

Office of Inspector General

SEMIANNUAL

REPORT

TO THE

CONGRESS



Covering APRIL 1, 1997 - SEPTEMBER 30, 1997

Sixteenth Semiannual Report

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United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE INSPECTOR GENERAL

Washington, DC 20570-0001

November 4, 1997

Honorable William B. Gould IV, Chairman
National Labor Relations Board
1099 14th Street, NW, Room 11100
Washington, DC 20570

Honorable Frederick L. Feinstein, General Counsel
National Labor Relations Board
1099 14th Street, NW, Room 10100
Washington, DC 20570

Dear Chairman Gould and General Counsel Feinstein:

This is the sixteenth Semiannual Report (SAR) for the Office of Inspector General (OIG). This SAR is prepared in accordance with Section 5 of the Inspector General Act and covers the period April 1, 1997 through September 30, 1997.

The OIG continues to experience a heavy caseload with 41 open investigative cases and 2 audits underway with 2 more to commence later this fiscal year; in addition there undoubtedly will be unexpected audits/reviews necessitated by unforeseen events.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert E. Allen", written over a horizontal line.

Robert E. Allen
Inspector General

FOREWORD

The National Labor Relations Board (Agency or NLRB), which employs over 1,900 employees and, for Fiscal Year 1997, had funding of \$175,000,000, is an independent agency which was established in 1935 to administer the principal labor relations law of the United States - - the National Labor Relations Act. The provisions of the National Labor Relations Act are generally applied to all enterprises engaged in, or to activities affecting, interstate commerce, including the United States Postal Service, but excluding other Governmental entities, as well as the railroad and airline industries. The Agency protects the public interest: (1) by conducting secret ballot elections to determine if a group of employees wishes to be represented for collective bargaining purposes by a labor organization, and (2) by preventing and/or remedying unfair labor practices committed by employers and unions.

The Chairman, four Board Members and a General Counsel are appointed by the President with the advice and consent of the Senate. The Chairman and Board Members have staggered terms of 5 years each and the General Counsel has a 4-year term. The Agency, headquartered in Washington, DC, has 33 Regional Offices, some of which have Subregional and/or Resident Offices. This far-flung organization has handled unfair labor practice cases affecting hundreds of thousands of persons and has conducted representation elections in which millions of employees have decided whether they wished to be represented by a labor organization for collective bargaining purposes.

The mission of the Office of Inspector General (OIG) is to promote integrity, efficiency, and effectiveness by conducting audits and investigations in an independent manner and objectively reporting to the Chairman, the General Counsel and the Congress. The OIG Table of Organization provides for an Inspector General, a Supervisory Auditor, two Auditors, an Investigator, a Staff Assistant, and a Counsel to the Inspector General.

REPORTING REQUIREMENTS

<u>ACT CITATION AND REQUIREMENT</u>	<u>PAGE</u>	
Section 4(a)(2)	Review of Legislation and Regulations.	None
Section 5(a)(1) and (2)	Significant Problems, Abuses and Deficiencies and Recommendations for Corrective Action.	1
Section 5(a)(3)	Prior Recommendations Not Yet Implemented.	None
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.	4
Section 5(a)(5) and 6(b)(2)	Summary of Instances Where Information Was Unreasonably Refused or Not Provided.	No Instances
Section 5(a)(6)	List of OIG Audit Reports.	6
Section 5(a)(7)	Summary of Each Significant Report.	7
Section 5(a)(8)	Statistical Table on Management Decisions on Questioned Costs.	8
Section 5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use.	9
Section 5(a)(10)	Summary of Each Audit Over 6 Months Old For Which No Management Decision Has Been Made.	None
Section 5(a)(11)	Significant Revised Management Decisions.	None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Disagrees.	None

INSPECTOR GENERAL SUMMARY

During this reporting period the Inspector General appeared before the Committee on Government Reform and Oversight. The Inspector General was requested to provide testimony regarding the NLRB's performance and other management issues at the Agency. In conjunction with this oversight hearing our office responded to a Congressional request relating to performance measures. Our comment paper addressed measures which would be useful in assessing the performance of the NLRB.

