

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



FISCAL YEAR 2011

TABLE OF CONTENTS

I.	Introduction.....	3
II.	Mission Statement.....	3
III.	Vision Statement	3
IV.	Major Goals.....	3
V.	Agency Role and Functions.....	4
VI.	Strategic Initiatives	7
	Outreach	
	Public Information Program	
	First Contract Bargaining	
	Alternative Dispute Resolution Program	
	Prioritization of Cases – Impact Analysis	
VII.	Management Initiatives.....	10
	Technology and E-Government Advances	
	Workforce Planning	
	Workplace Enhancement	
	Improved Financial Reporting	
	Linking Budget and Performance	
VIII.	External Factors and Agency Goals.....	17
	Budget	
	Case Intake	
	Settlements	
	Board Member Vacancies	
	Potential Effect of Statutory Changes	
IX.	Program Evaluation	20
X.	Fiscal Year 2011 Performance Budget.....	21
	Assumptions	
	Requirements	
	Program Activities	
	Budget Oversight	
	Savings Initiatives	

XI.	Office of the Inspector General	24
XII.	Strategic Plan Goals and their Relationship to the Performance Budget	25
XIII.	Performance Measures Explained.	30
XIV.	Board Members and General Counsel.....	37
XV.	Budget Materials.....	38
	Appropriation Language.....	39
	Amounts Available for Obligation.....	40
	Budget Authority by Object Class.....	41
	Detail of FTE Employment	42
	Appropriations History	43
	Staffing History	45
	Major Workload and Output Data.....	46
XVI.	Program Materials.....	47
	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 estimates and Annual Performance Plan for FY 2011. The Plan sets strategic goals for the fiscal year, and describes a number of initiatives that will help the agency to use resources efficiently and effectively, and to achieve the annual and long-term performance goals under the Government Performance and Results Act (GPRA) of 1993.

The Agency's FY 2011 budget request of \$287.1 million represents an increase of \$3.7 million over the \$283.4 million provided in FY 2010. This level will support 1,730 full-time equivalent (FTE) employees, and support the space, information technology, casehandling, and training costs necessary to continue effectively enforcing the National Labor Relations Act (NLRA) and supporting the mission of the agency. The request is discussed in detail in Section X.

The Agency has been operating with a two-member Board since January 2008; however, three additional members have been nominated and are now awaiting confirmation. Historically, Agency case intake has increased when there is a new Board, and that pattern is expected to result in a higher caseload in 2011.

II. MISSION STATEMENT

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 weight 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. The Agency maintains a customer-focused philosophy 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 timeliness and effectiveness in addressing caseload. The major goals are to:

- Promptly resolve all questions concerning representation
- Promptly investigate, prosecute, and remedy unfair labor practices by employers or unions

V. AGENCY ROLE AND FUNCTIONS

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the NLRA, 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 rights of employees and regulating the respective relationships between employees, their unions and employers. The Act contains 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 they wish to be represented by a union, and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions.²

The five members of the National Labor Relations Board ("the Board"), as well as the General Counsel, are appointed by the President, subject to confirmation by the Senate.³ The Board and the General Counsel maintain a headquarters in Washington, D.C., and 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.

All NLRB 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, Sub-regional, and Resident Offices each year. Of those, approximately 23,000 are unfair labor practice (ULP) charges and the remaining 3,000 are representation cases, a majority of which are petitions to conduct secret ballot elections.

The NLRA assigns separate and independent responsibilities to the Board and the General Counsel: The General Counsel's role is chiefly prosecutorial and the Board's is adjudicative.

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

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.

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 General Counsel's position is filled with confirmed appointee Ronald Meisburg.

⁴ Exhibit B is an organization chart of the Agency.

to issue complaints with respect to such charges.⁵ The General Counsel's decision to prosecute or not is unreviewable. Typically, Regional Directors find support for the charges in about one-third of the filings and dismiss the remaining two-thirds.

In the event of a dismissal, the charging party is entitled to an explanation, and if not satisfied, can appeal the decision to the Office of Appeals of the General Counsel's staff in Washington. The Office of Appeals will review the file to determine whether the investigation was complete and the legal conclusion sound. If the dismissal is upheld, the case is complete.

In those ULP cases where merit is found, either by a Regional Director or by the Office of Appeals, approximately 95 percent are settled without formal litigation through the Agency's settlement program. 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. A complaint that is not settled or withdrawn is tried before an administrative law judge, who issues a decision, which may be appealed 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.

In those cases in which the Board determines 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 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.

Further, at times the financial status of the respondent changes during the time the case is being 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 preparing and training staff to represent the Agency in these forums.

The statute also authorizes seeking preliminary injunctive relief. 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

⁵ Exhibit C is a chart on ULP case processing.

⁶ Exhibit D is a chart on NLRB Order Enforcement.

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.

In FY 2009, the NLRB received 22,941 ULP cases, and achieved a 95.2 percent settlement rate in those cases found to have merit.

The Agency's other major responsibility is conducting secret-ballot elections for employees to choose whether or not to be represented by a union.⁷ 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 petitioned-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.

The NLRB received 2,912 representation petitions, and conducted more than 1,690 initial representation elections in FY 2009. In 92 percent of those elections, 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.

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

⁷ Exhibit E is a chart on representation case processing.

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.

VI. STRATEGIC INITIATIVES

Outreach

Since 1935, the NLRB has been actively and publicly involved in the protection of employee rights to self-organization, the resolution of representation disputes, 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, *e.g.*, complaints by two or more employees about the temperature in the workplace, wage rates, or other terms and conditions of employment.

An FY 2009 Chairman's initiative seeks to build on the Agency's historic outreach efforts in these areas and realign the functions to current conditions and technologies through a newly established Office of Public Affairs. Filling existing vacancies, the Agency recently hired a Director of Public Affairs, and its first New Media Specialist. They will be developing modern outreach and education strategies aligned with the contemporary workforce and workplace, and with new technologies. The goal of this initiative is to better communicate what the Agency does and what rights the NLRA protects, focused on workers, especially those in the vast number of American workplaces which are not unionized, as well as the media, interested organizations and the public in general.

The Public Affairs initiative builds on efforts initiated by the General Counsel in 2006 to expand outreach, independently or in partnership with other organizations such as the Equal Employment Opportunity Commission, through its Regional Offices. Agents visit schools, community groups, churches, other federal agencies, business organizations, labor organizations, and others to make information about the NLRB available to individual workers. They also 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.

Public outreach has been encouraged, and embraced, at all levels of the Agency. In FY 2009, the NLRB's three top officials – Board Chairman Wilma Liebman, Board Member Peter Schaumber, and General Counsel Ronald Meisburg – participated in dozens of speaking engagements, including at law schools from Berkeley to Detroit, American Bar Association events, the Chamber of Commerce, and various employer and union groups.

Other Agency representatives have participated in over 500 outreach events in the past few years, including 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, most Regional Offices publish newsletters in their local communities.

The Agency is also reaching out to Spanish-speaking constituents, and recently 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, officers in the field provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2009, the Agency's 51 Field Offices received 124,389 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 2009, the toll-free telephone service received 50,336 calls. Also, the Agency's website, www.nlr.gov, attracted 2.4 million visitors, with 9.4 million page views.

The public also may request a presentation by Agency representatives through the website's Speakers Bureau section. Our agents respond to these requests and speakers are assigned, as appropriate. In FY 2009, the Agency received 56 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).

First Contract Bargaining

Initial contract bargaining constitutes a critical stage of the negotiation process because it forms the foundation for the parties' future labor-management relationship. Additionally, 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 have been 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.

