

**JUSTIFICATION
OF
PERFORMANCE BUDGET
FOR
COMMITTEE ON APPROPRIATIONS**



FISCAL YEAR 2010

TABLE OF CONTENTS

I.	Introduction	2
II.	Mission Statement of the NLRB.....	2
III.	Vision Statement.....	2
IV.	Major Goals	2
V.	Background Information.....	3
VI.	Statutory Structure of the Agency: Role of the Board and General Counsel	4
VII.	Strategic Initiatives	7
VIII.	Management Initiatives	13
IX.	External Factors and Agency Goals	18
X.	Program Evaluation	20
XI.	Fiscal Year 2010 Performance Budget	21
XII.	Office of the Inspector General	24
XIII.	Strategic Plan Goals and their Relationship to the Performance Budget	25
XIV.	Performance Measures.....	30
XV.	Summary of Performance Measures.....	34
XVI.	Board Members and General Counsel.....	35
XVII.	Budget Materials.....	36
	Appropriation Language	37
	Amounts Available for Obligation.....	38
	Budget Authority by Object Class	39
	Budget Authority and Staffing by Activity	40
	Detail of FTE Employment	41
	Appropriations History.....	42
	Staffing History	44
	Major Workload and Output Data.....	45
XVIII.	Program Materials	46
	Exhibit A: Types of NLRB Cases	
	Exhibit B: Organization Chart	
	Exhibit C: Basic Procedures in Cases Involving Charges of Unfair Labor Practices	
	Exhibit D: NLRB Order Enforcement	
	Exhibit E: Outline of Representation Procedures Under Section 9c	

I. Introduction

This document combines the National Labor Relations Board's (NLRB) budget estimate and Annual Performance Plan (Plan) for FY 2010. The Plan describes the strategies and initiatives the Agency proposes to undertake in FY 2010 to apply budgetary resources efficiently and effectively to achieve our annual and long-term performance goals under the Government Performance and Results Act (GPRA) of 1993.

The Agency's FY 2010 budget request of \$283.4 million represents an increase of \$20.805 million over the FY 2009 enacted level of \$262.595 million. This level will support 1,685 full-time equivalent (FTE) employees, and provide the resources needed to cover the space, information technology, and case handling costs necessary to continue effectively supporting the National Labor Relations Act (NLRA).

The request assumes that case intake will increase in FY 2010, regardless of the outcome of current labor law reform efforts. The Agency has been operating with a two-member Board since January 2008, however, a new Chairman was designated on January 20, 2009, and a full Board is anticipated by the end of FY 2009. Historical trends show that Agency case intake has increased when there is a new Board. In the event of new labor law legislation, it is expected that there would be an even greater increase in intake.

II. MISSION STATEMENT OF THE NLRB

The mission of the NLRB is to carry out the statutory responsibilities of the NLRA, the primary federal statute governing labor relations in the private sector, as efficiently as possible, in a manner that gives full effect to the rights of employees, unions, and employers.

III. VISION STATEMENT

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

IV. MAJOR GOALS

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the NLRA by individuals, employers or unions. The two major goals of the NLRB focus on its timeliness and effectiveness in addressing its caseload. The major goals are to:

- Resolve all questions concerning representation promptly
- Investigate, prosecute, and remedy unfair labor practices by employers or unions promptly

V. BACKGROUND INFORMATION

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the NLRA, 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. It seeks to do this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The Act embodies a statement of employees' bill of rights, which establishes freedom of association for the purposes of participating in the practice and procedure of collective bargaining. Under the Act, the NLRB has two primary functions: (1) to conduct secret-ballot elections among employees to determine whether the employees wish to be represented by a union², and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions. The mission of the Agency is to carry out these statutory responsibilities as efficiently as possible, in a manner that gives full effect to the rights of employees, unions, and employers.

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate from the filing of charges or petitions by employees, labor unions, and private employers who are engaged in interstate commerce. About 26,000 cases are received by the Board through its Regional, Subregional, and Resident Offices each year. Of those, approximately 22,500 are unfair labor practice (ULP) cases and the remaining 3,500 are representation cases, which involve petitions to conduct secret ballot elections. Under the Act's procedures, the General Counsel's staff investigates the 22,500 ULP cases, which results in a finding of no merit—no probable cause to support the charge—about two-thirds of the time. These decisions are made by the Regional Directors, who have been delegated substantive decision-making authority over these cases.

The Agency's determinations to dismiss unfair labor practice charges are of great significance to the public and are an essential part of the Agency's mission. During the processing of a charge in the Regional Office, a full and fair investigation is conducted with all parties having the opportunity to present evidence and statements of position in support of the charge, or in defense of it. If further proceedings are not found to be warranted by the Regional Director, the charging party can request and be provided with a full statement of the reasons. The charging party can then file an appeal of the Director's action with the Office of Appeals of the General Counsel's staff in Washington. If an appeal is filed, the Regional Office investigative file is independently reviewed by the Office of Appeals to determine whether the investigation was complete and the

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

²Exhibit A provides detailed descriptions of the types of cases handled by the Agency.

legal conclusion sound.

If the Regional Director's decision to dismiss the unfair labor practice charge is upheld, the case is complete. The parties know conclusively what their legal rights and obligations are with respect to the dispute underlying the charge. Although the charging party will likely be disappointed by the result, both parties appreciate that a dismissal puts the matter to rest. This resolution allows the parties to move forward with a better understanding of their respective rights and responsibilities.

Of those cases in which merit is found, approximately 95 percent (96.9 percent in FY 2008) are settled without formal litigation. Cases are settled through the Agency's settlement program when the parties agree to a remedy and thereby avoid litigation. It has long been the NLRB's belief that all parties are better served if disputes are settled without the need for time-consuming and costly litigation.

In addition to its ULP caseload, the NLRB received 3,400 petitions in representation cases, and conducted 2,085 elections in FY 2008. The difference between the number of petitions and the number of elections is explained by several factors. A case may not proceed to an election when the Board dismisses the petition because it does not have jurisdiction over the matter, or because the petition seeks an inappropriate bargaining unit. In other cases, a union may independently decide to withdraw its petition if it feels that it is losing support among employees. In 92 percent of elections conducted in FY 2008, up slightly from 91 percent in FY 2007, the NLRB was able to negotiate agreements between the parties as to when, where, and who should be involved in the election, thus conserving resources that would otherwise be spent on a hearing. Hearings were required in the remaining 8 percent of these cases.

VI. STATUTORY STRUCTURE OF THE AGENCY: ROLE OF THE BOARD AND THE GENERAL COUNSEL

The NLRB's authority is divided by law and by delegation between the five-member National Labor Relations Board ("the Board") and the General Counsel, all of whom are appointed by the President, subject to confirmation by the Senate.³ To carry out their respective functions, described below, the Board and the General Counsel maintain a headquarters in Washington, D.C. The Agency also maintains a network of Regional or "Field" offices, each of which is under the direction of a Regional Director⁴, and three satellite Judges offices.

The NLRA assigns separate and independent responsibilities to the Board and the General Counsel in the prevention and remedying of unfair labor practices. An explanation of this

³The Agency has been operating with a two-member Board since January 1, 2008. The two members are Chairman Wilma B. Liebman and Member Peter C. Schaumber. The term of Chairman Robert J. Battista expired on December 16, 2007, and the recess appointments of Board Members Dennis P. Walsh and Peter N. Kirsanow expired on December 31, 2007. The General Counsel's position is filled with confirmed appointee Ronald Meisburg.

⁴ Exhibit B is an organization chart of the Agency.

division of authority between the Board and the General Counsel will help to provide an understanding of the Agency's operations.

Unfair Labor Practice Proceedings⁵

Unfair labor practices are remedied through adjudicatory procedures under the NLRA in which the Board and the General Counsel have independent functions. The role of the General Counsel is to investigate ULP charges filed by individuals and organizations and, if there is reason to believe that a charge has merit, to issue and prosecute a complaint against the charged party unless settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative law judge, who issues a decision, which may be appealed by any party to the Board through the filing of exceptions. The Board acts in such matters as a quasi-judicial body, deciding 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.

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 ULP cases.

The General Counsel's decision to prosecute or not is unreviewable. A decision to dismiss a charge after full investigation is, in many respects, a resolution of that labor dispute.

Under Section 10(l) of the Act, when a Region's investigation of a charge yields reasonable cause to believe that a union has committed certain specified unfair labor practices such as a work stoppage or picketing with an unlawful secondary objective, the Regional Officer or Regional Attorney is *required*, on behalf of the Board, to seek an injunction from a U.S. District Court to halt the alleged unlawful activity. Section 10(j) of the Act provides that where the General Counsel has issued a complaint alleging that any other type of unfair labor practice has been committed, by a union or by an employer, the Board *may* direct the General Counsel to institute injunction proceedings if it determines that immediate interim relief is necessary to ensure the efficacy of the Board's ultimate order.

If the Board finds that a violation of the Act has been committed, the role of the General Counsel is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation.⁶ 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. Courts 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 seeks

⁵ Exhibit C is a chart on ULP case processing.

⁶ Exhibit D is a chart on NLRB Order Enforcement

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.

Representation Proceedings⁷

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 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 petition-for unit of employees constitutes 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 elections on behalf of the Board. As a result, the General Counsel and the Board have historically worked together in developing procedures for the conduct of representation proceedings. Although 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 Cases

In order to obtain compliance with the NLRB's Orders and Settlement Agreements, staff must follow up to ensure that the results of the processes discussed above are enforced. Staff must be prepared to calculate backpay for employees whose rights have been violated, work with respondents when terminated employees are entitled to reinstatement or having their records expunged, 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.

Further, at times the financial status of the respondent has changed during the period the case has been litigated. These changes may require more sophisticated litigation in bankruptcy and federal district courts pursuant to the Federal Debt Collection Procedures Act of 1990. As the Agency has been required to engage in this complex litigation, considerable staff resources have been devoted not only to the actual litigation, but also towards preparing and training staff to represent the Agency in these forums.

⁷ Exhibit E is a chart on representation case processing.

Administrative Functions

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency, (other than the administrative law judges, the Agency solicitor, and the attorneys who serve as counsel to the Board Members,) and over the officers and employees in the Regional Offices. 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.

Under the General Counsel, the Division of Operations-Management has responsibility for the administration of the NLRB's Field offices. Approximately 70 percent of the Agency's staff is employed in the field, where all ULP charges and representation petitions are initially filed. Currently, the Field offices include 32 Regional Offices, 3 Subregional Offices, and 16 Resident Offices.

