



NATIONAL LABOR
RELATIONS BOARD

FY2017

PERFORMANCE AND
ACCOUNTABILITY REPORT

Protecting Democracy in
the Workplace Since 1935



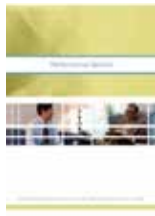
HOW THIS REPORT IS ORGANIZED

This Performance and Accountability Report (PAR) consists of the following sections



The Management's Discussion and Analysis (MD&A) Section provides an overview of our mission, organization, mission-related goals, performance and financial system highlights as well as the National Labor Relations

Board's (NLRB's) operational and casehandling highlights for FY 2017. The MD&A also contains an analysis of financial statements and a discussion of compliance with legal and regulatory requirements, such as the Federal Managers' Financial Integrity Act (FMFIA).



The Performance Section compares the NLRB's performance to its strategic goals as set forth in the FY 2014 to FY 2018 Strategic Plan. The Strategic Plan includes two mission-related goals and two support goals to help achieve the

Agency's mission and vision. The performance measures associated with the mission-related goals are outcome-based. The agency has several outcome-based performance measures for the support goals combined with those that are management strategy driven to ensure alignment with the mission and needs of the customer. This is the third year that the NLRB is reporting its performance under the new goals.



The Financial Section is composed of the NLRB's financial statements, their related footnotes, and the Independent Auditors' Report.



Other Information provides the performance and management challenges identified by the Inspector General in this fiscal year, and the NLRB's summary of audit and management assurances which details the Agency's review of compliance with the Improper

Payments Elimination and Recovery Improvement Act (IPERIA). For an update on the Board's progress in addressing management and performance challenges from FY 2016 please see <https://www.nlr.gov/reports-guidance/reports/oig-semiannual-reports>.



Appendix A lists the acronyms cited throughout this report, Appendix B is a glossary of terms cited throughout this report, Appendix C presents historical performance data and Appendix

D represents the complete strategic goal structure.

An electronic version of the NLRB FY 2017 Performance and Accountability Report is available on the NLRB's website at www.nlr.gov.

The NLRB's Strategic Plan is also available at this website along with graphs and data which reflect the NLRB's work.

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MESSAGE FROM THE CHAIRMAN

November 1, 2017



Philip A. Miscimarra
Chairman

As Chairman of the National Labor Relations Board (NLRB), I am pleased to submit the Performance and Accountability Report for Fiscal Year 2017. This annual report provides insight into the finances and activities of the NLRB, an independent federal agency established in 1935 which serves the interests of employees, employers, and unions. Contained in this document are the NLRB's audited financial statements and performance information related to the goals set forth in the Agency's Strategic Plan.

I have served on the Board since 2013, and have had the privilege of serving as Chairman since April 2017. The Board consists of hard-working professionals and other staff members dedicated to the even-handed enforcement of our statute, the National Labor Relations Act. I am proud to have the opportunity to work with such talented colleagues who make significant sacrifices in their public service.

The NLRB has been undergoing a significant transition in the past fiscal year. Two new Board members — Marvin E. Kaplan and William J. Emanuel — were nominated by President Donald J. Trump and confirmed by the Senate, followed by their commencement as Board members in August and September 2017, respectively. For the first time since August 2015, the NLRB returned to its full complement. As of September 30, 2017, in addition to me, the NLRB has included Board Members Mark Gaston Pearce, Lauren McFerran, Marvin E. Kaplan, and William J. Emanuel.

As Chairman, I certify that the NLRB's internal controls and financial systems meet and conform to the requirements of the Federal Managers' Financial Integrity Act, and I have made every effort to verify the accuracy and completeness of the financial and performance data presented in this report. A more detailed discussion of the Agency's internal controls can be found starting on page 27 of this report.

A handwritten signature in blue ink that reads "Philip A. Miscimarra". The signature is written in a cursive, flowing style.

Philip A. Miscimarra
Chairman

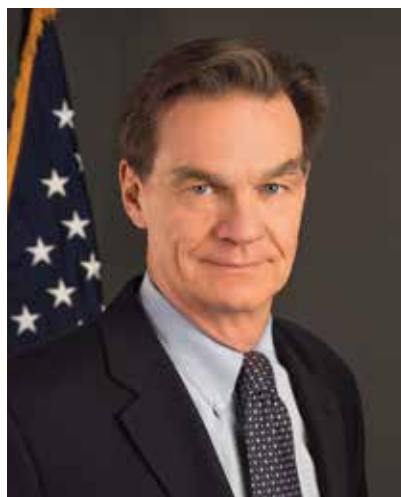
BOARD MEMBERS



From Left to Right: Board Member Marvin E. Kaplan, Board Member Mark G. Pearce, Chairman Philip A. Miscimarra, Board Member Lauren McFerran, and Board Member William J. Emanuel

MESSAGE FROM THE GENERAL COUNSEL

October 30, 2017



Richard F. Griffin, Jr.
General Counsel

Millions of employers are subject to the National Labor Relations Act, which guarantees private-sector workers the right to seek to address their collective workplace concerns. Specifically, with or without union representation, workers have the right to organize, bargain collectively, and participate in activities with one another to improve their pay and working conditions. Our job at the National Labor Relations Board (NLRB) is to safeguard that right by (1) preventing and remedying unfair labor practices committed by employers and unions, and (2) conducting secret-ballot elections to determine whether or not employees want union representation.

This extensive FY 2017 report outlines the Agency's case handling, administrative, financial and outreach accomplishments; demonstrates excellent management of resources; and addresses current and future challenges.

CASEHANDLING

As General Counsel, my Office oversees the investigation and prosecution of unfair labor practice charges, as well as processes representation case petitions filed with our 26 Regional and 23 satellite offices across the nation. I also serve as the Agency's chief administrative officer. Now more than ever it is critical to put and keep the right people in place and give them the right tools to do the job that taxpayers expect and deserve.

I take seriously our duty to ensure that each case filed with the Agency is processed fairly and expeditiously. Our network of field offices are staffed by approximately 1,000 dedicated public servants, who perform effective and efficient case handling work each and every day. In FY 2017, our case intake was in excess of 21,500 cases.

I am very proud of our field offices' efforts to assist parties in resolving their issues short of litigation, and, this year, our settlement rate reached 95%; thus, we were able not only to promote industrial peace, but also save taxpayer dollars. Two notable settlements included a longstanding case involving a refusal to hire Teamsters-represented employees, which

culminated in an agreement where the employer will pay \$21.6 million of which \$14.4 million will be disbursed as backpay to 257 employees and \$7.2 million will be distributed to a pension fund, and another case where 29 unlawfully laid off and discharged employees shared a \$570,000 remedy. I am equally proud of this year's litigation efforts performed by the field offices, with assistance from the Division of Legal Counsel, including in the high-profile and multi-Regional cases involving McDonald's, Lyft, and Community Health Services.

Because the NLRB is charged with protecting workers rights in an ever-changing economy, it is incumbent upon the Agency to perform a comprehensive review of adapting and evolving workplaces and employment relationships when cases are brought before us. For that reason, I have identified priority issues for centralized consideration, and during this fiscal year, some of those included the following: employer statements about the impact of unionization on employee direct access to management under *Tri-Cast, Inc.*, 274 NLRB 377 (1985); an employer's permanent replacement of economic strikers based upon an unlawful motive under *Hot Shoppes*, 146 NLRB 802 (1964); the application of *Purple Communications*, 361 NLRB No. 126 (2014), to electronic systems other than email; intermittent work stoppages versus partial strikes; requested representation during investigatory interviews in non-unionized workplaces; the employment status of workers in the "gig" economy; and misclassification of employees as independent contractors.

As new legal issues arise, the Agency will continue to investigate and review cases to ensure that the protections of the Act keep

pace with industrial realities around the country. Notably, this fiscal year, the circuit courts agreed with our analysis in a number of priority matters, such as: *King Soopers*, involving compensation for search-for-work and work-related expenses; *Pier Sixty*, involving protesting working conditions on Facebook; *MasTec*, involving rights to publicly protest via media about wages and working conditions, and *Cooper Tire*, involving conduct on a picket line that retained protected status.

Further, in addition to other excellent brief filings, our Division of Enforcement Litigation did an admirable job with the filing of a forceful brief with the Supreme Court in *Murphy Oil*, seeking to have the Court uphold the Board's decision that an employer cannot maintain mandatory arbitration agreements with individual employees that bar them from pursuing work-related litigation on a joint, collective or class basis in any forum, arbitral or judicial.

ADMINISTRATIVE

As previously reported, the Agency's Headquarters' relocated and reduced its footprint by 30% garnering significant savings in rent and security. This fiscal year, the Agency crafted a national space policy to similarly reduce its footprint in Regional Offices around the country. Relatedly, this fiscal year, the Agency enhanced its unified communication system by making Skype operational nationwide, thus allowing for greater productivity through remote access, enhanced real-time collaboration, expeditious and paperless communications, and lowering of overall costs. The Agency also ensured a successful transition of the SES cadre to USA Performance, a new performance management

reporting system, as well as revamped the performance management system by reducing the number of appraisal cycles, automated a system designed to capture periods within the appraisal process, and standardized the awards process.

FINANCIAL

The Agency fully understands the importance of utilizing its resources effectively, and does an excellent job in this regard. This fiscal year, the Office of the Chief Financial Officer engaged directly with my Office to ensure exceptional financial management of our appropriations and prompt responses to OMB, including to OMB Memorandum 17-22 mandating leaner and more efficient government operations. I am pleased to report that our submission met with approval as it comprehensively addressed all efforts, past and present, to streamline Agency structure, operations, functions and processes.

OUTREACH

The issues before the Agency are ones that, for decades, have been met with passion and differences of opinion. As General Counsel, I have made every effort to speak and, more importantly, listen to the concerns and interests of all parties. From guidance memoranda to speaking engagements, I hope that union and management representatives agree that we have provided access to ample information about case handling initiatives and procedures, and about case developments at the Agency.

Educating the public about our statute and our Agency is a priority for me. That is why, under my tenure, the Agency has continued to expand our outreach program. This fiscal year, Headquarters and Regional personnel conducted workshops nationwide to train

arbitrators about the Board's *Babcock & Wilcox* decision and extant case precedent and standards, our social media presence continued to grow, and our website improved e-filing and on-line FOIA request capabilities.

We have also engaged in intra- and inter-agency collaborative efforts to better educate and serve the public, and particularly, vulnerable worker populations. For example, our Agency's Cultural Enhancement Program has continued to assist with recruiting and retaining a culturally diverse workforce, which can better identify with the populations we serve. This fiscal year, the Agency has continued to develop training materials for our immigration coordinators nationwide to assist with outreach and case handling matters dealing specifically with vulnerable worker populations. Notably, in *Deep Distributors of Greater NY*, 365 NLRB No. 95 (June 20, 2017), the Board agreed with our position that the employer violated the Act when its counsel threatened employees about their immigration status during the course of the administrative hearing, and, based thereon, referred counsel for disciplinary investigation and ordered publication of the Notice to Employees due to the seriousness of the violations.

We have also continued to collaborate with partners from the Department of Labor, Equal Employment Opportunity Commission, the Department of Homeland Security, and the Department of Justice to engage with worker advocates and with each other to ensure good government and best practices in enforcement activities. Notably, the EEOC and NLRB are also collaborating on a joint guidance memo for public dissemination. Finally, the Agency continued to reach out to foreign embassies/

ministries/consulates to promote the education of workers and small business owners about our statute.

CONCLUSION

As General Counsel, I have been committed to an open, fair, and transparent process here at the Agency. I have appreciated and encouraged constructive relationships with representatives of both management and labor who appear before the Agency. And finally, I have genuinely enjoyed working with all of the Agency's

capable employees to fulfill our mission of protecting workplace rights and providing the highest quality service to the public.



Richard F. Griffin, Jr.

General Counsel

2017 YEAR IN REVIEW

PUBLIC INFORMATION PROGRAM

The Agency's Public Information Program is one of the critical services provided to employers, unions, and employees. Under this program, in addition to the services provided by the Congressional and Public Affairs Office in Headquarters, Board agents in the field offices provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2017, the Agency's Regional Offices received 53,052 public inquiries regarding workplace 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 may also contact the Agency through a toll-free telephone service (1-866-667-NLRB) designed to provide easy and cost-free access to information. Callers hear messages recorded in English and Spanish that provide a general description of the Agency's mission, contact information for other government agencies and connections to the Regional Offices in closest geographic proximity.

Public outreach is encouraged and has been embraced at all levels of the Agency. Over the past few years, the Board Members, General Counsels, Regional Managers, and board agents participated in numerous speaking engagements at events sponsored by law schools, the American Bar Association, the Chamber of Commerce, and various employer, union and worker advocacy groups. Agency representatives also engaged in outreach

events involving other federal agencies, business organizations, workers' rights centers, human resources professional groups, and labor organizations to educate them on the NLRA and the role of the NLRB as an impartial enforcement. Further, Regional Offices publish newsletters and participate in televised or radio public talk shows.

As part of the Agency outreach to communities with limited English proficiency, in addition to the bilingual toll-free telephone service for inquiries, the NLRB employs language assistants and contracts with service providers whose job is to provide interpretation and translation services in various languages to assist our field office casehandling. The public website contains Agency publications about the NLRA and processes, which are translated into Spanish, Chinese, Creole, Korean, Russian, Somali and Vietnamese. The number of electronic document templates available in Spanish continues to increase and the database of translated representation case notices and ballots has expanded to include 31 languages. Also, an Agency film about representation case processing has been recorded for the benefit of the Spanish-speaking community. Finally, the Agency has teamed up with other federal agencies in conducting listening sessions among the Asian American and Pacific Islander community to educate them about the rights of workers and to listen to their concerns regarding treatment at their workplaces and confusion about our processes.

FY 2017 STATISTICAL HIGHLIGHTS

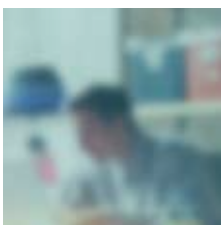
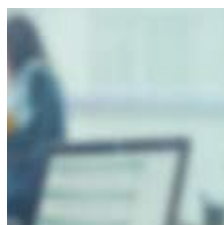
- The Board issued 266 decisions in contested cases, 158 ULP cases and 108 representation cases.
- 98.5 percent of all initial elections were conducted within 56 days of filing of the petition¹.
- Initial elections in union representation cases were conducted in a median of 23 days from the filing of the petition.
- Regional Offices issued 1,263 complaints.
- 82.4 percent of meritorious ULP charges resolved within 365 days.
- Regional Offices prevailed in 84 percent of Board and administrative law judge (ALJ) decisions which were won, in whole or in part.
- 69.2 percent of Board decisions reviewed by Appellate Courts were enforced or affirmed in whole or in part.
- \$73,607,990 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines, and 1,716 employees were offered reinstatement.
- The Agency received 53,037 inquiries through its Public Information Program, and 54 calls through its Agency-referred toll-free number.
- The Division of Judges closed 170 hearings, issued 184 decisions, and achieved 453 settlements in cases on its trial docket.



¹The performance measure for Goal 2 found on page 26 measures the number of days required for the processing of petitions, and this statistic focuses on directed, stipulated or consent election cases.



MANAGEMENT'S DISCUSSION AND ANALYSIS



ABOUT THE NLRB



MISSION STATEMENT

Protecting workplace democracy and the rights of employees, unions and employers under the National Labor Relations Act, in order to promote commerce and strengthen the Nation's economy.

THE NATIONAL LABOR RELATIONS ACT (NLRA)

- Basic law governing relations between labor unions and business enterprises engaging in interstate commerce in the private sector
- Purpose – serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees
- Embodies a bill of rights, which establishes freedom of association for purposes of collective bargaining and concerted activities to improve terms and conditions in the workplace
- Addresses the rights and obligations of employees, labor unions, and private employers

THE NATIONAL LABOR RELATIONS BOARD (NLRB)

The NLRB is an independent federal agency created in 1935 to administer and enforce the NLRA by conducting secret-ballot elections among employees to determine whether or not the employees wish to be represented by a union; and by preventing and remedying statutorily defined ULPs by employers and unions.

The NLRB acts only on those cases brought before it and does not initiate cases. All proceedings originate with the filing of charges

or petitions by employees, labor unions, private employers, or other private parties.

In its 82-year history, the NLRB has counted millions of votes, investigated hundreds of thousands of charges, and issued thousands of decisions. These numbers tell an important part of the Agency's story. Specific data on the following components of the Agency's work can be found on the NLRB's web site on: <https://www.nlr.gov>:

- **Charges and Complaints** – Data related to charges of unfair labor practices received by Regional Offices and their disposition over time, including withdrawals, dismissals, complaints, and settlements
- **Petitions and Elections** – Data related to petitions for representation, decertification, unit amendment and clarification, and recession of union security agreements received by Regional Offices, elections held, and outcomes
- **Decisions** – Data related to decisions by the Board and NLRB Administrative Law Judges
- **Litigation** – Data related to litigation by Board attorneys in federal court, including petitions for temporary injunctions, defending Board decisions in court, and pursuing enforcement, contempt and compliance actions
- **Remedies** – Data related to remedies obtained to resolve unfair labor practices, including backpay and offers of reinstatement

EMPLOYEE RIGHTS UNDER THE NLRA

The National Labor Relations Act extends rights to many private-sector employees, including the right to organize and to bargain collectively with their employer. Employees covered by the Act are protected from certain types of employer and union misconduct and have the right to support union representation in a workplace where none currently exists or to attempt to improve their wages and working conditions through other group action.

Under the NLRA, employees have the right to:

- Form, or attempt to form, a union among the employees of an employer.
- Join a union whether the union is recognized by the employer or not.
- Assist a union in organizing employees.
- Engage in protected concerted activity. Generally, “protected concerted activity” is group activity that seeks to improve wages or working conditions in a particular workplace.
- Refuse to do any or all of these things. However, the union and employer, in a State where such agreements are permitted, may enter into a lawful union-security clause requiring employees to pay union dues and fees.

The NLRA forbids employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining or assisting a labor organization for collective bargaining purposes, engaging in protected concerted activities, or refraining from these activities. Similarly, unions may not restrain or coerce employees in the exercise of these rights.

STATUTORY STRUCTURE

Agency leadership consists of six presidential appointees – five Board Members (including the Chairman) and the General Counsel. Day-to-day management of the Agency is divided by law, delegation, and Agency practice between the Chairman, the Board, and the General Counsel. The Board and the General Counsel maintain a Headquarters in Washington, D.C., and the Agency also maintains a network of Regional² (“Field”) offices and three satellite Judges’ offices. 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. A map depicting the Regional offices can be found at: <https://www.nlr.gov/who-we-are/regional-offices>

THE FIVE-MEMBER BOARD

The five-member Board primarily acts as a quasi-judicial body, deciding cases on the basis of formal records in administrative proceedings. Board Members are appointed by the President with the advice and consent of the Senate, and serve staggered five-year terms.³ The President designates one of the Board Members as Chairman. Board Member Philip A. Miscimarra was designated Chairman on April 24, 2017.

² Including Sub-Regional and Resident Offices.

³ Even though Board Members have five-year-terms, a new five-year term begins running immediately upon the expiration of the previous Member’s term and the seat remains vacant until an individual is nominated and confirmed by the Senate. Therefore, a significant lapse of time could occur between when a term expires and a new Board Member is confirmed, which means that a new Board Member might serve only a portion of a five-year term.

THE GENERAL COUNSEL

Congress created the position of General Counsel in its current form in the Taft-Hartley Act of 1947. The General Counsel is appointed by the President to a four-year term, with Senate consent, and is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB Regional Offices, as well as of the administrative, financial and human capital operations of the Agency. In performing delegated functions, and in some aspects statutorily assigned functions, the General Counsel acts on behalf of the Board.