Alternative Dispute Resolution Program

The pilot “alternative dispute resolution” (ADR) program that was first implemented by the Board in December 2005 was made permanent in March 2009. The program assists parties in settling ULP cases pending before the Board on appeal from decisions issued by the Agency’s administrative law judges (ALJ). Settlements were reached in approximately 60 percent of the 45 cases processed during the pilot. (This program is in addition to the Settlement Program conducted by the General Counsel.)

The Board established the 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. 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.

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 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 number of cases processed, regardless of their significance in the labor relations community.

The cases that now receive the most immediate attention are those in which 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 a 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 divides cases into three categories, with Category III covering cases of the highest impact and Category I the lowest, as determined by Agency staff. 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. Time goals for processing an unfair labor practice charge 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 FY 2010. The Office of the General Counsel will be reviewing the Impact Analysis process again in FY 2010, and, if appropriate, make modifications for FY 2011.

VII. MANAGEMENT INITIATIVES

This section describes initiatives to improve management and internal functions and thereby enhance the Agency's ability to meet its performance goals.

Technology Advances

The Agency's Information Technology (IT) initiatives are citizen-centered and results-oriented and are designed to:

- Improve the productivity of the Agency's case management processes by
 - Standardizing business processes on a single unified case management system
 - Optimizing business processes by providing employees ready access to the tools, data and documents they require from anywhere, at anytime
- Transform the way the NLRB serves the public, including making its case processes transparent and providing more information to its constituents in a timely matter
- Reduce the paperwork burden on constituents – individuals, government entities, businesses, labor unions, universities, and other organizations

The components of this effort are described more fully below.

Next Generation Case Management (NxGen)

The Agency is in the critical stages of implementing an electronic case management and processing system, addressing core processes of the Board and Regional Offices. Known as Next Generation Case Management (NxGen), this system will replace 11 separate legacy systems and will integrate into a single unified system multiple technologies, including 5 distinct software solutions for customer relationship management, document management, collaboration, business analytics and web-based services for external constituents. This is the most comprehensive technology project undertaken at the NLRB and its success is essential to the Agency's mission.

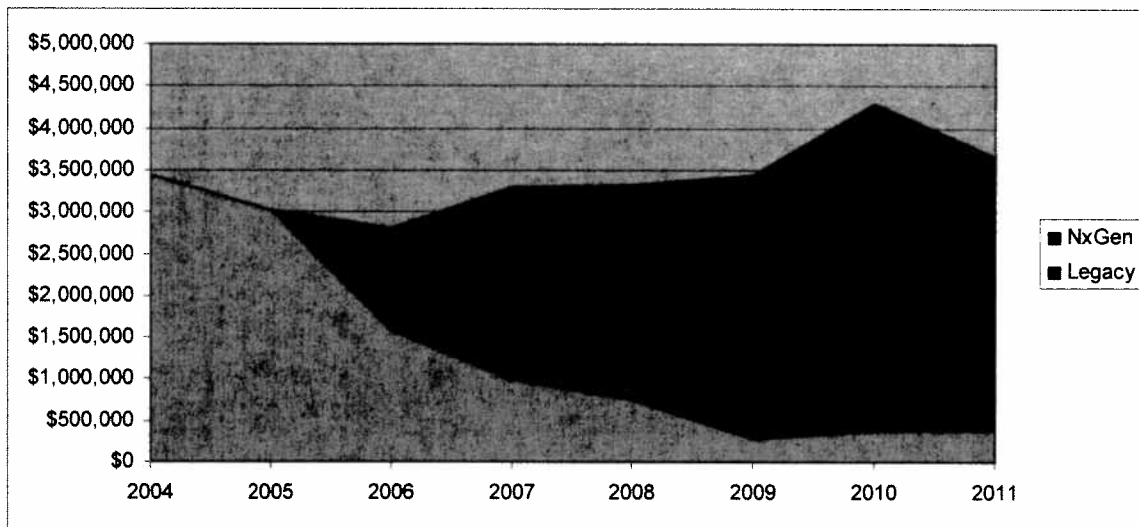
The NxGen project was launched in late 2006 with the goal of building an enterprise-wide case management platform. The tools selected to accomplish this goal are: Siebel Public Sector for transactional management and analytics; EMC's Documentum for enterprise content and collaboration management; and the Oracle/BEA portal solution for managing external relationships and data. The NxGen project is enabling the NLRB to replace 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 analyzed the case management mission 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 aligned with NLRB's current and anticipated business needs and government regulations. The NLRB is building an Agency-wide solution to satisfy the needs of all its Offices.

NxGen will replace 11 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. In addition, 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 held its first paperless Appeals agenda using the NxGen system.

In FY 2010, the Agency will make significant progress towards replacing its main legacy system – the Regional Office's Case Activity Tracking System (CATS) – and retiring the Board's Pending Case List (PCL) system. In FY 2011, the Agency's efforts will focus on retiring CATS, replacing headquarters case tracking applications, and modernizing its records management system.

As illustrated below, the Agency has funded the NxGen modernization efforts in significant measure by reducing expenditures on legacy systems.



Agency expenditures on case management development and support FY 2004-2011

Public Web Portal

The NLRB places a high priority on offering timely case information to participants, citizens, and employees based on their specific needs, rather than using a “one-size-fits-all” model for information distribution. To that end, the Agency has created a citizen-centric Internet portal that provides access to the public, including participants in NLRB cases, to specific information that suits their needs, so that they can obtain, maintain and share information. The portal also provides access to FOIA-able data and documents online.

Because of its pioneering work in this area, the Agency was selected as a finalist in the 2009 Excellence.Gov Awards, which recognize best practices in the Federal Government’s management and use of information technology, and in particular, “programs [which] have achieved exceptional results in the management of IT to support the government’s mission and serve citizens.” In the project for which it was selected a finalist, the NLRB built and deployed a website portal and master data management model to allow Agency case participants to electronically file case documents, track case updates, receive decisions electronically, and manage their profile online.

In FY 2009, the Agency made changes to its E-Filing program designed to simplify and encourage electronic filings. The Agency moved its deadline from 5:00 PM to 11:59 PM to reduce late filings. By requiring that service of E-Filed documents on other parties to a proceeding be effectuated by e-mail whenever possible, the Agency sought to eliminate the cost and inconvenience of its prior expedited service requirements. The Agency also eliminated the requirement that E-Filers must submit physical copies of long documents, further reducing the parties’ costs and inconveniences.

Additionally, the Agency formally launched a pilot project for the electronic issuance and service of final decisions of the Board and its Administrative Law Judges (ALJ). Under the pilot project, final Board and ALJ decisions are issued electronically at the close of each business day by being listed on a daily E-Docket sheet posted on the NLRB website. Parties who voluntarily register for electronic service receive an email constituting formal notice of the Board's or ALJ's decision and an electronic link to the decision.

In FY 2010, the Agency is undertaking an ambitious plan to link its constituent self-service, E-Filing, and E-Issuance efforts to the NxGen program. This will provide a solid foundation for the Agency's long-term unified case management vision: to provide better services, more efficient case handling, and greater transparency, while continuing to improve quality.