Effect of Division of Authority on Strategic Plan and Goals

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 their unique statutory functions. The statutory framework in the processing of ULP cases separates the prosecutorial functions of the General Counsel from the adjudicatory functions of the Board. The Board and the General Counsel do work together, however, when developing and revising Agency Strategic and Annual Performance plans.

VII. STRATEGIC INITIATIVES

First Contract Bargaining

A critical responsibility of the NLRB is to conduct prompt and fair 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 that, following the certification of a labor organization as the bargaining representative of a group of employees, an employer 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 vindicated by protecting the collective bargaining process chosen by employees. 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 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 unfair labor practice charges dealing with first contract bargaining are accorded high priority in the Regional Offices. He also has required the consideration of additional special remedies if those charges are found to have merit. The appropriateness of these remedies is considered based upon the facts of each case.

As a result of this initiative, nearly 200 first contract cases were reviewed to determine whether additional remedies or injunctive relief was warranted. In selected meritorious cases, the General Counsel authorized settlements or litigation to extend the certification year for certified bargaining representatives and required parties to adhere to bargaining schedules in cases involving refusals to meet at reasonable times. In other cases, Regional Offices obtained settlements requiring multi-facility notice postings, the e-mail distribution of notices, union access to bulletin boards, the payment of negotiation expenses, and bargaining reports.

Outreach

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. Since 1935, 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.

A less well known protection that the Act affords employees is, “the right to engage in other 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, eg. complaints by two or more employees about the temperature in the plant, wage rates, or other terms and conditions of employment. 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 refrain from engaging in any or all of this activity without fear of retribution.

In an effort to inform the public fully about all their rights under the National Labor Relations Act, including their rights with regard to protected concerted activity, the General Counsel initiated an expansion of the Agency’s traditional outreach program in 2006. Under the expanded outreach program, independently or in partnership with other organizations such as the Equal Employment Opportunity Commission, NLRB agents are initiating contact with schools, community groups, churches, other federal agencies, business organizations, and others to make information about the NLRB available to individual workers. The Regional Offices, taking advantage of local opportunities and addressing local conditions, are reaching out to employers, unions, workers, and soon-to-be workers to educate them regarding the role of the NLRB as an

impartial enforcement agency.

Agency representatives have participated in over 500 outreach events over the past few years. A significant number of these events had several hundred people in attendance, such as the Government on Display at the Mall of America in Minneapolis, the Cincinnati Latino Festival, and a Webcast to all of Alcoa's U.S. facilities. In addition, many Regional Offices have published newsletters to their local communities.

The Agency has also completed filming an English/Spanish video about NLRB representation case processing for nationwide distribution to the public. The video will be posted on the NLRB's website.

Public Information Program

In addition to both the traditional and expanded outreach program, one of the critical services provided to employers, unions, and employees is the Agency's Public Information Program. Under this program, the Agency provides information directly to individuals or entities that contact the Agency seeking assistance. In FY 2008, the Agency's 51 Field Offices received 154,028 public inquiries regarding work place issues. In responding to these inquiries, Board agents spend a considerable amount of time explaining the coverage of the NLRA, accepting charges, or referring parties to other federal or state agencies.

The public can also contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to information. 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 2008, the toll-free telephone service received 53,077 calls.

Also, to extend its public services efforts across the Internet, the Agency's website, 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. During FY 2008, visitors to this site area had 50,175 sessions.

Another feature of the website is a Speakers 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. The Agency has received 53 requests for speakers through this feature.

In addition, the public can easily access information about pending cases through the Agency's Electronic Case Information System (ECIS).

Alternative Dispute Resolution Program

In December 2005, the five-member Board implemented a pilot “alternative dispute resolution” (ADR) program to assist parties in settling ULP cases pending before the Board on appeal from decisions issued by the Agency’s administrative law judges (ALJ). (This program is in addition to the Settlement Program conducted by the General Counsel.) The program is currently being evaluated for permanent retention.

The Board established the 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 would resolve the contested matter and allow the Board to cease its deliberations on the case and the Board Members and their staffs to turn their attention to other matters. In addition, as approximately 40 percent of Board decisions generated 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 include the settlement of those compliance details as well, such as reinstatement and backpay, making further proceedings before the Agency unnecessary.

Participation in the program was voluntary, and a party who entered into settlement discussions under the program could withdraw its participation at any time. The Board provided the parties with an experienced neutral, usually an ALJ, to facilitate confidential settlement discussions and explore resolution options that served the parties’ interests. The Board stayed further processing of the ULP case for 60 days from the first meeting with the neutral or until the parties reached a settlement, whichever occurred first. Extensions of the stay beyond the 60 days could be granted by the neutral, but only with the agreement of all parties.

During the pilot program, 41 cases were set for mediation, of which 22 settled. The 19 cases that did not settle were returned to the Board for further processing. During this time, the total number of cases pending before the Board averaged about 285 per month.

Video Testimony Pilot Program

In January 2008, the General Counsel, with the authorization of the Board, created a Video Testimony Pilot Program to allow the participation in representation case hearings of parties, representatives, or witnesses from remote locations. The 2-year program was established to monitor the use of video testimony and assess its effectiveness in situations where a party, a witness, or representative is unable to appear at a hearing in person. The pilot program is limited to representation cases.

While in-person testimony and the presence of all parties at a representation hearing is still the preference, where circumstances demonstrate a benefit from the use of videoconferencing equipment, Regional Directors now have the authority to require its use during both pre-election and post-election representation case hearings. In exercising this discretion, the Regional Directors will consider various factors, including the number, length, and types of documents

(e.g. affidavits) to be introduced through a witness providing testimony via video; the number of witnesses who would testify by video and the expected length of their testimony; the types of issues involved in the proceeding; the potential costs of using video testimony versus travel costs; and the positions of the parties.

Other federal agencies have used video testimony with great success and it is hoped that this pilot program will save time and money while facilitating the development of complete records during representation case hearings.

Deferral of “Blocking Charges”

The Board has two well-established policies – resolving questions concerning representation expeditiously, and allowing employers and unions to resolve disputes through existing grievance-arbitration procedures. Over the past several years, there have been a limited number of representation cases that have been "blocked" while related ULP charges were deferred in accordance with the Board's decisions in Collyer Insulated Wire and Dubo Manufacturing Corp.

In September 2008, the General Counsel announced a program to expedite the processing of ULP charges that "block" the processing of representation cases. This program provides for uniform case processing procedures which balance those two well-established policies of expeditiously resolving representation questions and resolving disputes through existing grievance-arbitration procedures. Rather than indefinitely deferring ULP charges which may interfere with the outcome of employee voting, Regional Offices will now fully investigate the allegations and provide the parties with a preliminary determination regarding the merits of those charges. The parties will then be afforded an opportunity to resolve and remedy the meritorious allegations – either through private negotiations or through an NLRB settlement – thereby quickly restoring the conditions of a free and fair election.

Prioritization of Cases—Impact Analysis

A case management system called Impact Analysis, adopted in FY 1996 to streamline case management in the Regional Offices, has reformed case processing at the Agency. Impact Analysis provides a uniform framework for the prioritization of cases and ensures that those cases having the greatest impact upon the NLRB's customers receive the promptest and highest level of attention. The Impact Analysis system allows for the measurement of the NLRB's effectiveness in handling the most important cases and moves away from the Agency's more traditional approach of measuring effectiveness exclusively based on the numbers of cases processed, regardless of their significance in the labor relations community.

Through the Impact Analysis approach, the cases that now receive the most immediate attention are those where the alleged unlawful activity is having a demonstrable impact on the public through disruptions of business activities or would affect significantly a large number of employees or high percentage of the workforce in a smaller business. Under Impact Analysis, a case involving a remedial bargaining order affecting an entire unit of employees or the systematic abuse by a union of an exclusive hiring hall would command greater priority and Agency resources than would a charge involving a claim by an individual regarding his or her union's failure to process an individual grievance.

The Impact Analysis model consists of three categories of cases, with Category III being the cases of the highest impact and Category I the lowest. Agency staff categorize the cases as appropriate, and can recategorize during the investigative stage, if warranted. Generally, about 33 percent of unfair labor practice cases fall in Category III, about 62 percent in Category II, and 5 percent in Category I. Impact Analysis time goals for processing an unfair labor practice charge -- from the filing of the charge, through investigation and implementation of a Regional determination, through the issuance of a complaint or dismissal or withdrawal -- are different for each of the three categories. The current time targets are 7 weeks for Category III cases, 9 weeks for Category II, and 12 weeks for Category I, and it is anticipated that they will remain at these levels in fiscal years 2009 and 2010.

We constantly review performance against our Impact Analysis time targets to determine whether our goals can be adjusted to better serve the public. The types of cases handled under each category can be changed if staffing is found to be sufficient to permit greater expedition in case handling. The NLRB will be reviewing the Impact Analysis process again this year, and, if appropriate, make modifications.

Streamlined Board Case Processing

The Board has adopted the methods and procedures recommended by an internal three-year study, "Guide to Streamlined Case Processing," that has led to the use of expedited case processing procedures. Under the Board's "Super Panel" procedure, a panel of three Board Members meets each week to hear cases that involve issues that lend themselves to quick resolution without written analysis by each Board Member's staff. Staff counsel attending the Super Panel session present the Board Members with a draft decision that can be approved "on the spot." The net result is that the case is issued immediately after the Super Panel meeting, avoiding intermediate levels of review. This avoids delays in conducting representation elections and deciding the merits of objections.

The streamlining guide also encourages the use of "speed team" subpanels. In this process, the assigned originating Board Member identifies cases involving straightforward issues that, with the agreement and early involvement of the other two panel members, can be drafted and circulated quickly, without the need for detailed, time-consuming memoranda.

Other procedures adopted include the sharing of legal memoranda among the different Board Member staffs, shortening the length of legal memoranda, the use of a "focus list" of cases targeted for issuance, and the use of case "advocates."

VIII. MANAGEMENT INITIATIVES

The section below discusses management initiatives that help the Agency meet 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 at the end of FY 2008, 40 percent of GS 13-15 supervisors and 75 percent of Senior Executive Service (SES) 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 the remaining 1,150 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 case-handlers and decision-makers.

In an effort to address the large number of potential retirements, the Agency implemented an entry-level professional recruitment program in FY 2006, which allows the Agency to better compete for entry-level applicants, plan its workforce hiring needs, and staff its field and headquarters offices.