However, with respect to the investigation and prosecution of unfair labor practice cases, the General Counsel has sole prosecutorial authority under the statute, independent of the Board. Richard F. Griffin, Jr., was nominated by the President for General Counsel and appointed to a full four-year term on November 1, 2013.

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

	Sworn In	Term to Expire
Philip A. Miscimarra Chairman	8/7/2013	12/16/2017
Mark G. Pearce Member	4/7/2010	8/27/2018
Lauren McFerran Member	12/17/2014	12/16/2019
Marvin E. Kaplan Member	8/10/2017	8/27/2020
William J. Emanuel Member	9/26/2017	8/27/2021
Richard F. Griffin, Jr. General Counsel	11/4/2013	10/31/2017 ⁴

⁴ Deputy General Counsel Jennifer A. Abruzzo assumed the role of Acting General Counsel on November 1, 2017.

ORGANIZATION



CASEHANDLING FUNCTIONS

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

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

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. In carrying out the NLRA’s mandates, the NLRB supports the collective bargaining process and seeks to eliminate certain ULPs on the part of employers and unions so as to promote commerce and strengthen the Nation’s economy.

The two mission-related goals of the NLRB are:

- Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act
- Promptly and fairly resolve all questions concerning representation of employees

UNFAIR LABOR PRACTICE PROCEEDINGS

The NLRA contains a code of conduct for employers and unions, and regulates that conduct in unfair labor practice (ULP) proceedings which are remedied through adjudicatory procedures under the NLRA.

The General Counsel has sole responsibility— independent of the Board—to investigate charges of ULPs, and to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding ULP cases.

The General Counsel investigates ULP charges through the Agency’s network of Regional, Sub-Regional, and Resident Offices (Field Offices). If there is reason to believe that a ULP charge has merit, the Regional Director, on behalf of the General Counsel, issues and prosecutes a complaint against the charged party, unless a settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative law judge, who issues a decision. The decision may be appealed by any party to the Board through the filing of exceptions. The Board decides cases on the basis of the formal trial record, according to the statute and the body of case law that has been developed by the Board and the federal courts.

If the Board finds that a violation of the Act has been committed, the role of the General Counsel thereafter is to act on behalf of the Board to obtain compliance with the Board’s order remedying the violation. Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. The statute provides

that any party may seek review of the Board's decision in a United States Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board itself must petition for court enforcement of its order. In court proceedings to review or enforce Board decisions, the General Counsel represents the Board and acts as its attorney. Also, the General Counsel acts as the Board's attorney in contempt proceedings and when the Board seeks injunctive relief under Sections 10(e) and (f) of the NLRA after the entry of a Board order and pending enforcement or review of proceedings in circuit court.

Section 10(j) of the NLRA empowers the NLRB to petition a federal district court for an injunction to temporarily prevent ULPs by employers or unions and to restore the status quo, pending full review of the case by the Board. In enacting this provision, Congress was concerned that delays inherent in the administrative processing of ULP charges, in certain instances, would frustrate the Act's remedial objectives. In determining whether the use of Section 10(j) is appropriate in a particular case, the principal question is whether injunctive relief is necessary to preserve the Board's ability to effectively remedy the ULP alleged, and whether the alleged violator would otherwise reap the benefits of its violation.

Under NLRB procedures, after deciding to issue a ULP complaint, the General Counsel may request authorization from the Board to seek injunctive relief. The Board votes on the General Counsel's request and, if a majority votes to authorize injunctive proceedings, the General Counsel, through Regional staff, files for injunctive relief with an appropriate federal district court.

In addition, 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 ULPs, such as a work stoppage or picketing with an unlawful secondary objective, the Regional Director is required, on behalf of the Board, to seek an injunction from a federal district court to halt the alleged unlawful activity.

REPRESENTATION PROCEEDINGS

In contrast to ULP proceedings, representation proceedings conducted pursuant to the Act are not adversarial⁵. Representation cases are initiated by the filing of a petition—by an employee, a group of employees, a labor organization acting on their behalf, or in some cases by an employer. Typically the petitioner requests an election to determine whether a union has the support of a majority of the employees in an appropriate bargaining unit and therefore should be certified or decertified as the employees' bargaining representative. The role of the Agency in such cases is to investigate the petition and conduct a secret-ballot election, if appropriate, addressing challenges and objections to the election subsequently, and thereafter issuing a certification.

In the processing of representation cases, the Board and the General Counsel 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 based on a delegation of authority made in 1961. As a result, the General Counsel and the Board have historically worked together in developing

⁵ Unlike ULP hearings where violations of the statute are litigated in an adversarial proceeding, representation case hearings are fact-finding proceedings regarding questions concerning representation.

procedures for the conduct of representation proceedings. The Board has ultimate authority to determine such matters as the appropriateness of the bargaining unit and to rule on any challenges and objections to the conduct of an election. The Regional Directors have been delegated authority to render initial decisions in representation matters, which are subject to Board review.

COMPLIANCE PROCEEDINGS

In order to obtain compliance with the Board’s orders and settlement agreements, the General Counsel’s staff must follow up to ensure that the results of the processes discussed above are enforced. NLRB staff deals with employees whose rights have been violated to calculate backpay, and works with respondents regarding notice postings, reinstatement of workers, disciplinary record expungement, withdrawal of unlawful rules or policies, and bargaining

remedies. Since Board orders are not self-enforcing, noncompliance or disputes on findings may require additional hearings or actions in the courts.

ADMINISTRATIVE FUNCTIONS

Section 3(d) of the Act assigns the General Counsel supervision over all attorneys employed by the Agency, with the exception of the ALJs, the Solicitor, the Executive Secretary and the attorneys who serve as counsel to the Board Members. The Board has also delegated to the General Counsel general supervision over the administrative, financial and personnel functions of the Agency.



CASEHANDLING HIGHLIGHTS

The NLRB acts only on those cases brought before it and does not initiate cases. While charges must be filed with the Agency to begin an investigation, if merit is found to the charge allegations, the Regional Director has delegated authority from the General Counsel to issue complaint, absent settlement.

All proceedings originate with the filing of charges or petitions by employees, labor unions, or private employers engaged in interstate commerce. During fiscal year 2017, the public filed 19,280 unfair labor practice charges of which 38.6 percent were found to have merit. Also, in FY 2017, the NLRB received 2,357 representation petitions, including 2,236 petitions to conduct secret-ballot elections in which workers in appropriate units select or reject unions to represent them in collective bargaining with their employers, as well as 38 petitions for elections in which workers voted on whether to rescind existing union-security agreements. The NLRB also received 4 petitions seeking amendment and 73 petitions seeking clarification of an existing bargaining unit, as well as 6 WH cases.

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

The following cases highlight this philosophy and reflect the NLRB's mission of protecting democracy in the workplace:

NLRB v. Murphy Oil USA, Inc., et al. (S.Ct. No. 16-307)

On January 13, 2017, the Supreme Court granted the Board's petition for certiorari to review a decision of the United States Court of Appeals for the Fifth Circuit. The Board seeks to have the Court uphold the Board's rule, first announced in *D.R. Horton, Inc.*, 357 N.L.R.B. 2277 (2012), *enforcement denied in part*, 737 F.3d 344 (5th Cir. 2013), that an employer violates Section 8(a)(1) of the Act by maintaining arbitration agreements with individual employees that bar them from pursuing work-related claims on a collective or class basis in any forum, arbitral or judicial, because such agreements limit the employees' right under the Act to engage in concerted litigation. Contrary to the position of the employer and the Fifth Circuit, the Board has found that such agreements are not shielded from NLRA liability by the Federal Arbitration Act (FAA), because their illegality under the NLRA renders them unenforceable under the saving clause of the FAA. After the Supreme Court's grant of review, the Sixth Circuit, granting the Board's application for enforcement of *Alternative Entertainment, Inc.*, 363 NLRB No. 131 (2016), joined the Seventh and Ninth Circuits in agreeing with the Board. The Second, Fifth, and Eighth Circuits have rejected the Board's view. The Board filed its brief on August 9, 2017. The case was consolidated for argument with private-party petitions seeking review of decisions from the Seventh and Ninth Circuits. On October 2, 2017, just after the close of the fiscal year, General Counsel Griffin argued the case on behalf of the Board.

Cooper Tire, 08-CA-087155

The court upheld the Board's finding that the Employer violated Section 8(a)(3) and (1) by

discharging an employee for making racially charged statements on a picket line.

The Board (then-Chairman Pearce and Members Hirozawa and McFerran), applied the Board's picket line misconduct test articulated in *Clear Pine Mouldings, Inc.*, 268 NLRB 1044 (1984), enforced mem., 765 F.2d 148 (9th Cir. 1985), to find that the statements would not reasonably tend to coerce employees in the exercise of their rights under the Act, nor were they so egregious as to cause the employee to lose the Act's protections. The Board declined to defer to an arbitrator's award, which had concluded that the discharge was for "just cause" under a standard inconsistent with *Clear Pine Mouldings*.

On review, the court (Circuit Judges Benton and Murphy; Circuit Judge Beam, dissenting) upheld the Board's unfair labor practice finding as supported by substantial evidence and consistent with law. Rejecting the Employer's contentions, the court held that *Clear Pine Mouldings* was the appropriate test, and that the cases the Employer cited did not support its position. Read in the context of precedent, the court explained that the statements, although repugnant, were brief, not violent in character, and did not contain any overt or implied threats. The court also rejected the Employer's claim that reinstating the employee would conflict with Title VII. The court explained that the statements—even if they had been made in the workplace instead of on the picket line—would be insufficient to create a hostile work environment and, even so, that the Employer would not have been under a duty to fire the employee.

Rhino Northwest, LLC, 19-CA-160205

The court upheld the Board's standard for determining whether a proposed bargaining unit is an appropriate unit as clarified in *Specialty*

Healthcare & Rehabilitation Center of Mobile, 357 NLRB No. 83 (2011), enforced sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013).

On review, the court rejected the Employer's argument that the *Specialty Healthcare* standard was contrary to the NLRA and Board precedent. The court confirmed that the overwhelming-community-of-interest test, which the Board adopted from the court's decision in *Blue Man Vegas, LLC v. NLRB*, 529 F.3d 417 (D.C. Cir. 2008), was simply a clarification of existing Board law, and not a departure from it. With that holding, the court joined the seven other circuits that have reviewed and upheld the standard. See *Constellation Brands, Inc. v. NLRB*, 842 F.3d 784 (2d Cir. 2016); *FedEx Freight, Inc. v. NLRB*, 839 F.3d 636 (7th Cir. 2016); *NLRB v. FedEx Freight, Inc.*, 832 F.3d 432 (3d Cir. 2016); *Macy's Inc. v. NLRB*, 824 F.3d 557 (5th Cir.), reh'g en banc denied (2016), cert denied, 137 S. Ct. 2265 (2017); *FedEx Freight, Inc. v. NLRB*, 816 F.3d 515 (8th Cir.), reh'g & reh'g en banc denied (2016); *Nestle Dreyer's Ice Cream Co. v. NLRB*, 821 F.3d 489 (4th Cir. 2016); *Kindred Nursing Ctrs. East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013).

Reviewing the Board's application of the standard, the court held that substantial evidence supported the Board's finding that the Employer had not met its burden under *Specialty Healthcare's* step two. Rather, the court noted that the record evidence supported the Board's finding given the significant distinctions between riggers and other event employees concerning wages, hours, training, supervision, equipment, and physical working conditions. Therefore, the court held that the Board reasonably concluded that those distinctions "sufficiently 'differentiate the employment interests' of [the] riggers and

non-riggers such that riggers may form their own bargaining unit,” quoting *Blue Man Vegas*, 529 F.3d at 424.

King Soopers, Inc., 27-CA-129598

The court approved, as reasonable and justified, the Board’s modification to its make-whole remedial framework to provide that an employee will be reimbursed for her reasonable search-for-work and interim employment expenses, instead of limiting such reimbursement to the amount of the employee’s interim earnings.

The court stated that “the Board is entitled to considerable deference in crafting remedies for unfair labor practices, and the reasons given by the Board to justify the new make-whole remedial framework pass muster.” Quoting large portions of the Board’s analysis in adopting the modified remedy, the court held that “the Board offered clear, reasonable, and compelling justifications for the new remedial framework,” and thus upheld the standard.

Pier Sixty, LLC, 02-CA-068612

The court upheld the Board’s finding that an employee’s Facebook post was protected activity and that the profanity included in the post did not cause him to lose the Act’s protection.

The court noted that, although it is not the exclusive framework for evaluating whether employee activities are protected, the Board recently has applied a nine-factor, totality-of-the-circumstances test in social media cases. Regarding the Employer’s defense, the court held that the Employer had failed to meet its burden of showing that the employee’s behavior was so egregious as to lose the Act’s protection, noting that several factors informed its conclusion. For instance, the court explained that, even though the employee’s Facebook

post was dominated by vulgar attacks on his supervisor and his supervisor’s family, it included workplace concerns—“management’s allegedly disrespectful treatment of employees, and the upcoming union election.” Further, the court noted that the record contains evidence that the Employer “consistently tolerated profanity among its workers,” and that the employee made the comments on Facebook, “an online forum that is a key medium of communication among coworkers and a tool for organization in the modern era.”

Lily Transportation Corp., 01-CA-118372

The court enforced the Board’s order issued against this transportation company. The Board (then-Chairman Pearce and Member McFerran; then-Member Miscimarra, concurring) found that the Employer was a successor employer and violated Section 8(a)(5) and (1) by refusing to bargain with the Union, as the representative of the drivers at the facility under the collective-bargaining agreement with the Employer’s predecessor.

The court concluded that *UGL-UNICCO*’s successor-bar doctrine was “an adequately explained interpretive change reflecting the Board’s judgment of a reasonable balance between the Section 7 right of employee choice and the need for some period of stability to give the new relationships a chance to settle down.” The court noted that the Board in *UGL-UNICCO* explained the reasons for changing course from the prior rule, “brought up to date the commercial reality ignored by the *MV Transportation* majority,” and changed “the factual consequences of the successor bar by modifying the terms on which the bar was previously imposed.”

Deep Distributors of Greater NY d/b/a/ The Imperial Sales, Inc., 29-CA-147909, et al.

The Board adopted the ALJ's findings that the Employer violated the Act when its counsel threatened employees about their immigration status during the course of the hearing. The Board further referred the Employer's counsel to the Investigating Officer for investigation under Section 102.177(d) and (e)(1) of the Board's rules, noting that disciplinary action may be appropriate. *Id.* at 3. The Board also adopted the ALJ's recommendation that the employer publish the Notice to Employees, noting the seriousness of the violations. *Id.* at 3 n. 6.

HealthBridge Management, LLC, 34-CA-012715 et al.

The Board unanimously affirmed all of the violations found by the Administrative Law Judge. For the main allegation that the Respondents violated Section 8(a)(5) and (1) by modifying the extant collective-bargaining agreement when they subcontracted their housekeeping employees for 15 months only to purport to rehire them at the wages and benefits of newly hired employees, the Board majority reasoned that the Respondents could not modify the wages and benefits both because (1) the Respondents never terminated their employment relationship with the housekeepers during the subcontract, and (2) the Respondents and the subcontractor were joint employers under the law predating *Browning-Ferris Industries of California*, 362 NLRB No. 186 (2015). Writing separately, Acting Chairman Miscimarra disagreed that the housekeeping employees remained employed by the Respondents during the subcontracting period under either theory advanced by the Board majority. Instead, he found that the Respondents had no apparent business reasons for the

short-duration subcontract and resumption of housekeeping operations other than to modify the accrued seniority of the housekeepers under the collective-bargaining agreement and the wages and benefits to which the seniority entitled them.

In finding the Respondents violated Section 8(a)(1) by threatening to call the police on employees, the Board majority reasoned the threat was in response to the employees' protected concerted activity, whereas Acting Chairman Miscimarra reasoned that it did not matter if the threat was in response to activity protected by the Act because the threat tended to coerce employees into accepting their unlawful loss of accrued seniority. The Board majority ordered a common notice be posted at all of the facilities at issue and that the notice be read aloud; Acting Chairman Miscimarra opposed both parts of the remedy.

The Board, unanimously, also affirmed the judge's conclusions that the Respondents violated Section 8(a)(5) and (1) by failing to give the contractually required 45 days' notice of layoffs, modifying the contractual benefit-eligibility criteria, unreasonably delaying their response to an information request, unilaterally changing the holiday-premium past practice, and unilaterally eliminating the inclusion of paid lunch breaks in overtime calculations.

RHCG Safety Corp., 29-CA-161261 et al.

In this consolidated unfair labor practice and representation case, the Board unanimously adopted the Administrative Law Judge's conclusion that the Respondent violated Section 8(a)(1) by interrogating an employee about his union activity. The majority (Members Pearce and McFerran) also adopted the judge's conclusion that the Respondent violated

Section 8(a)(1) and (3) by discharging an employee because it believed he was becoming involved with the Union. Dissenting in part, Chairman Miscimarra would have found that the employee's employment with the Respondent ended when he voluntarily took time off which precluded a finding that he was discharged.

Further, the Board unanimously adopted the judge's recommendation to set aside the election and direct a new election. The same majority found three independent bases for setting aside the election: (1) approximately 90 percent of the addresses on the voter list were inaccurate; (2) the list omitted the names of at least 15 eligible voters; and (3) the Respondent did not provide phone numbers for any of its employees on the list. In joining his colleagues to set aside the election, Chairman Miscimarra relied only on the finding of about 90 percent of the addresses on the voter list were incorrect. Contrary to the majority, Chairman Miscimarra would find that the omission of employee phone numbers from the voter list did not independently warrant setting aside the election because, in his view, the phone numbers were not available to the Respondent. He did not reach the question whether the omission of 15 employees from the list independently would require a new election.

Ellen's Stardust Diner, 2-CA-183919

Ellen's Stardust Diner, home of the world-famous singing servers in Times Square, New York City, settled a number of unfair labor practice allegations in late September 2017, just a week before a hearing on the issues was scheduled to go forward. The restaurant agreed to offer reinstatement to all 31 discharged employees, expunge the employee records of the alleged unlawful discharges, and post and mail notices to current and former employees.

Thirteen employees have accepted offers of reinstatement. The settlement agreement provides that backpay for all discharged employees will be adjudicated through a compliance hearing.

The charges alleged that Ellen's Stardust Diner had surveilled employees while they were engaged in protected concerted activities, interrogated employees regarding their protected concerted or union activities, interfered with employee social media postings, disabled employee workplace messaging, maintained an overly-broad confidentiality provision, solicited employee signatures for a petition to remove the Union as a representative, and discharged 31 employees because of their protected concerted and union activities.

VIUSA, Inc., 9-CA-075496

The Board approved a court-mediated compliance settlement agreement between the Employer and the Union in which the Employer agreed to pay \$21.6 million. The Board will distribute a portion of the money, \$14.4 million, as backpay to approximately 257 former employees of the Employer and individuals the Employer refused to hire at its former vehicle processing operation. The remainder, \$7.2 million, will be distributed to a pension fund as compensation for failing to make benefit contributions.

The complaint alleged that the Employer violated the National Labor Relations Act by refusing to hire Teamster-represented employees, recognizing the United Auto Workers as a minority union, refusing to recognize and bargain with Teamsters Local 89, and unilaterally establishing terms and conditions of employment for the employees that it did hire. On February 17, 2016, the Board issued its decision holding

that the Employer had violated the National Labor Relations Act, as alleged, and the Employer petitioned for review in the Sixth Circuit. Thereafter, the case settled.