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 colocation 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 continental United States, Puerto Rico and Hawaii used local file servers to support mission critical applications. In FY 2009, all file servers were consolidated into the NLRB-managed hosting facility. The FY 2010 plan is to consolidate the two Headquarters and six Regional Office email servers into a single clustered platform at the managed hosting facility. These consolidation efforts will significantly strengthen the Agency's continuity of operations plans, provide greater storage capacity and manageability, and will afford staff improved access, at work and remotely. Also, the OCIO is in the process of adding a second managed hosting facility, thereby providing disaster recovery and load balancing functionality. It is anticipated that the NxGen program will be fully deployed in 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 contingency plan for the continuity of operations (COOP);
- Allows employees in eligible positions to telecommute on a consistently-available system, enhancing workplace flexibility;
- Improves the Agency's capability to integrate IT security into our enterprise architecture processes; and
- Enables the OCIO to benchmark its IT organization against other agencies' programs and potential 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 recently transitioned to the new GSA Network contract, taking advantage of lower data-communications rates and upgrading bandwidth at the Regional Offices to support NxGen and other applications that operate across the NLRB's wide area network.

Workforce Planning

The NLRB has always sought to efficiently manage its human resources. The need to attract qualified staff is especially critical to the Agency at this time as, at the end of FY 2009, 42 percent of GS 13-15 supervisors and 83 percent of Senior Executive Service (SES) members in the Agency were eligible to retire.

The NLRB workforce is spread throughout the country, with about 550 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.

To ensure that staff members have the skills needed to 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 those to which they are assigned. These opportunities broaden managers' knowledge and skills, facilitate cross-training, and enhance Agency flexibility, efficiency and effectiveness. These initiatives include:

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

Experience has shown that training is most effective when supplemented with "in-service" training events. Thus, with the funding requested, we plan to enhance the training opportunities available to staff by providing:

- Trial Advocacy training for Field Attorneys who have never been to such training
- Federal Mediation and Conciliation Service training
- EEO training
- FOIA training
- New Employee training

- Advanced Trial training
- Supervisory Attorney training
- Senior Field Examiner and Field Attorney training
- Senior Management Conference for Headquarters and Field Managers

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, to 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 XII for further details regarding Agency goals and performance measures.

Workplace Enhancement

2008 Federal Human Capital Survey

The Federal Human Capital Survey (FHCS) addresses employee issues related to personal work experience and job satisfaction. The 2008 FHCS found that the NLRB was relatively strong in a few areas and needed improvement in others. Employees rated the Agency fairly high on knowledge of how work relates to the Agency's goals and priorities; belief that the work they do is important; and use of information technology to perform work. On the lower end, staff did not feel that childcare subsidies were sufficient; did not feel that pay raises were strongly linked to how well they performed their jobs; and were not satisfied that work unit differences in performance were recognized in a meaningful way.

The Agency has developed an action plan to address the results of the FHCS. As a preliminary matter, the Agency made a review of the 2008 FHCS the centerpiece of the Senior Management Conference for Headquarters and Field Managers. The objectives of the plan are as below:

- Achieve an aggregate 2 percent improvement in the 10 areas where the Agency scored the lowest, including reviewing the childcare subsidy program, examining the relationship between pay and performance, and assessing differences in performance by work unit;
- Secure buy-in of top-level management and resources to implement and carry out the action plan;
- Establish focus groups charged with evaluating and presenting broad recommendations and specific short- and long-term action steps to improve prioritized items;
- Establish a decision group to assess, approve, and implement recommendations;
- Define time frames for accomplishing the action plan;

- Measure outcome of implemented improvements;
- Implement a communication plan that communicates goals, changes, and successes to employees

The NLRB has already made the following efforts to improve employee satisfaction:

- Undertook a comprehensive evaluation of the Agency awards program with the goal of implementing a more flexible program that includes and encourages creativity, cross-component cooperation, and innovation
- Designed succession plan/strategy for mission critical jobs
- Promoted federal benefits and a variety of work/life programs by providing frequent lunch and learn seminars
- Rolled out leadership development programs, including leadership mentoring and rotations, which have involved 540 employees to date
- Revamped the Human Resources web site to streamline the way in which human capital and wellness information is presented and disseminated

Wellness Inventory

The NLRB supports many initiatives to enhance the health and welfare of its employees. In addition to regular lunch and learn seminars on a variety of topics, including physical and mental health; financial welfare; and family and community involvement, the NLRB currently provides the following wellness programs to employees:

1. On-site Fitness Facilities (Headquarters only)
2. Health Facility
3. Employee Assistance Program
4. Family, Health Promotion and Education Programs
5. Health and Safety Programs
6. Fitness Challenge

Improved Financial Reporting

The integration of various accounting and payroll systems and functions accomplished over the last several years 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.

The Agency now uses the Department of Interior's National Business Center's Momentum System for its accounting, as it provides 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 system, E²Solutions. In FY 2009, the Agency contracted for a major upgrade to Momentum which will enable the Agency to continue to meet government financial reporting standards.

Linking Budget and Performance

The NLRB's annual GPRA Performance Plan is integrated into the budget request to form the basis of our Performance Budget. When the Agency updated its Strategic Plan in FY 2007, it replaced its previous measures, which focused on case processing on a segmented basis within the Board and General Counsel offices separately, with three new, overarching, outcome-based performance measures that focus on the time taken to resolve cases at the NLRB, from beginning to end, including both the General Counsel and Board sides. Section XII of this document provides further details regarding these 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.

VIII. 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 2011 request totals \$287.1 million, which will support an estimated 1,730 FTE. The requested funding will provide the resources necessary to support the staffing, space requirements, information technology, training, 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 have a direct impact on staffing resources and the ability to facilitate casehandling. Our goals assume the \$287.1 million set forth in this request.

Case Intake

During FY 2009, 22,941 ULP cases were filed with the NLRB, of which 36.2 percent were found to have merit, and 2,912 representation cases were filed, of which the merit factor rate was 64.2 percent. Overall, case intake in FY 2009 remained relatively stable at 25,853 cases, down about .2 percent from the 25,901 cases received in FY 2008. Of the total intake, ULP cases increased by about 2 percent over last year's intake of 22,501, while representation cases decreased about

14 percent from last year's total of 3,400. Preliminary figures for the first quarter of FY 2010 show an increase of 12.9 percent in total intake over the same period in FY 2009. Based on projected trends and current law, it is estimated that total ULP and representation case intake will increase to 26,200 in FY 2010, and again to 27,100 in FY 2011. Of that total, ULP cases are estimated to increase to 24,000 cases, while representation cases are expected to total about 3,100.

Several factors could affect case intake, however, thereby impacting the Agency's ability to accomplish 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 currently pending in Congress, immigration reform, and greater focus by organized labor on the immigrant workforce, could affect Agency caseload levels.

Also, recent increases in union organizing among the service industries show no signs of diminishing as organizing activities continue in health care, hotel, janitorial, and casino sectors. Further, the Teamsters have begun a drive to organize more than 100,000 warehouse employees in Los Angeles.

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. Further, over the years, there has been an increase in case intake when there is a full five-member Board. The Agency has been operating with a two-member Board since January 2008, with three nominees currently awaiting confirmation.

Settlements

Currently, of those cases in which merit is found, approximately 95 percent (95.2 percent in FY 2009) are settled without formal litigation. Cases are settled through the Agency's settlement program under which the respondent parties agree to provide a remedy and thereby avoid time-consuming and costly litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP cases, the settlement rate is not subject to the Agency's control. Disputes cannot always be resolved informally or in an expeditious manner no matter how determined and expert settlement efforts may be. Parties may conclude that litigation serves legitimate or tactical interests. The Agency's procedures provide for administrative hearings, briefs and appeals. When the process becomes formal and litigation ensues, Agency costs increase. The Agency calculates that every 1 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 prolonged vacancies on the Board. Since January 2008, the five-member Board has operated as a two-member quorum, Chairman Wilma B. Liebman and Board Member Peter C. Schaumber.⁸ The authority of the two-Member Board to render decisions has been challenged in the courts and the issue is currently pending in the Supreme Court.