To ensure that staff members have the necessary skills to effectively accomplish the Agency's mission, a number of training initiatives have been developed for both supervisory and non-supervisory staff, including programs created to train managers -- through details to other offices -- in areas other than where they are assigned. These opportunities broaden managers' knowledge and skills, facilitate cross-training, and enhance Agency flexibility, efficiency and effectiveness. As a result of these initiatives, the Agency now offers the following:

- Management Development Program
- Orientation for new Regional Directors
- Mentoring program
- Conflict Management Training for Managers/Supervisors
- 360 Feedback Tool
- Weekly training via videoconferencing for targeted groups of Field employees
- Support staff skills and organizational training
- Training materials developed by Agency professionals on developing areas of Board law and procedures

Due to funding constraints in FY 2007 and FY 2008, most of the training initiatives listed above were restricted to available on-line resources, distance training, or in-house training modules. In FY 2007, we provided a total of \$457,000 for training, and \$95,000 for the field-headquarters detail program; and in FY 2008, we provided \$450,000 for training and \$316,000 for exchange details.

Our experience has shown that training is most effective when supplemented with “in service” training events. Thus, with the funding provided in FY 2009, and requested for FY 2010, we plan to enhance the training opportunities available to staff by offering the following:

- Trial Advocacy training for Field Attorneys who have never been to such training
- Compliance Officer training
- New Employee Training
- New Supervisor training
- Office Manager training
- EEO Counselor and Special Emphasis Coordinator training
- Senior Employee Training for Field Examiners and Field Attorneys
- Senior Management Conference for Headquarters and Field Managers

A total of \$2 million is being devoted to training in FY 2009, including classes and training conferences, with an additional \$270,000 provided to fund all requested exchange details. A comparable amount is planned for training and details in FY 2010.

Finally, one of NLRB’s human capital goals is to create a results-oriented performance culture that clearly links employee performance and pay to the attainment of the NLRB’s strategic goals. With this in mind, when revising our Strategic Plan in FY 2007, we modified the performance measures to make them more robust and customer-focused, and better serve our constituents. The end result was the creation of three overarching measures that support the Agency’s two strategic goals, and annual targets that support the Agency’s long term goals. In recognizing the need to link employee performance to the Agency’s strategic goals, we also revamped our SES Pay for Performance System to show a clear linkage between executive performance and pay, and attainment of our goals. See Section XIII for further details regarding Agency goals and performance measures.

Competitive Sourcing

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. In keeping with this effort, the Division of Administration’s Finance Branch outsourced invoice payment to the Department of Interior’s National Business Center, in September 2007. The Division had previously outsourced mailroom operations in FY 2004. Other opportunities for competitive sourcing continue to be explored within the Agency.

Budget and Performance Integration

The NLRB’s annual GPRA Performance Plan is integrated into our budget request to form the basis of our Performance Budget. As mentioned previously, when the Agency updated its Strategic Plan in FY 2007, it replaced the previous measures, which focused on case processing within the Board or GC sides, with three new, overarching, outcome-based performance measures that focus on the time taken to resolve cases, from beginning to end, including both the General Counsel and Board sides. Section XIII of this document provides further details

regarding these new measures, as well as a discussion of the relationship between our GPRA goals and measures, and the amount of resources, both FTE and dollars, that are devoted to them.

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, goals 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 over \$1 million. The Agency upgraded to this system in 2004, as it provided better Web-based functionality and improved integration with other systems.

Momentum is integrated with the Federal Personnel and Payroll System, providing for more efficient payroll processing, and also with the Agency's E-travel compliant travel manager system, E²Solutions, which was implemented in August 2007. Additionally, as mentioned previously, to increase efficiencies the Agency outsourced the invoice payment function, beginning in September 2007. The integration of these systems and functions continues to 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-Government Advances

To support its mission and goals, the NLRB is developing and implementing a mainstream information architecture and infrastructure that utilizes the latest technological advances to support program and administrative efforts. The Agency's Information Technology (IT) initiatives support its broader efforts to improve productivity and provide greater transparency.

These initiatives focus on citizen-centered and results-oriented principles. The initiatives fall under three major categories: (1) Next Generation Case Management; (2) Citizen Centric Web Portal; and (3) Infrastructure Modernization and Consolidation. These initiatives were designed to:

- Improve the productivity and transparency 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
- 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 Agency-wide 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 (NxGen)

The Next Generation Case Management (NxGen) 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 NxGen project is enabling the NLRB to replace or optimize manual, paper-based processes and “stovepipe” legacy systems with a standards-based solution leveraging Commercial Off-The-Shelf (COTS) tools and a Service-Oriented Architecture (SOA) approach.

To build a solid foundation for NxGen, the NLRB has analyzed the missions of the Agency and, based on the analysis, revised mission-related and administrative processes 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, Agency-wide solution to satisfy the needs of all its offices. The system is based on open industry standards with “data mart” capabilities.

NxGen will replace eleven disparate case tracking systems presently deployed at the NLRB and will be integrated with the Board’s Judicial Case Management System (JCMS). Presently, the NxGen system is being piloted in Regional Offices in Cincinnati, Atlanta, and Birmingham. Additionally, the Division of Appeals has migrated to the NxGen system and their Appeals Case Tracking (ACTS) legacy system has been retired. During the second quarter of FY 2009, the General Counsel decided an Appeals case using the paperless NxGen system.

In FY 2010, the Agency plans to retire its two largest legacy case tracking systems – the Regional Office’s Case Activity Tracking System (CATS) and the Board’s Pending Case List (PCL) system.

The Agency’s progress in developing NxGen is largely a function of the budget resources available. The funding requested herein would allow for an increase in contractor support and an accelerated development, testing, training and implementation schedule – estimated at reducing the overall schedule by at least six months.

Citizen Centric Portal

The National Labor Relations Board continues to deliver results through the adoption of electronic government management principles and best practices for the implementation of information technology. The NLRB is focused on providing timely and accurate information to the citizens and government decision-makers while ensuring security and privacy.

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 Agency’s Office of the Chief Information

Officer (OCIO) understands the significance of three technology trends:

- An emphasis on business and IT alignment and the need to harmonize IT investments across the Agency;
- The dominance of the Web platform and the desire within enterprises to work from a common Web application development and information platform;
- The transition to a more componentized, Service-Oriented Architecture (SOA) which utilizes a common platform for services to be integrated

Historically, agencies developed and/or invested in technologies that were internally focused rather than citizen-centered. The NLRB portal-based public interface is one component of the long-term unified case management vision: to be able to provide better services, more efficient case handling, greater transparency, and continue to improve quality. This important step provides a gateway for the public, including participants in NLRB cases, the Agency and existing systems to communicate with one another in the course of transacting business, as well as offering FOIA-able documents online to the general public.

The NLRB Web Portal offers a self-service solution to citizens so they might obtain, maintain, and share information. Having a broader group review case data will mitigate risks associated with inaccurate or incomplete data in our internal case processing systems.

These business requirements and technology trends converge in an enterprise portal solution. 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. 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 January 2005, E-Filing was expanded to include all documents in all cases before the Board. In FY 2008, the Agency expanded the E-Filing program to the General Counsel and Judges Division. Additionally, E-Issuance/E-Service functionality was implemented on the Portal allowing parties to all Board cases to be notified when decisions are posted on the NLRB web site. In FY 2009, E-Issuance/E-Service will be expanded to include the Judges Division and the Agency's portal will be integrated with the NxGen solution.

Infrastructure Modernization and Consolidation

In FY 2006, the NLRB developed and began implementation of an ambitious plan to modernize and consolidate its IT infrastructure. The Agency awarded a contract for commercial collocation hosting, monitoring, managed services, and file server consolidation, consistent with the Agency's Information Technology Strategic Plan.

Historically, each of the Agency's 51 Regional, Subregional, and Resident Offices throughout the United States, Puerto Rico and Hawaii used local file servers to support mission critical applications. In FY 2008, all file servers were consolidated into the NLRB-managed hosting facility. The current FY 2009 plan is to consolidate the six regional email servers into a single

clustered platform at the managed hosting facility. Also, the OCIO plans to add a second managed hosting facility on the west coast, thereby providing disaster recovery and load balancing functionality. It is anticipated that the NxGen program will be fully deployed in FY 2011; thereby removing the requirement to have database servers located in the Regional Offices.

The Infrastructure Modernization and Consolidation program:

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

By modernizing and consolidating the infrastructure in such a manner, the NLRB is able to provide 7x24x365 service and support, disaster recovery, consolidated storage and robust interconnection with offices of the NLRB and the public. In addition, the Agency will transition to the new GSA Network contract, taking advantage of lower telecommunications rates and upgrading bandwidth at the Regional Offices to support NxGen and other applications that operate across the NLRB wide area network.

IX. EXTERNAL FACTORS AND AGENCY GOALS

Various external 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 2010 request totals \$283.4 million, with an estimated Agency FTE of 1,685. 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 case handling. Our goals assume the level of funding set forth in this request.

Case Intake

During FY 2008, 22,501 ULP cases were filed with the NLRB, of which 36.1 percent were found to have merit, and 3,400 representation cases were filed, of which the merit factor rate was

65.6 percent. In FY 2008, the Agency's representation case intake increased by 2.3 percent and ULP case intake increased by 1.6 percent, with overall case intake increasing by 1.7 percent. Based on current trends, the General Counsel estimates that the total of ULP and representation cases will remain level at about 26,000 cases in FY 2009 and increase slightly to 26,300 in FY 2010. Of that total, ULP cases are estimated to increase to 22,700, while representation cases are expected to rise to 3,600.

Several factors could affect case intake, however, thereby impacting 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, possibly resulting in an increase in caseload. Potential new legislation, such as the Employee Free Choice Act bill currently being debated in Congress, immigration reform, and greater AFL-CIO focus on the immigration workforce could affect Agency caseload levels. Also, recent increases in union organizing among the service industries shows no sign of diminishing as organizing activities continue in the nursing home industry and among janitorial staffs.

Additional factors that could affect the NLRB's intake and the complexity of its work include: public perception about unionization and the role of the Agency, employment trends, stakeholder strategies, globalization of the economy, industrial economic trends, corporate reorganizations and bankruptcies, the overall health of the nation's economy, the level of labor-management cooperation efforts, and statutory changes.

In short, without the necessary staffing and support, an unexpected large increase in our intake or in the complexity of issues we handle may result in increased backlogs and delays in processing cases. This budget request assures that we will continue to have the trained professional and support staff as well as the other resources necessary to maintain the enviable record that has been the hallmark of the NLRB since 1935.

Settlements

Currently, of those cases in which merit is found, approximately 95 percent (96.9 percent in FY 2008) 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 subject to the Agency's control. 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.

