimated useful life is two to five years for calculating amortization of software using the straight-line method. Note 6 now includes software that had been previously developed. The totals for FY 2006 have not been changed; instead the corrected amounts are reflected in the FY 2007 amounts.

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 described above. The NLRB is currently undertaking a major software development project called the Next Generation Case Tracking System (NextGen) that will replace a number of case tracking systems with one enterprise-wide system. NextGen will support the President's Management Agenda, such as for e-Gov. e-Filing, e-FOIA, and public web-based access to NLRB data. This is a multiple year undertaking in which various portions of the system will be rolled out as they are developed. The overall cost of this project is expected to exceed \$7 million.

See Note 6 for additional information on General Property, Plant and Equipment, Net.

J. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets. The NLRB holds non-entity assets for Backpay.

See Notes 9 and 17 for additional information on Non-Entity Assets.

K. 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 for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriation will be enacted. Also, liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

L. Liabilities Not Covered by Budgetary Resources

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. 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, 2007 and 2006, respectively.

Federal Employees Workers' Compensation Program.

The 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.

The NLRB uses the methodology of reviewing the ages of the claimant on a case-by-case basis (because of the small number of claimants) to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 80 and 84 years for male and female, respectively.

See Note 8 for additional information on the FECA liability.

Other

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

See Note 10 for additional information on Annual Leave.

M. 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.

See Note 18 for additional information on Contingencies.

N. 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.

O. 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 nonvested leave are expensed as taken.

See Note 10 for additional information on Annual Leave.

P. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program.

Most the NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain “basic life” term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met. The 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 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. For FERS employees, the Agency also contributes the employer’s share of Medicare. The maximum amount of base pay that an employee participating in FERS may contribute is \$15,500 in calendar year (CY) 2007 to this plan. Employees belonging to CSRS may also contribute up to \$15,500 of their salary in CY 2007 and receive no matching contribution from the NLRB. The maximum amount that either FERS or CSRS employees may contribute to the plan is \$15,500 in CY 2007. The maximum for catch-up contributions for 2007 is \$5,000. For 2007, the regular and catch-up contributions may not exceed \$20,500. The sum of the employees’ and the NLRB’s contributions are transferred to the Federal Retirement Thrift Investment Board.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employees 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 Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of 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 and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS No. 5, Accounting for Liabilities of 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.

In FY 2007, the NLRB, utilizing OPM provided cost factors, recognized \$6,741,060 of pension expenses, \$9,009,924 of post-retirement health benefits expenses, and \$27,480 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$15,778,464 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

In FY 2006, the NLRB, utilizing OPM provided cost factors, recognized \$7,347,627 of pension expenses, \$9,516,780 of post-retirement health benefits expenses, and \$28,562 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$16,892,969 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

See Note 14 for additional information.

Q. 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). Regarding the NLRB's building lease, the GSA entered into a lease agreement for the NLRB's rental of building space. The NLRB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, so it does not record GSA-owned properties. The real property leases are for the NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars.

See Note 12 for additional information on Operating Leases.

R. 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 since inception.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America 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.

T. Tax Status

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

U. Comparative Data

Comparative data for the prior year have been presented for the principal financial statements and their related notes.

Note 2. Fund Balance With Treasury

Treasury performs cash management activities for all Federal agencies. The net activity represents Fund Balance with Treasury. The 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, 2007 and September 30, 2006 consists of the following:

Fund Balance with Treasury by Fund Type:

(Dollars in thousands)	FY 2007 Entity Assets	Non- Entity Assets	Total	FY 2006 Entity Assets	Non- Entity Assets	Total
General Funds	\$ 21,708		\$ 21,708	\$ 23,678	-	\$ 23,678
Escrow Funds		\$ 886	886	-	\$ 864	864
Total Fund Balance with Treasury	\$ 21,708	\$ 886	\$ 22,594	\$ 23,678	\$ 864	\$ 24,542

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.

Status of Fund Balance with Treasury as of September 30, 2007 and September 30, 2006 consists of the following:

Fund Balance with Treasury by Availability:

(Dollars in thousands)	<u>FY 2007</u>	<u>FY2006</u>
Unobligated Balance		
Available	\$ 258	\$ 421
Unavailable	5,102	4,608
Obligated balance not yet disbursed	16,348	18,649
Non-budgetary fund balance with Treasury	886	864
Totals	<u>\$22,594</u>	<u>\$24,542</u>

Note 3. Investments, Net

Investments in Treasury Securities:

The NLRB invests Backpay funds that are authorized by the Regional Compliance Officers and other management officials in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of Public Debt.