As of January 2010, there were three nominations to fill the vacancies pending in the Senate: Harold C. Becker, Brian E. Hayes, and Mark G. Pearce.

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

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)		12/16/12
Member (Vacant since 12/31/07)		8/27/13
Member (Vacant since 12/31/07)		12/16/14
Ronald Meisburg General Counsel	8/14/06	8/13/10

*Appointed Chairman on January 20, 2009

Potential Effect of Statutory Changes

This budget submission is based on an assumption that the statute administered by the Agency will remain essentially unchanged and that the Board’s mission and operations will continue as before. As a general matter, of course, changes in the law will affect the Agency’s operations and could have consequences for the Agency’s case load. Statutory changes, for example, could lead to an increase in unfair labor practice charges and/or election petitions filed with the Agency, with resulting increases in investigations and proceedings conducted by Agency personnel, particularly if the settlement rate declines. Statutory changes might also directly

⁸ The term of former Chairman Robert J. Battista expired on December 16, 2007, and the recess appointments of former Board Members Dennis P. Walsh and Peter C. Kirsanow ended upon the adjournment of Congress on December 31, 2007. Board Member Peter C. Schaumber served as Chairman of the NLRB from March 2008 until January 2009. Board Member Wilma B. Liebman was designated as Chairman by President Obama on January 20, 2009.

mandate additional litigation by the Agency, e.g., seeking injunctions in federal district court. At this point, however, the budgetary implications of labor law amendments are purely speculative.

IX. PROGRAM EVALUATION

The Board 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 2009. During that period, the United States Courts of Appeals decided 61 enforcement and review cases involving the Board, compared with 72 in FY 2008. Of these cases, 88.5 percent of Board decisions were enforced in full or in part, and 78.7 percent were enforced in full. In FY 2009, 6.6 percent of enforcement and review cases were remanded entirely, compared with 4.2 percent in FY 2008.

Further, the General Counsel has had an evaluation program in place for many years to assess the performance of its Regional operations. The Quality Review Program of the Division of Operations-Management reviews ULP, representation, and compliance case files annually to ensure that they are processed in accordance with substantive and procedural requirements, and that the General Counsel's policies are implemented appropriately. Those reviews 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. They also conduct site visits during which they evaluate Regional casehandling and administrative procedures. In addition, to assess the quality of litigation, a field and Operations-Management Committee reviews all ALJ and Board decisions that constitute a significant loss. 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.

The Division of Operations-Management regularly reviews case decisions 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. Top Agency management also meets regularly with relevant committees of the American Bar Association to obtain feedback on their members' experiences practicing before the NLRB.

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 88 percent and before the district courts has been 85 to 90 percent, in whole or in part.

X. FISCAL YEAR 2011 PERFORMANCE BUDGET

The \$287.1 million requested will fund essential staffing, space requirements, long-term investments in IT, casehandling costs, employee development needs, and other operational costs needed to achieve mission and goals.

Assumptions

The request is based on the following assumptions:

- Case intake will increase in FY 2011, consistent with historical trends that show case intake increasing when there is a new Board.
- The statute administered by the Agency remains unchanged. In the event of new labor law legislation, there could be an even greater increase in case intake and/or decline in the settlement rate, a change in the nature, mix and complexity of cases, and more rigorous litigation and time pressures.
- 2011 pay raise at 1.4 percent.
- Planned performance goals and measures will be met.
- Efforts will continue to reduce backlogs.

Requirements

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 10 percent is required for rent and associated security costs, and

the balance 10 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 2011 performance budget request in the context of resources received or anticipated over the FY 2009 through FY 2011 timeframe:

	FY 2009 Actual	FY 2010 Enacted Appropriation	FY 2011 Performance Budget
Funding Level (000s)	\$262,595	\$283,400	\$287,100
Agency FTE	1,592	1,685	1,730

The requested funding of \$287.1 million constitutes an increase of \$3.7 million over the FY 2010 enacted appropriation of \$283.4 million. The \$3.7 million will help fund the compensation costs associated with 45 additional FTE, which will bring the Agency back to FY 2007 staffing levels, when the intake was about 25,600, about 1,500 cases below the 27,100 cases expected in FY 2011. The additional FTE, together with expected increases in efficiency and performance resulting from our NxGen case management system, will enable the Agency to handle more cases with fewer staff, accommodate anticipated caseload increases, and continue to provide the high level of service to the public for which the NLRB is known. The funding requested will also fund a projected \$430,000 increase in space rent and building security costs.

Program Activities

The following table illustrates obligations and FTE by program activity:

	FY 2009 Actual Obligations		FY 2010 Enacted Appropriation		FY 2011 Performance Budget	
	\$ Millions	FTE	\$ Millions	FTE	\$ Millions	FTE
Field investigation	\$211	1,263	\$229	1,331	\$232	1,369
ALJ hearing	12	101	13	112	13	115
Board adjudication	24	144	25	155	26	159
Securing compliance with Board orders	14	78	15	80	15	80
Internal review	1	6	1	7	1	7
Total	\$262	1,592	\$283	1,685	\$287	1,730

Field Investigation

The FY 2011 budget request of \$287.1 million would support an estimated intake level of 27,100 total cases, and provide the flexibility to add 38 FTE to accommodate projected 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 initial processing and disposition of new case filings in the Field drives the intake for other stages of the casehandling 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 in fiscal years 2010 and 2011, so the Agency will add 3 FTE to accommodate the increased workload. The number of cases pending an administrative law judge decision is expected to increase from 65 at the end of FY 2009 to about 79 cases at the end of FY 2011.

Board Adjudication

As previously stated, historical trends indicate that case intake will increase when the Board is operating with a full complement of Members. Commensurate with this expectation, the Agency plans to add 4 FTE to Board side staff.

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 2010 and FY 2011, 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.

Budget Oversight

The NLRB prides itself on being a responsible 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 positions, or fill them at lower grades; consolidating space so as to reduce rental costs; and monitoring closely IT, travel, and other casehandling and support costs. These practices have enabled us to cover our normal operational requirements, serve our constituents at a high level, maintain labor peace, and achieve our GPRA goals.

Savings Initiatives

Consistent with past efforts, the Agency is undertaking the following initiatives that will save money, increase efficiency, enhance performance, and enable the NLRB to continue to provide high quality service to the public:

- 1) eOPF: An electronic replacement for the hard-copy printout-based Official Personnel Folder (OPF.) The eOPF stores the information in electronic database records and images for ready retrieval and on-line viewing. Estimated annual one time cost avoidance is \$44.23 per folder, for savings in the first year of about \$75,000, and \$10,000 annually, thereafter. By transitioning to eOPF, the Agency will save the costs associated with National Archives and Records Administration storage, retrieving OPF forms, and filing, printing, copying, mailing, and replacement/rebuilding of lost OPFs.
- 2) Data Hosting: In FY 2010, the data hosting contract will be re-competed, as the Agency moves from a sole source contract to open source competition. Project savings of \$100,000 per year as a result.
- 3) Wide Area Network Services: The Agency will be transitioning to Networx from FTS2001, which will expand network capacity in all offices. Savings of \$200,000 are expected in FY 2011.

