



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
Office of Inspector General



SEMIANNUAL   
**REPORT**



APRIL 1, 2013 – SEPTEMBER 30, 2013

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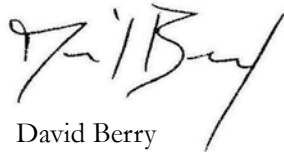
# EXECUTIVE SUMMARY

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I hereby submit the Semiannual Report for the period April 1, 2013 – September 30, 2013. This report summarizes the major activities and accomplishments of the Office of Inspector General of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended. Section 5 of the Inspector General Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued one audit report, one inspection report, and a memorandum identifying the Agency's top management and performance challenges. In the investigations program, the Office of Inspector General processed 221 contacts, initiated 7 cases, closed 13 cases, and issued 2 investigative reports. Our investigative efforts resulted in one removal, two separations while the investigation was pending, and one suspension. Two matters were referred for prosecution.

I appreciate the support of all Agency employees in achieving the accomplishments set forth in this report.



David Berry  
Inspector General  
October 30, 2013

# AGENCY PROFILE

The National Labor Relations Board (NLRB or Agency) is an independent Federal agency established in 1935 to administer the National Labor Relations Act. The National Labor Relations Act 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. NLRB jurisdiction includes the U.S. Postal Service; however, other government entities, railroads, and airlines are not within 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, the 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, by either employers or unions.

NLRB authority is divided by law and delegation. The five-member

Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices 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.

The Board consists of the Chairman and four Members who are appointed by the President with the advice and consent of the Senate. Board Members serve staggered terms of 5 years each. The General Counsel is also appointed by the President with the advice and consent of the Senate and serves a term of 4 years.



Seated left to right: Harry I. Johnson, III, Philip A. Miscimarra, Mark Gaston Pearce, Kent Y. Hirozawa, and Nancy J. Schiffer

At the beginning of this reporting period, the Board consisted of Chairman Mark Gaston Pearce and Members Sharon Block, and Richard Griffin. During the reporting period, the President nominated and the Senate confirmed Chairman Pearce for an additional term as a Member and designated Member Pearce to continue to serve as the Chairman. The President also nominated and the Senate confirmed Kent Y. Hirozawa, Harry I. Johnson, III, Philip A. Miscimarra, and Nancy J. Schiffer as Members. Acting General Counsel Lafe Solomon continued to serve in that position during the reporting period.

During Fiscal Year (FY) 2013, the NLRB operated under a series of Continuing Resolutions that limited funding at the FY 2012 appropriation level. In March, that level of funding was reduced by rescission and the Governmentwide sequestration. The functional funding level of the NLRB was \$263,748,933.

NLRB Headquarters is located at 1099 14th Street, NW, Washington, DC. In addition to the Headquarters building, employees are located in 51 field offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. In December 2012, the Board approved a reorganization of the field offices. As a result of that reorganization, there were 28 Regional Offices, 16 Resident Offices, and 7 Subregional Offices. In March 2013, the Acting General Counsel proposed additional reorganizing of the field offices that maintained the number of field offices at 51, but reduced the number of Regional Offices to 26 by designating two Regional Offices to be Subregional Offices. In July 2013, the Board approved the Acting General Counsel's proposal.

Additional information about the NLRB can be found at [www.NLRB.gov](http://www.NLRB.gov).

# OFFICE OF INSPECTOR GENERAL

NLRB established the Office of Inspector General (OIG) pursuant to the 1988 amendments to the Inspector General Act of 1978 (IG Act).

## Resources

During the reporting period, the OIG received sufficient funds to maintain its programs. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, and three auditors. One auditor position is vacant.



# AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued one audit report, one inspection report, and a memorandum identifying the Agency's top management and performance challenges.

## Reports Issued

We issued Audit Report OIG-AMR-68-13-01, **Compliance with Unfair Labor Practice Procedures**, on June 27, 2013. The objective of this audit was to determine whether Regional Offices were processing unfair labor practice cases in compliance with the Agency's processes and procedures as outlined in the Casehandling Manual. We were also concerned with the effectiveness of the Division of Operations-Management's Quality Review Program. To conduct this review, we randomly selected a statistical sample of cases from seven Regional Offices. The selected case files were then tested against procedural requirements of the Casehandling Manual that spanned from the receipt of the charge through the filing of exceptions with the Board.

In general, we identified several policies that were not being

followed. Those policies included recording the correct filing date, following the procedural requirements for affidavits, meeting the time requirements for lead affidavits, and documenting significant steps in processing unfair labor practice cases. Overall we found that the Quality Review Program lacked effectiveness in ensuring the Regions' compliance with the Casehandling Manual's procedural requirements related to processing unfair labor practice cases. Based on our findings, we made 12 recommendations that we believe will improve management controls over the unfair labor practice casehandling process.