Board Member Vacancies

Another factor outside the control of the Agency is the timely confirmation of Presidential appointees. The assigned caseload of individual Board members rises and decisions in difficult or controversial cases may be delayed due to vacancies on the five-member Board. As the

General Accounting Office pointed out in a 1991 analysis of Board production, Board member vacancies and turnover are the primary reason for delays in issuance of Board decisions. For example, the current Board has only two confirmed appointees, Chairman Wilma B. Liebman, and Board Member Peter C. Schaumber. The lack of a full Board, or even three-member Board panel, prevented issuance of decisions in approximately 20-25 percent of cases in FY 2008. The lack of a full Board complement and the learning curve for new appointees can decrease Board productivity and prevent the Board from meeting its performance goals.

The chart below shows the appointment and term expiration dates of the current Board members and General Counsel.

BOARD MEMBERS AND GENERAL COUNSEL

	Appointed	Term Expiration
Wilma B. Liebman Chairman	8/14/06	8/27/11
Peter C. Schaumber Member	8/14/06	8/27/10
Member (Vacant since 12/16/07)		
Member (Vacant since 12/31/07)		
Member (Vacant since 12/31/07)		
Ronald Meisburg General Counsel	8/14/06	8/13/10

X. PROGRAM EVALUATION

The NLRB evaluates whether programs are achieving their GPRA and other performance targets through different techniques and mechanisms. The Board tracks the status of all of its cases on a regular basis to determine performance against yearly targets that support the Agency’s performance measures and strategic goals. A standing committee (Triage Committee) of senior management officials meets weekly to review the status of cases that have entered the issuance process, plus other cases that are likely to require special handling. Triage representatives report back to the Board Members on performance data and staff workload, among other issues. 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.

The NLRB also tracks litigation in the circuit courts. Over the past several years the Agency’s enforcement rate has been among the highest in its history. This trend continued in FY 2008. During that period, the United States Courts of Appeals decided 72 enforcement and review cases involving the Board, compared with 67 in FY 2007. In these cases, 88.9 percent of Board decisions were enforced in full or in part and 80.6 percent were enforced in full.

The General Counsel carefully monitors the work of the Regions and Headquarters offices to be

sure that they are handling cases expeditiously and consistent with time and performance goals. Further, the General Counsel has had an evaluation program in place for many years to assess the quality of 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 review all ALJ and Board decisions constituting a significant loss in order to assess the quality of litigation. Moreover, the Regional Offices' 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 87 percent and before the district courts has been 85 to 90 percent. The Division of Operations-Management regularly reviews case decisions in order to determine the quality of 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.

XI. FISCAL YEAR 2010 PERFORMANCE BUDGET

The \$283.4 million requested will fund essential staffing, space requirements, long term investments in IT, employee development needs, and other operational costs needed to achieve our mission and goals. The request is based on the following assumptions:

- Case intake will increase in FY 2010, consistent with historical trends that show Agency case intake increasing when there is a new Board. In the event of new labor law legislation, there could be an even greater increase.
- Planned performance goals and measures will be met
- Efforts will continue to maintain a reduced backlog

The NLRB's mission – the resolution of labor disputes through investigation, settlement, advocacy and adjudication – relies primarily on skilled and experienced professional employees; accordingly, most of the Agency's budget, about 80 percent, is dedicated to personnel costs. Of

the remaining 20 percent, about 11 percent is required for rent and associated security costs, and the balance 9 percent is allocated among all other operating costs and activities, including IT development, acquisition and maintenance; telecommunications, including leased lines for all field offices; court reporting; case-related travel; witness fees; interpreters; maintaining current legal research collections; training; and complying with government-wide statutory and regulatory mandates.

The following table places the FY 2010 performance budget request in the context of resources received or anticipated over the FY 2008 through FY 2010 timeframe:

	FY 2008 Actual	FY 2009 Enacted Appropriation	FY 2010 President's Budget
Funding Level (000s)	\$251,762	\$262,595	\$283,400
Agency FTE	1,628	1,637	1,685

The requested funding of \$283.4 million constitutes an increase of \$20.8 million over the FY 2009 enacted appropriation of \$262.6 million. The \$20.8 million will help fund the compensation costs associated with a 3 percent increase in FTE over the 1,637 projected in FY 2009. The additional FTE will enable the Agency to accommodate anticipated caseload increases, and continue to provide the high level of service to the public for which the NLRB is known. The funding will also offset \$1.3 million in expected increases in space rent, building security, and IT costs associated with Agency financial, personnel, and new automated case tracking systems, and cover additional inflationary costs related to court reporting, transcripts, interpreters, statutory fees, telecommunications, databases, and other operational costs.

Budget Oversight

The NLRB prides itself on being an extremely effective steward of taxpayer dollars. As such, we have conserved funds and maximized our spending flexibility over the years, by imposing strict hiring controls in all offices as needed; restructuring and streamlining our workforce to either eliminate some positions, or fill them at lower grades; consolidating space so as to reduce rental costs; and cutting back on IT, travel, and other case handling and support costs. While increased fuel and rental costs have offset, somewhat, these efforts, they have still enabled us to cover our normal requirements, while continuing to serve our constituents at a high level, maintain labor peace, and achieve our GPRA goals.

BUDGET PROGRAM ACTIVITIES

The following table illustrates obligations and FTE by program activity:

	FY 2008 Actual		FY 2009 Enacted		FY 2010 President's Budget	
	\$ Millions	FTE	\$ Millions	FTE	\$ Millions	FTE
Field investigation	\$202	1,281	\$211	1,293	\$227	1,331
ALJ hearing	12	110	12	110	13	112
Board adjudication	24	152	25	150	27	155
Securing compliance with Board orders	13	79	14	78	15	80
Internal review	1	6	1	6	1	7
Total	\$252	1,628	\$263	1,637	\$283	1,685

Field Investigation

The FY 2010 budget request of \$283.4 million would support an estimated intake level of 26,300 total cases, and provide the flexibility to add 38 FTE to accommodate potential workload increases. The additional FTE, including trial attorneys, field examiners, and support staff, would be added as necessary to the regional offices experiencing the greatest growth in case intake. The field utilizes approximately 70 percent of total Agency FTE.

As budgets grew tighter over the past few years, the Agency adopted several measures to conserve resources in its Field operations. Some of these measures included increasing the use of telephone affidavits, videoconference interviews, and position statements; and restricting travel. With the additional requested funding, we will be able to operate in a less constrained fashion. For instance, we will be able to return to our longstanding practice of conducting face-to-face witness interviews in most cases. Experience has shown that these interviews ensure more complete investigations and, consequently, better investigatory results.

The initial processing and disposition of new case filings in the Field drives the intake for other stages of the case handling pipeline. Approximately one-third of the cases dismissed by the Regional Directors based on a lack of merit are appealed to the Office of Appeals. The meritorious charges, if not settled, go onto the administrative law judges' trial calendar and from there a portion are appealed to the Board for final decision. Some cases proceed to the Enforcement Division for Appellate Court review, and some of those may proceed to contempt or other post-enforcement proceedings. While cases are winnowed out at every stage of the pipeline, the rates tend to be constant over time. The primary indicator of overall caseload throughout the process is the rate at which the Field processes new filings.

Administrative Law Judges Hearing

The requested funding anticipates that the number of hearings and judicial decisions issued in the Judges Division will increase slightly in fiscal years 2009 and 2010, so the Agency will add 2 FTE to accommodate the increased workload. The number of cases pending an administrative law judge decision is expected to remain stable at about 65 cases during this same period.

Board Adjudication

The number of pending ULP cases at the Board decreased from 167 at the end of FY 2007, to 138 at the end of FY 2008, but can be expected to increase commensurate with increased case intake in FY 2010. This assumes that the Agency will have a full Board and staff by 2010. Without a full Board, pending ULP cases might increase further. A full five-member Board is essential to decide cases on a timely basis and to continue to reduce the Board backlog. In order to handle the additional cases, the Agency plans to add 5 FTE in order to backfill some of the positions left vacant while operating with a two-member Board.

Securing Compliance with Board Orders

Once the Board has decided a case, the next step in the process is to secure full compliance with Board Decisions and orders. The decisions and orders of the Board require either voluntary compliance or enforcement in the courts. A substantial portion of the Field FTE will be devoted to seeking voluntary compliance, while at Headquarters, resources will be allocated to the Division of Enforcement Litigation to continue to seek enforcement of Board orders in the courts. The Agency estimates that the number of cases pending compliance and court litigation will increase slightly between FY 2009 and FY 2010, as the Board deals with a number of "lead" cases currently pending decision. When those decisions are released, other cases involving similar or related issues will be released soon thereafter, resulting in a spike in Board decisional output, in Appellate Court enforcement work, and in compliance work in the regions. Compliance staff will be increased by 2 FTE in order to support the increased caseload.

XII. OFFICE OF THE INSPECTOR GENERAL

The amount of \$1,106,598 for the Office of Inspector General operations was submitted by the Inspector General and was included in this justification without change. That amount includes \$11,000 for training of Office of Inspector General personnel and \$2,649 for support of the Council of the Inspectors General on Integrity and Efficiency. The Inspector General certified to the Chairman that the budget estimate and request will satisfy the training requirements for the Inspector General's office for FY 2010, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency.

XIII. STRATEGIC PLAN GOALS AND THEIR RELATIONSHIP TO THE PERFORMANCE BUDGET

As mentioned previously, the NLRB updated its Strategic Plan in FY 2007, introducing three new performance measures that are more outcome-based, better aligned with the mission of the NLRB, and more meaningful to the public we serve. The change moved the Agency's performance measurement approach from one of emphasis on individual segments of the casehandling process to one that focused on the time taken to process an entire case, from start to finish.

The new measures advance the NLRB's long and successful history of performance measurement, which previously focused on the timeliness and effectiveness of the individual stages of the casehandling pipeline. Measure #1 assesses the NLRB's effectiveness in achieving the first of its two Strategic Goals — to resolve all questions concerning representation impartially and promptly. Measures #2 and #3 assess the NLRB's effectiveness in achieving its second Strategic Goal — investigating, prosecuting, and remedying cases of unfair labor practices by both employers and unions, or both, impartially and promptly.

While the performance measures were not fully introduced until June 2007, in that fiscal year the NLRB met, and/or exceeded, the targets set for all but one of the new measures. FY 2008, however, was the first realistic test of the Agency's performance with respect to these three new measures as they reflected performance for an entire year. We are pleased to report that in the first full year of implementation, we exceeded the interim targets for all 3 performance measures.