In FY 2007, the maturity value of the investment was \$3 million as compared to FY 2006 of \$2 million.

There exists a signed MOU between the NLRB and the U.S. Treasury (Treasury) establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

Investments as of September 30, 2007 and September 30, 2006 consist of the following:

Investment Value at Investment Market Value

(Dollars in thousands)	Investment Type	Value at Maturity	Investment Net	Market Value Disclosure
FY 2007				
U.S. Treasury Securities	Marketable	3,239	3,197	3,197
FY 2006				
U.S. Treasury Securities	Marketable	1,683	1,668	1,668

For FY 2007 and 2006, the discount on the marketable securities amounted to \$42 and \$15, respectively (Dollars in thousands).

Note 4. Advances**Intragovernmental**

Intragovernmental Advances to the USPS for September 30, 2007 were \$11,291 and \$12,611 for September 30, 2006. The DOT advance for September 30, 2007 was \$-0- and \$51,849 for September 30, 2006 (Amounts in dollars).

Commercial

Advances to Others of \$20,969 as of September 30, 2007 and \$29,419 for September 30, 2006, represent advances to a commercial vendor for postage (Amounts in dollars).

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

The FY 2007 intragovernmental accounts receivable is zero and the FY 2006 amount was also zero:

(Dollars in thousands)	<u>FY 2007</u>	<u>FY2006</u>
With the public		
Accounts receivable	\$ 40	\$ 56
Allowance doubtful accounts	(2)	(2)
Accounts receivable-net	<u>\$ 38</u>	<u>\$ 54</u>

Note 6. General Property, Plant and Equipment, Net

General property, plant and equipment consist 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.

Depreciation expenses for the year ending September 30, 2007 were \$505,669 and for year ending September 30, 2006 were \$81,214 (amounts in dollars).

(Dollars in thousands) FY 2007	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	\$ 1,609	\$ 902	\$ 707
Internal Use Software	3,654	1,230	2,424
Internal Software Development	2,863	-	2,863
Totals	<u>\$ 8,126</u>	<u>\$ 2,132</u>	<u>\$ 5,994</u>

(Dollars in thousands) FY 2006	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	\$ 1,761	\$ 1,484	\$ 277
Internal Use Software	163	163	-
Totals	<u>\$ 1,924</u>	<u>\$ 1,647</u>	<u>\$ 277</u>

Note 7. Intragovernmental Accounts Payable

These accounts payables are with our Federal trading partners of which the largest amounts are with OPM, GSA, the Department of the Interior, and the Department of Homeland Security.

Note 8. 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 amounts collected from the public for court costs, freedom of information requests and other miscellaneous amounts that must be transferred to the U.S. Treasury. The composition of liabilities not covered by budgetary resources as of September 30, 2007 and September 30, 2006, is as follows:

Intragovernmental: (Dollars in thousands)	FY 2007	FY 2006
FECA-Unfunded	<u>\$ 978</u>	<u>\$ 920</u>
Total Intragovernmental	978	920
Estimated Future - FECA	2,507	2,135
Accrued Annual Leave	13,216	13,511
Backpay Settlement Due to Others	3,681	2,532
Custodial Liability	402	254
Total Liabilities not covered by budgetary resources	<u>20,784</u>	<u>19,352</u>
Total Liabilities covered by budgetary resources	<u>12,833</u>	<u>11,659</u>
Total Liabilities	<u>\$ 33,617</u>	<u>\$ 31,011</u>

Note 9. Non-Entity Assets

Non-Entity assets, restricted by nature, consist of miscellaneous receipt accounts and Backpay settlement due to others. These amounts represent cash collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court costs, freedom of information requests and closed out Backpay cases that must be transferred to the U.S. Treasury. The Backpay settlement due to others represents monies to be disbursed to discriminatees at a later date. The composition of non-entity assets as of September 30, 2007 and September 30, 2006, is as follows:

(Dollars in thousands)	FY 2007	FY 2006
Non-entity assets		
Intragovernmental		
Fund Balance with Treasury	\$ 402	\$ 254
Accounts receivable	-	-
Total Intragovernmental	402	254
Backpay Settlement Due to Others	3,681	2,532
Total Non-entity assets	4,083	2,786
Entity assets	27,772	23,849
Total Assets	\$31,855	\$26,635

Note 10. Cumulative Results of Operations

(Dollars in thousands)	FY 2007	FY 2006
FECA paid by DOL	\$ (444)	\$ (419)
FECA - Unfunded	(978)	(920)
Estimated Future FECA	(2,507)	(2,135)
Accrued Annual Leave	(13,216)	(13,511)
General Property, Plant & Equipment, Net	5,994	277
Other	481	472
Cumulative Results of Operations	\$(10,670)	\$(16,236)

Note 11. 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 provided administrative law judges' services to other Federal entities. There is no exchange revenue with the public.

(Amount in thousands)	FY 2007	FY 2006
Resolve Representation Cases		
Intragovernmental Costs	\$ 8,497	\$ 8,600
Costs with the Public	35,092	34,571
Total Net Cost - Resolve Representation Cases	43,589	43,171
Resolve Unfair Labor Practices		
Intragovernmental Costs	42,980	43,788
Costs with the Public	179,076	178,097
Total Net Cost - Resolve Unfair Labor Practices	222,056	221,885
Other		
Intragovernmental Costs	59	267
Less: Intragovernmental Earned Revenue	59	267
Net Intragovernmental Cost	-	-
Total Net Cost - Other	-	-
Net Cost of Operations	\$ 265,645	\$ 265,056

Note 12. Operating Leases

GSA Real Property. Most of the NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of the NLRB's occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA or another Federal agency or rented by GSA from the private sector. The NLRB has OAs with GSA, which set forth terms and conditions for the space the Agency will occupy for an extended period of time. Included within the OAs 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 2008 through 2012.

Rental expenses for operating leases for the year ending September 30, 2007 were \$27,713,149 for Agency lease space and \$1,777,993 for Agency building security. For FY 2006 the GSA operating lease costs were \$27,180,435 and the Department of Homeland Security building security portion was \$1,267,062. Also, in FY 2007, the Agency is showing separately the payment to GSA for the operating lease and the payment to the Department of Homeland Security for the building security.

(Dollars in thousands) Fiscal Year	<u>GSA Real Property</u>
2008	\$28,027
2009	28,057
2010	28,920
2011	29,643
2012	30,385
After 5 Years	-
Total Future Lease Costs	<u>\$145,032</u>

Note 13. Correction of Errors

Management discovered a mistake in previous years' application of accounting principles. Specifically, Internal Use Software was expensed but should have been capitalized.

The cumulative effect of the change on prior periods has no material effect on the previous overall financial statements.

This correction of errors is reported on the Statement of Changes in Net Position for FY 2007 and consists of the following:

(Dollars in thousands)	
Capitalization of software previously expensed	\$ 2,735
Depreciation expense for above capitalized software	(1,046)
Net correction of errors	\$ 1,689

Note 14. Imputed Financing

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, 2007 and 2006 consisted of:

(Dollars in thousands)	<u>FY 2007</u>	<u>FY 2006</u>
Office of Personnel Management:		
Pension expenses	\$6,741	\$7,347
Federal employees health benefits	9,010	9,517
Federal employees group life insurance program	27	29
Total Imputed Financing	<u>\$15,778</u>	<u>\$16,893</u>

Note 15. Appropriations Received

The NLRB received \$251,507,470 and \$249,745,320 (net of rescission) in warrants for the FYs ended September 30, 2007 and 2006, respectively. The rescissions for FY 2007 were already subtracted from the appropriation when it was received. The rescission was \$2,522,680 in FY 2006. The amount shown on the Statement of Budgetary Resources under caption “Permanently not available” for FY 2007 in the amount of \$709,952 is the cancelled appropriation for FY 2002. The amount of \$3,811,629 for FY 2006 is a combination of the rescission of \$2,522,680 and FY 2001 cancelled appropriation of \$1,288,949.

Undelivered Orders at the End of the Period

Undelivered orders at September 30, 2007 were \$3,514,672 and at September 30, 2006 were \$6,736,523.