XI. OFFICE OF THE INSPECTOR GENERAL

The amount of \$1,344,225 for the Office of Inspector General (OIG) operations was submitted by the Inspector General and was included in this request without change. That amount includes \$13,000 for training of OIG personnel and \$3,218 for support of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The Inspector General certified to the Chairman

that the budget estimate and request would satisfy the training requirements for the Inspector General's office for FY 2011, and any resources necessary to support the CIGIE.

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

In its Strategic Plan for FY 2007, the Agency changed its measurements of performance to be more outcome-based, better aligned with the mission of the NLRB, and more meaningful to the public. Rather than measure individual segments of the casehandling process, the new approach measures the time taken to process an entire case, from start to finish.

Now the agency tracks the total time taken to accomplish three outcomes: To resolve all questions concerning representation; to investigate and dismiss Unfair Labor Practice (ULP) charges; or to investigate, prosecute, arrange for settlement, or otherwise resolve ULP charges found to have merit. The goal has been to resolve representation matters within 100 days, resolve dismissed ULPs within 120 days, and resolve meritorious ULPs within 365 days.

The Agency exceeded the interim targets for all three performance measures in FY 2009. In recognition of this, the Agency plans to increase annual targets for FY 2010 through FY 2012, assuming funding at the FY 2010 level or above.

There are external factors, however, that could affect the Board's ability to meet its performance measures or the need to revise the Agency's goals. These might include: as mentioned, we expect an increase in case intake once a new Board is confirmed; changes to existing labor law could result in further increase in case intake and/or decrease in the settlement rate; the uncertainty of the outcome of the litigation over the authority of the two-member Board could result in the return to the new Board for decision of many previously decided cases; and, finally, in August 2010, the terms of Member Schaumber and General Counsel Meisburg expire and there is uncertainty as to the confirmation of their replacements

Below, we return to the Agency's two major strategic goals and describe objectives, strategies and performance measures for each.

GOAL NO. 1: Promptly resolve questions concerning representation

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. The Agency 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 gaps 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.

The success of this goal will be measured by the percentage of representation cases resolved within 100 days of filing the election petition.

GOAL #2: Promptly 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 gaps 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.

The success of this goal will be measured in two ways: 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; and 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 explains 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, is 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 desire 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 six times as many ULP cases as representation cases, usually involving more complicated issues for Regions to address.

Goal 1—Promptly resolve questions concerning representation

	FY 2009 Actual		FY 2010 Enacted Appropriation		FY 2011 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #1: Representation Cases	269	\$44.3	284	\$47.8	292	\$48.0
Subtotal, Goal 1	269	\$44.3	284	\$47.8	292	\$48.0

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

	FY 2009 Actual		FY 2010 Enacted Appropriation		FY 2011 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #2: ULP charges resolved by withdrawal, by dismissal, or by closing on compliance with a settlement or Board order of Court judgment	882	\$145.4	934	\$157.1	959	\$159.1
Measure #3: Meritorious ULP cases closed on compliance	441	\$72.7	467	\$78.5	479	\$80.0
Subtotal, Goal 2	1,323	\$218.1	1,401	\$235.6	1,438	\$239.1
Total, Goals 1 & 2:	1,592	\$262.4	1,685	\$283.4	1,730	\$287.1

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.

XIII. PERFORMANCE MEASURES EXPLAINED

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.

Performance:

Goal 1/Measure 1 – In FY 2009, the Agency closed 84.4 percent of its representation cases within 100 days of the filing of a petition, a 0.9 percent increase over FY 2008's results. The Agency exceeded the interim target of 81 percent by 3.4 percent, and it appears well-positioned to achieve its long-term target of 85.2 percent.

Table 1: Goal 1/Measure 1

Revised Targets for FY 2010 - 2012 Assuming Continuation of Current Labor Law			
Goal 1: Promptly resolve questions concerning representation			
Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition			
Baseline: 78.0%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	79.0%	--	79.0%
FY 2008	80.0%	--	83.5%
FY 2009	81.0%	--	84.4%
FY 2010	82.0%	85.0%	
FY 2011	83.5%	85.0%	
FY 2012	85.0%	85.2%	

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.

Performance:

Goal 2/Measure 2 -- In FY 2009, the NLRB closed 71 percent of all ULP cases within 120 days of the docketing of the charge, an increase of 3 percent over the FY 2008 achievement of 68

percent. The Agency also exceeded the FY 2009 target of 68.5 percent by 2.5 percent. Based on the performance of the last two years, the NLRB is confident that it will meet the long-term target of 72.0 percent.

Table 2: Goal 2/Measure 2

Revised Targets for FY 2010 - 2012			
Assuming Continuation of Current Labor Law			
Goal 2: Promptly investigate, prosecute and remedy cases of unfair labor practices by employers or unions			
Measure 2: The percentage of unfair labor practice 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			
Baseline: 66.7%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	67.5%	--	66.0%
FY 2008	68.0%	--	68.0%
FY 2009	68.5%	--	71.0%
FY 2010	69.5%	71.2%	
FY 2011	70.0%	71.2%	
FY 2012	71.0%	72.0%	

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.

Performance:

Goal 2/Measure 3 -- In FY 2009, the NLRB closed 79.7 percent of all prosecutable ULP cases in 365 days from the docketing of the charge. Thus, the Agency exceeded the interim target of 75.5 percent by 4.2 percent. It was also a 3.7 percent increase over the actual results achieved in FY 2008. Assuming continued stability in resources and intake, it is anticipated that the Agency will be able to meet the long-term target of 80.3 percent in FY 2012.

Table 3: Goal 2/Measure 3

Revised Targets for FY 2010 - 2012			
Assuming Continuation of Current Labor Law			
Goal 2: Promptly investigate, prosecute and remedy cases of unfair labor practices by employers or unions			
Measure 3: The percentage of meritorious (prosecutable) unfair labor cases closed on compliance within 365 days of the filing of the ULP charge			
Baseline: 73.6%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	74.0%	--	73.5%
FY 2008	75.0%	--	76.0%
FY 2009	75.5%	--	79.7%
FY 2010	76.0%	80.0%	
FY 2011	76.5%	80.2%	
FY 2012	77.0%	80.3%	

The following chart summarizes the features of the performance plan since its implementation:

**2011 ANNUAL PERFORMANCE PLAN
ASSUMING CONTINUATION OF CURRENT LABOR LAW**

Goal #1:						
Resolve all questions concerning representations promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Measure 1						
The percentage of representation cases resolved within 100 days of filing the election petition	78.0%	Target 79.0%	Target 80.0%	Target 81.0%	Target 85.0%	Target 85.0%
		Actual 79.0%	Actual 83.5%	Actual 84.4%		
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	FY 2011
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%	Target 68.0%	Target 68.5%	Target 71.2%	Target 71.2%
		Actual 66.0%	Actual 68.0%	Actual 71.0%		

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	FY 2011
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% Actual 79.7%	Target 80.0%	Target 80.2%

XIV. BOARD MEMBERS AND GENERAL COUNSEL

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

	<u>Appointed</u>	<u>Term to Expire</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)		12/16/12
Member (Vacant since 12/31/07)		8/27/13
Member (Vacant since 12/31/07)		12/16/14
Ronald Meisburg General Counsel	8/14/06	8/13/10

* Appointed Chairman on January 20, 2009.

XV. BUDGET MATERIALS

FY 2011
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, [~~\$283,400,000~~] *\$287,100,000*: 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.