The Division of Operations-Management commented that, although they agree that it is important for the Regions to follow the casehandling procedures and that they agree with many of the



recommendations set forth in the report, it is important to keep in perspective the differences in approach and emphasis of their Quality Review Program and the audit. The Division of Operations-Management also noted that the audit was conducted during the transition to the Next Generation Case Management System and that the transition may have contributed to the audit findings related to data entry.

We issued Inspection Report OIG-INS-67-13-01, **Compliance with Climate Change Initiatives**, on July 22, 2013. The OIG received a letter from the Congressional Bicameral Task Force on Climate Change requesting an assessment of the actions of the NLRB in confronting the growing threat of climate change. The Task Force's

request was in two parts. To address the request, we initiated an inspection to identify the existing climate change requirements that apply to the NLRB and to assess whether the NLRB was meeting those requirements. Our scope was the NLRB's FY 2012 and 2013 climate change efforts.

We found that the NLRB complies with many of the requirements that relate to climate change. For example, the Agency includes green purchasing requirements in its guidance to purchase card holders and encourages Regional Offices to lease alternative fuel or hybrid vehicles. Our inspection, however, found that the Agency had not properly appointed a Senior Sustainability Officer until the week that our draft report was issued and that while the Agency has many policies in place, monitoring of compliance with the policies does not always occur. In response to our draft report, the Acting Director of Administration stated that an employee was assigned to manage the Agency's fleet of vehicles.

We issued a memorandum identifying the Agency's **Top Management and Performance Challenges** on September 30, 2013. The OIG developed a list of what it considers to be the most serious management and performance challenges facing the NLRB. The challenges are:



1. Managing in the current political environment;
2. Reorganizing and consolidating operations;
3. Implementing the Next Generation Case Management System and seizing opportunities to create more productive and efficient procedures and organizations;
4. Managing the Agency's financial resources;
5. Managing the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation;
6. Managing the NLRB's human capital;
7. Maintaining the Agency's institutional knowledge;
8. Managing the Agency's information technology resources in a manner that achieves efficiency and security; and
9. Implementing audit findings in a timely manner.

### **Audit Follow-up**

Agreed-upon actions were not completed within 1 year on five audit reports.

**Official Time for Union Activities,** OIG-AMR-62-10-01, was issued on December 11, 2009, and we reached agreement with management on that date. Management implemented one of the four recommendations made in the report.

**Purchase Cards,** OIG-AMR-65-11-03, was issued on September 30, 2011. Management implemented three of the five recommendations made in the report.

**Audit of the NLRB Fiscal Year 2011 Financial Statements,** OIG-F-16-12-01, was issued on December 14, 2011, and we reached agreement with management on that date. During this reporting period, management completed its final action on the seven recommendations.

**Internal Controls in the Office of Equal Employment Opportunity,** OIG-AMR-67-12-01, was issued on January 9, 2012, and we reached agreement with management on March 9, 2012. Management has not completed action on the five recommendations.

**End-of-the-Year Spending,** OIG-AMR-70-12-02, was issued on September 17, 2012, and we reached agreement with management on that date. Management implemented one of the two recommendations made in the report.

# INVESTIGATIONS PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. During this reporting period, we processed 221 contacts, initiated 7 cases, closed 13 cases, and issued 2 investigative reports. Our investigative efforts resulted in one removal, two separations while the investigation was pending, and one suspension. Two matters were referred for prosecution.

Case Workload		Contacts Processed	
Open (4/1/2013)	15	Received	221
Initiated	7	Initiated Investigation	6
Closed	13	Opened Case — Referred to Agency	0
Open (9/30/2013)	9	Non-Investigative Disposition	215

### Investigative Highlights

Management issued a 7-day suspension to an employee who used the Agency’s information technology resources and official time for activities related to outside employment. The investigative report was issued in a prior reporting period. **OIG-I-464**  
 Investigated an allegation of the loss or theft of documents from a

Privacy Act System of Records and that an employee failed to promptly notify management. The matter was referred to the local U.S. Attorney’s Office. Prosecution was declined. The employee was removed from Federal employment. **OIG-I-487**  
 Investigated an allegation that an employee failed to properly process an office’s time and attendance records and that the employee did not safeguard documents from a Privacy Act System of Records. During the investigation, the employee separated from the Agency. **OIG-I-488**  
 Investigated and substantiated an allegation that a contractor’s former employee improperly accessed the Agency’s information technology network and deleted Agency records. The investigation was coordinated with the Federal



Bureau of Investigation and reported to the local U.S. Attorney's office. Prosecution was declined. OIG-I-489

Investigated allegations that information from an administrative investigation was improperly released and that the investigator misled witnesses. Although we found that the allegations were not substantiated, we issued a memorandum addressing Privacy Act procedures that should be addressed during future administrative investigations. OIG-I-490

Investigated allegations that an employee was improperly seeking employment from a prohibited source, made improper hiring decisions, and was engaged in outside activity during normal duty hours. We found that the allegations were not substantiated, but that the

information should be provided to the Security Officer for review during the background/suitability investigative process. OIG-I-491

Investigated an allegation that an employee used a Government computer to view sexually explicit material. During the investigation, the employee separated from the Agency. OIG-I-494

## Hotline

Employees and members of the public with information on fraud, waste, and abuse are encouraged to contact the OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, e-mail, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts. Hotline contacts are analyzed to determine if further inquiry or action is warranted.