Note 16. 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 generally accepted accounting principles for the Federal Government. The total Budgetary Resources of \$257,107,361 as of September 30, 2007 and \$255,339,361 as of September 30, 2006, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. The NLRB’s unobligated balance available at September 30, 2007, was \$276,311 and at September 30, 2006 was \$420,908.

Apportionment Categories of Obligations Incurred. The NLRB’s obligations incurred as of September 30, 2007 and September 30, 2006 by apportionment Category A and B is shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects or a combination of these categories.

(Dollars in thousands) FY 2007	Apportioned Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$240,306	\$11,382	\$0	\$251,688
Reimbursable	59	-		59
Total Obligations Incurred	\$240,365	\$11,382	\$0	\$251,747

(Dollars in thousands) FY 2006	Apportioned Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$239,730	\$10,313	\$0	\$250,043
Reimbursable	267	0		267
Total Obligations Incurred	\$239,997	\$10,313	\$0	\$250,310

Note 17. Backpay Checks Held in the NLRB Regional Offices

The NLRB may use Backpay as a remedy to settle a ULP. The Backpay may be disbursed by three different methods: (1) the respondent prepares the Backpay and disburses it directly to the discriminatee(s); (2) the respondent prepares the Backpay and gives the check(s) to an NLRB Regional Office to deliver to the discriminatee(s); and (3) the respondent makes the Backpay payable to the NLRB, who deposits the check and then issues U.S. Treasury checks to the discriminatee(s).

This footnote identifies the number (in units) and dollar value (in thousands) of checks that are received in the Regional Offices that are made payable to discriminatees. The NLRB has a fiduciary type of responsibility to safeguard these checks until they are successfully disbursed to the discriminatee(s). It should be noted that it might take months to successfully deliver the backpay.

(Dollars in thousands)	FY 2007		FY 2006	
	Number	Amount	Number	Amount
Checks on Hand, Beginning of Period	353	\$ 161	389	\$ 519
Checks Received	6,903	23,323	5,492	17,606
Less Checks Distributed	(7,025)	(23,378)	(5,528)	(17,964)
Net Change in Checks on Hand	(122)	(55)	(36)	(358)
Checks on Hand at End of Period	231	\$ 106	353	\$ 161

Note 18. Contingencies

The NLRB is a party to several threatened or pending litigation claims. The NLRB management believes that all the claims listed have a remote possibility of a cost to the Agency. The Agency has and will continue to vigorously contest these claims. In the opinion of the NLRB's management, the ultimate resolution of pending litigation will not have a material effect on the NLRB's financial statements.

Note 19. Reconciliation of Net Cost of Operations to Budget

(In thousands)	FY 2007	FY 2006
Resources used to finance activities		
Budgetary Resources Obligated:		
Obligations incurred	\$ 251,747	\$ 250,310
Less: Spending authority from recoveries	(1,281)	(1,979)
Net obligations	250,466	248,331
Other Resources:		
Imputed financing from costs absorbed by others	15,778	16,893
Loss on abandoned property	(6)	-
Total resources used to finance activities	266,238	265,224
Resources used to finance items not part of the net cost of operations:		
Change in budgetary resources obligated for goods, services and benefits ordered but not yet provided	3,284	(614)
Resources that fund expenses recognized in prior periods	(279)	(1)
Resources that finance the acquisition of assets	(4,696)	(232)
Other adjustments to net obligated resources	220	-
Total resources used to finance items not part of the net cost of operations	(1,471)	(847)
Total resources used to finance the net cost of operations	264,767	264,377
Components of the net cost of operations that will not require or generate resources in the current period:		
Components requiring or generating resources in future periods:		
Increase in annual leave liability	-	248
Total components requiring or generating resources in future periods	-	248
Components not requiring or generating resources:		
Depreciation	506	81
Increase in unfunded worker's comp expense	372	350
Total components of net cost of operations that will not require or generate resources	878	431
Total components of net cost of operations that will not require or generate resources in the current period	878	679
Net cost of operations	\$ 265,645	\$ 265,056

OTHER ACCOMPANYING INFORMATION



UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 15, 2007

To: Robert J. Battista
Chairman

Ronald Meisburg
General Counsel

From: Jane E. Altenhofen
Inspector General

A handwritten signature in black ink that reads "Jane E. Altenhofen".