Amounts Available for Obligation
(Dollars in Thousands)

	FY 2009 ACTUAL	FY 2010 ESTIMATE	FY 2011 ESTIMATE
Appropriation	\$262,432	\$283,400	\$287,100
Spending authority from offsetting collections 1/	133	90	90
Lapsed Balance in Prior Year	0	0	0
Total Estimated Obligations	\$262,565	\$283,490	\$287,190

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

FY 2009 actual offsetting collections totals \$132,918 which include the following:

Fitness Center Program in Washington - \$10,620

Judges' Reimbursable Detail Program - \$122,298

Budget Authority by Object Class
(Dollars in Millions)

	2009 ACTUAL	2010 ESTIMATE	2011 ESTIMATE
Personnel Compensation:			
Full-time Permanent	163	175	182
Other Than Full-time Permanent	1	1	1
Other Personnel Compensation	0	0	0
Subtotal Personnel Compensation	164	176	183
Civilian Personnel Benefits	39	43	43
Travel and Transportation of Persons	3	5	4
Rental Payments to GSA	28	31	32
Rent, Communications, and Utilities	7	6	5
Other Services	17	18	17
Supplies and Materials	1	1	1
Furniture and Equipment	3	3	2
Subtotal, Direct Budget Authority	262	283	287
Reimbursables	0	0	0
Total Budget Authority	262	283	287

Detail of Full-Time Equivalent Employment

	<u>FY 2009 ACTUAL</u>	<u>FY 2010 ESTIMATE</u>	<u>FY 2011 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>
AL-1	1	1	1
AL-2	3	3	3
AL-3	35	36	39
Subtotal	<u>39</u>	<u>40</u>	<u>43</u>
GS/GM-15	228	242	244
GS/GM-14	509	517	524
GS/GM-13	238	240	251
GS-12	57	70	71
GS-11	70	80	80
GS-10	1	0	0
GS-9	59	64	67
GS-8	58	65	69
GS-7	181	187	191
GS-6	46	56	58
GS-5	39	46	49
GS-4	2	2	2
GS-3	3	5	7
GS-2	2	2	5
GS-1	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>1,492</u>	<u>1,576</u>	<u>1,618</u>
Full-time Equivalent Usage	<u>1,592</u>	<u>1,685</u>	<u>1,730</u>
Average ES Level	3	3	3
Average ES Salary	\$169,400	\$174,700	\$179,700
Average AL Level	2.87	2.88	2.88
Average AL Salary	\$161,200	\$164,200	\$166,600
Average GS/GM Grade	11.96	11.86	11.82
Average GS/GM Salary	\$94,696	\$97,774	\$100,707

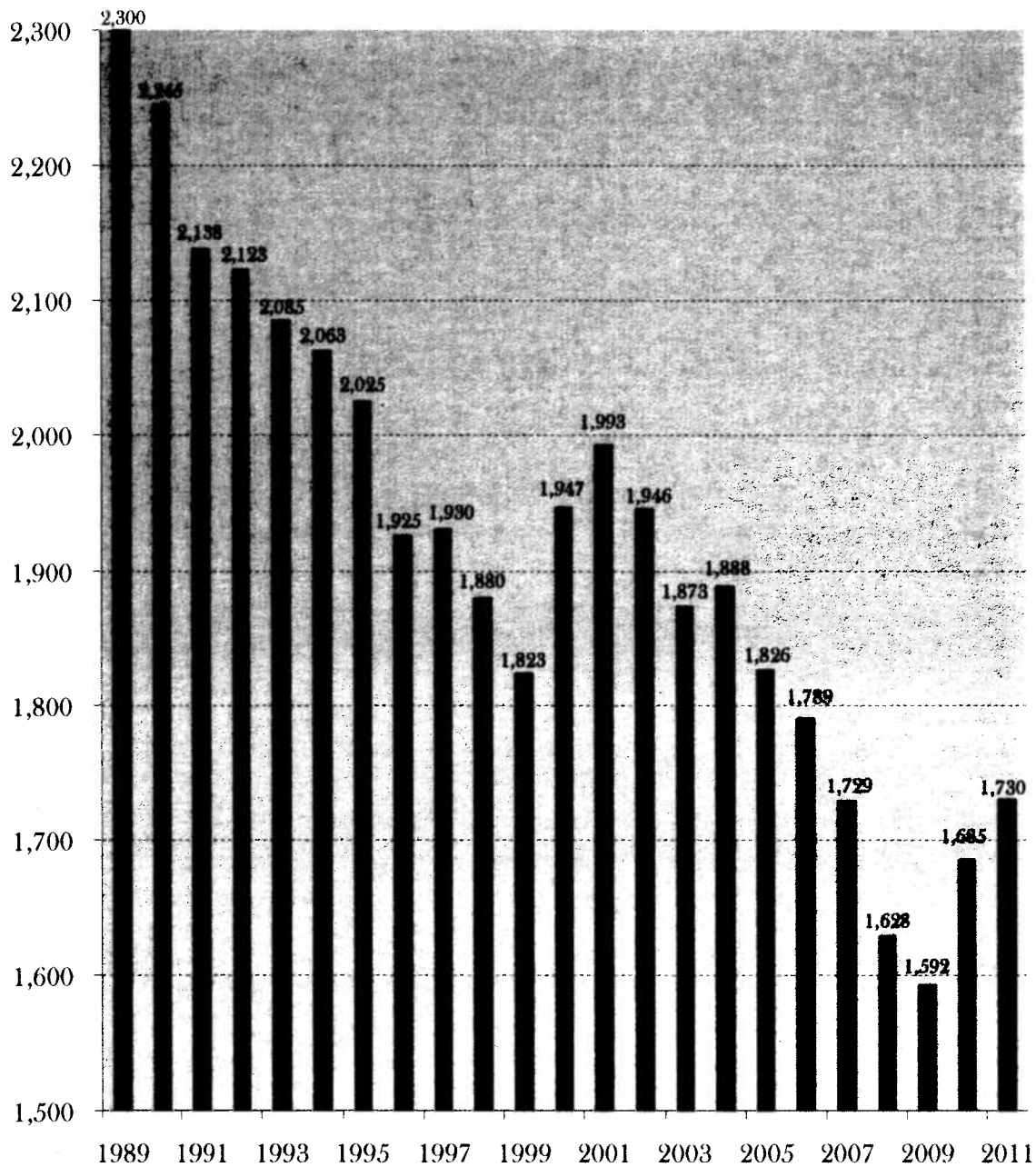
Appropriations History

Year	Estimate to Congress	House Allowance	Senate Allowance	Appropriation or Continuing Authorization
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	\$283,400,000	\$283,400,000	\$283,400,000
2011	\$287,100,000			

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 appropriation 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 2009 ACTUAL	FY 2010 ESTIMATE	FY 2011 ESTIMATE
1) Regional Offices:			
Unfair Labor Practice (ULP) Cases			
Situations Pending Preliminary Investigation at Start of Year	3,574	4,117	3,950
Case Intake During Year	22,941	23,200	24,000
Consolidation of Dispositions	2,012	3,100	3,100
Total ULP Proceedings	20,391	20,267	20,950
Situations Pending Preliminary Investigation at End of Year	4,117	3,950	3,900
Representation Cases			
Case Intake During Year	2,912	3,000	3,100
Dispositions	3,082	3,174	3,301
Regional Directors Decisions	208	212	216
2) Administrative Law Judges:			
Hearings Pending at Start of Year	234	209	211
Hearings Closed	194	225	230
Hearings Pending at End of Year	251	211	212
Adjustments After Hearings Closed	0	0	0
Decisions Pending at Start of Year	59	73	78
Decisions Issued	190	205	210
Decisions Pending at End of Year	65	78	79
3) Board Adjudication:			
Contested Board ULP Decisions Issued	195	209	221
Contested Representation Election Decisions Issued	61	63	65
4) General Counsel - Washington:			
Advice Pending at Start of Year	81	69	77
Advice Cases Received During Year	597	628	649
Advice Disposed	609	620	649
Advice Pending at End of Year	69	77	77
Appeals Pending at Start of Year	241	342	369
Appeals Received During Year	2,045	2,038	2,080
Appeals Disposed	1,944	2,073	2,085
Appeals Pending at End of Year	342	307	302
Enforcement Cases Received During Year	140	151	155
Enforcement Briefs Filed	51	70	85
Enforcement Cases Dropped or Settled	41	47	525
Enforcement Consent/Summary	45	52	58