Star Fisheries, Inc., 21-CA-178541

The Region facilitated a bilateral settlement agreement involving the employer’s permanent replacement of striking employees based on an independent unlawful purpose after unsuccessful negotiations for a successor collective-bargaining agreement with the Union occurred, as well as threats to striking employees to abandon the union, unilateral withdrawal from employee fringe benefit funds, and refusal to reinstate striking employees upon their unconditional offer to return to work. After Board authorization to file a petition for injunctive relief, the district court granted the requested 10(j) relief in its entirety, including the immediate reinstatement of all striking employees. Thereafter, an agreement was reached that included new five-year collective bargaining agreements covering each of the two units, backpay in the amount of \$378,000, and reinstatement offers to all of the striking employees, most of whom returned to work.

Pacific Harvest, Inc., Apio, Inc., & USA Staffing, Inc., 31-CA-156523 et al.

In a consolidated organizing drive case involving 28 charges and three joint employers in which the violations included disciplining and suspending numerous employees, discharging 10 employees, laying off 43 employees and failing to recall them, the Region facilitated settlement agreements that included: reinstatement for seven of the discharged employees and front pay for the remaining three; and a Notice reading and mailing, and a posting of the NLRB’s Employee Rights Notice for a period of one year, in English

and Spanish. As to the layoff allegation, the Employer provided some backpay and made immediate offers of reinstatement.

Tesoro Refining and Marketing, 19-CA0147090 and 21-CA-146968

The Region approved a bilateral settlement ending the largest refinery strike in 35 years. Under the agreement, the Employer paid more than \$8M to 769 employees, who engaged in the winter 2015 strike, and provided for their return to work.

Carey Salt Company, a subsidiary of Compass Minerals International, Inc., 15-CA-061694, et al

After a court judgment enforced the Board’s order, an agreement was reached to remedy the unfair labor practices by paying 299 current and former employees a total of \$7.3M as compensation for backpay and benefit reimbursement.



PERFORMANCE HIGHLIGHTS

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, representatives from the Board and the General Counsel work together in developing the comprehensive Strategic Plan and the Performance and Accountability Report. The NLRB's Strategic Plan was updated in FY 2014 and covers FY 2014 to FY 2018.

The NLRB's Strategic Plan states the Agency's strategic goals, objectives, initiatives, performance measures, and management strategies. There are two mission-related goals, and two support goals. The majority of the support goals are management strategy based and will be discussed at length in the Performance Section of this report.

The NLRB's performance measurement system has been highlight regarded for decades and modeled by other agencies to track case processing times. Most of the data collected tracks the time spent at each step of the case processing "pipeline". The Agency does not rely on outside sources for the data used in its performance management system. Each NLRB office is responsible for collecting and verifying performance measurement data. All of the NLRB's mission-related offices have full use of the NxGen system, which allows for real-time review of all case file materials and for consistent data reporting.

The mission-related goals are compiled using the Agency's NxGen Case Management system. This is an enterprise-wide database used by all divisions of Agency. Each division, including Headquarters and Regions, has data integrity reports which help isolate data errors. The Division of Operations Management oversees the Regional offices, which compile 75 percent of the

case-related statistics. Each quarter, Regions are required to run various data integrity reports in NxGen and report their findings to the Division of Operations-Management for review. For more information on the program evaluation please see page 54.

The NLRB's mission-related goals represent the core functions of the Agency in its enforcement of the NLRA. Rather than focus on the individual segments of the casehandling process, the performance measures for these goals focus on the time it takes to process an entire case from start to finish. They are outcome-based and aligned with the mission of the NLRB. The NLRB tracks the total time taken to accomplish the following: the processing of all ULP charges; all charges filed, the resolution of those ULP charges found to have merit; charge allegations evidencing statutory violations, and the resolution of all questions concerning representation.

The Performance Measures for Strategic Goal 1 address the timely resolution of ULP cases, including time spent on the case by Field and Headquarters Offices. On an annual basis, there are typically more than six times as many ULP cases than representation cases. Both types of cases often involve complicated issues for Regions to address.

The Performance measure for Strategic Goal 2 focuses on the time taken to resolve a representation case, from beginning to end, including time spent on the case by Field and Headquarters Offices. In representation cases, elections result from petitions filed by unions, employees, or employers seeking a secret ballot determination as to whether a majority of employees support union representation.

Goal 1 Performance Measure: *The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment within 365 days of the filing of the ULP charge.*

Year	Annual Goal	Actual Performance
FY 2014	82.5%	83.9%
FY 2015	82.5%	80.4%
FY 2016	82.6%	82.7%
FY 2017	82.7%	82.4%
FY 2018	82.8%	

Goal 3 Performance Measure: *The percentage of representation cases resolved within 100 days of filing the election petition.*

Year	Annual Goal	Actual Performance
FY 2014	85.3%	88.1%
FY 2015	85.4%	87.1%
FY 2016	85.5%	87.6%
FY 2017	85.7%	89.9%
FY 2018	85.8%	

Goal 2 Performance Measure: *The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order or Court judgment within 120 days of the filing of the charge.*

Year	Annual Goal	Actual Performance
FY 2014	72.3%	72.3%
FY 2015	72.3%	70.6%
FY 2016	72.4%	70.8%
FY 2017	72.4%	68.9%
FY 2018	72.5%	



FINANCIAL AND SYSTEMS HIGHLIGHTS

The Office of the Chief Financial Officer (OCFO) is comprised of the Budget, Finance and Acquisition Management Divisions. This structure integrates and enhances Agency financial management. Specifically, the OCFO focuses on effectiveness and efficiency in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations.

The OCFO continuously seeks to infuse more discipline, structure, and internal control in the financial management lifecycle and throughout the financial management process. The Agency pursued additional initiatives in order to further gain operational and financial efficiencies. In FY 2017 the OCFO continued its effort to review all existing OCFO policies and update them to ensure they comply with the most current laws and regulations.

Below are some highlights from FY 2017 OCFO activities.

Charge Card Program

In an effort to produce efficiencies within the OCFO, the Charge Card Management Program was proposed to Leadership. The program will consolidate the Purchase Card and Travel Card Programs to allow for resources to be utilized effectively and efficiently in both programs. This consolidation will also provide uniform oversight and training requirements for the programs. Completion of the consolidation is set for the end of second quarter FY18. Afterwards, research will be conducted to determine whether or not the NLRB can benefit from managing its own Fleet Card Program instead of utilizing GSA's "wet leases" saving the Agency the fee GSA charges for managing "wet leases". The Fleet Card Program would

then also roll out under the Charge Card Management Program.

Incremental Funding

The Acquisition Management Branch issued Procurement Notice 2017-002a Funding Contract Actions August 2, 2017 in an effort to provide mandatory guidance for funding contracts inclusive of incrementally funding and awarding contracts subject to the availability of future appropriations. The federal appropriation process creates a complex environment for funding program requirements. When awarding and managing the contracts that support those requirements, acquisition personnel must be cognizant of both acquisition laws and appropriations laws. The uncertainty of the federal appropriation process, in terms of when an appropriation will be finalized for any given fiscal year, also adds complexity. Procurement Notice 2017-002a describes NLRB's agency-specific policies for funding contract actions.

Travel Policy

The OCFO drafted revised travel policies including local, temporary duty, relocations and travel cards. These policies comply with the Federal Travel Regulations (FTR) and include detailed scenarios to serve as examples for employees with travel questions. The Agency has made great progress in developing draft policies in FY17. The focus in FY18 will be on finalizing and issuing them to the Agency employees to gain full awareness and understanding of the requirements. Our target completion timeframe is in the third quarter of FY18.

Capitalized Property Policy

The OCFO is collaborating with the Agency property branch to codify existing informal procedures around capitalized property. The new policy is in the process of being drafted and

when published will include the disposal of assets and the roles and responsibilities of property custodians. Our target completion timeframe is in the third quarter of FY18.

SYSTEMS

The NLRB obtains the majority of its financial systems and services from the Department of the Interior’s Interior Business Center (IBC), which is one of the Shared Service Providers of such functions for federal agencies. NLRB is responsible for overseeing IBC and ensuring that financial systems and internal controls are in place to fulfill legislated and regulatory financial management requirements. IBC provides the following systems:

- Oracle Federal Financials – Integrated system of record for all financial transactions.
- Federal Payroll and Personnel System (FPPS) – Personnel system of record, which interfaces with the Oracle system.
- E2 Solutions – eTravel system provided by Carlson Wagonlit, the NLRB’s Travel Management Service, which also interfaces with the Oracle system.
- webTA – Web-based time and attendance system

After the successful introduction of both the Backpay Management System (BMS) and webTA the Agency has benefitted from the following operational efficiencies:

Backpay Management System (BMS)

Under certain circumstances, the Agency collects money from charged parties as a standard Board remedy whenever a violation of the NLRA has resulted in the loss of employment or earnings. These funds are held in a fiduciary account and then distributed to the affected parties (discriminatees) per the settlement agreement

or Board Order. The Agency completed a modernization effort of the BMS in FY16, which is used to track funds and create disbursement files that are transmitted to the Department of Treasury for the issuance of checks to discriminatees. The BMS also calculates federal tax withholdings including the Employer’s Share of Social Security and Medicare.

What once was a manual process is now automated with data imported from an electronic file or database, with the goal of eliminating input errors in providing assurance that the correct discriminatees are paid the correct amounts. The data is also used to prepare a quarterly 941 form for the IRS and the annual W-2 and 1099-INT reports mailed to the discriminatees. The BMS maintains documentation to support each disbursement and has routing capabilities to ensure that all requests are properly approved.

The newly modernized system, which resides fully in the Office 365 cloud, is available to the appropriate Regional employees who are able to upload discriminatee information, track the status of the Backpay requests and receive timely status information on the progress of the entire Backpay process. This minimizes the need to contact the HQ office for case related inquiries.

WebTA

The Agency successfully implemented a new, web-based Time and Attendance (T&A) system, webTA, and has seen many efficiencies and successes. There has been a decrease in the amount of paperwork that Office managers/ timekeepers must maintain, as well as a decrease in manual hours of office managers/ timekeepers normally spent inputting time and attendance for employees. Employees have greater control over managing their

time and attendance records, and supervisors have greater control over managing and viewing their employees' time and attendance. Supervisors can also get a snapshot calendar view of all of their employees work schedules to include approved and requested leave. Since implementation the Agencies average failure rate is 3%. This means that only 3% of the NLRB's total population did not receive a pay check within a given pay period. This tool has allowed the agency to gain a significant level of efficiencies with the utilization of its Administrative Professional workforce. Employees serving in these positions are able to leverage their time on other Agency priorities and hiring decisions are made accordingly.

Oracle Business Intelligence Enterprise Edition (OBIEE)

The NLRB is investing in a new query and reporting tool available from Oracle. The tool will replace Discoverer, which will soon no longer be supported. The Oracle Business Intelligence Application (OBIA) is a business intelligence suite, including ad hoc query and analysis, dashboards, enterprise reporting, mobile analytics, scorecards and predictive analytics, on an architecturally integrated business intelligence foundation. The central component of the suite is Oracle Business Intelligence Enterprise Edition (OBIEE), which features a Common Enterprise Information Model for centralized metadata management, common query request generation and data access. We anticipate that these products will provide us with the information to enable our Agency to drive innovation, optimize operations, and deliver more relevant and timely information to decision makers.

ANALYSIS OF FINANCIAL STATEMENTS

The NLRB prepares annual financial statements in accordance with Generally Accepted Accounting Principles (GAAP) for federal government entities and subjects the statements to an independent audit to ensure their integrity and reliability in assessing performance. The NLRB's financial statements summarize the financial activity and financial position of the Agency. The financial statements, footnotes, and the balance of the required supplementary information appear in the Financial Section of this Performance and Accountability Report.

Balance Sheet – The NLRB assets were \$40.8 million as of September 30, 2017. The Fund Balance with Treasury, which was \$32.1 million, represents the NLRB's largest asset at 78.8 percent. The Fund Balance consists of unspent appropriated and unappropriated funds from the past six fiscal years.

Property, Plant, and Equipment, which represents the NLRB's second largest asset at 19.6 percent, was \$8M and was primarily related to leasehold improvements and internal use software development costs. This was a \$2.6M decrease from the prior year due to fewer acquisitions while still incurring depreciation and amortization from existing property, plant, and equipment.

The NLRB liabilities were \$27.9M as of September 30, 2017. Liabilities consist of amounts owed to vendors, governmental trading partners, and Agency employees. Changes in Accounts Payable with both governmental trading partners – a decrease of 69.1 percent – and vendors – an increase of 20.3 percent – was related to a more stringent contract monitoring, payment, and closeout process. Employee unfunded annual leave was 49.1 percent of liabilities, the NLRB's

largest liability. The FECA Actuarial liability decreased by \$358,000, or 35 percent.

Statement of Net Cost – The NLRB’s appropriation is used to resolve representation cases or ULP charges filed by employees, employers, unions, and union members. Of the \$290.4 million net cost of operations in FY 2017, 89 percent was used to resolve ULP charges and 11 percent was used for representation case activities.

Statement of Changes in Net Position – The NLRB’s net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. From FY 2016 to FY 2017, there was a change in net position of \$1.2M. This was, in part, due to a decrease in imputed financing for employee benefits, which was impacted by lowered staffing levels and cost factors for all pension plans. FY 2017 was not impacted by unique fiscal activities, as occurred in FY 2016. For FY 2016 these included a correction made to the beginning balance and a transfer of funds to cover discrepancies in the fiduciary account and the liability owed.

Statement of Budgetary Resources – The Statement of Budgetary Resources shows budgetary resources available and the status at the end of the period. It represents the relationship between budget authority and budget outlays, and reconciles obligations to total outlays. For FY 2017, the NLRB had available budgetary resources of \$284.1M,

the majority, \$274.2M, were derived from new budget authority. Obligations were \$277.5M for FY 2017, and total outlays for FY 2017 were \$274.3M. Other changes in the unobligated balance included a \$0.6M decrease due to the cancellation of annual appropriations. The status of budgetary resources had a \$314,000 increase in apportioned funds and a \$517,000 increase in unapportioned funds due to increased monitoring of obligations and payments from expired funds. The increased monitoring of obligations contributed to an increase of \$1.6M, or 44.2 percent, in recoveries of prior year unpaid obligations.

LIMITATIONS OF PRINCIPAL FINANCIAL STATEMENTS

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

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

COMPLIANCE WITH LAWS AND MANAGEMENT ASSURANCES

ANTIDEFICIENCY ACT

The Antideficiency Act prohibits federal agencies from:

- making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law;
- involving the government in any obligation to pay money before funds have been appropriated for that purpose, unless otherwise allowed by law;
- accepting voluntary services for the United States, or employing personal services not authorized by law, except in cases of emergency involving the safety of human life or the protection of property; and
- making obligations or expenditures in excess of an apportionment or reappropriation, or in excess of the amount permitted by Agency regulations.

There were no known violations of the Anti-Deficiency Act during FY 2017 at the NLRB.

DEBT COLLECTION IMPROVEMENT ACT

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA) requires agencies to periodically adjust civil penalties for inflation if either the amount of the penalty or the maximum penalty is set by law. In addition, the President is required to report certain information to Congress either annually or every five years. The FCPIA was amended by the Debt Collection Improvement Act of 1996 (DCIA). The DCIA amended the FCPIA to require each Federal agency to adopt regulations at least once every four years that adjust for inflation the maximum amount of the civil monetary penalties under the statutes administered by the agency.

DIGITAL ACCOUNTABILITY AND TRANSPARENCY ACT (DATA ACT)

The DATA Act expands the Federal Funding Accountability and Transparency Act (FFATA) of 2006 to increase accountability and transparency in federal spending, making federal expenditure information more accessible to the public. The goal of the DATA Act is to make federal spending more accessible, searchable, and reliable so taxpayers have the opportunity to understand the impact of Federal funding for Federal programs/ entities.

As required by the Office of Management of Budget (OMB) Memorandum M-15-12, issued on May 8, 2015, the National Labor Relations Board (NLRB) drafted a DATA Act of 2014 Implementation Plan in order to increase transparency of federal spending as required by the DATA Act and FFATA.

The Acquisition Management Branch (AMB) inputs contract and Interagency Agreements (IAAs) directly into the Federal Procurement Data System – Next Generation (FPDS-NG). The number of contracts and IAAs are less than 50, which has made this a manageable workload for the staff. The NLRB's service provider, IBC, has identified 47 of the required reportable data elements that will be provided to the Agency to report from existing systems. The remaining elements are being analyzed.

The Agency has taken steps to identify the data information needed to be captured for reporting. It has restructured the five major program activities and established the unique award ID as the Oracle Financial system generated Purchase Order number, and continues to submit object class and program activity data from the Oracle financial system to OMB.

FEDERAL INFORMATION SECURITY MANAGEMENT ACT (FISMA)

The Federal Information Security Management Act of 2002, as amended by the Federal Information Security Modernization Act of 2014, requires Federal agencies to ensure adequate security protections for Federal information systems and information. Under this act, Federal agencies must submit annual FISMA reports to OMB.

In the third quarter of FY 2017, the Agency worked with DHS and OMB to submit a response to the Presidential Executive Order on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure.

Both the Office of the Chief Information Officer (OCIO) and the Inspector General submit FISMA annual reports to DHS and OMB using a tool called CyberScope. The Agency also submits an annual letter to Congress, as required by FISMA.

GOVERNMENT CHARGE CARD ABUSE PREVENTION ACT

On October 17, 2014 the President signed an Executive Order (EO) directing the Federal government to establish and maintain safeguards and internal controls for the charge card program. The NLRB evaluated the charge card program as directed by the guidance provided in OMG Circular A-123 Appendix B, OMB Memorandum M-12-12 Promoting Efficient Spending to Support Agency Operations, and OMB Memorandum M-13-21 Implementation of the Government Charge Card Abuse Prevention Act of 2012. The effectiveness of the Agency's purchase card and travel card program was assessed through enhanced monitoring procedures to detect fraud, waste and abuse.

The Acquisition Management Branch implemented the Purchase Card Program Policy in September 2016, institutionalizing monitoring procedures and internal controls to detect and assist in preventing fraud, waste and abuse. Additionally, the Agency's Purchase Card Management Plan, which is updated annually, has been revised to include and hold the agency accountable for monitoring and detecting fraud, waste and abuse.

The Finance Branch runs monthly reports to monitor the account activity for all travel card holders. The Travel Desk Guide provides the guidance for running these reports in the Citibank Manager card system. The monthly reports monitor card usage for fraud, abuse, and delinquent payments which get reconciled against approved travel authorizations in the E2 travel system.

IMPROPER PAYMENTS INFORMATION ACT

The Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant erroneous payments. For all programs and activities in which the risk of erroneous payments is significant, agencies are to estimate the annual amount of erroneous payments made in those programs. The NLRB's risk assessment indicated that the salaries and expenses program was not susceptible to significant improper payments. A detailed report of the NLRB's improper payments activities is presented in the Other Information section on page 106.

PROMPT PAYMENT ACT

The Prompt Payment Act was enacted in 1982 to ensure the federal government makes timely payments. Bills are to be paid within 30 days after receipt and acceptance of material and/or services – or – after receipt of a proper invoice whichever is later. When payments are not made timely, interest is paid. The Agency made late payments resulting in interest penalties of \$688.48 in FY 2017.

FEDERAL MANAGERS’ FINANCIAL INTEGRITY ACT

The Federal Managers’ Financial Integrity Act requires federal agencies to develop and implement appropriate and cost-effective internal controls for results-oriented management, assess the adequacy of those internal controls, identify needed areas of improvement, take corresponding corrective action, and provide an annual statement of assurance regarding internal controls and financial systems. The annual statement of assurance and management control over financial application controls and financial reporting submitted by the NLRB’s service provider follows this section.

NLRB management is responsible for establishing and maintaining an environment throughout the Agency that is positive and supportive of internal controls and conscientious management. The NLRB is committed to management excellence and recognizes the importance of strong financial systems and an internal control system that promotes integrity, accountability, and reliability.

Internal control systems are expected to provide reasonable assurance that the following objectives are being achieved:

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

In assessing whether these objectives are being achieved, the NLRB used the following standards in accordance with OMB Circular A-123, *Management’s Responsibility for Enterprise Risk Management and Internal Control*, dated July 15, 2016.