Subject: Issue Alert No. OIG-IA-08-01: Top Management and Performance Challenges

With the passage of the Accountability of Tax Dollars Act of 2002, Public Law 107-289, the Agency is required to produce audited financial statements. Along with the audited financial statements, the Agency must prepare a Performance and Accountability Report. As part of that report, the Office of Inspector General (OIG) is required by section 351 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.

In October 2006, we identified eight management and performance challenges. For this report, we are including five of the previously identified challenges and adding one new challenge. Below are the top management challenges with brief summaries of the Agency's progress in addressing the previously identified challenges:

Current Challenges

1. Reduce the Board's pending caseload to meet performance goals.

The Fiscal Year (FY) 2006 Performance and Accountability Report (PAR) contained a performance goal to have a 90 percent reduction of pending unfair labor practice cases over 17 months old at the Board. The Board began FY 2007 with 215 cases that could potentially be more than 17 months old by September 30, 2007. The Board closed 84 percent (181 cases) of these by September 30, 2007.

The FY 2006 PAR also included a performance goal to decide 90 percent of representation cases pending at the Board for more than 12 months. By the close of FY 2007, the Board

exceeded this goal. As of September 30, 2006, 59 of these cases were pending at the Board. The Board closed 98 percent of these (58 cases) by September 30, 2007.

Although the Board made significant progress in meeting this challenge, the decision making process of the Board remains a challenge. In FY 2007, we conducted an inspection that analyzed the Board's case processing statistics from a variety of vantage points. Of the 226 contested Administrative Law Judge decisions pending at the end of FY 2006, 172 were still before the Board on March 2, 2007. Approximately 41 percent of those cases were in Stage I, 23 percent were in Stage II, and 36 percent were in Stage III. The cases in Stage I had been pending an average of 1,346 days, compared with 1,009 days for Stage II and 951 days for Stage III. This indicates that the cases moving quicker towards being issued were those that had been at the Board for the shortest period of time.

2. Manage the Agency during periods of time that are covered by continuing resolutions and appropriations that are expected to be flat or provide only nominal increases.

Budgetary uncertainties and constraints create significant management hurdles. At the NLRB, those hurdles are magnified by the lack of precision and controls over budgeting and spending the appropriation. During the past fiscal year, significant fiscal restraints were imposed upon the Agency. Those restraints included a hiring freeze, suspension of training, limiting expenses related to case processing, and suspension of benefits provided by the contracts with the two employee unions. Senior managers also raised the possibility of furloughing employees to close the gap between the amount of funds available to the Agency and the amount of funds needed through the end of the fiscal year.

Some or all of those restraints may have been prudent at the beginning of FY 2007 when the Agency was operating under a continuing resolution and anticipating an appropriation that provided essentially level funding. The extent and duration of those measures, however, is questionable after the discovery of a first quarter accounting error of \$3.8 million, the correction of which in the fourth quarter was to the benefit of the Agency.

The impact of that error and the failure to make a timely correction can only be fully understood in the context of how the Agency's appropriation is spent. In FY 2007, the Agency expended approximately 90 percent of its appropriation on space rent, building security and personnel related costs. The remaining 10 percent, approximately \$25 million, was available to meet remaining operating needs. Under these circumstances the error, equating to the loss of 15 percent of funds for discretionary spending, can only be described as significant.

Greater controls over the budgeting and spending process seem clearly warranted. Indeed, the Finance and Budget Branches were reported to be closely watching the Agency's financial situation. Nevertheless, when auditors working for the OIG on the annual financial statement audit first brought the error to the attention of a Finance Branch official in April, they were told that it was an issue involving accrual of payroll-related expenditures that was dependent upon the timing of the pay periods and the cut-off. When the error remained

through mid-July, it was again brought to the attention of the Finance Branch and corrected. Had the Division of Administration been appropriately monitoring the budgeting and spending process, it is likely that they would have identified and corrected the error in January, or at least in April when it was first brought to their attention, avoiding the need to continue some or all of the significant fiscal restraints into the fourth quarter.

3. Manage the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation.

The OIG conducted audits of the Agency's procurement actions. These audits found numerous problems that generally depicted a lack of proper internal controls. Because of the number and severity of the problems identified in these audits, the Office of Inspector General (OIG) is initiating a third audit of procurement actions. Although we believe that through this audit process we can assist the Agency in making positive changes in its procurement process, we are concerned that the Agency's procurement practices are putting the Agency's budgetary resources at risk.