These goals, strategies, and measures are described below, followed by Sections XIV and XV, which detail Agency performance information and FY 2010 Annual Performance Plan.

GOAL NO. 1: Resolve questions concerning representation promptly

OBJECTIVES:

The NLRA 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, un-coerced 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 and goals 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 cases that involve the core objectives of the Act and are expected to have the greatest impact on the public.
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, e.g. super-panels.
6. Ensure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeal and Hearing Officer Reports, and where appropriate, the records in the cases.
7. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
8. Provide an information technology environment that will equip NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

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

GOAL #2: Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly

OBJECTIVES:

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 under Section 8 of the NLRA. This goal communicates the Agency's resolve to fairly and expeditiously investigate charges of unfair labor practice. 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 the 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:

- A. Conduct thorough unfair labor practice investigations and issue all unfair labor practice 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.
- C. Conduct effective settlement programs.
- D. Provide prompt and appropriate remedial relief when violations are found.
- E. Afford due process under the law to all parties involved in unfair labor practice 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 unfair labor practice casework regularly to provide the best possible service to the public.
- 3. Utilize impact analysis to provide an analytical framework for classifying unfair labor practice 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 unfair labor practice cases to assist regions in resolving unfair labor practice issues promptly and fairly.
5. Emphasize the early identification of remedy 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 unfair labor practice disputes at all stages of the case-handling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in unfair labor practice cases.
9. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
10. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

Measure #2: The percentage of unfair labor practice (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

Measure #3: The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge

Relationship of Budget to GPRA Goals

The charts below show the relationship between the budget, GPRA goals and the related performance measures for each goal. Agency overhead costs, including administrative support costs, were distributed by the percentage of attributed direct costs to that goal and measure. The discussion below the charts reviews the Strategic Plan's goals, objectives, and strategies, and discusses their relationship to the performance measures contained in the Annual Performance Plan. In addition, each current performance measure in the Annual Performance Plan, including background information and performance targets, will be discussed.

Measure 1, the performance measure associated with Goal 1, focuses on the total time taken to resolve a representation case, from beginning to end, including both the General Counsel and Board sides. Elections result from petitions filed by unions, employees or employers seeking a secret ballot determination as to whether a majority of employees wish union representation. Included in this measure are withdrawals, dismissals, settlements, hearings, and elections, which occur in the Field. Additionally, aggrieved parties may also request a review of Regional decisions by the Board in Washington, DC.

Goal 2 relates to Measures 2 and 3, which address the timely resolution of ULP cases, including time spent by both the General Counsel and Board sides. On a yearly basis, there are more than 6 times as many ULP cases as representation cases, usually involving more complicated issues for Regions to address.

Goal 1—Resolve all questions concerning representation promptly

	FY 2008 Actual		FY 2009 Enacted Appropriation		FY 2010 President's Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #1: Percentage of representation cases resolved within 100 days of filing the election petition	275	\$42.5	276	\$44.3	284	\$48.0
Subtotal, Goal 1	275	\$42.5	276	\$44.3	284	\$48.0

Goal 2—Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly

	FY 2008 Actual		FY 2009 Enacted Appropriation		FY 2010 President's Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #2: Percentage of ULP charges resolved by withdrawal, by dismissal, or by closing on compliance with a settlement or Board order of Court judgment within 120 days of the filing of the charge	902	\$139.5	907	\$145.5	934	\$157.1
Measure #3: Percentage of meritorious ULP cases closed on compliance within 365 days of the filing of the ULP charge	451	\$69.8	454	\$72.8	467	\$78.3
Subtotal, Goal 2	1,353	\$209.3	1,361	\$218.3	1,401	\$235.4
Total, Goals 1 & 2:	1,628	\$251.8	1,637	\$262.6	1,685	\$283.4

As the measures are discussed, it should be noted that it is difficult for an Agency such as the NLRB to measure “outcomes” in the sense intended by the authors of the Government Performance and Results Act. In the representation case area, for instance, the Agency does not control or seek to influence the results of elections, but strives instead to ensure the rights of employees to freely and democratically determine, through a secret ballot election, whether they wish to be represented by a labor organization. If the Agency concludes that all of the necessary requirements for the conduct of an election have been met, it will either direct an election or approve the parties’ agreement to have an election. The performance measure the Agency has established for the conduct of elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees, employers and unions voluntarily and freely exercising their statutory rights as set out in the NLRA.

The same difficulty is inherent in any attempt to define “outcomes” in the prevention of unfair labor practice conduct. The aim of the Agency is to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. In the absence of a mechanism to accurately gauge “labor peace” or the impact of Agency activities among a range of variables influencing that goal, the NLRB has established the two performance measures noted above. In particular, the timeliness and quality of case processing, from the filing of an unfair labor practice charge to the closing of a case upon compliance with a litigated or agreed-to remedy, are the focus of the performance measures.

XIV. PERFORMANCE MEASURES

GOAL #1: RESOLVE ALL QUESTIONS CONCERNING REPRESENTATION PROMPTLY
--

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

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and Board sides.

An employer, labor organization, or a group of employees may file a petition in a 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 the parties toward a goal of reaching a voluntary agreement regarding the conduct of an election. If a voluntary agreement is not possible, the parties present their positions and evidence at a formal hearing. The NLRB Regional Director issues a decision after

review of the transcript of the hearing and the parties' legal argument, either dismissing the case, or directing an election. If the parties in the case disagree with the Regional Director's decision, they may appeal that decision to the Board for review. Prompt elections are desirable because an expeditious determination affords employers, employees, and unions a more stable environment and promotes the resolution of industrial disputes.

Definitions:

Resolve -- When a case has been finally processed with no further rights of appeal or administrative action required, the question as to whether or not the labor organization will represent the employees has been finally resolved. 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 the processing may be based on a variety of reasons, for example, the employer not meeting our 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 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.

Counting of Days -- The Agency starts counting the 100 days on the date that the petition is formally docketed.

Baseline:	78.0%		
Long-term target:	FY 2012	85.0%	
Annual targets:	FY 2007	79.0%	Actual: 79.0%
	FY 2008	80.0%	Actual: 83.5%
	FY 2009	81.0%	
	FY 2010	82.0%	
	FY 2011	83.5%	
	FY 2012	85.0%	

GOAL #2: INVESTIGATE, PROSECUTE AND REMEDY CASES OF UNFAIR LABOR PRACTICES BY EMPLOYERS OR UNIONS PROMPTLY

Measure #2: The percentage of unfair labor practice (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

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a ULP charge, including time spent on both the General Counsel and Board sides.

After an individual, employer, or union files an unfair labor practice charge, a Regional Director evaluates it for merit and decides whether or not to issue a complaint. Complaints not settled or withdrawn, or dismissed, are litigated before an administrative law judge, whose decision may be appealed to the Board.

Definitions:

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

Counting of Days -- The 120 days is calculated from the date that the charge is docketed.

Baseline:	66.7%		
Long-term target:	FY 2012	71.0%	
Annual targets:	FY 2007	67.5%	Actual: 66.0%
	FY 2008	68.0%	Actual: 68.0%
	FY 2009	68.5%	
	FY 2010	69.5%	
	FY 2011	70.0%	
	FY 2012	71.0%	

Measure #3: The percentage of meritorious (prosecutable) unfair labor cases closed on compliance within 365 days of the filing of the ULP charge

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on meritorious (prosecutable) ULP cases, and the time taken to close them on compliance, including time spent on both the General Counsel and Board sides. Compliance marks the point where an employer or union has ceased engaging in the ULP conduct being prosecuted and has taken appropriate affirmative action, including the payment of backpay, to make whole those injured by the ULP.

Once a Regional Director has determined an unfair labor practice charge has merit, it is scheduled for a hearing date before an administrative law judge (ALJ). However, efforts to obtain voluntary compliance or appropriate settlements begin immediately and continue throughout the course of any necessary litigation. Most settlements are achieved before trial. Once the ALJ issues a decision, the decision can then be appealed to the Board. The Board, in turn, will consider the case and issue a final order resolving the ULP case. Ordinarily, the Regional Office will attempt to secure compliance in the 30-day period following the Board's order. If compliance cannot be obtained, the Region will refer the case to the Appellate Court Branch of the Division of Enforcement Litigation, which, if it is unable to secure voluntary compliance or a settlement meeting established standards, will proceed to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board's order.

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

Definitions:

Resolve -- Cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation are complete.

Counting of Days -- The 365 days is calculated from the date the charge is docketed.

Baseline:		73.6%		
Long-term target:	FY 2012	77.0%		
Annual targets:	FY 2007	74.0%	Actual:	73.5%
	FY 2008	75.0%	Actual:	76.0%
	FY 2009	75.5%		
	FY 2010	76.0%		
	FY 2011	76.5%		
	FY 2012	77.0%		

XV. SUMMARY OF PERFORMANCE MEASURES

2010 ANNUAL PERFORMANCE PLAN

Goal #1: Resolve all questions concerning representations promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010
Measure 1 The percentage of representation cases resolved within 100 days of filing the election petition	78.0%	Target 79.0% Actual 79.0%	Target 80.0% Actual 83.6%	Target 81.0%	Target 82.0%
Goal #2: Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010
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	66.7%	Target 67.5% Actual 66.0%	Target 68.0% Actual 68.0%	Target 68.5%	Target 69.5%
Measure 3 The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge	73.6%	Target 74.0% Actual 73.5%	Target 75.0% Actual 76.0%	Target 75.5%	Target 76.0%

XVI. BOARD MEMBERS AND GENERAL COUNSEL

	<u>Appointed</u>	<u>Term Expiration</u>
Wilma B. Liebman Chairman	8/14/06	8/27/11
Peter C. Schaumber Member	8/14/06	8/27/10
Member (Vacant since 12/16/07)		
Member (Vacant since 12/31/07)		
Member (Vacant since 12/31/07)		
Ronald Meisburg General Counsel	8/14/06	8/13/10

XVII. BUDGET MATERIALS

FY 2010
Proposed Changes in Appropriation Language

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, and other laws, [~~\$262,595,000~~] \$283,400,000: *Provided*, that no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935, and as amended by the Labor-Management Relations Act, 1947, and as defined in section 3(f) of the Act of June 25, 1938, and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

(Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2009.)

Amounts Available for Obligation
(Dollars in Thousands)

	FY 2008 ACTUAL	FY 2009 ESTIMATE	FY 2010 ESTIMATE
Appropriation	\$251,321	\$262,595	\$283,400
Spending authority from offsetting collections 1/	103	60	60
Lapsed Balance in Prior Year	0	0	0
Total Estimated Obligations	\$251,424	\$262,655	\$283,460

1/ Offsetting collections are from federal sources for the Fitness Center Program in Washington and the Judges' Reimbursable Detail Program.