Control Environment	Creating and maintaining an organizational structure that promotes a high level of integrity and personal and professional standards, and sets a positive and supportive attitude toward internal controls through conscientious management
Risk Assessment	Identification and analysis of risks that could impede the achievement of Agency goals and objectives
Control Activities	Policies, procedures, techniques, and mechanisms to ensure proper stewardship and accountability for government resources and for achieving effective and efficient program results
Information and Communications	Ensures the Agency’s control environment, risks, control activities, and performance results are communicated throughout the Agency
Monitoring	Assessing quality of performance over time to ensure that internal control processes are appropriate and effective

The NLRB’s approach to assessing its internal controls included the identification and assessment of risks by 31 designated managers on an Agency-wide basis. The designated managers were responsible for conducting reviews of program operations, assisting program offices in identifying risks and conducting internal control reviews, issuing reports of findings, and making recommendations to improve internal controls and risk management.

In completing this annual review, designated managers used institutional knowledge gained from day-to-day operations, as well as reviewed Inspector General Audits and investigations, program evaluations, financial systems reports, annual performance plans, and previous management reviews.

Based thereon, senior management’s assessment of the NLRB’s internal controls is that controls are adequate to provide reasonable assurance in support of effective and efficient operations, reliable financial reporting, and compliance with laws and regulations.

The Statement of Assurance provided on page 35 is required by the Federal Managers’ Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management’s Responsibility for Internal Control*.

FMFIA Section 2, Management Control

Section 2 of the FMFIA requires federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place in FY 2017 provide a reasonable assurance that NLRB systems and internal controls comply with the requirements of FMFIA.

FMFIA Section 4, Financial Management Systems

Section 4 of the FMFIA requires that agencies’ financial management systems controls be evaluated annually. The NLRB evaluated its financial management systems for the year ending September 30, 2017 in accordance with the FMFIA and OMB Circular A-127, *Financial Management Systems*, Section 7 guidance. The annual statement by the Chief of the Finance Branch, indicates that the NLRB’s financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General, OMB, and the Department of Treasury. The Agency also reviews the SSAE-18’s for all systems operated by IBC to ensure that independent auditors have also certified that the necessary controls are in place so the NLRB can rely on those systems.



Annual Statement of Assurance



**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC**

October 5, 2017

ANNUAL STATEMENT OF ASSURANCE

Management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The NLRB assessed the effectiveness of internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the NLRB can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2017 was operating effectively, and no material weaknesses were found in the design or operation of the internal controls.

In accordance with the requirements of OMB Circular No. A-123, Appendix A, the NLRB assessed the effectiveness of internal control over financial reporting, which includes internal control related to the preparation of the annual financial statements, safeguarding of assets, and compliance with applicable laws and regulations governing the use of budget authority and other laws and regulations that could have a direct and material effect on the financial statements. The result of this evaluation provides reasonable assurance that the NLRB's internal control over financial reporting was operating effectively as of September 30, 2017.

The NLRB also conducted reviews of financial management systems. Based on the results of these reviews, the NLRB can provide reasonable assurance that the financial management systems comply with the applicable provisions of the FMFIA as of September 30, 2017.

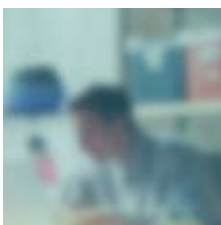
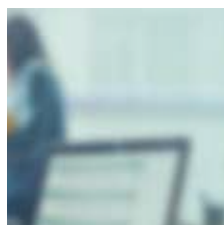
Philip A. Miscimarra
Chairman

Richard F. Griffin, Jr.
General Counsel



PERFORMANCE SECTION

**PROTECTING DEMOCRACY IN
THE WORKPLACE SINCE 1935**



PROGRAM PERFORMANCE

PERFORMANCE GOALS AND OBJECTIVES

This section of the PAR details the NLRB’s efforts to meet its strategic and performance goals. The two mission-related goals of the NLRB’s Strategic Plan represent the core functions of the Agency in enforcing the NLRA as efficiently as possible and in a manner that gives full effect to the rights afforded to all parties under the Act. The two support goals further enable the Agency to accomplish its mission. Please see Appendix D for the list of performance measures for the support goals, as well as the management strategies for all of the Agency goals.

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, representatives of the Board and the General Counsel work together in developing one comprehensive Strategic Plan and Performance and Accountability Report.



MEASURING PERFORMANCE

One of the 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. While creating the updated Strategic Plan for FY 2014 to FY 2018, the Agency used the two mission-related goals from the previous Strategic Plan, as the foundation to build upon the traditional performance measurement approach that emphasizes individual segments of case processing to promote timely, efficient, and well-managed casehandling. The Agency then established two support goals that give a broader picture of how the Agency achieves its mission.

As to Agency success in bringing effective resolution to labor disputes in a timely manner, 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 (GPRA) and the Government Performance and Results Modernization Act (GPRAMA). 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 conducting an election have been met, it will either direct an election or approve the parties' agreement to have an election. The performance measure that the Agency has established for the conducting of elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees freely exercising their statutory rights as set out in the NLRA.

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. While it is difficult to quantify by the number of ULPs, the Agency can quantify our commitment to resolve all disputes that are brought before us, and to provide a remedy and ensure that labor peace is restored. Noting that the Agency cannot *sua sponte* investigate actions of an employer or labor union without a charge being filed, the NLRB established two performance measures. The timeliness and quality of case processing, from the filing of an ULP charge to the closing of a case are the focus of those performance measures.

The tables and narratives in this section show the proposed annual targets for performance measures and management strategies for the five-year period covered by the current Strategic Plan effective from 2014 through 2018 for the two mission-related goals. The actual results achieved for the mission-related goals for FYs 2011, 2012 and 2013 can be found in Appendix C.

This section also documents the performance regarding the support goals which are management strategy driven and presented in a summary format. The results achieved for the support goals in FY 2014 and 2015, can be found in Appendix C. These goals originated in FY 2014 and there is no historical data prior to that year.

Strategic Goal 1 (Mission): Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act.

Objectives:

1. Achieve established performance measures for the resolution of unfair labor practice charges.
2. Ensure that all matters before the Agency are handled in a fair and consistent manner.

Measure: The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment within 365 days of the filing of the ULP charge.

This 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 of the Agency. 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 reinstatement and the payment of backpay, to make whole those injured by the ULP.

Once a Regional Director has determined a ULP charge has merit, absent settlement, a complaint issues and the case is scheduled for a hearing before an ALJ. Settlement efforts continue throughout the course of the litigation. The vast majority of 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 and Supreme Court Litigation Branch of the Division of Enforcement Litigation, which typically proceeds 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 or a reviewing court, or in extreme cases, in contempt proceedings.

ULP cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation of the NLRA are complete. This measure includes all litigated cases, including those appealed to the U.S. Courts of Appeal.

In FY 2017, the NLRB closed 82.4 percent of all prosecutable ULP cases in 365 days from the docketing of the charge.

GOAL NO. 1, TABLE 1

Percentage of ULP Cases Closed on Compliance Within 365 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	82.5%	82.5%	82.6%	82.7%	82.8%
ACTUAL	83.9%	80.4%	82.7%	82.4%	

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

Measure: The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a

Board order or Court judgment within 120 days of the filing of the charge.

This measure focuses on the time taken to resolve a ULP charge, including time spent on both the General Counsel and the Board sides of the Agency.

After an individual, employer, or union files a ULP charge, a Regional Director evaluates it for merit and decides whether to issue a complaint. If a charge is found to have no merit, which occurs in about two-thirds of the cases, it is dismissed if the charging party does not withdraw it. A dismissal can be appealed to the General Counsel. If a charge is found to have merit, a complaint issues, unless a settlement agreement is reached. If a case is not settled but instead is fully litigated before an ALJ, the Board will issue an order, which may be enforced or appealed to the US Court of Appeals.

A ULP case is resolved and closed when it has been completely processed, such that the charge allegations are investigated, and, where appropriate, remedied and there is no further action to be taken by the Agency.

In FY 2017, the NLRB closed 68.9 percent of all ULP cases within 120 days of the docketing of the charge.

GOAL NO. 1, TABLE 2

Percentage of ULP Charges Resolved Within 120 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	72.3%	72.3%	72.4%	72.4%	72.5%
ACTUAL	72.3%	70.6%	70.8%	68.9%	

Counting of days: The 120 days is calculated from the date the charge is docketed.

Management Strategies: In addition to the Quality Review Program of the Division of Operations-Management, which is highlighted in the Program Evaluation section on page 54, and which ensures that all matters before the Agency are handled in a fair and consistent manner, the following additional steps are undertaken to assist with compliance:

- The Division of Operations-Management and the Division of Enforcement Litigation actively work with the Regions to identify cases pending before the Board that are suitable for resolution through the Board’s Alternative Dispute Resolution (ADR) program.
- The Compliance Unit conducts an ongoing review of the compliance case inventory and promptly reviews ALJ decisions, Board decisions and pending Board ADR and court mediation proceedings to ensure that the Region has the resources necessary to deal with difficult or challenging compliance issues. The assistance may range from assigning a person to be available for consultation to having a person or team, either in Headquarters or in another Region, perform all of the work or a particular task in the case.
- The Board tracks on an ongoing basis which Regions have cases in the ADR program, and which parties requested that the cases be placed in the ADR program.

Strategic Goal No. 2 (Mission): Promptly and fairly resolve all questions concerning representation of employees.

Objectives:

1. Achieve established performance measures for the resolution of all questions concerning representation of employees.
2. Ensure that all matters before the Agency are handled in a fair and consistent manner.

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

This measure focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and the Board sides of the Agency.

An employer, labor organization, employee, or group of employees may file a petition in an NLRB Regional Office requesting an election to determine whether a majority of employees in an appropriate bargaining unit wish to be represented by a labor organization. When a petition is filed, the Agency works with parties toward a goal of reaching a voluntary agreement regarding conducting an election, as opposed to a Regional Director directing an election, if appropriate. This measure reflects the percentage of representation cases closed within 100 days. A case is closed when the question as to whether or not a labor organization will represent employees has been finally resolved.

Representation cases are resolved and closed in a number of ways:

- Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early

stage in processing may be based on a variety of reasons, for example: the employer does not meet the Agency’s jurisdictional standards; the petitioner fails to provide an adequate showing of interest to support the petition; and/or the petition was filed in an untimely manner.

- Cases may also be withdrawn by the petitioner for a variety of reasons, such as lack of sufficient support among the bargaining unit.
- The majority of cases are resolved upon issuance of 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. The case is not closed until the challenges and/or objections have been resolved.

In FY 2017, the NLRB exceeded its goal of 89.9 percent by 4.2 percent to close all representation cases within 100 days from the filing of the petition.

GOAL NO. 2, TABLE 1

Percentage of Representation Cases Resolved Within 100 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	85.3%	85.4%	85.5%	85.7%	85.8%
ACTUAL	88.1%	87.1%	87.6%	89.9%	

Counting of days: The 100 days is calculated from the date the petition is formally docketed.

Management Strategies: The following memos outline the steps taken to assist with compliance.

OM 17-12: Revisions to the Representation Casehandling Manual. The memo was sent to all Regional Directors, Officers-in-Charge and Resident Officers from the General Counsel announcing the Representation Casehandling Manual had been updated. The revisions to the Manual reflect guidance in light of the modified representation rules that went into effect on April 14, 2015.

OM 17-17: Dates for Hearings and Statement of Position Due Dates and Attachment. This memo was sent to all Regional Directors, Officers-in-Charge and Resident Officers from the General Counsel regarding the changes to the procedures applicable to processing representation cases with a focus on specifying the date for scheduling a pre-election hearing in RC, RD, and RM cases and for the Statement of Position due. A chart setting forth such dates through May 31, 2018 is attached to the memorandum.

Strategic Goal 3 (Support): Achieve Organizational Excellence

Objectives:

1. Recruit, develop, and retain a highly motivated, talented, and diverse workforce to accomplish our mission.
2. Promote a culture of professionalism, mutual respect, and organizational pride.

Strategic Goal 3 is a management strategy base goal. There are two objectives that have their own set of initiatives. Each initiative has a set of management strategies that were created in order to show the different offices of the Agency that are involved in achieving the goal. For the full outline of the goal please see Appendix D-3 on page 148.

Organizational Excellence ensures that all organizational systems are aligned and functioning cohesively together. Continuous commitment to assessing and addressing organizational excellence enables the Agency to proactively enhance the organization's service.

Accomplishments in FY 2017 include:

Employee Development

- The Office of Human Resources (OHR) continues its partnership with the Office of Personnel Management (OPM) on the implementation and rollout of the new Agency-wide performance management reporting system, USA Performance. In September 2017, performance plans for all non-bargaining unit employees were fully integrated.
- The Agency continued to comply with OPM's hiring reform efforts, including the 80-day hiring model.
- Domestic Violence, Sexual Assault, and Stalking Awareness training was released to all employees and 1,452 employees have completed the training. Continuity of Operations Training was released and 1,275 employees have completed the training. The Personal Security On-the-Job Course completion is being monitored to ensure new field employees complete it within the first 90 days on the job.
- OEEO collaborated with a workgroup consisting of OHR and OED, to engage in pre-decisional involvement discussions with the NLRBU and the NLRBPA to develop and implement mandatory training for managers and supervisors on the Agency's Reasonable Accommodation Policy. The workgroup has developed a comprehensive training module and anticipates launching the training in FY 2018.

- The GC Mentoring committee, which includes OEEO, has been focused on developing ways to measure the success of the Agency’s mentoring program by ensuring that the mentoring program supports Agency diversity and inclusion goals, and exploring ways to develop mentoring into a more robust individual development vehicle. OEEO’s collaboration with this workgroup led to the development and launch of a revised survey for mentees, mentors and mentoring program managers that will enable management to gauge the impact of the program.

Workforce Management

- The Agency instituted a series of trainings that provides pertinent information on the history of disability in the workforce, current workplace laws and regulations, as well as information on Agency recruitment. HR Staff has taken OPM’s HR University training entitled “A Roadmap to Success: Hiring, Retaining and Including People with Disabilities” and “Issues, Impacts and Implications of an Aging Workforce” by the Institute on Employment and Disability.
- OEEO led the Agency-wide effort to develop a plan for the Agency to develop into a model federal EEO employer as envisioned and implemented through the EEOC’s Management Directive 715 (MD715). OEEO conducted quarterly meetings with a cross section of organizational units, including the Office of Human Resources (OHR), the Office of Employee Development (OED) and the Division of Operations-Management (OPS). Each office was required to identify, develop, measure and report out on its progress on issues related to barriers to full opportunity. These efforts resulted in a more relevant and responsive MD715 report and plan.

- OEEO collaborated with OGC and OED to develop and launch mandatory training for all Agency managers and supervisors on issues and best practices in supporting transgender employees’ transition in the workplace. The training was also made available on a voluntary basis to all Agency employees.
- The Human Capital Planning Office (HCPO) worked on developing a report detailing a deep dive analysis of the changing composition of the workforce and shifting work patterns/trends, including demographics, diversity, size, attrition, performance, and training, to inform core competency requirements for the future workforce.
- The Security Branch completed 23 percent of the backlogged investigation this fiscal year.

Motivation

- The HCPO conducted 18 EVS organizational assessments with Agency heads and senior executives EVS results with a focus on identifying Agency trends/barriers behind low survey scores; reviewing and prioritizing targeted areas of change; identifying outcomes that enables the organization to transition to higher EVS scores; identifying best practices for managing staff to higher levels of engagement; and engaging in action planning. During those meetings, the HCPO also discussed the two EVS Agency-wide strategic areas of focus (*effective leadership and communication*) and its impact on improving EVS scores and the workforce culture. As a result, Agency leadership endorsed an action plan, with a particular focus on enhancing employee engagement, commitment and satisfaction.
- The HCPO developed an online Employee Suggestion Box making it easier for

employees to now go online and submit suggestions electronically.

- The HCPO held the first ever Sensing Session where non-supervisory personnel within the Division of Administration (DoA) assembled to discuss the customer experience based on feedback received from customers. The sessions examined mapping the customer experience and looking for fresh service ideas to improve it; getting front-line employees from each of the functional branches to collaborate on identifying the causes of problems and finding innovative solutions; and coordinating activities to maximize the speed of service from the customer’s point of view. Through this method, DoA employees had an active voice in developing innovative solutions and the sessions marked an important milestone in employee engagement and communication efforts linked to the EVS. The HCPO plans to rollout Sensing Sessions to other organizations with the Agency.
- OHR also administered the annual Administrative Professional Program where six (6) Agency employees were selected for recognition.

Strategic Goal No. 4 (Support): Manage agency resources in a manner that instills public trust.

Objectives:

1. Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the Agency’s mission and increase transparency.
2. Evaluate and improve the Agency’s outreach program
3. Conduct all internal and external Agency business in an ethical and timely manner.

Strategic Goal 4 has both measures and management strategies. There are three objectives that have their own set of initiatives. Each initiative has a set of measures and/or management strategies that show the different offices of the Agency that are involved in achieving the goal. For the full outline of the goal please see Appendix D-4 on page 149.

Federal employees are charged with managing programs and federal funds in an efficient and effective manner. As stewards of these federal funds, the Agency is making every effort to instill public trust. Accomplishments in FY 2017 include:

Information and Technology:

The Agency uses a legacy case tracking solution called NxGen which is an enterprise case management system.

The NxGen System presently manages:

Internal users	1,379
Cases	331,074
Case Actions of the Agency	1,115,809
Documents, images, and videos, each linked to its Action and Case.....	8,977,578

The Agency expanded electronic distribution of case documents for 15 document types, resulting in 626 documents being sent to the USPS electronically and in savings for the Agency.

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency.

Number of E-Filings Received.....	51,369
Number of Documents Received.....	82,459
Number of cases filed thru E-Filing Charges and Petitions	23,356
Number of Board and ALJ Decisions E-Served.....	563
Total Number of parties E-Served Decisions.....	35,936
Number of E-Deliveries of Case Documents	4,848

The total number of case documents available for public access in FY 2017 was 1,146,108.

In FY 2017, the Agency expanded the use and capabilities for electronic filing to enable parties to E-File charges and petitions using an online forms wizard on the NLRB website that automatically creates the charge or petition form.

Number of cases filed through the Charge and Petition Wizard was 662.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the 564 document types available to the public.

- The Administrative Systems team continued its effort to migrate all content from the current intranet platform, which was mostly static, to a new intranet platform office by office.
- The team automated and launched the process of authoring, editing, approval and publishing of Operations-Management memorandums.
- The team completed the automation of the training request and approval process by developing a web-based form with routing, approval, data storage for advanced reporting, and records management.

- The Agency awarded its UCC contract on September 24, 2014. Through FY 2017, 49 Field Offices, the two existing datacenters, two new voice datacenters, and the Agency’s Headquarters were upgraded to the new network and field offices were fully migrated to Skype for Business.
- In FY 2017, the OCIO deployed over 1,020 iPhone 6’s and 6-Pluses to the Field Offices.

Financial Management:

- To enhance internal controls of the purchase card program, AMB, in coordination with the Budget Office, continues to enforce a process by which quarterly target amounts for purchase card spending are sent to each Headquarters and Regional offices. These amounts are disseminated at the beginning of each quarter to the Division of Operations Management. Operations Management is responsible for communicating specific dollar amounts to the respective Regional Offices, and for tracking the overall expenditures from the Regional offices. In addition to quarterly

target amounts sent to the Headquarters Offices, all Headquarters PCHs submit a Form 13 (Requisition/Procurement Request Form) for certification and approval of appropriated funds prior to making any purchase via their Government issued purchase card. This process helps certify that appropriated funds are approved and available for purchase.