4. Strengthen control over employees' use of the Agency information technology assets to include Internet access.

Over the last several years, the Agency devoted significant resources to improving and upgrading information technology equipment and capability. The OIG continues to devote significant resources investigating employees and contractors for improper use of the Agency's Internet access and e-mail systems. Despite readily available software that could assist managers in this area, we are unaware of any action during the preceding year by the Agency to meet this challenge.

5. Implement e-government initiatives to effectively communicate with parties and the public.

In November 2006, NLRB re-launched its Web site and deployed a companion portal, mynlrn.nlr.gov, as components in a long-term unified management of its Government to Constituent (G2C) operations. The site now allows users to transact business online with the Agency more easily. Several important enhancements are included within "MyNLRB," including those enabling participants who E-file documents to establish their own accounts in order for the system to automatically fill in data fields on E-Filing forms; and an expanded E-filing program for filing documents electronically with the General Counsel's Office of Appeals; Regional, Subregional, and Resident Offices; and the Division of Judges.

The significant progress made by the Agency in the area of e-government largely benefits practitioners who regularly interact with the NLRB. Progress towards allowing the electronic submission of charges and petitions to the Regional Offices – the initiation of cases by individual employees – largely remains dependent on the development of the Agency's "Next Generation Case Management" system.

New Challenge

6. Implement audit findings in a timely manner.

The Agency is not implementing audit recommendations in a timely manner, has had a recurrence of findings for which corrective action was reported as implemented, disagreed with audit recommendations without a sufficient legal basis, and often chooses to not implement cost-saving recommendations.

Despite substantial OIG resources given to audit recommendation follow-up, the number of audit reports with recommendations open for over 1 year has increased from one in semiannual reports issued in 2002 to consistently being three to four in later semiannual reports. When Agency managers do report that action is completed on a recommendation, we attempt to verify the corrective action only to find that the information provided by the manager is incorrect. Through a verification process, we have also found that Agency employees disregard new policies and procedures that were implemented as corrective action. Additionally, the Agency has increasingly decided to not implement some recommendations with major cost-savings despite a supposed lack of budgetary resources.

Challenges Met

When we provided the management and performance challenges in October 2006, we included three challenges related to compliance with the Privacy Act's notice requirements, implementation and testing of an information technology contingency plan, and protection of personally identifiable information. We believe that Agency managers have made sufficient progress in those areas to warrant removal of those items as management challenges.

I. SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion	Unqualified				
Restatement	No				
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
0	0	0	0	0	0
TOTAL	0	0	0	0	0

II. SUMMARY OF MANAGEMENT ASSURANCES

Effectiveness of Internal Control Over Operations (FMFLA § 2)						
Statement Assurance	Unqualified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

**SUMMARY OF MANAGEMENT
ASSURANCES**
(cont'd.)

Conformance With Financial Management Systems Requirements (FMFIA §4)						
Statement Assurance	Systems conform with financial management systems requirements					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Compliance With Federal Financial Management Improvement Act (FFMIA)		
	Agency	Auditor
Overall Substantial Compliance	Yes	Yes
1. Systems Requirements	Yes	
2. Accounting Standards	Yes	
3. USSGL at Transaction Level	Yes	

APPENDIX



APPENDIX A

ACRONYMS

ADR	Alternative Dispute Resolution
ALJ	Administrative Law Judge
CATS	Case Activity Tracking System
FMFIA	Federal Managers' Financial Integrity Act
FFMIA	Federal Financial Management Improvement Act
FOIA	Freedom of Information Act
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GPRA	Government Performance and Results Act
IPIA	Improper Payments Information Act
MD&A	Management Discussion and Analysis
NGCM	Next Generation Case Management System
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAR	Performance and Accountability Report
PMA	President's Management Agenda
ULP	Unfair Labor Practice

APPENDIX B

Definitions

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.

Complaint: A document which 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.

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

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.

Overage Case: To facilitate/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 which 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.