Our "Financial Audit of the Fiscal Year 1996 Appropriation" was completed during the reporting period and is discussed in Section 5 of this SAR.

We issued a report regarding the Agency's computer maintenance contract for Fiscal Years 1996 and 1997. The OIG was provided documentary materials which asserted that the Agency was paying a contractor for services which were not performed satisfactorily or were not performed at all. We determined that Agency officials had not verified whether the contractor provided computer maintenance in conformance with the terms of the contract. The OIG also concluded that Agency officials did not establish the reasonableness of the prices proposed by the contractor who was awarded the contract on a sole source basis.

The Inspector General has continued to place a major emphasis upon joint investigations with other law enforcement agencies. Among the activities of the OIG were:

- ◆ Eleven cases were opened and continue under active investigation.
- ◆ One case was opened and investigated to closure.
- ◆ One case previously opened was investigated to closure during this reporting period.
- ◆ Several joint investigations with the FBI and other law enforcement agencies continued.
- ◆ A joint investigation continued with a state bar agency.
- ◆ Forty-four "HOTLINE" calls were received and screened. A large number of these calls related to Agency operations and appropriate followup and referrals were made.
- ◆ Several investigative subpoenas were issued and compliance therewith was obtained.

A summary of the matters pending in the OIG at the end of the reporting period includes:

- ◆ The OIG has continued a self initiated extensive review of potential fraudulent Federal Employees Compensation Act claims against the Agency.

- ◆ Three joint investigations are being conducted by the OIG with Regional Inspectors General of the Department of Labor Inspector General.
- ◆ Thirty cases previously initiated remain open and under active investigation by the OIG.
- ◆ Eleven new cases are under active investigation by the OIG.
- ◆ Over 40% of open cases are being investigated on a joint basis with other investigative agencies.
- ◆ A major joint investigation being conducted with the FBI and other Inspector General and law enforcement organizations is continuing.
- ◆ A joint investigation with the Secret Service is continuing.
- ◆ Several investigations have been forwarded to the General Counsel for administrative action.

SECTION 1

DESCRIPTION OF SIGNIFICANT PROBLEMS, ABUSES AND DEFICIENCIES RELATING TO ADMINISTRATION OF PROGRAMS AND OPERATIONS AND DESCRIPTION OF OIG RECOMMENDATIONS FOR CORRECTIVE ACTION (MANDATED BY SECTION 5 (a) (1) AND (2) OF THE ACT)

INVESTIGATIONS

The following investigations were completed during this reporting period:

Sexual Harassment

An OIG Investigation Disclosed That . a senior manager in a Regional Office had engaged in conduct constituting sexual harassment and the creation of a hostile work environment for female staff.

Action Taken After notification from the General Counsel that an administrative investigation had been commenced by the Agency into multiple complaints of sexual harassment by a senior manager, the Inspector General acted under independent jurisdiction to concurrently conduct an investigation to determine if there had been a violation of federal criminal laws.

A full statement was obtained from the subject of the investigation. After review of that material, and evidence gathered by Special Counsel to the General Counsel from complaining witnesses, it was concluded that there was no violation of federal criminal statutes.

As there was more than adequate ground for the General Counsel to proceed administratively, the evidence gathered by the Inspector General was turned over to the General Counsel, and the OIG case was closed. The manager has resigned.

Theft of Government Property

An OIG Investigation Disclosed That . there was insufficient evidence to substantiate a complaint that three employees had stolen government property in the form of computers and related equipment from a Regional Office.

Action Taken After a complaint was received from a former roommate of one of the employees the Federal Protective Service (FPS) was contacted regarding the results of their original investigation into the theft of approximately \$10,500 worth of computer equipment over a 4 year period.