- In April 2017, AMB, in coordination with the OCIO, issued a large IDIQ award for Information Technology (IT) services, and ensured strategic sourcing opportunities were carefully effectuated. The result of this acquisition provided the Agency with a framework to promote an agile systems development life cycle, and empowered the Agency’s IT personnel to adopt new technologies and automate processes which resulted in increased proficiencies and budgetary savings.
- AMB continued to utilize the bulk purchasing program for paper and toner across the Agency. The program allows for better coordination,

distribution and cost-savings of required items. In FY 2017, bulk orders took place in November, February, May and August.

- AMB implemented Split Pay for travel payments, which allows vouchered transactions which utilized the agency charge card to pay Citibank directly.

As demonstrated in the chart below, the NLRB has exceeded the statutory goals established by federal executive agencies in all categories except one, namely the service-disabled veteran owned businesses.

From October 1, 2016 – September 30, 2017, a total of \$16M and 339 contract actions were reported within the Federal Procurement Data System (FPDS). Out of this amount, \$6.7M and 176 actions went to small businesses; approximately 41.7 percent of contract dollars and 51 percent of contract actions were awarded to small businesses.

Category	Goal	2017	2016	2015	2014	2013
Small Business	23%	41.7%	36.51%	39.75%	31.65%	34.13%
Women Owned Small Business	5%	7.47%	11.19%	12.46%	13.5%	17.81%
Small Disadvantaged Business	5%	28.33%	8.02%	10.71%	11.05%	7.36%
Service-Disabled Veteran Owned Small Business	3%	1.62%	2.42%	0.31%	0.97%	0.32%
HUBZone	3%	23.33%	3.43%	2.13%	2.27%	0.84%

Agency Outreach

The Agency met with local consulates of various countries to educate consular officials about the NLRB's protections and processes.

The Agency provided direct outreach to immigrant populations by:

- Speaking in Spanish and other languages at events organized by the consulates or other community and non-profit groups, such as the Mexican Embassy, Philippine Embassy, Ecuadoran Consulate, El Salvador Consulate, Labor Alliance Committee on Minority Affairs, Colorado Central Region Farmworker Project, West Harlem Development Corporation, and Workplace Justice Project, Justice, Equality & Safety in the Workplace, to educate the public about the NLRA
- Participating in Labor Rights Week activities organized by the Mexican Embassy and Consulates at various locations throughout the country
- Speaking at naturalization ceremonies
- Participating in interviews on Spanish-language radio stations
- Staffing booths at informational fairs
- Responding to inquiries from individuals who seek consular services
- Participating in Platicas en Consulado (Consul on Wheels)
- Participating in a Univision phone bank
- Speaking at the Federacion De Clubes Zatecanos event sponsored by the Mexican consulate
- Speaking at Filipino Workers Center SAMA-SAME Network Meetings

Other Agency activities directed at the immigrant population include:

- Speaking at naturalization ceremonies to new citizens
- Participating in Asian Public Interest and Public Service Panels
- Meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes, including a delegation from South Korea

Activities directed at the youth population include:

- Leading discussions for high school and middle school classes concerning the development of the NLRA and the New Deal, as well as workers' statutory rights and Board processes
- Holding mock trials for schools to demonstrate how an unfair labor practice trial is conducted
- Leading discussions at the Hanna Boys Center/ La Luz Center
- Participating in Youth to Youth Apprentice Training program

The Agency continued to partner with DHS, DOL, OSC, DOJ and EEOC in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws.

The Agency has joined with other state and federal agencies by:

- Participating in "listening sessions" coordinated by worker advocacy groups.
- Participating in Wage Theft Task Force discussions
- Meeting with the Illinois Attorney General's Office

- Meeting with the Michigan Employment Relations Commission
- Participating in a forum sponsored by City of Chicago Department of Human Services
- Participating in a community outreach program sponsored by U.S. Rep. Susan Brooks
- Participating in the EEOC Training Institute Technical Assistance Program Seminar
- Participating in the California Association of Labor Relations Officers annual conference
- Participating in an FMCS open house
- Providing outreach to the New York State Department of Labor Anti Retaliation Task Force
- Participating in SBA Ombudsman roundtables and listening sessions
- Participating in DOL Prevailing Wage Seminar
- Distributed guidance to all supervisors and managers highlighting the restrictions that apply when a supervisor serves as a campaign coordinator and/or keyworker for the Combined Federal Campaign (CFC).
- Suggested updates to the Agency's Pro Bono program to comply with government ethics regulations and the Agency's IT policy.
- Completed a Structural Assessment of the Ethics Office to maximize resources.
- Developed and distributed a Hatch Act webcast to all Agency employees.
- Answered extensive Hatch Act hypotheticals submitted by the NLRBPA.
- Distributed a memo which was intended to remind supervisors and managers that they should not encourage their subordinates to participate in outside activities or causes, including political advocacy events and activities. The memo explained that this conduct would implicate the regulations in the Standards of Conduct concerning misuse of position, as well as the Hatch Act, if the conduct involves political activity. The DAEO discussed this memo with Agency Leadership at a General Counsel staff meeting.

Ethics

The Ethics Staff continued to meet with the General Counsel's office to review the status of all ethics projects and to discuss notable ethics issues.

In coordination with the Office of the General Counsel, the Ethics Staff:

- Developed and distributed guidance concerning OPM's updated Combined Federal Campaign (CFC) regulations to all Agency employees.
- Met with Agency leadership to discuss the limitations placed on CFC fundraising.
- Distributed an updated Speaking Engagements DAEO memo to all Agency employees which provided employees with general guidance regarding speaking engagements, and explained how to distinguish between speaking in an official versus a personal capacity.
- Assisted the Office of the Chief Financial Officer (OCFO) in the review of the Agency's travel policy to ensure that it is consistent with 31 U.S.C 1353 which covers Travel Reimbursement from a Non-Federal Source.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations.

During FY 2017, the Ethics Staff:

- Developed a comprehensive ethics orientation package that is used in the onboarding of

NLRB Political Appointed Senate Confirmed employees (PAS).

- Provided customized ethics briefing to newly appointed Board Members.
- Met with newly appointed Regional Directors to discuss how the Ethics Office supports each Regional Office.
- Provided Operations Management with guidance concerning the ethics limitations placed on NLRB employees who are engaged in outreach activities.
- Provided Ethics Briefings for the Professional Exchange Program and Honors Attorney Orientation.

- Developed ethics training materials that will be distributed through the Agency’s SharePoint page in the first quarter of FY 2018.
- Developed comprehensive post-employment guidance which emphasizes an attorney’s recusal obligations after departure from the Agency.
- Continued to participate in the Office of Human Resources (OHR) New Hire Onboarding.
- Continued to use the “Ethical Highway” webpage to archive guidance documents, newsletter articles, Tips of the Month, and Job Aids.

Measure:	Goal	2017	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	92%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%



- All financial disclosure reports filed in FY 2017 were reviewed within 60 days. During this review we confirmed that all filers had been provided appropriate ethics guidance relating to their reportable assets, outside arrangements, and outside employment activities.
- The annual financial disclosure cycle began on January 1st. NLRB filers use electronic filing systems to comply with the Office of Government Ethics’ filing requirement.
- In mid-January, the Ethics Office began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2016. In all cases, the Ethics Office completed the review of each report within 60 days of receipt and notified the filer of any real or potential conflicts.

During FY 2017, the Agency has completed its review of:

- 30 Annual Confidential Financial Disclosure Reports (OGE 450)
- 84 Annual Public Financial Disclosure Reports (OGE 278e)
- 9 New Entrant Public Financial Disclosure Reports (OGE 278e)

- 119 Monthly Transaction Reports (OGE 278T)
- 13 Termination Reports (OGE 278)

Note: Review and approval of New Entrant and Annual filings (Confidential and Public) resulted in 126 memos that remind and educate filers about their reporting obligations, potential conflicts, and recusal obligations.

Internal and External Audit Responses:

- Responses to internal auditors have been prepared and all deadlines have been successfully coordinated regarding the OIG audit recommendations.
- OCFO responded to the Data Act audit.
- OCIO responded to one C-CAR data call regarding Kaspersky software.
- OCIO responded to one C-CAR data call regarding WannaCry Ransomware.
- OCIO responded to Risk Management Assessment data calls related to Executive Order 13800 “Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure,” and OMB Memorandum M-17-25.

FOIA

Measure:	2017	2016	2015	2014
Respond to initial FOIA requests within 20 working days	46.36 days 35.9 %	32.7 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15% of requests	10.5%	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	20 working days	32.35 working days	24 working days	20 working days

- Based on the information in the FOIAonline, the Agency responded to initial FOIA requests in an average of 46.36 working days for requests received from October 1, 2016 to September 30, 2017. The Agency received 2,217 requests this period and responded to 798 of those requests in 1-20 days. Thus, 35.9 percent of the FOIA requests were processed within the 20-day statutory time period.
- The Agency sought an extension of time to process a request beyond the 20-day period by sending a letter to the requester taking an additional ten working days to respond to the request in approximately 10.5 percent of the FOIA requests received during the fiscal year 2017.
- The Agency received 11 FOIA Appeals from October 1, 2016 to September 30, 2017 and responded to ten of these appeals. The Agency responded to eight of those appeals in 1-20 days. Thus, 72.7 percent of the FOIA appeals were processed within the 20-day statutory time period.
- The Agency did not seek an extension of time for the FOIA appeals received from October 1, 2016 to September 30, 2017.
- All FOIA requests and appeals are now processed in Headquarters. In FY 2017, the influx of new staff members, most of whom required significant training until they became proficient in handling requests, and difficulties associated with technology, which has since been upgraded, affected FOIA response rates.



FACTORS AFFECTING AGENCY PERFORMANCE

Various factors can affect Agency performance as a whole, in addition to each goal, objective, and performance measure contained in the NLRB's strategic and annual performance plans. These factors include case intake, settlements, board member vacancies, the potential effect of case precedent and statutory changes, nationwide work-related activities by external entities, technological advances, and economic fluctuations.

CASE INTAKE

The Agency's FY 2017 case intake totals 21,637 and includes 19,280 unfair labor practice (ULP) cases and 2,357 representation cases. Our Board agents effectively and efficiently process all cases that are brought to the Agency by the general public. Comprehensive and complex matters that come before the Agency are often attributable to external factors, such as: ongoing nationwide efforts to improve the wages and working conditions of workers in the retail and fast food industries; evolving employment relationships in the gig economy; the increased prevalence and evolving tools and usage by employees of technology and social media inside and outside of the workplace to discuss terms and conditions of employment with one another, and the related handbook provisions and workplace rules generated therefrom; expanded use of mandatory arbitration clauses in employment matters; bankruptcies; jurisdiction over enterprises; increased understanding of statutory application in non-union workplaces; and difficult questions concerning single, joint, and successor employer relationships, and supervisory status, as well as defining employees covered under the NLRA.

SETTLEMENTS

The initial processing and disposition of new case filings in the Regional Offices drives the intake for other stages of the casehandling pipeline. Over the past few years, more than 90 percent of those cases in which merit is found are settled without formal litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP and representation cases, the settlement rate is, of course, not entirely subject to the Agency's control. When the process becomes formal and litigation takes over, Agency costs increase. The Agency calculates that every one-percent drop in the settlement rate costs the Agency more than \$2 million.

BOARD MEMBER TERMS

The staggering of Board member terms and the filling of a vacant seat by an individual who will not be a Board member for a full-term impairs Board productivity, as successive Board members often have to get up to speed on the same case matter. The Board is now up to full composition.

POTENTIAL EFFECT OF STATUTORY/RULEMAKING CHANGES

As a general matter, changes in the law affect NLRB operations and could have consequences on the Agency's case load. Rulemaking and statutory changes, for example, could lead to an increase in ULP charges and/or election petitions filed with the Agency, with corresponding increases in investigations and proceedings conducted by Agency personnel. Statutory changes may also directly mandate additional litigation by the Agency, e.g., seeking injunctive relief in federal district court.

RELIABILITY OF PERFORMANCE DATA

PROGRAM EVALUATION

The NLRB uses various techniques and mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. The Board regularly tracks the status of all of its cases to determine performance against yearly targets that support the Agency's strategic goals and measures. A standing committee composed of senior management officials, including, among others, the Deputy Chief Counsels of each of the Board Members and the Executive Secretary, meets periodically to review the status of cases, to prioritize cases, and to develop lists of cases that the Board Members will jointly focus on in order to facilitate the issuance of decisions in those cases. These representatives also 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 case production reports are generated. The Board Members also regularly meet and communicate with each other to discuss case priorities and the overall processing of cases.

The NLRB regularly monitors settlement and litigation success rates of ULP cases. In FY 2017, Regional offices settled 95 percent of meritorious ULP cases and won 84 percent of ULP and Compliance matters in whole or in part. A total of over \$73.6M was recovered in backpay, fines, dues and fees and over 1,700 employees were offered reinstatement. The Division of Judges closed 170 hearings, issued 184 decisions and achieved 453 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2017, the United States Courts of Appeals ruled on Board decisions in 91 enforcement and review cases. Of those

cases, 69.2 percent were enforced or affirmed in whole or in part. As to monitoring representation cases, in FY 2017, 98.5 percent of all initial elections were conducted within 56 days of filing.

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 initiatives and priorities, 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 Committee reviews all ALJ and Board decisions that constitute a significant loss. In addition, the Division of Operations Management requires Regions to run a battery of NxGen data integrity reports and to certify their NxGen data on a quarterly basis. 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 Divisions and offices, such as the Office of Appeals, Division of Advice, Division of Legal Counsel 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, the Office of the General Counsel monitors the litigation success rate before district courts with regard to injunction litigation. In FY 2017, the Injunction Litigation Branch received 113 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act. The Board authorized 37 cases and Regional Offices filed 10(j) petitions in 30 cases. The "success rate", i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation was 75 percent. The Office of the General Counsel continues to focus its attention on "nip-in-the-bud cases", where a nascent organizing campaign is being unlawfully squelched, and on first outreach bargaining and successor cases, where the

relationship between the employer and the union is most fragile.

As previously mentioned, while there are a few outcome-based performance measures associated with the two support goals, the majority of them are management strategy driven. The Agency collects quarterly performance metrics and strategies on the two Agency support goals, as well as the NxGen reports for the mission-related goals. The metrics and strategies are tracked and monitored throughout the year. The compiled data is then presented in this document.

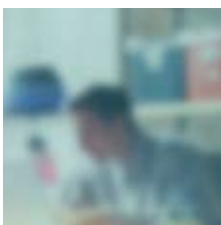
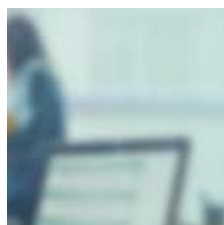
The data reported by OCIO come from NxGen. The FOIA Branch maintains their case data in FOIAonline, which is a FOIA tracking and processing web tool. FOIAonline also generates annual, quarterly, and other workload reports to effectively monitor all aspects of FOIA casehandling. The Ethics Office uses an electronic spreadsheet to track when an employee reaches out to the Office with an ethics inquiry. The Office logs the question and collects several pieces of data about the inquiry to include the date that the inquiry was made and the date that guidance was provided. The spreadsheet calculates the number of days between the two dates.





FINANCIAL SECTION

**PROTECTING DEMOCRACY IN
THE WORKPLACE SINCE 1935**



A MESSAGE FROM THE CHIEF FINANCIAL OFFICER

November 9, 2017



Mehul Parekh
Chief Financial Officer

As the Chief Financial Officer of the NLRB, I am pleased to forward the Fiscal Year (FY) 2017 Performance and Accountability Report. To meet our fiscal responsibilities, NLRB dedicates itself to achieving the highest standards of reporting and transparency. This PAR provides a comprehensive review of how the public funds entrusted to the Agency are utilized.

We take great pride in announcing that, in FY 2017, we received an unmodified audit opinion on our financial statements. I am also excited to report that the two significant deficiencies identified by our independent auditors in the areas of financial reporting and accounting discrepancies resulting from insufficient resources and inadequate controls over undelivered orders, accounts payable, and expenditures have been remediated to a great extent. I would like to take this opportunity to truly acknowledge the Office of the Chief Financial Officer (OCFO) team that helped in achieving this result.

The OCFO was created just over five years ago. Since that time, the financial, budget, and procurement staffs have engaged in a collective effort to overcome the financial management challenges by establishing a management approach based upon effective controls and transparency. We recognize that a sound financial management approach involves continual assessment and refinement of such processes, procedures, and internal controls, and we continually review, assess and refine operations.

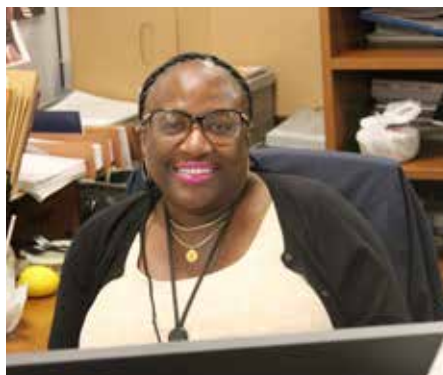
Throughout FY 2017, the focus continued to be on the ongoing efforts of the OCFO to enhance processes and controls to ensure sound financial management and leadership. From developing and updating policies for incremental funding of obligations, local travel, temporary duty travel, as well as implementing the new time and attendance system (webTA) and preparing for the implementation of Oracle Business Intelligence Enterprise Edition and Applications, this has been a successful, yet challenging, year in maintaining our momentum on all fronts. Key examples of these challenges include the change in administration, looming budget cuts and shortfalls, and staff attrition in areas where institutional knowledge and expertise are essential.

The biggest challenge for the Agency will continue to be its funding levels. The NLRB's budget authority has been flat-lined at \$274.2M for several years while Federal pay raises have been approved by Congress. Continued budget constraints and uncertainty in fiscal years 2018 and 2019 will impact our ability to address increasing costs of operations and to conduct the necessary planning, specifically in the area of information technology and essential services used by the field to meet mission requirements. Ongoing continuing resolutions will simply add to that level of uncertainty. Additional challenges exist in the area of maintaining the level of positions necessary to manage the core functions and the projected caseload for the Agency. Such inability to adequately plan and prepare, due to uncertainty of funding levels, will limit our efforts in maximizing the utilization of Agency funding on mission requirements.

As we look forward into FY 2018, we face a number of short and long-term challenges. Year after year, the Agency has made improvements in financial statement preparation, development of policies and procedures, and establishment of internal controls. Considering the results of the recent audit, the OCFO will remain committed to drive process improvement, transparency, and implementation of sound strategies to address the audit findings and recommendations issued to the NLRB. The OCFO will also reach out to other agencies as necessary to keep abreast of best practices and to learn from their experiences and expertise.

On a longer term outlook, the Agency will go through a major transition to onboard new leadership positions on the Board, as well as the General Counsel, as their appointment terms expire. Keeping the Agency moving through all the budgetary and operational phases during such a transition will be critical to accomplishing many of the challenges and improvement opportunities discussed herein.

I look forward to continuing my effort of collaboration and coordination with the NLRB leadership and organizational units to provide sound advice and to develop and implement strategies to ensure ongoing refinement of organizational priorities, requirements, and controls. My efforts in the coming year will also focus on managing and addressing enterprise risks as the Agency prepares to address the challenges of today.



INDEPENDENT AUDITOR'S REPORT

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

November 6, 2017

To: Philip A. Miscimarra
Chairman

Jennifer Abruzzo
Acting General Counsel

From: David P. Berry 
Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2017 Financial Statements
(OIG-F-22-18-01)

This memorandum transmits the audit report on the National Labor Relations Board (NLRB) Fiscal Year (FY) 2017 Financial Statements with the Management's Response.