XVI. 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	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	
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).	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).	8(b)(1)(B) To restrain or coerce an employer in the selection of its representatives for collective bargaining or adjustment of grievances.	8(b)(1)(C) To engage in, or induce or encourage any individual employed by any person engaged in commerce, to engage in a strike, work stoppage, or boycott, or to threaten, coerce, or restrain any person engaged in commerce in an industry affecting commerce, where in either case an object is:	8(b)(4)(i) To engage in, or induce or encourage any individual employed by any person engaged in commerce, to engage in a strike, work stoppage, or boycott, or to threaten, coerce, or restrain any person engaged in commerce in an industry affecting commerce, where in either case an object is:	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.	8(b)(6) 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.		
8(a)(2) To dominate or interfere with the formation or administration of a labor organization or contribute financial or other support to it.	8(b)(1)(E) To restrain or coerce an employer in the selection of its representatives for collective bargaining or adjustment of grievances.	8(b)(2) To cause or attempt to cause an employer to discriminate against an employee.	(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).	(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.	(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).			
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.	8(b)(3) To refuse to bargain collectively with employer.	8(b)(5) To require of employees the payment of excessive or discriminatory fees for membership.	(B) To force or require any employer to handle, transport, 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.	(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.	(B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or			
8(a)(4) To discharge or otherwise discriminate against employees because they have given testimony under the Act.	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.				(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.			
8(a)(5) To refuse to bargain collectively with representatives of its employees.								

2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)

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	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Board Rules	Board Rules
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.*	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.*	9(c)(1)(B) Alleging that one or more claims for recognition as exclusive bargaining representative have been received by the employer.*	9(c)(1)(C) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.	9(c)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.	9(c)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.	UC	AC
							Support C Seeking amendment of an outstanding certification of bargaining representative.

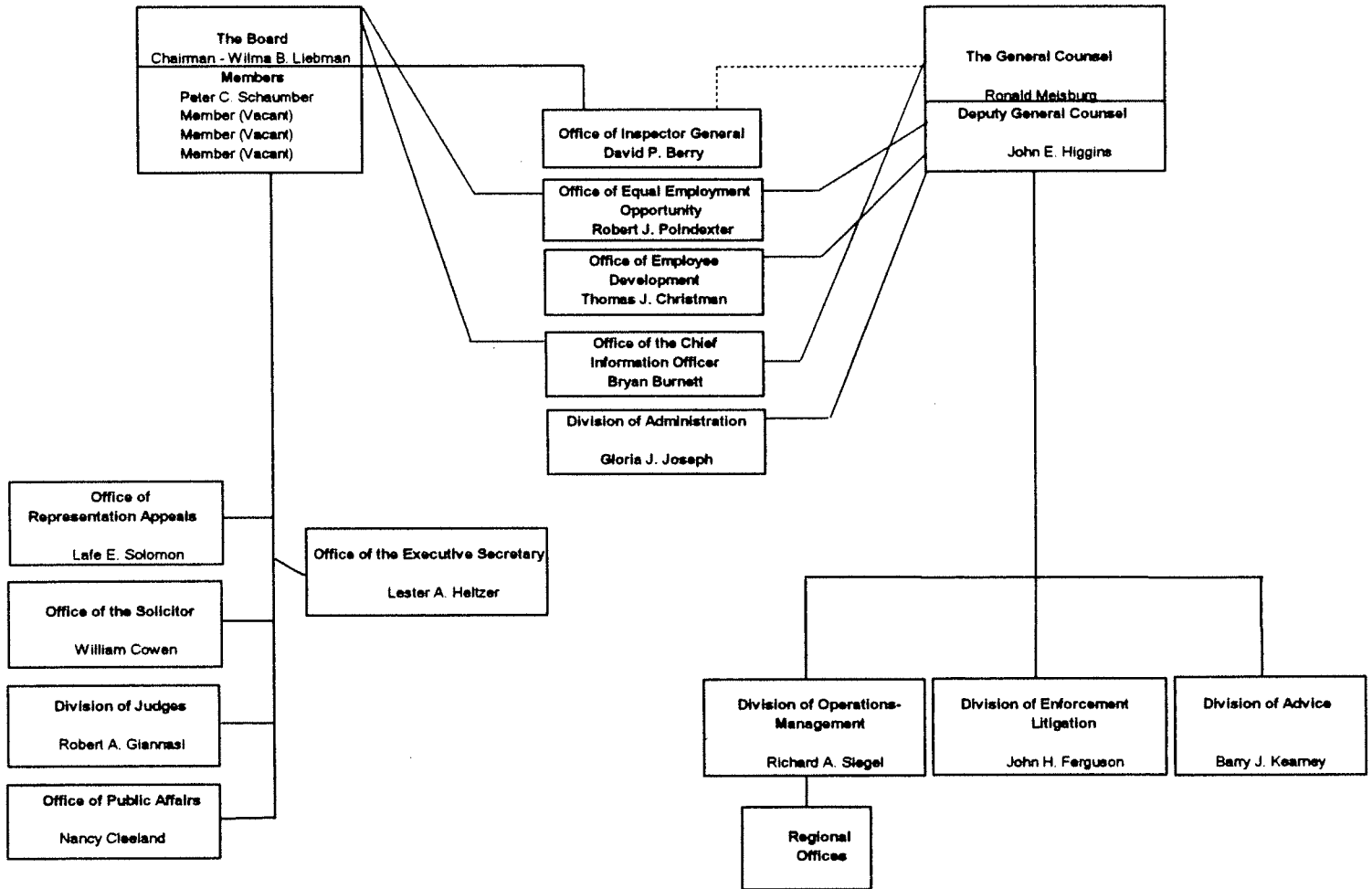
3. OTHER PETITIONS

By or in Behalf of Employees		By a Labor Organization or an Employer	
Section of the Act	Section of the Act	Board Rules	Board Rules