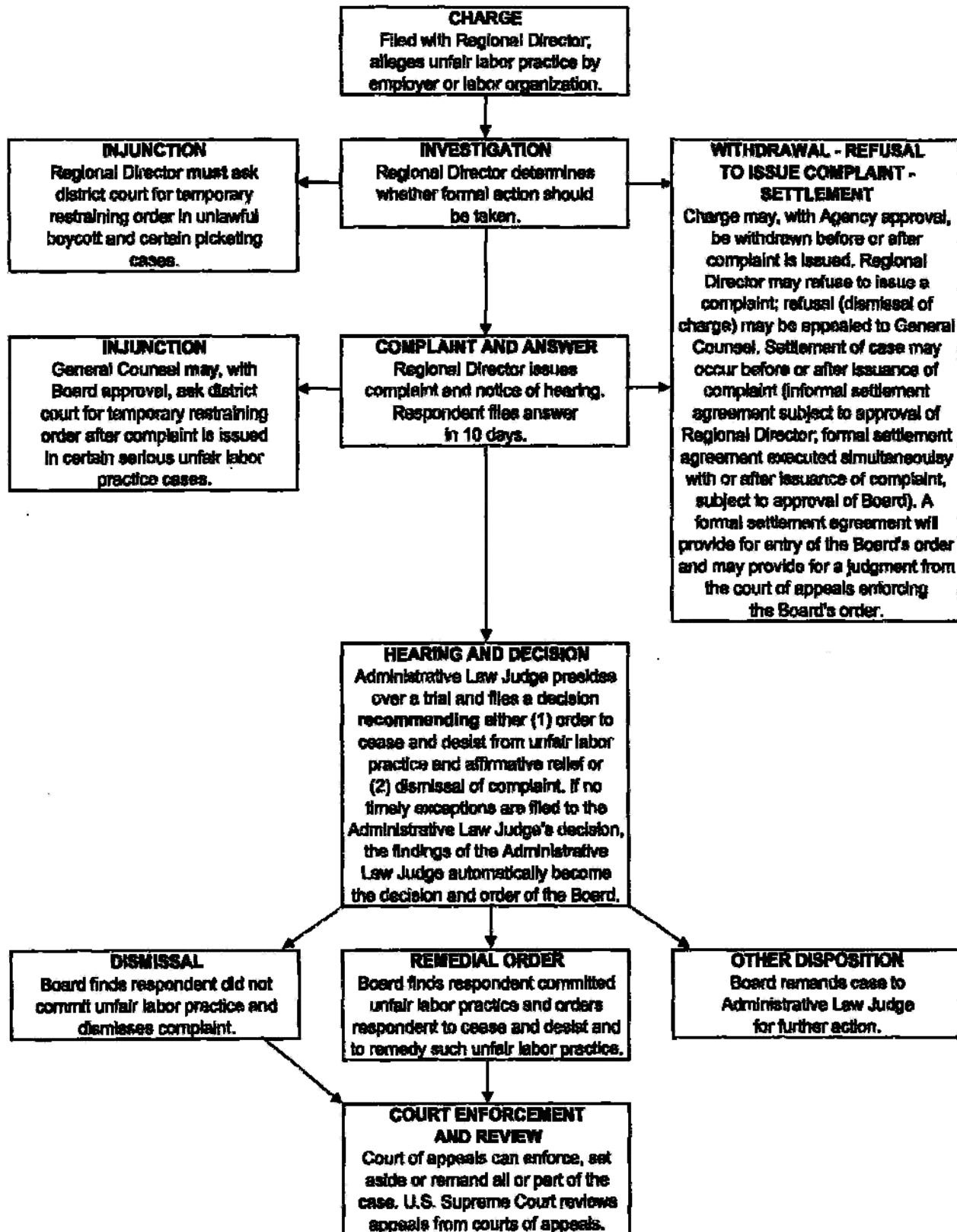
Petition: A petition is the official NLRB form filed by a labor organization, employee or employer. Petitions are filed primarily for the purpose of having the Board conduct an election among certain employees of an employer to determine whether they wish to be represented by a particular labor organization for the purposes of collective bargain-

ing with the employer concerning wages, hours, and other terms and conditions of employment.

Test of Certification: A “test of certification” presents the issue of whether an employer has unlawfully refused to bargain with a newly-certified union. Because the Act does not permit direct judicial review of representation case decisions, the only way to challenge a certification is a refusal to bargain followed by a Board finding. However, because all relevant legal issues were or should have been litigated in the R (Representation) case, the related ULP case is a no-issue proceeding that can be resolved without a hearing or extensive consideration by the Board.