During this reporting period, the OIG received 221 Hotline contacts, of which 67 were telephone calls or walk-ins and 154 were in writing.

Most Hotline contacts are from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction. As appropriate, the OIG refers those Hotline contacts to a NLRB Regional Office; local, state, or Federal agencies; or private resources to provide assistance.

# LEGISLATION, REGULATIONS AND POLICY

The responsibilities and duties of an OIG include reviewing existing and proposed legislation and regulations relating to the programs and operations of its agency and making recommendations in the semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the agency or the prevention and detection of fraud and abuse in such programs and operations.

## Legislation

During FY 2013, there were 13 legislative proposals introduced in Congress that would amend the National Labor Relations Act or otherwise impact the programs and operations of the Agency:

- H.R. 557, Advice and Consent Restoration Act;
- H.R. 795, Protecting American Jobs Act;
- H.R. 976, To declare that certain Agency actions have no force or effect and prohibits further action by the Board until the matters involving the appointment of the Board Members are resolved;
- H.R. 1120, Preventing Greater Uncertainty in Labor-Management Relations Act;
- H.R. 1815, Union Coercion Prevention Act;
- H.R. 2346, Secret Ballot Protection Act;
- H.R. 2347, Representation Fairness Restoration Act;
- H.R. 2674, Job Creation Act of 2013;
- S. 180, NLRB Freeze Act of 2013;
- S. 188, Advice and Consent Restoration Act;
- S. 190, Restoring the Constitutional Balance of Power Act of 2013;
- S. 850, Preventing Greater Uncertainty in Labor-Management Relations Act; and
- S. 1166, Representation Fairness Restoration Act.

## Regulations

The Counsel to the Inspector General is an advisory member of the Agency's Rules Revision Committee that develops changes to the Agency's procedural regulations.

# LIAISON ACTIVITIES

The Inspector General is to recommend policies for, and is to conduct, supervise, or coordinate relationships between the Agency and other Federal agencies, state and local governmental agencies, and non-governmental entities. The Inspector General is to give particular regard to the activities of the Comptroller General of the United States. Similarly, we encourage OIG staff members to participate in Agency programs and activities.

## Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). This organization consists of Inspectors General at the Federal Government's departments and agencies. The Inspector General sits as a member of the CIGIE Audit Committee and the CIGIE Information Technology Committee. The Inspector General is also the CIGIE representative to the Chief Financial Officers Council.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executive Council, Financial Statement Audit Network, and the Interagency Fraud and Risk Data Mining Group. The Counsel to the Inspector General participates

in the Council of Counsels to Inspectors General.

## Government Accountability Office

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the Government Accountability Office (GAO), with a view toward avoiding duplication and ensuring effective coordination and cooperation.

During this reporting period, we initiated audit OIG-AMR-72, **Fiscal Year 2013 Sequestration – Preparation, Implementation, and Impact**. Prior to beginning our fieldwork, we engaged in coordination with GAO.

# INFORMATION

# REQUIRED BY THE ACT

Certain information and statistics based on the activities accomplished during this period are required by section 5(a) of the IG Act to be included in the semiannual reports. These are set forth below:

## Section 5(a)

(1), (2), (7) OIG did not identify significant problems, abuses or deficiencies relating to the administration of programs. For the purpose of this section, we used the definition of significant as set forth in the Federal Managers' Financial Integrity Act.

(3) Except as noted on page 7, corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.

(4) Two cases were referred to prosecutorial authorities.

(5) No reports were made to the Board that information or assistance requested by the Inspector General was unreasonably refused or not provided.

(6) A listing by subject matter is located on page 13.

(8), (9) No report issued during this period had questioned costs. *See Table 1.*

(10) There are no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

(11) No significant revised management decisions were made during the reporting period.

(12) There are no significant management decisions with which I am in disagreement.

(13) There is no information to report under the requirements of section 05(b) of the Federal Financial Management Improvement Act of 1996.

(14) (15) A peer review of the audit program was conducted by the National Credit Union Administration OIG. The peer review report was issued on October 31, 2011. A copy of the peer review report is at the appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

(16) The OIG did not conduct a peer review of any other entities during this reporting period.