The FPS investigation failed to develop information that could result in prosecution of this case.

A subsequent OIG investigation developed a suspect, but due to the period of time that had expired, and the lack of cooperation from the original complainant, there was not sufficient evidence to warrant prosecution.

REVIEW

Computer Maintenance Contract

NLRB officials did not verify the performance data which evidenced whether the contractors were delivering maintenance services as specified by the contract. This performance data was contained in reports prepared by the contractor.

The Agency did not establish the reasonableness of the prices proposed by the contractor. The FY 1996 contract was awarded on a sole source basis to a company certified as an 8(a) contractor by the Small Business Administration. The Agency renewed the contract for FY 1997. The 8(a) program is intended to promote the development of small businesses owned by socially and economically disadvantaged individuals so that they can develop into viable competitors in the commercial marketplace. Under the program, the Small Business Administration acts as a prime contractor, entering into contracts with federal agencies and then subcontracting work to firms in the 8(a) program. Individual agencies usually negotiate directly with the 8(a) contractor. NLRB officials performed a price analysis and concluded that the contractor's proposed prices were reasonable in comparison to costs incurred in prior years. However, contracts for computer maintenance at the NLRB had been awarded to other 8(a) contractors on a sole source basis since at least FY 1992. Price analysis was not the appropriate means for establishing the reasonableness of the current contractor's proposal because prior contracts had not been awarded in an environment which included competition. See the Federal Acquisitions Regulations (FAR) at 15.804-1(b)(iii) and 15.805-2(b). In accordance with FAR 15.804-2, the Agency should have but did not obtain cost or pricing data from the contractor so that the proposed prices could be analyzed for reasonableness. The amount of the contract awarded in FY 1996 was 16 percent higher than what was paid during FY 1995. The contract for FY 1997 was almost double the initial amount of the FY 1994 contract. In recent years NLRB has significantly increased its ADP resources while substantial changes have occurred within the computer industry. During this period, the Agency did not ascertain the reasonableness of the contract prices proposed by the contractors.

Management agreed with the Inspector General's recommendations to: (1) verify the performance data pertaining to the contractor's conformance with the requirements of the computer maintenance contract and (2) solicit multiple vendors for priced offers on the contract to be awarded in FY 1998. Cost or pricing data should be obtained from the contractor if the Agency considers renewing the current contract without soliciting offers from the vendors.

In addition to this Review, an investigation was conducted to determine whether the contractor had performed in accordance with its contractual allegations and whether it had

violated federal law and the Federal Acquisition Regulations by making misrepresentations regarding the contingent fee prohibition set forth in a statute and the regulations. These allegations were investigated in conjunction with other allegations that a managerial employee had engaged in unethical conduct and that the Agency had retaliated against two managers because they had “blown the whistle” on the contractor’s performance. Although the investigations have been completed and Reports issued, the cases are still open. Accordingly, no further details are reported in this SAR.

SECTION 2

SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES AND
RESULTANT PROSECUTIONS AND CONVICTIONS
(MANDATED BY SECTION 5 (a) (4) OF THE ACT)

The following matters were: (1) referred for prosecution during earlier reporting periods and remain pending, (2) referred for prosecution during this reporting period, (3) acted upon by prosecutive authorities during the reporting period with the noted results, and/or (4) had administrative action taken after a declination of prosecution:

Two cases previously referred to the Department of Justice for violations of 18 U.S.C. 208, 287, 641 and 1001, are pending.

SECTION 3

SUMMARY OF RESTITUTION MADE OR FINES PAID
AS A RESULT OF CIVIL OR CRIMINAL INVESTIGATIONS
AND/OR AUDITS
(NOT MANDATED BY THE ACT)

Although not mandated by any provision of the Act, this section serves as a statistical summary of all amounts restituted or fines paid to the government as a result of investigations, both criminal and civil, or audits.