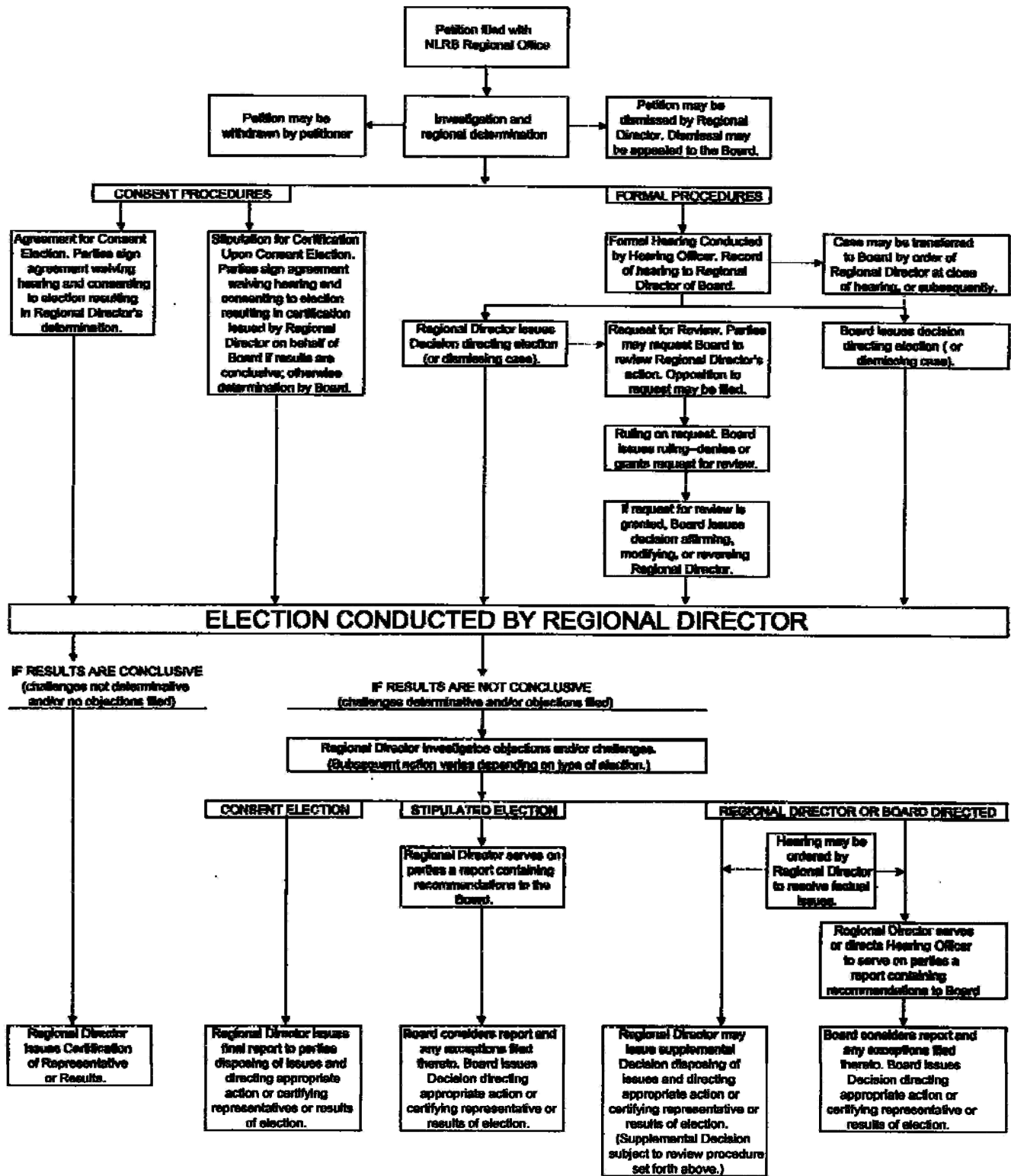
APPENDIX C

Unfair Labor Practice Procedures Basic Procedures in Cases Involving Charges of Unfair Labor Practice



APPENDIX D

Outline of Representation Procedures Under Section 9(c)



THE NATIONAL LABOR RELATIONS BOARD



PROTECTING DEMOCRACY IN THE WORKPLACE SINCE 1935



National Labor Relations Board
1099 14th Street NW
Washington, DC 20570-0001

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