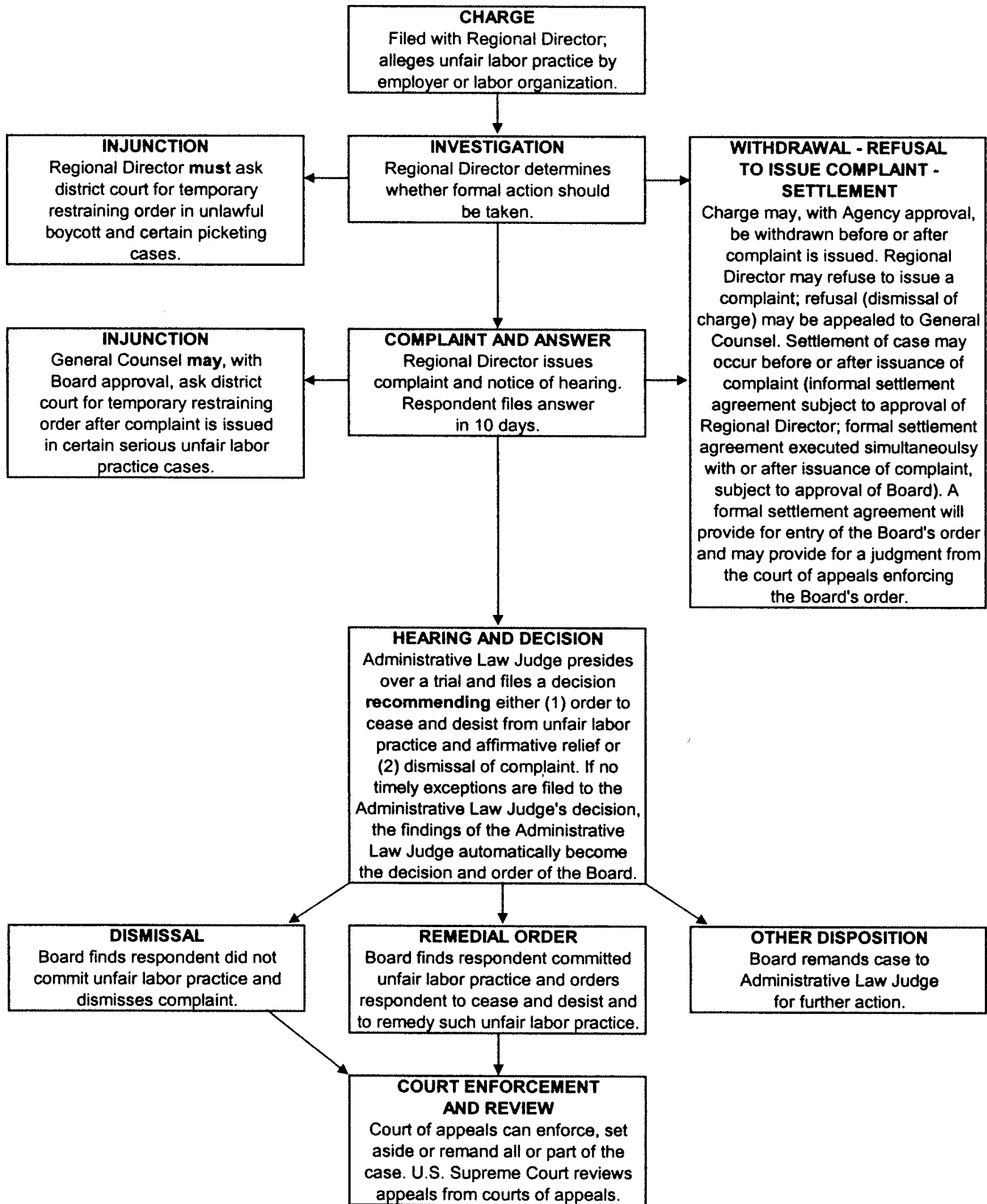
* If an 8(b)(1) charge has been filed involving the same employer, these statements in RC, RD, and RM petitions are not required. Charges filed with the National Labor Relations Board are letter-coded and numbered. Unfair labor practices charges are classified as "C" cases and petitions for certification 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

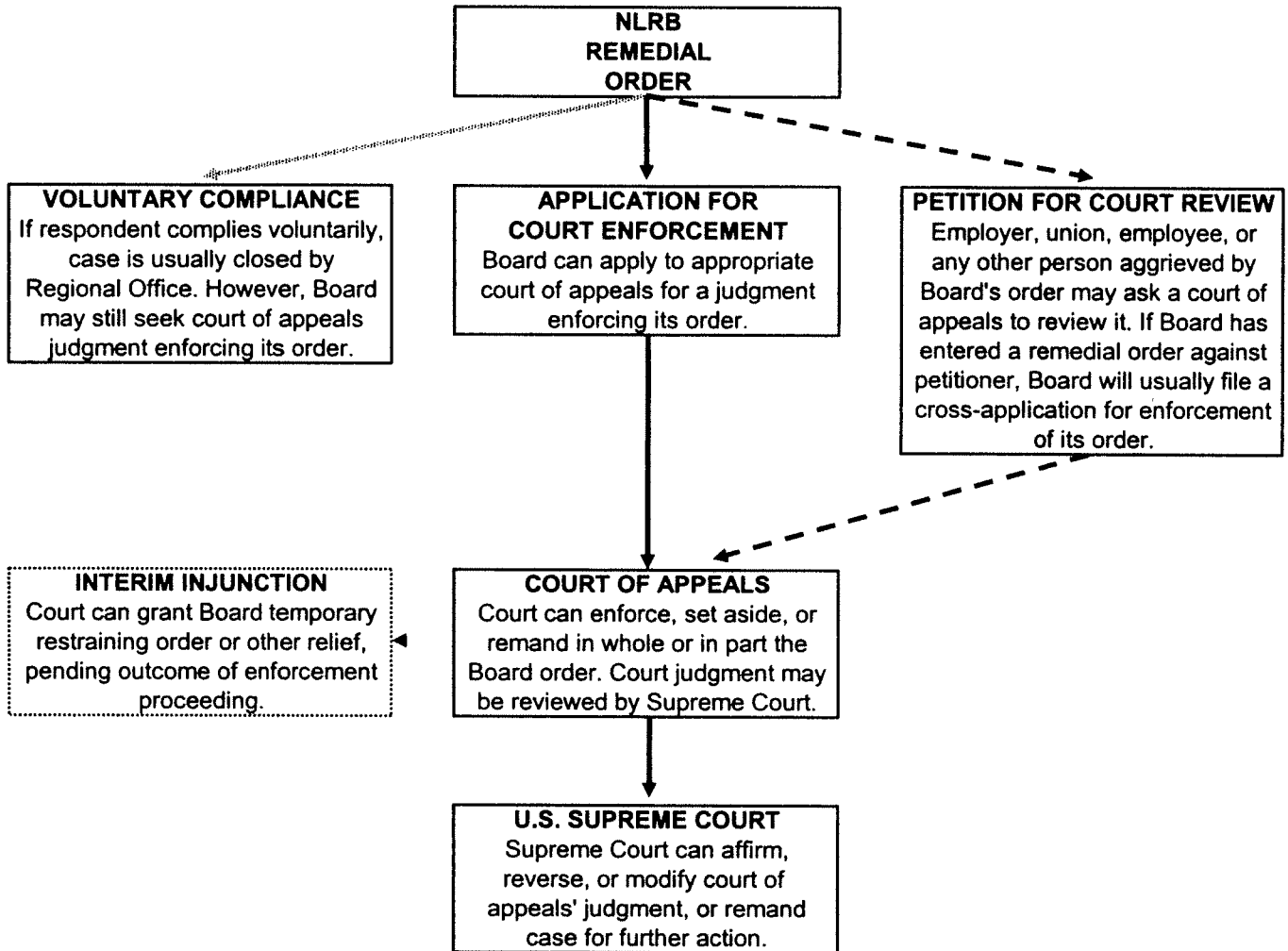


NATIONAL LABOR RELATIONS BOARD **EXHIBIT C**
BASIC PROCEDURES IN CASES INVOLVING CHARGES OF UNFAIR LABOR PRACTICES



NLRB ORDER ENFORCEMENT CHART

EXHIBIT D



OUTLINE OF REPRESENTATION PROCEDURES UNDER SECTION 9(c)