FY 2008 offsetting collections totaled \$102,763 which included the following:

Fitness Center Program in Washington - \$10,620

Judges' Reimbursable Detail Program - \$92,143

Budget Authority by Object Class
(Dollars in Millions)

	2008 ACTUAL	2009 ESTIMATE	2010 ESTIMATE
Personnel Compensation:			
Full-time Permanent	158	166	177
Other Than Full-time Permanent	1	1	1
Other Personnel Compensation	0	0	0
Subtotal Personnel Compensation	159	167	178
Civilian Personnel Benefits	38	40	43
Travel and Transportation of Persons	2	3	4
Rental Payments to GSA and Security Payments to DHS	30	31	32
Rent, Communications, and Utilities	5	5	5
Other Services	15	15	18
Supplies and Materials	1	1	1
Furniture and Equipment	1	1	2
Subtotal, Direct Budget Authority	251	263	283
Reimbursables	0	0	0
Total Budget Authority	251	263	283

Budget Authority and Staffing by Activity

(Dollars in Thousands)	2008 ACTUAL	2009 ESTIMATE	2010 ESTIMATE
Appropriation 1/	\$251,320	\$262,595	\$283,400
Reimbursables	103	60	60
Total Budget Authority	\$251,423	\$262,655	\$283,460

(Dollars in Millions)	FY 2008 ACTUAL		FY 2009 ESTIMATE		FY 2010 ESTIMATE	
	FTE	AMT	FTE	AMT	FTE	AMT
Field Investigation	1,281	\$201	1,293	\$211	1,331	\$227
Administrative Law Judge Hearing	110	12	110	12	112	13
Board Adjudication	152	24	150	25	155	27
Securing Compliance with Board Order	79	13	78	14	80	15
Internal Review (Inspector General)	6	1	6	1	7	1
Subtotal, Direct Budget Authority	1,628	\$251	1,637	\$263	1,685	\$283
Reimbursables 1/	--	0	--	0	--	0
Total Budget Authority	1,628	\$251	1,637	\$263	1,685	\$283

1/ Due to rounding, the reimbursable amounts do not show on the table.

Actual FY 2008 reimbursables = \$102,763

Project reimbursables to total \$60,000 in FY 2009 and FY 2010.

Detail of Full-Time Equivalent Employment

	<u>FY 2008</u> <u>ACTUAL</u>	<u>FY 2009</u> <u>ESTIMATE</u>	<u>FY 2010</u> <u>ESTIMATE</u>
Executive Level I	0	0	0
Executive Level II	0	0	0
Executive Level III	1	1	1
Executive Level IV	2	5	5
Executive Level V	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>3</u>	<u>6</u>	<u>6</u>
ES	<u>58</u>	<u>63</u>	<u>63</u>
Subtotal	<u>58</u>	<u>63</u>	<u>63</u>
Administrative Law-1	1	1	1
Administrative Law-2	3	3	3
Administrative Law-3	38	36	36
Subtotal	<u>42</u>	<u>40</u>	<u>40</u>
GS/GM-15	218	221	225
GS/GM-14	512	516	520
GS/GM-13	245	241	249
GS-12	63	73	76
GS-11	66	65	71
GS-10	1	0	0
GS-9	66	62	68
GS-8	60	60	61
GS-7	177	177	182
GS-6	64	60	61
GS-5	46	46	50
GS-4	1	1	1
GS-3	5	5	8
GS-2	2	2	5
GS-1	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>1,525</u>	<u>1,528</u>	<u>1,576</u>
Total Permanent Employment On Board, End-of-Year	<u>1,647</u>	<u>1,656</u>	<u>1,705</u>
Full-time Equivalent Usage	<u>1,628</u>	<u>1,637</u>	<u>1,685</u>
Average ES Level	3	3	3
Average ES Salary	\$158,500	\$162,900	\$168,893
Average Administrative Law Level	2.88	2.88	2.88
Average Administrative Law Salary	\$153,829	\$161,730	\$167,680
Average GS/GM Grade	11.84	11.88	11.81
Average GS/GM Salary	\$89,021	\$93,942	\$98,001

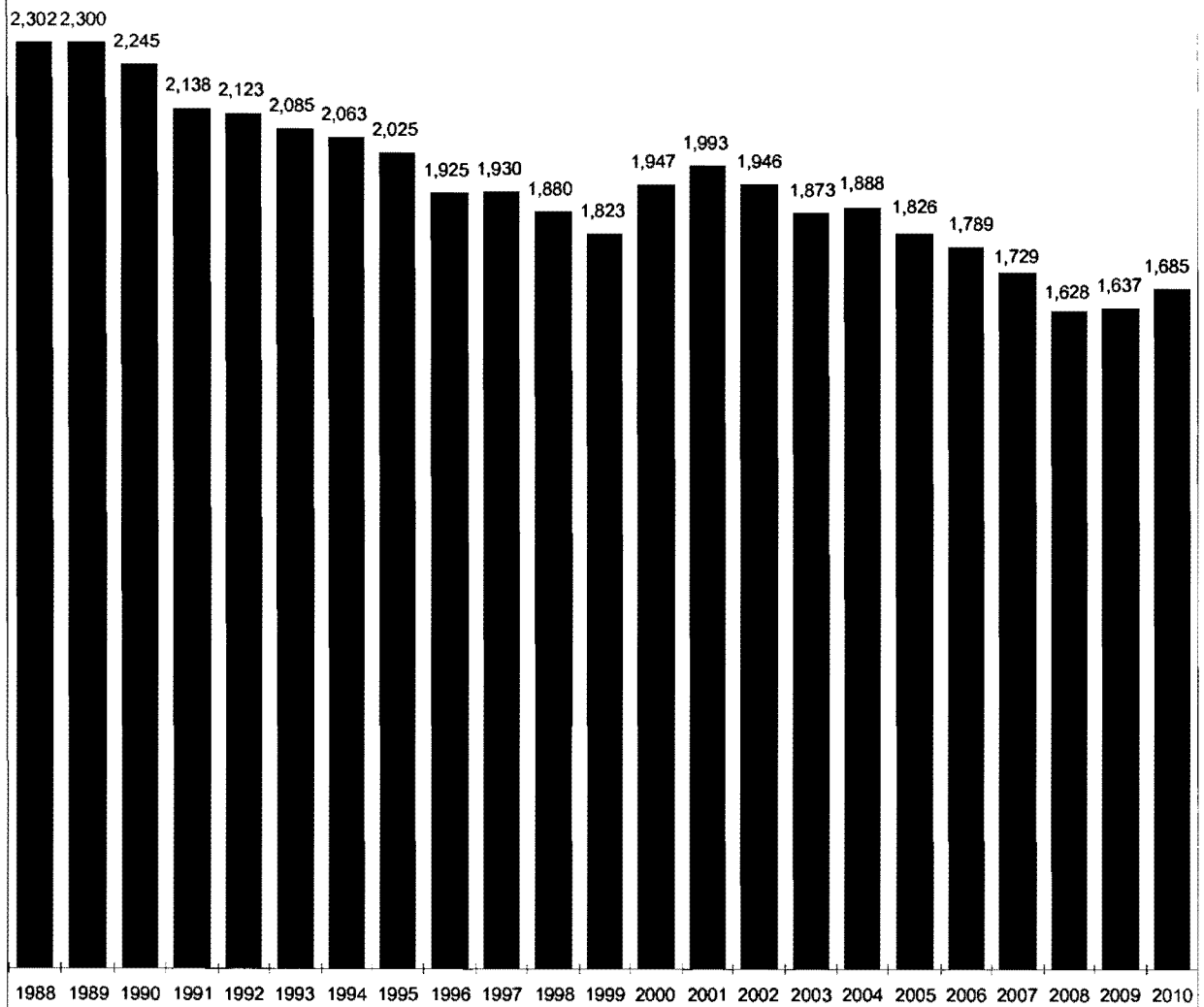
Appropriations History

Year	Estimate to	House	Senate	Appropriation or Continuing
	Congress	Allowance	Allowance	Authorization
1978	\$92,508,000	\$92,508,000	\$92,508,000	\$92,508,000
1979	\$103,012,000	\$102,762,000	\$102,762,000	\$102,762,000
1980	\$113,873,000	\$112,261,000	\$112,261,000	\$112,261,000
1981	\$119,548,000	\$119,548,000	\$119,548,000	\$118,488,000
1982	\$128,336,000	\$125,959,000	\$120,000,000	\$117,600,000
1983	\$133,000,000	\$126,045,000	\$126,045,000	\$126,045,000
1984	\$134,158,000	\$133,594,000	\$134,158,000	\$133,594,000
1985	\$137,964,000	\$137,964,000	\$137,964,000	\$137,964,000
1986	\$130,895,000	\$134,854,000	\$134,854,000	\$129,055,000
1987	\$130,865,000	\$132,247,000	\$132,247,000	\$132,247,000
1988	\$141,580,000	\$139,019,000	\$139,019,000	\$133,097,000
1989	\$138,647,000	\$138,647,000	\$138,647,000	\$136,983,000
1990	\$140,111,000	\$140,111,000	\$140,111,000	\$140,111,000
1991	\$151,103,000	\$151,103,000	\$151,103,000	\$147,461,000
1992	\$162,000,000	\$162,000,000	\$162,000,000	\$162,000,000
1993	\$172,905,000	\$171,176,000	\$171,176,000	\$169,807,000
1994	\$171,274,000	\$171,274,000	\$171,274,000	\$171,274,000
1995	\$174,700,000	\$173,388,000	\$176,047,000	\$175,721,000
1996	\$181,134,000	\$123,233,000		\$170,266,000
1997	\$181,134,000	\$144,692,000		\$174,661,000
1998	\$186,434,000	\$174,661,000	\$174,661,000	\$174,661,000
1999	\$184,451,000	\$174,661,000	\$184,451,000	\$184,230,000
2000	\$210,193,000		\$205,717,000	\$205,717,000
2001	\$216,438,000	\$205,717,000	\$216,438,000	\$216,438,000
2002	\$221,438,000	\$221,438,000	\$226,438,000	\$226,450,000
2003	\$233,223,000		\$231,314,533	\$237,428,592
2004	\$243,073,000	\$239,429,000	\$246,073,000	\$242,632,969
2005	\$248,785,000	\$248,785,000	\$250,000,000	\$249,860,000
2006	\$252,268,000	\$252,268,000	\$252,268,000	\$249,745,000
2007	\$249,789,000	\$249,789,000	\$249,789,000	\$251,507,470
2008	\$256,238,000	\$256,988,000	\$256,988,000	\$251,761,522
2009	\$262,595,207	\$262,595,000	\$262,595,000	\$262,595,000
2010	\$283,400,000			