The Accountability of Tax Dollars Act of 2002 requires the NLRB to prepare and submit to Congress and the Director of the Office of Management and Budget (OMB) annual audited financial statements. We contracted with Castro & Company, an independent public accounting firm, to audit the financial statements. The contract required that the audit be done in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and Bulletin 17-03, *Audit Requirements for Federal Financial Statements*, issued by OMB.

In connection with the contract, we reviewed Castro & Company's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with *Government Auditing Standards*, was not intended to enable us to express, and we do not express, opinions on the NLRB's financial statements or internal control or conclusions on compliance with laws and regulations. Castro & Company is responsible for the attached auditor's report dated November 6, 2017, and the conclusions expressed in the report. However, our review disclosed no instances where Castro & Company did not comply, in all material respects, with generally accepted government auditing standards.

The audit report states Castro & Company's unmodified opinion with regard to the FY 2017 and 2016 financial statements.

With regard to the Management Response dated November 3, 2017, and the apparent disagreement regarding the internal control findings, as stated in the audit reports, a deficiency in internal control exists when the design or operation of a control does not allow management or

employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A deficiency can exist in both the design and operation of an internal control:

A deficiency in design exists when:

- A control necessary to meet the control objective is missing; or
- An existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met.

A deficiency in operation exists when:

- A properly designed control does not operate as designed; or
- The person performing the control does not possess the necessary authority or competence to perform the control effectively.

A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

In applying the standards as set forth in the American Institute of Certified Public Accountants' *Statements on Auditing Standards* and the *Government Auditing Standards*, Castro & Company determined that the lack of required updated policies and procedures over security management and assessments, a security assessment that contained known or knowable misstatements of material fact, and the lack of a Contingency Plan and testing for information systems for achieving continuity of operations for mission/business functions during FY 2017 rose to the level of Material Weaknesses in both design and operation.

As noted in the Internal Control Report, the lack of formal policies and procedures increases the risk that the security practices are unclear, misunderstood, and improperly implemented; and that controls will be inconsistently applied in order to keep the NLRB information technology (IT) systems safe. Processing and storing financial information in weak or unsafe IT systems puts the NLRB's financial information and resources at risk of fraud, waste, and abuse. In addition, discrepancies may exist but go undetected and uncorrected, thereby causing the financial information to be misstated. Effective policies and procedures and management monitoring to ensure they are properly implemented greatly increases the NLRB's ability to proactively identify and resolve issues that could result in material misstatements in financial accounting and reporting records.

In addition, as stated in the Internal Control Report, during unscheduled disruptions in operations, the NLRB may not be able to recover and continue operation of all necessary systems and functions in a timely manner. Without an effective contingency plan in place for the general support system, the NLRB's financial data is at risk of being lost due to an unscheduled disruption. If lost financial data cannot be adequately restored, it could materially affect the financial statements.

Additionally, we found that NLRB management misquoted what the Internal Control Report stated in their response. The Report does not state that "the Agency has a variety of

sound practices in place regarding information technology policies and procedures,” as noted in Management’s response. The Report states that although NLRB “had some sound security practices in place, it did not have approved policies supporting practices placed in operation.”

With regard to the Management Response for the finding related to the contractor oversight and security awareness training, National Institute of Standards and Technology Special Publication 800-53: PS-7 Third-Party Personnel Security requires that an agency establish personnel security requirements for third-party providers. The fact that the NLRB’s Office of the Chief Information Officer (OCIO) did not have a definitive list of contractors during our audit indicates a lack of contractor oversight, and therefore the OCIO could not track contractors’ compliance with security awareness training or the on/off-boarding processes.

With regard to the lack of a contingency plan and testing, the finding is not related to the Disaster Recovery Plan; as stated in the Management Response. It addresses the lack of a Contingency Plan as required by the Federal Information Security Modernization Act of 2014 (FISMA). Formulating a Contingency Plan is not only an improvement to the Agency’s operations but is required to be in compliance with FISMA. The Internal Control Report states that while the Disaster Recovery Plan does address contingency plans related to the NLRB’s information technology systems, its scope is limited to only catastrophic system failures and thus does not adequately address contingency procedures for all scenarios. In addition, it does not cover the NLRB’s contingency responsibilities over the financial and payroll systems provided to them by the Department of the Interior. Any Contingency Plan put together by the Agency subsequent to the FY 2017 audit will be assessed during the FY 2018 audit.

As mentioned above, the issues identified above were a result of audit procedures conducted during our audit of the financial statements for FY 2017; therefore, corrective action initiated by the NLRB subsequent to the audit would be assessed as part of the FY 2018 audit.

We appreciate the courtesies and cooperation extended to Castro & Company and our staff during the audit.



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Independent Auditor's Report

Inspector General
National Labor Relations Board

We have audited the accompanying balance sheets of the National Labor Relations Board (NLRB) as of September 30, 2017 and 2016 and the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the agency's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the agency's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the NLRB as of September 30, 2017 and 2016, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Independent Auditor's Report
Page 2

Required Supplementary and Other Information

U.S. generally accepted accounting principles require that the information in the *Required Supplementary Information*, including *Management's Discussion and Analysis*, be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. The supplementary information is the responsibility of management and was derived from, and relates directly to, the underlying accounting and other records used to prepare the basic financial statements. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The information presented in the Messages from the Chairman, General Counsel, and Chief Financial Officer, list of Board Members, Other Accompanying Information, and Appendices is presented for purposes of additional analysis and are not required as part of the basic financial statements. Such information has not been subjected to auditing procedures applied by us in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by Government Auditing Standards

In accordance with U.S. *Government Auditing Standards* and OMB Bulletin No. 17-03, we have also issued our reports dated November 6, 2017, on our consideration of NLRB's internal control over financial reporting and the results of our tests of its compliance with certain provisions of laws, regulations, and other matters that are required to be reported under *Government Auditing Standards*. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with U.S. *Government Auditing Standards* and OMB Bulletin 17-03 in considering the NLRB's internal control and compliance, and should be read in conjunction with this report in considering the results of our audit.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, U.S. Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.



November 6, 2017
Alexandria, VA



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Independent Auditor's Report on Internal Control

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB) as of and for the year ended September 30, 2017, and have issued our report thereon dated November 6, 2017. We conducted our audit in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*.

In planning and performing our work, we considered the NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of the NLRB's internal control, determining whether controls had been placed in operation, assessing control risk, and performing tests of the NLRB's controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not to express an opinion on the effectiveness of the NLRB's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the NLRB's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA), such as those controls relevant to ensuring efficient operations.

Our consideration of internal control over financial reporting was for the limited purposes described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies described below to be material weaknesses.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. During our audit we did not identify any deficiencies in internal control that we consider to be significant deficiencies. However, significant deficiencies may exist that have not been identified.

Independent Auditor's Report on Internal Control
Page 2

The NLRB's response to the findings identified in our audit is described in the accompanying Audit Response Letter. The NLRB's response was not subject to auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

We noted less significant matters involving internal control and its operations which we have reported to NLRB management in a separate letter dated November 6, 2017.

This report is intended solely for the information and use of the management and the NLRB Office of Inspector General, OMB, the Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.



November 6, 2017
Alexandria, VA

MATERIAL WEAKNESSES

I. **Lack of Information Technology Updated Policies and Procedures over Security Management and Assessments and Unreliable Security Assessment for the LAN/WAN General Support System**

The head of each Federal agency is responsible for providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems, as described in the Federal Information Security Modernization Act (FISMA) of 2014 (PL 113-283, 44 USC 3554)¹. Additionally, agency heads are responsible for reporting on the adequacy and effectiveness of the information security policies, procedures, and practices of their enterprise. FISMA requires Federal agencies to improve the security of Information Technology (IT) systems, applications, and databases. Each Federal agency must develop, document, and implement a program to provide security for the data and IT systems that support its operations and assets. The National Institute of Standards and Technology (NIST) develops IT security standards and guidelines for FISMA. Federal agencies must follow these rules, which require compliance reporting by each agency. The NLRB is required to comply with FISMA.

The NLRB security controls were not effectively monitored or adequately documented, and system assessments and authorizations were not performed in accordance with Federal standards. The NLRB Office of the Chief Information Officer (OCIO) security personnel forwarded to the Chief Information Officer (CIO) a security assessment of the NLRB's LAN/WAN system with knowledge that the security assessment incorrectly stated that control policies and procedures were in place and were operating effectively when, in fact, they were not. The CIO then issued an Authority to Operate (ATO) for the LAN/WAN. Because it is the CIO's responsibility to approve the NLRB's IT security controls, he should have known that the security assessment that he was relying upon for the LAN/WAN ATO contained incorrect statements, and that the incorrect statements were material to his decision to accept the risks associated with the operation of the NLRB's LAN/WAN system.

During our review of the NLRB's policies and procedures and its independent security assessment of the LAN/WAN General Support System, we found the following:

Outdated Policies

NIST Special Publication (SP) 800-53, Security and Privacy Controls for Federal Information Systems and Organizations, Revision 4 has 18 controls specifically addressing policies and procedures. Policies and procedures are principles and rules to guide and direct employees and contractors in the performance of fulfilling their duties. Although NLRB had some sound security practices in place, it did not have approved policies supporting practices placed in operation. NLRB began the process of writing new policies and procedures for the NIST SP 800-53, Revision 4 control families, but no policy and procedures had been finalized, approved, or issued by the NLRB.

¹ The Federal Information Security Modernization Act of 2014 amends the Federal Information Security Management Act of 2002 to: (1) reestablish the oversight authority of the Director of the Office of Management and Budget (OMB) with respect to agency information security policies and practices, and (2) set forth authority for the Secretary of the Department of Homeland Security to administer the implementation of such policies and practices for information systems.

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NIST SP 800-53 was originally issued in 2005 and was last updated in 2013. The NLRB's policies and procedures currently in place predated the NIST SP 800-53 with the primary policy, Administrative Policies and Procedures Manual IT-1: Computer Security Program Information Systems Security Policy (INFOSYSEC), dating back to 2003.

Unreliable Security Assessment

- As part of the NIST Risk Management Framework (RMF), the NLRB is required to assess the effectiveness of controls in the System Security Plan (SSP) by an independent assessor. As such, the NLRB issued a contract to perform its Fiscal Year (FY) 2017 annual security assessment of the LAN/WAN General Support System. The Security Assessment Assessor stated in its report that controls were in place and in operation while both the NLRB OCIO security personnel and the Contractor's Assessor had full knowledge that some controls had not been implemented. The SSP and Security Assessment Report stated that the NLRB was following the policies and procedures controls for each of the 18 NIST SP 800-53 control families. Our testing found these policies and procedures were being developed; none of the policies and procedures were finalized, approved, or issued. The NLRB OCIO security personnel scheduled the completion of the policies and procedures for the 4th quarter of FY 2017 and the 2nd quarter of FY 2018. Both the NLRB OCIO and Assessor were aware of the draft status of those policies and procedures. Nonetheless, the assessment was certified stating that the policies and procedures were in place rather than documenting the lack of finalized policies and procedures. As a result, the security assessment contained incorrect information. The NLRB CIO then certified the ATO without noting the deficiency.
- The Assessor was required to test for effectiveness of control activities. For the controls we examined, the Assessor did not indicate they tested for effectiveness. In the assessment, the Assessor described the general control process that may have been in place. The Assessor did not specify that they selected samples to test individual control activities, nor did they specify the results of samples tested, if any. In addition, the Assessor did not test all required control activities listed under a control. For example, in testing control AC-2: Account Management, the Assessor did not mention the four (4) control enhancements included in AC-2. There is no evidence that these control enhancements were tested.
- During our review of the Security Assessment contract, we noted that the NLRB also agreed to the performance of additional tasks in that contract, which included performing Disaster Recovery Plan updates and testing, risk assessments, policy guidance and/or development, and transition planning. These additional services impaired the Contractor's independence in performing the security assessment. The Contractor must be impartial from the NLRB. Impartiality implies that the Contractor is free from any perceived or actual conflicts of interest pertaining to the development of procedures, operations, or management of information systems under assessment. In addition, impartiality implies that the Contractor is free from any perceived or actual conflicts of interest pertaining to the testing of the operating effectiveness of the security controls. To achieve impartiality, the Contractor should not have created a mutual or conflicting interest with the NLRB where it was conducting the assessment and evaluating its own work.

Contractor Oversight

The NLRB OCIO did not have a definitive list of contractors; therefore, they could not track contractors' compliance with security awareness training or the on and off-boarding processes. NLRB utilized an online training system to provide employees and contractors user access to several online training resources and to track completion of the required security awareness training for NLRB contractors. However, NLRB relied largely on manual processes initiated by administrative offices for tracking security awareness training and offboarding requirements for contractors.

Security Awareness Training

NLRB's Information Technology Security Education, Awareness and Training (ITSEAT), Standard and Implementation Guidelines states that "NLRB may elect to provide annual refresher material to contractors, however, the responsibility remains with the contractor to ensure annual refresher materials are provided to his or her employees as a part of the contract agreement. To assign this responsibility to the contractor, the following contractual language may be inserted into new and/or existing statements of work...The contractor must, at a minimum, certify that any personnel who perform work under this contract effort must have received annual IT Security awareness briefings as defined in NIST Special Publication 800-16 'Information Technology Security Training Requirements: A Role- and Performance-Based Model.' Certification of this training must be provided to the Associate CIO, IT Security no later than 45 calendar days after the training has occurred."

This control alone is insufficient to meet NIST requirements. It is NLRB's responsibility to monitor and enforce security controls.

Security assessments are important components of an organization-wide strategy. They determine whether security controls are implemented correctly, operating as intended, and producing the desired outcomes. They provide the basis for confidence in the effectiveness of security controls. Security assessments are a critical component supporting a system's ATO.

The Government Accountability Office's *Standards for Internal Control in the Federal Government* states:

People are what make internal control work. The responsibility for good internal controls rests with all managers. Management sets the objectives, puts the control mechanisms and activities in place, and monitors and evaluates the control. However, all personnel in the organization play important roles in making it happen. All personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. Management needs to identify appropriate knowledge and skills needed for various jobs and provide needed training, as well as candid and constructive counseling, and performance appraisals.

Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or

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operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

Management designs control activities in response to the entity's objectives and risks to achieve an effective internal control system. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives and address related risks. As part of the control environment component, management defines responsibilities, assigns them to key roles, and delegates authority to achieve the entity's objectives...Control activities are an integral part of an entity's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results...They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, and the creation and maintenance of related records which provide evidence of execution of the activities as well as appropriate documentation.

Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. Internal control serves as the first line of defense in safeguarding assets. In short, internal control helps managers achieve desired results through effective stewardship of public resources.

Management establishes physical control to secure and safeguard vulnerable assets. Examples include security for and limited access to assets such as cash, securities, inventories, and equipment that might be vulnerable to risk of loss or unauthorized use. Management periodically counts and compares such assets to control records.

The NIST SP 800-53 Revision 4 requires that for each of the 18 control families that organizations develop policies and procedures. NIST SP 800-53 Revision 4 states,

1. Policies and Procedures:
The organization:

- a. Develops, documents, and disseminates to [*Assignment: organization-defined personnel or roles*]:
 1. policies that addresses purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance; and
 2. Procedures to facilitate the implementation of the policies and associated specific controls; and
- b. Reviews and updates the current:
 1. Access control policy [*Assignment: organization-defined frequency*]; and
 2. Access control procedures [*Assignment: organization-defined frequency*].

Supplemental Guidance: Policy and procedures reflect applicable federal laws, Executive Orders, directives, regulations, policies, standards, and guidance.

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NIST SP 800-53 Revision 4, CA-2 Security Assessments, has Control Assessment CA-2(1), Independent Assessors, which states:

The organization employs assessors or assessment teams with [*Assignment: organization- defined level of independence*] to conduct security control assessments.

Supplemental Guidance: Independent assessors or assessment teams are individuals or groups who conduct impartial assessments of organizational information systems. Impartiality implies that assessors are free from any perceived or actual conflicts of interest about the development, operation, or management of the organizational information systems under assessment or to the determination of security control effectiveness. To achieve impartiality, assessors should not: (i) create a mutual or conflicting interest with the organizations where the assessments are being conducted; (ii) assess their own work...

NIST Special Publication 800-53A *Assessing Security and Privacy Controls in Federal Information Systems and Organizations*, Revision 4, Section 2.3 Building an Effective Assurance Case states,

Building an effective assurance case for security and privacy control effectiveness is a process that involves: (i) compiling evidence from a variety of activities conducted during the system development life cycle that the controls employed in the information system are implemented correctly, operating as intended, and producing the desired outcome with respect to meeting the security and privacy requirements of the system and the organization; and (ii) presenting this evidence in a manner that decision makers are able to use effectively in making risk-based decisions about the operation or use of the system.

NIST SP 800-53, Security and Privacy Controls for Federal Information Systems and Organizations, Revision 4 states,

AT-2 Security Awareness Training

Control: The organization provides basic security awareness training to information system users (including managers, senior executives, and contractors):

- a. As part of initial training for new users;
- b. When required by information system changes; and
- c. Assignment: organization-defined frequency] thereafter.

PS-7 Third-Party Personnel Security

Control: The organization:

- a. Establishes personnel security requirements including security roles and responsibilities for third-party providers;

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- b. Requires third-party providers to comply with personnel security policies and procedures established by the organization;
- c. Documents personnel security requirements;
- d. Requires third-party providers to notify [Assignment: organization-defined personnel or roles] of any personnel transfers or terminations of third-party personnel who possess organizational credentials and/or badges, or who have information system privileges within [Assignment: organization-defined time period]; and
- e. Monitors provider compliance.

Supplemental Guidance: Third-party providers include, for example, service bureaus, contractors, and other organizations providing information system development, information technology services, outsourced applications, and network and security management. Organizations explicitly include personnel security requirements in acquisition-related documents. Third-party providers may have personnel working at organizational facilities with credentials, badges, or information system privileges issued by organizations. Notifications of third-party personnel changes ensure appropriate termination of privileges and credentials. Organizations define the transfers and terminations deemed reportable by security-related characteristics that include, for example, functions, roles, and nature of credentials/privileges associated with individuals transferred or terminated. Related controls: PS-2, PS-3, PS-4, PS-5, PS-6, SA-9, SA-21.

The NLRB did not have adequate policies and procedures to ensure information system security due to the lack of management oversight over the security management program. The NLRB relied on outdated policies, to include policies dating back to 2003 that do not incorporate the most current NIST requirements. While the NLRB had begun to create some policies and procedures that conform to NIST SSP 800-53 Revision 4, they were still either in draft format or have not been started at all.

In addition, the NLRB CIO was not adequately managing his subordinate security personnel. The OCIO security personnel knowingly accepted and then used a security assessment that contained material misstatements of fact, and provided it to the CIO to use in authorizing the systems to operate.

It is apparent that NLRB was not aware or disregarded the need for a central control of contractor security requirements. The NLRB's current procedure tracked all users' security requirements through initial training, role-based training, and offboarding, but it did not specifically keep track of contractors. Often control of contractors' security requirements warranted communication and coordination with other administrative offices within an agency.

Without a strong tone at the top and proper management oversight to support the NLRB's IT system, there is a risk that control activities may not be appropriately designed or implemented. The establishment of written, formal policies and procedures is critical in assuring that a system of internal controls is followed.

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The lack of formal policies and procedures increases the risk that the security practices are unclear, misunderstood, improperly implemented, and controls are inconsistently applied in order to keep the NLRB IT systems safe. Processing and storing financial information in weak or unsafe IT systems puts the financial information and resources at risk of fraud, waste, and abuse occurring. In addition, discrepancies may exist but go undetected and uncorrected, thereby causing the financial information to be misstated. Effective policies and procedures and management monitoring to ensure they are properly implemented greatly increases the NLRB's ability to proactively identify and resolve issues that could result in material misstatements in financial accounting and reporting records.

Without a proper independent assessment to determine the effectiveness of its security controls, the NLRB will not be able to determine the security posture of its operations and protect its operations.