AMOUNTS RESTITUTED DURING REPORTING PERIOD

Audit Based Restitutions:

None

SECTION 4

LIST OF EACH AUDIT REPORT ISSUED
(MANDATED BY SECTION 5(a)(6) OF THE ACT)

Dollar Value (in thousands of \$)

<u>REPORT TITLE AND NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>	<u>RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE</u>
Financial Audit of the Fiscal Year 1996 Appropriation	- 0 -	- 0 -	- 0 -

SECTION 5

**SUMMARY OF EACH SIGNIFICANT AUDIT REPORT
(MANDATED BY SECTION 5(a)(7) OF THE ACT)**

“Financial Audit of the Fiscal Year 1996 Appropriation”
Case No. OIG-F-7

We conducted our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial reports. An audit also includes assessing the accounting principles used and any significant estimates by management. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the Agency’s financial records and reports present fairly, in all material respects, the financial position of the NLRB as of September 30, 1996, and the results of its operations for the year then ended in conformity with accepted accounting principles. We also enclosed a report on the internal control structure at the NLRB and a report on the Agency’s compliance with laws and regulations. No material instances of non-compliance with laws and regulations were disclosed. No material weaknesses were noted in the internal control structure.

SECTION 6

**STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND TOTAL DOLLAR VALUE OF QUESTIONED AND UNSUPPORTED COSTS
(MANDATED BY SECTION 5 (a) (8) OF THE ACT)**

		<u>Dollar Value</u>	
	<u>NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	- 0 -	- 0 -
C. Reports for which a management decision was made during the reporting period:			
(i) Disallowed costs	- 0 -	- 0 -	- 0 -
(ii) Costs not disallowed	- 0 -	- 0 -	- 0 -
D. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -	- 0 -

SECTION 7

**STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND DOLLAR VALUE OF RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE
(MANDATED BY SECTION 5 (a) (9) OF THE ACT)**

	<u>NUMBER</u>	<u>Dollar Value</u> <u>RECOMMENDATIONS THAT</u> <u>FUNDS BE PUT TO BETTER USE</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	- 0 -
C. Reports for which a management decision was made during the reporting period:		
(i) Recommendations agreed to by management	- 0 -	- 0 -
(ii) Recommendations not agreed to by management	- 0 -	- 0 -
D. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -

HELP ELIMINATE

WASTE

FRAUD

ABUSE

AT THE NATIONAL LABOR RELATIONS BOARD



PLEASE NOTIFY THE OFFICE OF INSPECTOR GENERAL (OIG) IF YOU ARE AWARE OF OR SUSPECT ANY SUCH ACTIVITY. YOU MAY CONTACT THE OIG IN ONE OF SEVERAL WAYS: (1) IN WRITING OR IN PERSON - OFFICE OF INSPECTOR GENERAL, 1099 14th Street, NW, ROOM 9820, WASHINGTON, DC 20570; (2) BY TELEPHONE - DURING NORMAL BUSINESS HOURS, CALL (202) 273 1960; 24 HOURS A DAY, USE THE NATIONAL TOLL FREE HOTLINE AT 1 800 736 2983 (SEE IG MEMORANDUM DATED MAY 15, 1992). THE HOTLINE IS A SECURE LINE AND CAN ONLY BE ACCESSED BY THE OIG STAFF FROM INSIDE THE OIG OFFICE. THE DEVICE WHICH WOULD PERMIT ANYONE, INCLUDING THE OIG STAFF, TO ACCESS THE HOTLINE FROM OUTSIDE THE OIG HAS BEEN DEACTIVATED SO IT CAN ONLY BE ACCESSED BY MEMBERS OF THE OIG STAFF FROM INSIDE THE OFFICE.

REMEMBER - THE OIG HOTLINE IS OPEN 24 HOURS A DAY, 7 DAYS A WEEK.

YOUR CALL OR LETTER MAY BE MADE ANONYMOUSLY

IF YOU WISH