Appropriations History -- Footnotes

- 1/ Net \$356,000 rescinded for purchase of furniture, per P.L. 96-304.
- 2/ Reflects rescission of \$1,060,000, per P.L. 97-12.
- 3/ Total amount available under Continuing Resolutions.
- 4/ Reflects reduction of \$3,959,000 for 5% cut in Federal employee pay.
- 5/ Reflects \$5,799,000 reduction, per P.L. 99-177
- 6/ This amount was subsequently reduced by \$641,000 for an across-the-board travel reduction.
- 7/ Reflects a reduction of 1.2% applied to all discretionary programs, per P.L. 100-436.
- 8/ Reflects reduction of 2.41% applied to all discretionary programs, per P.L. 101-517.
- 9/ Reflects .8 percent across-the-board reduction applied during conference.
- 10/ Reflects government-wide rescission of \$326,000, per P.L. 104-19.
- 11/ The Senate Appropriations Committee recommended \$176,047,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 12/ Reflects reduction of \$477,000 per two rescissions in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 13/ The Senate Appropriations Committee recommended \$170,266,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Appropriations Act of 1997, (P.L. 104-208).
- 14/ Reflects reduction of \$339,000 due to across-the-board reductions in conference per Section 519, P.L. 104-208.
- 15/ Reflects reduction of \$221,000, per government-wide rescission (P.L. 106-5).
- 16/ The House Appropriations Committee recommended \$174,661,000. However, the full House never voted on the Labor/HHS Appropriations bill. Funding was provided through the Consolidated Appropriations Act for 2000 (P.L.106-113)
- 17/ Reflects reduction of \$783,000 due to across-the-board reductions in conference, per P.L. 106-113.
- 18/ This total includes a one-time transfer of \$180,000 from the Emergency Response Fund and reflects a rescission amount of \$168,000 as provided under P.L.s 107-117 and 107-206, respectively.
- 19/ The Senate bill initially provided for \$238,223,000 and two amendments reduced all discretionary programs by 2.9%.
- 20/ This total includes a rescission amount of \$1,440,031 as provided under P.L. 108-199.
- 21/ Reflects a .8 percent across-the-board rescission, per P.L. 108-477.
- 22/ Reflects a 1 percent across-the-board rescission, per P.L. 109-148.
- 23/ Reflects an additional \$1,762,150 to cover 50% of the pay increase, as per P.L. 110-5.
- 24/ The Labor/HHS bill was passed by Congress but vetoed by the President. The total reflects the President's Request less a 1.747% rescission, per H.R. 2764.

STAFFING HISTORY



Major Workload and Output Data

	FY 2008 ACTUAL	FY 2009 ESTIMATE	FY 2010 ESTIMATE
1) Regional Offices:			
Unfair Labor Practice (ULP) Cases			
Situations Pending Preliminary Investigation at Start of Year	3,792	3,574	3,400
Case Intake During Year	22,501	22,500	22,700
Consolidation of Dispositions	2,247	2,225	2,200
Total ULP Proceedings	20,472	20,449	20,500
Situations Pending Preliminary Investigation at End of Year	3,574	3,400	3,400
Representation Cases			
Cases Pending at Start of Year	392	324	392
Case Intake During Year	3,400	3,500	3,600
Dispositions	3,224	3,207	3,293
Regional Directors Decisions	244	225	299
Cases Pending at End of Year	324	392	300
2) Administrative Law Judges:			
Hearings Pending at Start of Year	243	209	220
Hearings Closed	225	230	240
Hearings Pending at End of Year	209	220	225
Adjustments After Hearings Closed	0	0	0
Decisions Pending at Start of Year	53	59	64
Decisions Issued	190	232	241
Decisions Pending at End of Year	59	64	65
3) Board Adjudication:			
Contested Board ULP Decisions Issued	241	250	300
Contested Representation Election Decisions Issued	87	100	105
4) General Counsel - Washington:			
Advice Pending at Start of Year	81	82	64
Advice Cases Received During Year	667	713	727
Advice Disposed	666	731	740
Advice Pending at End of Year	82	64	51
Appeals Pending at Start of Year	216	276	283
Appeals Received During Year	2,108	2,080	2,080
Appeals Disposed	2,048	2,073	2,079
Appeals Pending at End of Year	276	283	284
Enforcement Cases Received During Year	154	173	191
Enforcement Briefs Filed	65	80	85
Enforcement Cases Dropped or Settled	40	50	55
Enforcement Consent/Summary	36	46	51

XVIII. PROGRAM MATERIALS

TYPES OF NLRB CASES

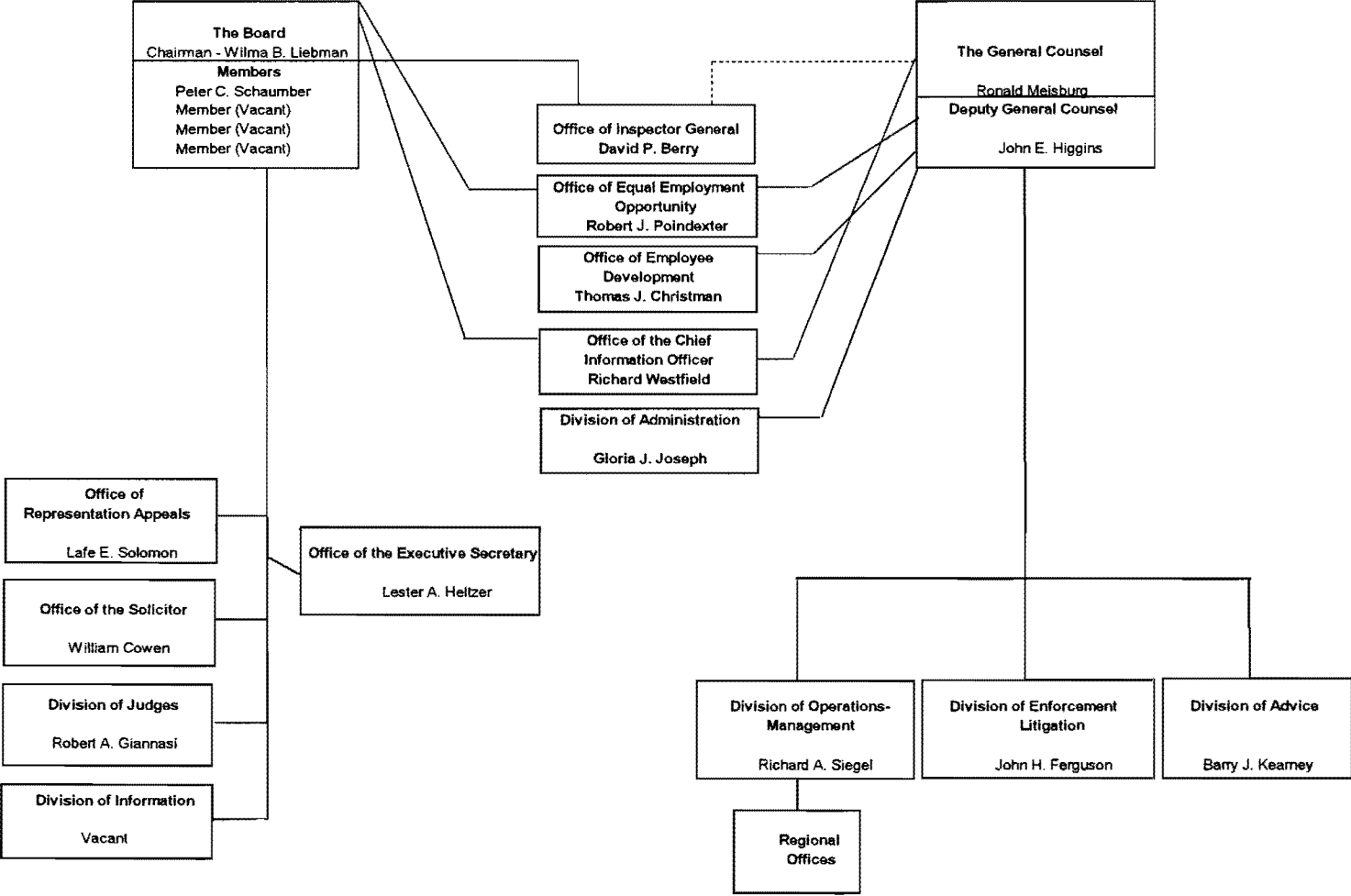
1. CHARGES OF UNFAIR LABOR PRACTICES (C CASES)						
Charges Against Employer		Charges Against Labor Organization				Charge Against Labor Organization and Employer
Section of the Act <u>CA</u>	Section of the Act <u>CB</u>	Section of the Act <u>CC</u>	Section of the Act <u>CD</u>	Section of the Act <u>CG</u>	Section of the Act <u>CP</u>	Section of the Act <u>CE</u>
<p>8(a)(1) To interfere with, restrain, or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).</p> <p>8(a)(2) To dominate or interfere with the formation or administration of a labor organization or contribute financial or other support to it.</p> <p>8(a)(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.</p> <p>8(a)(4) To discharge or otherwise discriminate against employees because they have given testimony under the Act.</p> <p>8(a)(5) To refuse to bargain collectively with representatives of its employees.</p>	<p>8(b)(1)(A) To restrain or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).</p> <p>8(b)(1)(B) To restrain or coerce an employer in the selection of its representatives for collective bargaining or adjustment of grievances.</p> <p>8(b)(2) To cause or attempt to cause an employer to discriminate against an employee.</p> <p>8(b)(3) To refuse to bargain collectively with employer.</p> <p>8(b)(5) To require of employees the payment of excessive or discriminatory fees for membership.</p> <p>8(b)(6) To cause or attempt to cause an employer to pay or agree to pay money or other things of value for services which are not performed or not to be performed.</p>	<p>8(b)(4)(i) To engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or boycott, or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object is:</p> <p>(A) To force or require any employer or self-employed person to join any labor organization or to enter into any agreement prohibited by Section 8 (e).</p> <p>(B) To force or require any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or force or require any other employer to recognize or bargain with a labor organization as the representative of its employees unless such labor organization has been so certified.</p>	<p>(C) To force or require any employer to recognize or bargain with a particular labor organization as the representative of its employees if another labor organization has been certified as the representative.</p> <p>(D) To force or require any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another trade, craft, or class, unless such employer is failing to conform to an appropriate Board order or certification.</p>	<p>8(g) To strike, picket, or otherwise concertedly refuse to work at any health care institution without notifying the institution and the Federal Mediation and Conciliation Service in writing 10 days prior to such action.</p>	<p>8(b)(7) To picket, cause, or threaten the picketing of any employer where an object is to force or require an employer to recognize or bargain with a labor organization as the representative of its employees, or to force or require the employees of an employer to select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees.</p> <p>(A) where the employer has lawfully recognized any other labor organization and a question concerning representation may not appropriately be raised under Section 9(c).</p> <p>(B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or</p> <p>(C) where picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing; except where the picketing is for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, and it does not have an effect of interference with deliveries or services.</p>	<p>8(e) To enter into any contract or agreement (any labor organization and any employer) whereby such employer ceases or refrains or agrees to cease or refrain from handling or dealing in any product of any other employer, or to cease doing business with any other person.</p>
2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)				3. OTHER PETITIONS		
By or in Behalf of Employees		By an Employer	By or in Behalf of Employees	By a Labor Organization or an Employer		
Section of the Act <u>RC</u>	Section of the Act <u>RD</u>	Section of the Act <u>RM</u>	Section of the Act <u>UD</u>	Board Rules <u>UC</u>	Board Rules <u>AC</u>	
<p>9(c)(1)(A)(i) Alleging that a substantial number of employees wish to be represented for collective bargaining and their employer declines to recognize their representative. *</p>	<p>9(c)(1)(A)(ii) Alleging that a substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. *</p>	<p>9(c)(1)(B) Alleging that one or more claims for recognition as exclusive bargaining representative have been received by the employer. *</p>	<p>9(e)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.</p>	<p>Subpart C Seeking clarification of an existing bargaining unit.</p>	<p>Subpart C Seeking amendment of an outstanding certification of bargaining representative.</p>	