Without a complete centralized list of contractors, NLRB cannot effectively monitor its contractors to ensure compliance with security awareness training or the on and off-boarding processes. There is an increased risk that some contractors may not be aware of NLRB security practices. The lack of monitoring of contractors leaving the Agency can also increase the risk that the contractors may not be removed timely from access lists and that NLRB property, including badges, are not returned timely, which could result in unauthorized access to the NLRB's general support system that houses its financial information.

Recommendations:

We recommend that NLRB management:

1. Establish, approve, and disseminate IT policies and procedures to all employees as required by NIST SP 800-53, *Security and Privacy Controls for Federal Information Systems and Organizations*, Revision 4. Final policies and procedures should have a clear audit trail showing signatures of individuals responsible for final approval and be dated accordingly.
2. Obtain an independent assessor to perform tests of effectiveness on all NLRB's SSP in accordance with NIST Special Publication 800-53A, *Assessing Security and Privacy Controls in Federal Information Systems and Organizations*, Revision 4.
3. Review the knowledge, skills, and abilities of the OCIO security personnel and make a determination of whether individuals in those positions are skilled to perform IT security functions.
4. Develop a personnel policy that defines the NLRB's responsibility for maintaining a complete list of contractors that is periodically reviewed to ensure completeness and accuracy.

II. Lack of a Contingency Plan and Testing for Information Systems for Achieving Continuity of Operations for Mission/Business Functions

Contingency planning addresses both information system restoration and implementation of alternative mission/business processes when systems are compromised. We examined the NLRB's Disaster Recovery Plan version 9.6, dated November 22, 2016. While the Disaster Recovery Plan does address contingency plans related to the NLRB's information technology systems, its scope is limited to only catastrophic system failures and thus does not adequately address contingency procedures for all scenarios. In addition, it does not cover the NLRB's contingency responsibilities over the financial and payroll systems provided to them by the Department of the Interior. Although these systems are provided by a third-party, the NLRB is responsible for restoring connectivity and normal operations in the event of disruptions at the NLRB. The Disaster Recovery Plan makes explicit references to an IT Contingency Plan and a NLRB LAN/WAN Contingency Plan. Despite multiple requests for these documents, the NLRB was not able to provide them and we determined that neither an overall Contingency Plan nor an Information System Contingency Plan exists or is in place. NIST SP 800-53, Revision 4 requires that an organization develop and test a Contingency Plan annually, without a plan in place, no testing has been performed.

NIST SP 800-53 Rev. 4, CP-2 Contingency Plan states,

Control: The organization:

- a. Develops a contingency plan for the information system that:
 1. Identifies essential missions and business functions and associated contingency requirements;
 2. Provides recovery objectives, restoration priorities, and metrics;
 3. Addresses contingency roles, responsibilities, assigned individuals with contact information;
 4. Addresses maintaining essential missions and business functions despite an information system disruption, compromise, or failure;
 5. Addresses eventual, full information system restoration without deterioration of the security safeguards originally planned and implemented; and
 6. Is reviewed and approved by [Assignment: organization-defined personnel or roles];
- b. Distributes copies of the contingency plan to [Assignment: organization-defined key contingency personnel (identified by name and/or by role) and organizational elements];
- c. Coordinates contingency planning activities with incident handling activities;
- d. Reviews the contingency plan for the information system [Assignment: organization-defined frequency];

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- e. Updates the contingency plan to address changes to the organization, information system, or environment of operation and problems encountered during contingency plan implementation, execution, or testing;
- f. Communicates contingency plan changes to [Assignment: organization-defined key contingency personnel (identified by name and/or by role) and organizational elements]; and
- g. Protects the contingency plan from unauthorized disclosure and modification.

Supplemental Guidance: Contingency planning for information systems is part of an overall organizational program for achieving continuity of operations for mission/business functions. Contingency planning addresses both information system restoration and implementation of alternative mission/business processes when systems are compromised. The effectiveness of contingency planning is maximized by considering such planning throughout the phases of the system development life cycle. Performing contingency planning on hardware, software, and firmware development can be an effective means of achieving information system resiliency. Contingency plans reflect the degree of restoration required for organizational information systems since not all systems may need to fully recover to achieve the level of continuity of operations desired. Information system recovery objectives reflect applicable laws, Executive Orders, directives, policies, standards, regulations, and guidelines. In addition to information system availability, contingency plans also address other security-related events resulting in a reduction in mission and/or business effectiveness, such as malicious attacks compromising the confidentiality or integrity of information systems. Actions addressed in contingency plans include, for example, orderly/graceful degradation, information system shutdown, fallback to a manual mode, alternate information flows, and operating in modes reserved for when systems are under attack. By closely coordinating contingency planning with incident handling activities, organizations can ensure that the necessary contingency planning activities are in place and activated in the event of a security incident. Related controls: AC-14, CP-6, CP-7, CP-8, CP-9, CP-10, IR-4, IR-8, MP-2, MP-4, MP-5, PM-8, PM-11.

Control Enhancements:

(1) Contingency Plan | Coordinate with Related Plans

The organization coordinates contingency plan development with organizational elements responsible for related plans.

Supplemental Guidance: Plans related to contingency plans for organizational information systems include, for example, Business Continuity Plans, Disaster Recovery Plans, Continuity of Operations Plans, Crisis Communications Plans, Critical Infrastructure Plans, Cyber Incident Response Plans, Insider Threat Implementation Plan, and Occupant Emergency Plans.

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NIST SP 800-53 Rev. 4, CP-4 Contingency Plan Testing states,

Control: The organization:

- a. Tests the contingency plan for the information system [Assignment: organization-defined frequency] using [Assignment: organization-defined tests] to determine the effectiveness of the plan and the organizational readiness to execute the plan;
- b. Reviews the contingency plan test results; and
- c. Initiates corrective actions, if needed.

Supplemental Guidance: Methods for testing contingency plans to determine the effectiveness of the plans and to identify potential weaknesses in the plans include, for example, walk-through and tabletop exercises, checklists, simulations (parallel, full interrupt), and comprehensive exercises. Organizations conduct testing based on the continuity requirements in contingency plans and include a determination of the effects on organizational operations, assets, and individuals arising due to contingency operations. Organizations have flexibility and discretion in the breadth, depth, and timelines of corrective actions. Related controls: CP-2, CP-3, IR-3.

The NLRB did not develop, approve, and disseminate Contingency Planning policies and procedures that provided guidance in the development and testing of a Contingency Plan.

The NLRB relied extensively on IT system controls to initiate, authorize, record, process, summarize, and report financial transactions in the preparation of its financial statements.

During unscheduled disruptions in operations, the NLRB may not be able to recover and continue operation of all necessary systems and functions in a timely manner. Without an effective contingency plan in place for the general support system, the NLRB's financial data is at risk of being lost due to an unscheduled disruption. If lost financial data cannot be adequately restored, it could materially affect the financial statements.

Recommendations:

5. Develop an overall contingency plan to include all NLRB systems, including the financial, payroll, Backpay and LAN/WAN systems.
6. Ensure that the contingency plan is tested, at a minimum once a year and that results of the test are reviewed so that corrective action can be initiated, if needed.



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Independent Auditor's Report on Compliance with Laws and Regulations

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB) as of and for the year ended September 30, 2017, and have issued our report thereon dated November 6, 2017. We conducted our audit in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*.

The management of NLRB is responsible for complying with laws and regulations applicable to NLRB. We performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in the Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*, including the requirements referred to in the Federal Managers' Financial Integrity Act of 1982 (FMFIA). We limited our tests of compliance to these provisions, and we did not test compliance with all laws and regulations applicable to NLRB.

The results of our tests of compliance with applicable laws and regulations, and government-wide policies, described in the preceding paragraph identified instances of noncompliance that are required to be reported under *Government Auditing Standards* or OMB guidance, and are described in the following paragraphs.

The head of each Federal agency is responsible for providing information security protection commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems, as described in the Federal Information Security Modernization Act (FISMA) of 2014 (PL 113-283, 44 USC 3554)¹. Additionally, agency heads are responsible for reporting on the adequacy and effectiveness of the information security policies, procedures, and practices of their enterprise. FISMA requires Federal agencies to improve the security of Information Technology (IT) systems, applications, and databases. Each Federal agency must develop, document, and implement a program to provide security for the data and IT systems that support its operations and assets. The National Institute of Standards and Technology (NIST) develops IT security standards and guidelines for FISMA.

¹ The Federal Information Security Modernization Act of 2014 amends the Federal Information Security Management Act of 2002 to: (1) reestablish the oversight authority of the Director of the Office of Management and Budget (OMB) with respect to agency information security policies and practices, and (2) set forth authority for the Secretary of the Department of Homeland Security to administer the implementation of such policies and practices for information systems.

Independent Auditor's Report on Compliance with Laws and Regulations
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The NLRB security controls were not effectively monitored or adequately documented, and system assessments and authorizations were not performed in accordance with Federal standards. The NLRB did not have adequate policies and procedures to ensure information system security due to the lack of management oversight over the security management program. The NLRB relied on outdated policies, to include policies dating back to 2003 that did not incorporate the most current NIST requirements. While the NLRB had begun to create some policies and procedures that conform to NIST Special Publication (SP) 800-53 Revision 4, they were still either in draft format or have not been started at all.

NIST SP 800-53, Revision 4 also requires that an organization develop and test a Contingency Plan annually. However, the NLRB did not have an overall Contingency Plan nor an Information System Contingency Plan and without a plan in place, no testing has been performed. The NLRB did not develop, approve, and disseminate Contingency Planning policies and procedures that provided guidance in the development and testing of a Contingency Plan.

Providing an opinion on compliance with certain provisions of laws and regulations and government-wide policies was not an objective of our audit, and accordingly, we do not express such an opinion.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.



November 6, 2017
Alexandria, VA

NLRB RESPONSE TO AUDIT REPORT



UNITED STATES NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE CHIEF FINANCIAL OFFICER

November 3, 2017

TO: David P. Berry, Inspector General

FROM: Mehul Parekh, Chief Financial Officer

SUBJECT: Response to the Audit of the National Labor Relations Board Fiscal Year 2017 Financial Statements

This letter is in response to the audit reports addressing the National Labor Relations Board (NLRB or Agency) Fiscal Year (FY) 2017 Financial Statements. The Agency has reviewed these reports including their findings and recommendations, and appreciates the opportunity to provide this response.

The auditor's opinion and determination confirmed that our financial statements represent fairly, in all material respects, the financial position of the NLRB as of September 30, 2017. We are pleased to see that the audit reflects the results that the Agency has achieved in meeting the goals set for FY 2017. The Office of the Chief Financial Officer continues to make progress in documenting its processes and procedures.

We have also reviewed your findings related primarily to computer system security procedures. As further discussed below, the Agency is committed to resolving in a diligent and effective manner the audit report's findings in this area, including issues relating to information technology policies and procedures, a FY 2017 security assessment, contractor oversight, security awareness training, contingency planning and testing for mission functions. In the Agency's view, these issues do not rise to the level of a material weakness although the Agency recognizes its responsibility to address all relevant concerns, and we provide the following additional information and observations.

The audit reports acknowledge that the Agency has a variety of sound practices in place regarding information technology policies and procedures, and the audit reports find that the Agency is updating these policies and procedures. In particular, the Agency had adopted an open Plan of Action and Milestones (POAM) for the purpose of updating NIST SP 800-53, Revision 4 control families. However, implementation of this Plan remains incomplete because of budgetary constraints, resource limitations, and competing priorities, especially those associated with the ongoing operation and maintenance of the Agency's information systems. We expect that significant steps towards completing the implementation of this POAM will occur in the current fiscal year, including effective documentation regarding relevant approvals and implementation.

With regard to the FY 2017 security assessment described in the audit report, the Office of the Chief Information Officer (OCIO) had adopted an open POAM to update control PM-1,



UNITED STATES NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE CHIEF FINANCIAL OFFICER

APPM IT-1 Computer Security Program Information Systems Security Policy (Infosysec), and security personnel in the OCIO were aware of this Plan, and there remain further efforts to address these issues based on staff and organizational restructuring and synchronizing a policy update with DHS's Continuous Diagnostics and Mitigation program. The Agency agrees with the recommendation to obtain an independent assessor to perform tests of effectiveness according to NIST SP 800-53A, and the Agency will ensure there is no conflict of interest associated with the procurement of such services.

With regard to contractor oversight and security awareness training, there is no guidance from NIST that training for contractors be tracked independently of any other type of user; and all system users are subject to our security awareness training program because the program is tied to the possession of a network account. For every new employee/contractor, the Associate CIO for Information Assurance and the Information Assurance analyst (not administrative offices) are responsible for initiating and documenting Cybersecurity Awareness training and annual refresher training. In subsequent audits, the Agency will ensure that the auditors receive relevant documentation regarding these types of training for all system users. The Agency continually assesses the performance of our personnel in all areas, and agrees with the recommendation that the Agency engage in an assessment within the OCIO, particularly as it relates to those individuals responsible for IT security functions.

As to contingency planning and testing, the Agency believes it is important to recognize that prior financial statement audits have found that the Agency's disaster recovery planning and exercise were sufficient. However, the Agency agrees it would be an improvement to formulate an overall contingency plan addressing all NLRB systems (including the Agency's financial, payroll, backpay and LAN/WAN systems), including regular testing and review of results. Thus, the Agency recently completed the development of such an overall contingency plan.

The Agency appreciates the significant work associated with these audits and the Agency remains committed to the continued refinement and improvement of processes, procedures, and policies to address the auditor's recommendations.

A handwritten signature in black ink, appearing to read "Mehul Parekh".

Mehul Parekh, Chief Financial Officer

PRINCIPAL FINANCIAL STATEMENTS

AUDITOR'S REPORTS AND PRINCIPAL FINANCIAL STATEMENTS

National Labor Relations Board Balance Sheets As of September 30, 2017 and 2016 (in dollars)

	FY 2017	FY 2016
Assets		
Intragovernmental:		
Fund Balance with Treasury	\$ 32,131,938	\$ 33,481,817
Advances and Prepayments	44,142	54,966
Total Intragovernmental Assets	32,176,080	33,536,783
Assets with the Public		
Accounts and Interest Receivable (Note 5)	561,270	580,644
Advances and Prepayments (Note 4)	26,993	39,704
General Property, Plant, and Equipment (Note 6)	8,001,009	10,599,628
Total Assets	\$ 40,765,352	\$ 44,756,759
Liabilities		
Intragovernmental:		
Accounts Payable	\$ 968,370	\$ 3,137,289
Employer Contributions & Payroll Taxes Payable	4,996,992	4,981,491
FECA Liabilities	280,211	360,287
Total Intragovernmental	6,245,573	8,479,067
Liabilities with the Public		
Accounts Payable	4,281,224	3,558,843
Fed Employee Benefits - FECA Actuarial Liability	665,017	1,023,443
Unfunded Annual Leave	13,709,025	14,373,772
Employer Contributions and Payroll Taxes Payable	3,045,088	3,288,248
Total Liabilities	27,945,927	30,723,373
Net Position:		
Unexpended Appropriations	19,008,616	18,677,832
Cumulative Results of Operations	(6,189,191)	(4,644,446)
Total Net Position	12,819,425	14,033,386
Total Liabilities and Net Position	\$ 40,765,352	\$ 44,756,759

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

National Labor Relations Board
Statements of Net Cost
For the Years Ended September 30, 2017 and 2016
(in dollars)

	FY 2017	FY 2016
Program Costs:		
Resolve Unfair Labor Practices		
Net Cost	\$ 258,803,391	\$ 261,267,855
Resolve Representation Cases		
Net Cost	31,627,976	31,076,170
Total:		
Costs	290,431,367	292,344,025
Net Cost of Operations	\$ 290,431,367	\$ 292,344,025

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

National Labor Relations Board
Statements of Changes in Net Position
For the Years Ended September 30, 2017 and 2016
(in dollars)

	FY 2017	FY 2016
Cumulative Results of Operations:		
Beginning Balances	\$ (4,644,446)	\$ (5,175,108)
Adjustments:		
Correction of Errors	0	598,849
Beginning Balance, as Adjusted	(4,644,446)	(4,576,259)
Budgetary Financing Sources:		
Appropriations Used	272,517,753	272,495,326
Non-Exchange Revenue	0	(52,838)
Transfers In/Out without Reimbursement	0	(438,099)
Other Financing Sources (Non-Exchange):		
Imputed Financing	16,368,869	20,271,449
Total Financing Sources	288,886,622	292,275,838
Net Cost of Operations	(290,431,367)	(292,344,025)
Net Change	(1,544,745)	(68,187)
Cumulative Results of Operations	(6,189,191)	(4,644,446)
Unexpended Appropriations		
Beginning Balance	18,677,832	19,552,843
Adjustments:		
Correction of Errors	0	(601,471)
Beginning Balance, as Adjusted	18,677,832	18,951,372
Budgetary Financing Resources:		
Appropriations Received	274,224,000	274,224,000
Appropriations Used	(272,517,753)	(272,495,326)
Other Adjustments	(1,375,463)	(2,002,214)
Total Budgetary Financing Sources	330,784	(273,540)
Total Unexpended Appropriations	19,008,616	18,677,832
Net Position	\$ 12,819,425	\$ 14,033,386

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

**National Labor Relations Board
Statements of Budgetary Resources
For the Years Ended September 30, 2017 and 2016
(in dollars)**

	FY 2017	FY 2016
Budgetary Resources:		
Unobligated Balance, Brought Forward, Oct 1:	\$ 5,822,433	\$ 4,861,067
Recoveries of Prior Year Unpaid Obligations	5,344,164	3,705,771
Other Changes in Unobligated Balance	(1,286,684)	(1,823,942)
Unobligated balance from Prior Year Budget Authority, Net	9,879,913	6,742,896
Appropriations	274,224,000	274,224,000
Total Budgetary Resources (Note 14)	\$ 284,103,913	\$ 280,966,896
Status of Budgetary Resources:		
New Obligations and Upward Adjustments	\$ 277,450,230	\$ 275,144,463
Unobligated Balance, End of Year:		
Apportioned	916,478	602,325
Unapportioned	5,737,205	5,220,108
Total Unobligated Balance, End of Year	6,653,683	5,822,433
Total Budgetary Resources	\$ 284,103,913	\$ 280,966,896
Change in Obligated Balance		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, Oct 1 (Gross)	\$ 27,658,841	\$ 27,746,693
New Obligations and Upward Adjustments	277,450,230	275,144,463
Outlays (Gross)	(274,287,194)	(271,526,544)
Recoveries of Prior Year Unpaid Obligations	(5,344,164)	(3,705,771)
Unpaid Obligations, End of Year (Gross)	25,477,713	27,658,841
Memorandum (Non-add) Entries:		
Obligated Balance, Start of Year (Net)	\$ 27,658,841	\$ 27,746,693
Obligated Balance, End of Year (Net)	\$ 25,477,713	\$ 27,658,841
Budget Authority and Outlays, Net		
Budget Authority, Gross	\$ 274,224,000	\$ 274,224,000
Actual Offsetting Collections	(88,779)	(178,272)
Budget Authority, Net	\$ 274,135,221	\$ 274,045,728
Outlays, Gross	274,287,194	271,526,544
Actual Offsetting Collections	(88,779)	(178,272)
Outlays, Net	274,198,415	271,348,272
Agency Outlays, Net	\$ 274,198,415	\$ 271,348,272

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

NOTES TO PRINCIPAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. The NLRB's jurisdiction includes the U.S. Postal Service; but other government entities, railroads, and airlines are not within the NLRB's jurisdiction. The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. The NLRB does this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The NLRB has two principal functions: (1) to determine and implement, through secret ballot elections, free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices (ULP), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP charges before Administrative Law Judges (ALJ), whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.

B. Basis of Accounting and Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position, and budgetary resources of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the records of the NLRB in accordance with generally accepted accounting principles (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements, revised as of August 15, 2017*. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal government. These financial statements present proprietary and budgetary information.