# AUDIT REPORTS BY SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Funds To Be Put To Better Use
Field Investigations Compliance with Unfair Labor Practice Procedures OIG-AMR-68-13-01	0	0	0

**Table I. Reports With Questioned Costs**

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
<b>A.</b> For which no management decision has been made by the commencement of the period	0	0	0
<b>B.</b> Which were issued during the reporting period	0	0	0
Subtotals (A+B)	0	0	0
<b>C.</b> For which a management decision was made during the reporting period	0	0	0
<b>(i)</b> Dollar value of disallowed costs	0	0	0
<b>(ii)</b> Dollar value of costs not disallowed	0	0	0
<b>D.</b> For which no management decision has been made by the end of the reporting period	0	0	0
Reports for which no management decision was made within six months of issuance	0	0	0

**Table 2. Reports with Recommendations that Funds be Put to Better Use**

	<b>Number of Reports</b>	<b>Funds To Be Put To Better Use</b>
<b>A.</b> For which no management decision has been made by the commencement of the period	0	0
<b>B.</b> Which were issued during the reporting period	0	0
Subtotals (A+B)	0	0
<b>C.</b> For which a management decision was made during the reporting period	0	0
<b>(i)</b> Dollar value of recommendations that were agreed to by management	0	0
<b>(ii)</b> Dollar value of recommendations that were not agreed to by management	0	0
<b>D.</b> For which no management decision has been made by the end of the reporting period	0	0
Reports for which no management decision was made within six months of issuance	0	0



# APPENDIX



## National Credit Union Administration

### System Review Report

Office of Inspector General

October 31, 2011

To David Berry, Inspector General  
National Labor Relations Board

We have reviewed the system of quality control for the audit organization of the National Labor Relations Board (NLRB) in effect for the year ended September 30, 2011. A system of quality control encompasses the NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in *Government Auditing Standards*. The NLRB OIG is responsible for designing a system of quality control and complying with it to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the NLRB OIG's compliance therewith based on our review.

Our review was conducted in accordance with *Government Auditing Standards* and guidelines established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). During our review, we interviewed NLRB OIG personnel and obtained an understanding of the nature of the NLRB OIG audit organization, and the design of the NLRB OIG's system of quality control sufficient to assess the risks implicit in its audit function. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The engagements selected represented a reasonable cross-section of the NLRB OIG's audit organization, with emphasis on higher-risk engagements. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with NLRB OIG management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.


In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG's audit organization. In addition, we tested compliance with the NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the NLRB OIG's policies and procedures on selected engagements. Our review was based on selected tests; therefore, it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it.

There are inherent limitations in the effectiveness of any system of quality control, and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

Enclosure 1 to this report identifies the offices of the NLRB OIG that we visited and the engagements that we reviewed.

In our opinion, the system of quality control for the audit organization of the NLRB OIG in effect for the year ended September 30, 2011, has been suitably designed and complied with to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. The NLRB OIG has received a peer review rating of *pass*.

In addition to reviewing its system of quality control to ensure adherence with *Government Auditing Standards*, we applied certain limited procedures in accordance with guidance established by the CIGIE related to the NLRB OIG's monitoring of engagements performed by Independent Public Accountants (IPA) under contract where the IPA served as the principal auditor. It should be noted that monitoring of engagements performed by IPAs is not an audit and therefore is not subject to the requirements of *Government Auditing Standards*. The purpose of our limited procedures was to determine whether the NLRB OIG had controls to ensure IPAs performed contracted work in accordance with professional standards. However, our objective was not to express an opinion and accordingly, we do not express an opinion, on the NLRB OIG's monitoring of work performed by IPAs.



William A. DeSarno  
Inspector General  
National Credit Union Administration

Enclosures

## SCOPE AND METHODOLOGY

### Scope and Methodology

We tested compliance with the NLRB OIG audit organization's system of quality control to the extent we considered appropriate. These tests included a review of two of two audit reports issued during the period October 1, 2010, through September 30, 2011. We also reviewed the internal quality control reviews performed by NLRB OIG.

In addition, we reviewed the NLRB OIG's monitoring of engagements performed by IPAs where the IPA served as the principal auditor during the period October 1, 2010, through September 30, 2011. During the period, the NLRB OIG contracted for the audit of its agency's Fiscal Year 2010 financial statements.

We visited the Washington, DC office of the NLRB OIG.

### Reviewed Audit Engagements Performed by the NLRB OIG

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-AMR-66	3/23/11	Travel Cards
OIG-AMR-64	4/7/11	Case Processing Costs

### Reviewed Monitoring Files of the NLRB OIG for Contracted Engagements

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-F-15	12/15/10	Audit Report on the NLRB's Financial Statements for Fiscal Year 2010

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