* If an 8(b)(1) charge has been filed involving the same employer, these statements in RC, RD, and RM petitions are not required.

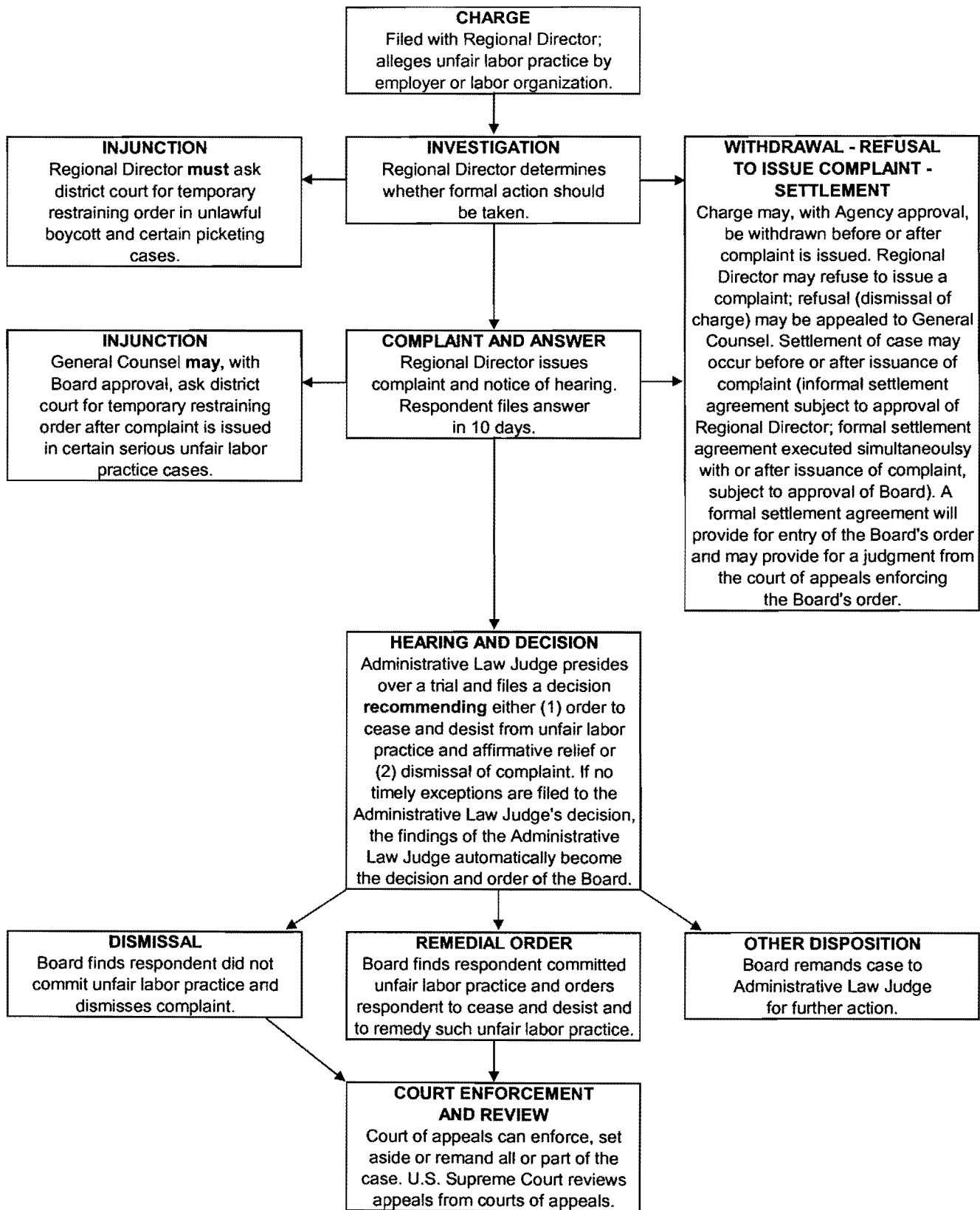
Charges filed with the National Labor Relations Board are letter-coded and numbered. Unfair labor practice charges are classified as "C" cases and petitions for certification or decertification of representatives as "R" cases. This chart indicates the letter codes used for "C" cases and "R" cases, and also presents a summary of each section involved.

NATIONAL LABOR RELATIONS BOARD

ORGANIZATION CHART

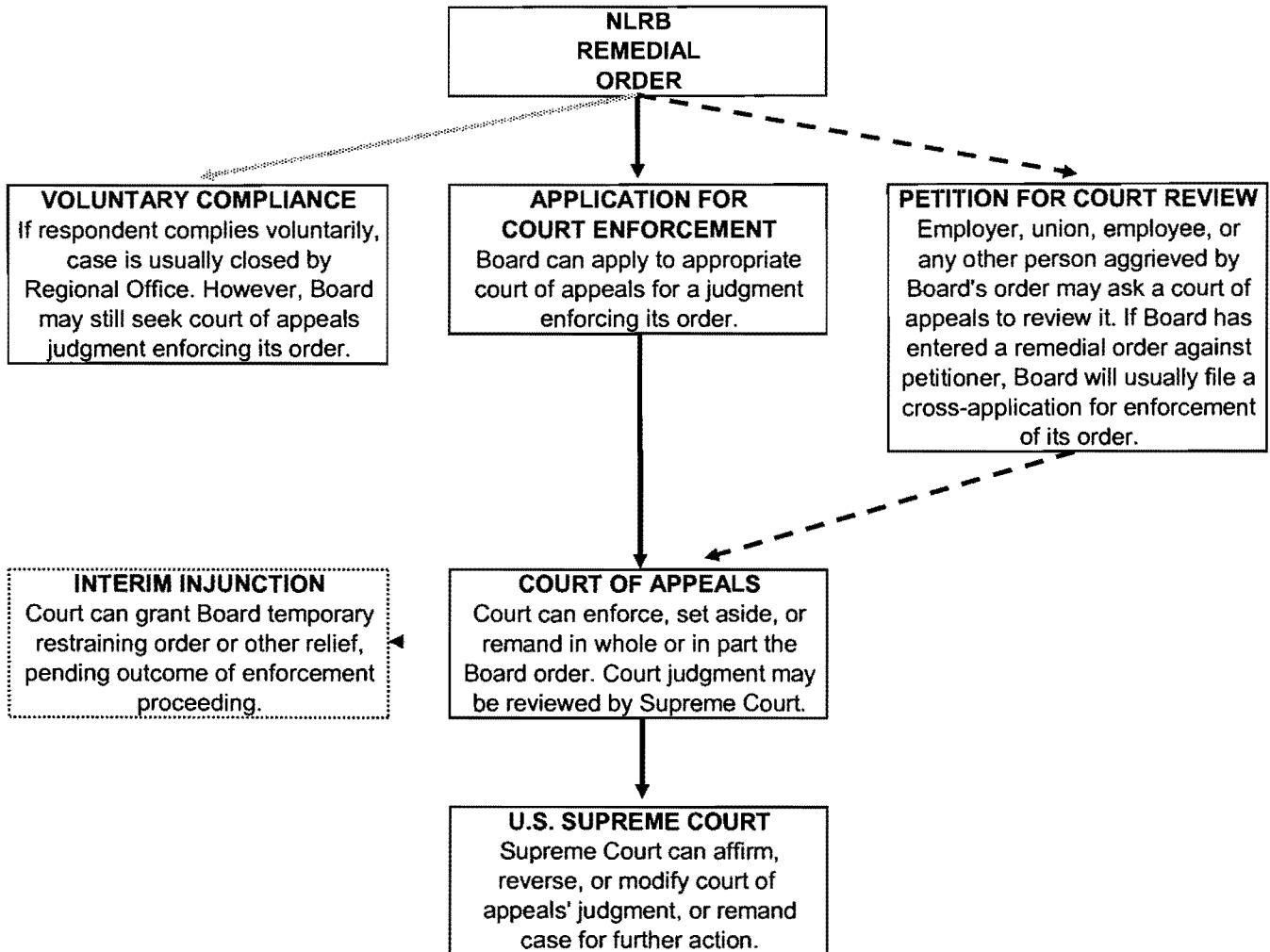


NATIONAL LABOR RELATIONS BOARD **EXHIBIT C**
BASIC PROCEDURES IN CASES INVOLVING CHARGES OF UNFAIR LABOR PRACTICES



NLRB ORDER ENFORCEMENT CHART

EXHIBIT D



OUTLINE OF REPRESENTATION PROCEDURES UNDER SECTION 9(c)