The Balance Sheet presents agency assets and liabilities, and the difference between the two, which is the agency's net position. Agency assets include both entity assets – those which are available for use by the agency – and non-entity assets – those which are managed by the agency but not available for use in its operations. Agency liabilities include both those covered by budgetary resources (funded) and those not covered by budgetary resources (unfunded). A note disclosure is required to provide information about its fiduciary activities.

The Statement of Net Cost presents the gross costs of programs, reported by program and for the Agency as a whole.

The Statement of Changes in Net Position reports beginning balances, budgetary and other financing sources, and net cost of operations, to arrive at ending balances.

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. Recognition and measurement of budgetary information reported on this statement is based on budget terminology, definitions, and guidance in OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, dated August 1, 2017.

The Agency is required to be in substantial compliance with all applicable accounting principles and standards established, issued, and implemented by the FASAB, which is recognized by the American Institute of Certified Public Accountants (AICPA) as the entity to establish GAAP for the Federal government. The Federal Financial Management Integrity Act (FFMIA) of 1996 requires the Agency to comply substantially with (1) federal financial management systems requirements, (2) applicable federal accounting standards, and (3) the United States Standard General Ledger (USSGL) at the transaction level. Since the Agency is not a CFO Act agency, it is not subject to FFMIA. The Agency uses the Department of Interior's financial management system and that system is FFMIA compliant. Thus, the Agency's financial management system complied with the requirements of FFMIA and produced records in accordance with USSGL at the transaction level.

The financial statements should be read with the realization that they are for a component of the United States Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources and legal authority to do so.

The accounting structure of federal agencies is designed to reflect both accrual and budgetary accounting transactions. Under the accrual

method of accounting, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. The budgetary accounting principles, on the other hand, are designed to recognize the obligation of funds according to legal requirements, which in many cases is prior to the occurrence of an accrual based transaction. The recognition of budgetary accounting transactions is essential for compliance with legal constraints and controls over the use of federal funds.

The information as presented on the Statement of Net Cost is based on the programs below:

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. If the NLRB Regional Office believes that a charge has merit, it issues and prosecutes a complaint against the charged party, unless settlement is reached. A complaint that is not settled or withdrawn is tried before an ALJ, who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial body, deciding cases on the basis of the formal trial record according to the law and the body of case law that has been developed by the Board and the federal courts.

Representation Cases are initiated by the filing of a petition by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents, or in some cases continues to represent, a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency is to investigate the petition and,

if necessary, conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the NLRA.

All cases are assigned unique tracking numbers, with the letter “C” designating Unfair Labor Practices cases, and the letter “R” designating Representation cases. The percentage of new cases filed for each type of case drives the program breakout for financial reporting purposes. Please see chart below with the calculations for FY 2017 and FY 2016, through September 30.

	FY 2017	FY 2016
	Percentage	Percentage
C Cases (Unfair Labor Practices)	89%	89%
R Cases (Representation)	11%	11%
	100%	100%

C. Budgets and Budgetary Accounting

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

Budgetary accounting measures appropriation and consumption of budget/spending authority and facilitates compliance with legal constraints and controls over the use of federal funds. Under budgetary reporting principles, budgetary resources are consumed at the time an obligation to pay is made. Only those liabilities for which

valid obligations have been established are considered to consume budgetary resources.

D. Financing Sources

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

For accounting purposes, appropriations are recognized as financing sources, and as appropriations used at the time expenses are accrued. Appropriations expended for general property, plant and equipment are recognized as expenses when the asset is consumed in operations (depreciation and amortization).

E. Fund Balance with the Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by Treasury, and the agency’s records are reconciled with those of Treasury. Funds with Treasury represent the NLRB’s right to draw on the Treasury for allowable expenditures.

In addition, funds held with Treasury also include escrow funds that are not appropriated but are fiduciary in nature. The fiduciary funds are not recognized on the Balance Sheet.

F. Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and investment, and disposition by the Federal government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal government must uphold. Fiduciary cash and other assets are not assets of the Federal government, and are therefore not recognized on the proprietary financial statements, but are reported on schedules in the notes to the financial

statements. See Statement of Federal Financial Accounting Standards (SFFAS) No. 31, Accounting for Fiduciary Activities.

The fiduciary funds collected by NLRB and held in escrow represent funds that were collected as part of the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. The NLRB collects the funds, and then distributes them to employees, unions, pension funds, or other discriminatees in the settlement. The NLRB has the option to invest funds in Federal government securities, if the funds will remain in escrow for a lengthy period of time. During FY 2017, no fiduciary funds were invested.

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

G. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable typically consists of two types of debts: payroll-related debts due to the NLRB from Agency employees and debts due to the NLRB from third party sources for invitational travel. Accounts receivable are stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year-end.

H. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, bulk purchases, computer hardware and software, and leasehold improvements.

Personal Property. Personal property costing \$15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. Bulk purchases of large quantities of property that would otherwise fall under the individual capitalization threshold are capitalized if the total purchase is \$100,000 or more. Other property items are expensed when purchased. Expenditures for repairs and maintenance are charged to operating expenses as incurred. The useful life for this category is three to twelve years. There are no restrictions on the use or convertibility of general property, plant and equipment.

Real Property. Real property consists of leasehold improvements on GSA leased space which cost \$100,000 or more. Leasehold improvements are recorded as construction in progress until the Agency has beneficial occupancy of the space, and then the costs are moved to the Leasehold Improvements account for amortization over the remaining life of the lease.

Internal Use Software. Internal use software (IUS) includes purchased commercial off-the-shelf software (COTS), contractor-developed software, and software that was internally developed by Agency employees. IUS is capitalized at cost if the development cost is \$100,000 or more. For COTS software, the capitalized costs include the amount paid to the vendor for the software; for contractor-developed software it includes the amount paid to a contractor to design, program, install, and implement the software. Capitalized costs for internally developed software include the full cost (direct and indirect) incurred during the software development stage. The standard useful life for IUS has been established as three years, in order to most accurately

match expenses with the time period in which the benefits are received from the software. The NLRB uses the straight-line method of amortization.

Primary IUS additions in FY 2017 and FY 2016 were for the Next Generation Case Management System (NXGen). The NXGen project was a multiple year undertaking in which a large portion of the system was rolled out in FY 2011. IUS additionally supports systems such as e-Gov, E-filing, and provides the public with web-based access to NLRB data.

Internal Use Software in Development. Internal use software in development is software that is being developed, but not yet put into production. At the time the software is moved into production the costs will be moved into the IUS account and amortized accordingly, as described above.

I. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets. Non-Entity assets, restricted by nature, consist of miscellaneous receipt accounts. The miscellaneous receipts represent court fines and fees collected for Freedom of Information Act (FOIA) requests that must be transferred to the Treasury at the end of each fiscal year.

J. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by the NLRB absent an appropriation. Liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

K. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity.

Intragovernmental

The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of the NLRB which had not been billed or paid by the NLRB as of September 30, 2017 and 2016, respectively.

Federal Employees Workers' Compensation Program

The Federal Employees Compensation Program (FECA) provides income and medical cost protection to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by DOL, which pays valid claims and subsequently seeks reimbursement from the NLRB for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by DOL but not yet reimbursed by the NLRB. The NLRB reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a two- to three-year time period between payment by DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the

actual claims paid by DOL and to be reimbursed by the NLRB.

The second component is the estimated liability for future benefit payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. The NLRB determines this component annually, as of September 30, using a method that considers historical benefit payment patterns.

Due to the small number of claimants, the NLRB uses the methodology of reviewing the ages of the claimant on a case-by-case basis to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 84.3 and 86.6 years for male and female, respectively.

Accrued Annual Leave

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

L. Contingencies

The criteria for recognizing contingencies for claims are:

1. a past event or exchange transaction has occurred as of the date of the statements;
2. a future outflow or other sacrifice of resources is probable; and
3. the future outflow or sacrifice of resources is measurable (reasonably estimated).

The NLRB recognizes material contingent liabilities in the form of claims, legal action, administrative proceedings and suits that have been brought to the attention of legal counsel, some of which will be paid by the Treasury Judgment Fund. It is the opinion of management and legal counsel that the ultimate resolution of these proceedings, actions and claims, will not

materially affect the financial position or results of operations.

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported; where no cost is more likely than any other, the lowest possible cost in the range is reported. This item will normally be paid from appropriated funds.

M. Unexpended Appropriations

Unexpended appropriations represent the amount of the NLRB's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated or is unobligated and has not lapsed, been rescinded, or withdrawn.

N. Annual, Sick, and Other Leave *Annual and Sick Leave Program.*

Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Annual leave earned but not taken, within established limits, is funded from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

O. Life Insurance and Retirement Plans *Federal Employees Group Life Insurance (FEGLI) Program.*

Most NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain "basic life" term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met.

The Office of Personnel Management (OPM) administers this program and is responsible for the reporting of liabilities. For each fiscal year, OPM calculates the U.S. Government's service cost for the post-retirement portion of the basic life coverage. Because the NLRB's contributions to the basic life coverage are fully allocated by OPM to the pre-retirement portion of coverage, the NLRB has recognized the entire service cost of the post-retirement portion of basic life coverage as an imputed cost and imputed financing source.

Retirement Programs.

The NLRB employees participate in one of two retirement programs, either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees Retirement System (FERS), a defined benefit and contribution plan. On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most of the NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS. The NLRB contributes a matching contribution equal to 7 percent of pay for CSRS employees.

FERS consists of Social Security, a basic annuity plan, and the Thrift Savings Plan. The Agency and the employee contribute to Social Security and the basic annuity plan at rates prescribed by law. In addition, the Agency is required to contribute to the Thrift Savings Plan a minimum of 1 percent per year of the basic pay of employees covered by this

system and to match voluntary employee contributions up to 3 percent of the employee's basic pay, and one-half of contributions between 3 percent and 5 percent of basic pay. The maximum amount of base pay that an employee participating in FERS may contribute is \$18,000 in calendar year (CY) 2017 to this plan. Employees belonging to CSRS may also contribute up to \$18,000 of their salary in CY 2017 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2017 is \$6,000. For CY 2017, the regular and catch-up contributions may not exceed \$24,000. The sum of the employees' and the NLRB's contributions are transferred to the Federal Retirement Thrift Investment Board. For FERS employees, the Agency also contributes the employer's share of Medicare.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employees government-wide, including the NLRB employees. The NLRB has recognized an imputed cost and imputed financing source for the difference between the estimated service cost and the contributions made by the NLRB and covered CSRS employees.

The NLRB does not report on its financial statements FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. Reporting such amounts is the responsibility of OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with SFFAS No.4, Managerial Cost Accounting Concepts and Standards for the Federal Government, included in the

NLRB's financial statements as an imputed financing source.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits (FEHB) and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS No. 4, Managerial Cost Accounting Concepts and Standards for the Federal government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future, and provide these factors to the agency for current period expense reporting. Information was also provided by OPM regarding the full cost of health and life insurance benefits.

As of year ended September 30, 2017, the NLRB, utilizing OPM provided cost factors, recognized \$5,426,278 of pension expenses, \$10,916,004 of post-retirement health benefits expenses, and \$26,587 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$16,368,869 as an imputed financing source to the extent that these Intragovernmental expenses will be paid by OPM. In comparison, in FY 2016, the NLRB recognized \$7,008,181 of pension expenses, \$13,235,881 of post-retirement health benefits expenses, and \$27,387 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$20,271,449 as an imputed financing source from OPM.

P. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (GSA) and commercial copier leases. NLRB leases all buildings through GSA. The NLRB pays GSA a standard level users charge for the annual leases, which approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, and it does not record GSA-owned properties as assets. The real property leases are for NLRB's Headquarters and Regional Offices, and the personal property leases are for Fleet vehicles and copiers.

Q. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the NLRB's operations.

R. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with GAAP requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

S. Tax Status

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

T. Subsequent Events

Subsequent events and transactions occurring after September 30, 2017 through the date of the auditor’s opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors’ opinion also represents the date that the financial statements were available to be issued.

Note 2. Fund Balance with Treasury

Treasury performs cash management activities for all federal agencies. NLRB’s Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2017 and September 30, 2016 consists of the following:

(in whole dollars)	FY 2017	FY 2016
Entity Fund Balance with Treasury	\$ 32,131,938	\$ 33,481,817
Non-Entity Fund Balance with Treasury	0	52,838
Total	\$ 32,131,938	\$ 33,534,655

Fund Balance with Treasury by Fund Type:

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior fiscal years, which are not available to fund new obligations.

The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received but for which payment has not yet been made.

Obligated and unobligated balances reported for the status of Fund Balance with Treasury do not agree with obligated and unobligated balances reported on the Statement of Budgetary Resources because the Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts (non-entity).

Status of Fund Balance with Treasury as of September 30, 2017 and September 30, 2016 consists of the following:

Fund Balance with Treasury by Availability:

(in whole dollars)	FY 2017	FY 2016
Unobligated Balance		
Available	\$ 916,478	\$ 602,325
Unavailable	5,737,205	5,220,108
Obligated balance not yet disbursed	25,478,255	27,659,384
Non-budgetary fund balance with Treasury	0	52,838
Total	\$ 32,131,938	\$ 33,534,655

Note 3. Fiduciary Activities

Backpay funds are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. NLRB holds these funds in an escrow account with Treasury and may invest the funds in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of the Fiscal Service.

Schedule of Fiduciary Activity
As of September 30, 2017 and 2016

(in whole dollars)	FY 2017	FY 2016
Fiduciary net assets, beginning of the year	\$ 2,071,873	\$ 4,542,870
Fiduciary revenues	2,505,326	10,115,627
Investment earnings	0	0
Disbursements to and on the behalf of beneficiaries	(2,060,920)	(12,586,624)
Increase (Decrease) in fiduciary net assets	\$444,406	\$ (2,470,997)
Fiduciary net assets, end of year	\$ 2,516,279	\$ 2,071,873

Note 4. Advances Intragovernmental

Intragovernmental Advances were paid to the Department of Transportation for the employee transit subsidy program.

Non-Federal

Non-Federal Advances were paid for postage meter funding.

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

The FY 2017 intragovernmental accounts receivable is zero and the FY 2016 amount was zero.

(in whole dollars)	FY 2017	FY 2016
With the public		
Accounts receivable	\$ 640,865	\$ 616,016
Allowance doubtful accounts	(79,595)	(35,372)
Accounts receivable, net	\$ 561,270	\$ 580,644

Note 6. General Property, Plant and Equipment

General property, plant, and equipment consists of that property which is used in operations and consumed over time. The table below summarizes the cost and accumulated depreciation for general property, plant and equipment.

FY 2017 (in whole dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Equipment	\$ 3,165,758	\$ 2,757,255	\$ 408,503
Construction in Progress	122,378	0	122,378
Leasehold Improvements	5,705,106	1,238,917	4,466,189
Internal Use Software (IUS)	35,493,985	32,490,046	3,003,939
IUS in Development	0	0	0
Totals	\$ 44,487,227	\$ 36,486,218	\$ 8,001,009

FY 2016 (in whole dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Equipment	\$ 3,165,758	\$ 2,184,791	\$ 980,967
Construction in Progress	115,164	0	115,164
Leasehold Improvements	5,551,554	676,084	4,875,470
Internal Use Software (IUS)	34,094,533	29,493,399	4,601,134
IUS in Development	26,893	0	26,893
Totals	\$ 42,953,902	\$ 32,354,274	\$ 10,599,628

Note 7. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents court fines and fees collected for Freedom of Information Act requests that must be transferred to the Treasury at the end of each fiscal year.

The composition of liabilities not covered by budgetary resources as of September 30, 2017 and September 30, 2016, is as follows:

(in whole dollars) Intragovernmental	FY 2017	FY 2016
FECA-Unfunded	\$ 280,211	\$ 360,287
Total Intragovernmental	280,211	360,287
Estimated Future FECA	665,017	1,023,443
Accrued Annual Leave	13,709,025	14,373,772
Total Liabilities not covered by budgetary resources	14,654,253	15,757,502
Total Liabilities covered by budgetary resources	13,291,674	14,965,871
Total Liabilities	\$ 27,945,927	\$ 30,723,373

Note 8. Non-Entity Assets

Non-Entity assets represent miscellaneous receipts collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court fines and fees collected for Freedom of Information Act requests that must be transferred to the Treasury at the end of each fiscal year.

The composition of non-entity assets as of September 30, 2017 and September 30, 2016, is as follows:

(in whole dollars)	FY 2017	FY 2016
Non-Entity Assets		
Fund Balance with Treasury	\$ 0	\$ 52,838
Accounts Receivable	0	0
Entity assets	40,765,352	44,756,759
Total Assets	\$ 40,765,352	\$ 44,809,597

Additionally, NLRB received a remainder interest in Florida real estate valued at approximately \$46,000 as part of a ULP case settlement. This asset is not included in the table above.

Note 9. Cumulative Results of Operations

(in whole dollars)	FY 2017	FY 2016
FECA paid by DOL	\$ (93,319)	\$ (139,608)
FECA – Unfunded	(280,211)	(360,287)
Estimated Future FECA	(665,017)	(1,023,443)
Accrued Annual Leave	(13,709,025)	(14,373,772)
General Property, Plant & Equipment, Net	8,001,009	10,599,628
Other	557,372	653,036
Cumulative Results of Operations	\$ (6,189,191)	\$ (4,644,446)

Note 10. Intragovernmental Costs and Exchange Revenue

For the intragovernmental costs, the buyer and seller are both federal entities. The earned revenue is the reimbursable costs from other federal entities. The NLRB has the authority to provide administrative law judges’ services to other federal entities. There is no exchange revenue with the public.

(in whole dollars)	FY 2017	FY 2016
Resolve Unfair Labor Practices		
Intragovernmental Costs	\$56,355,119	\$63,752,796
Costs with the Public	202,448,272	197,515,059
Total Net Cost – Resolve Unfair Labor Practices	\$258,803,391	\$261,267,855
Resolve Representation Cases		
Intragovernmental Costs	\$6,887,075	\$7,582,995
Costs with the Public	24,740,901	23,493,175
Total Net Cost – Resolve Representation Cases	\$31,627,976	\$31,076,170
Net Cost of Operations	\$290,431,367	\$292,344,025

Note 11. Operating Leases

GSA Real Property. NLRB’s facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of NLRB’s occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA or rented by GSA from the private sector. The NLRB has OAs with GSA, which sets forth terms and conditions for the space the Agency

will occupy for an extended period of time. Included within the OAs are 120 to 180 day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, federally-owned leases are included in years FY 2018 through FY 2023.

Rental expenses for operating leases for the year ended September 30, 2017 were \$22,495,903 for Agency lease space and \$2,510,967 for Agency building security. For FY 2016 the operating lease costs were \$17,647,789 and the Agency building security portion was \$2,872,233.

Future Space Lease Payments

(in whole dollars) Fiscal Year	GSA Real Property Cost
2018	22,744,689
2019	24,728,509
2020	25,332,637
2021	25,839,290
2022	26,356,076

Future Fleet Lease Payments

The future fleet payments reflect the expense for 31 vehicles used for official NLRB business throughout the United States. Expenses for the fleet vehicles for the year ended September 30, 2017 were \$121,711; for FY 2016 the costs were \$117,910.

(in whole dollars) Fiscal Year	GSA Fleet Cost
2018	100,000
2019	103,000
2020	106,090
2021	109,273
2022	112,551

Future Copier Lease Payments

The commercial copier rental expense reflects lease contracts for copy machines located at the NLRB Headquarters and Field Offices. For FY 2017 the commercial copier yearly contract is \$438,534; for FY 2016 the cost was \$451,940.

(in whole dollars) Fiscal Year	Copier Lease Cost
2018	453,838
2019	467,453
2020	481,477
2021	495,921
2022	510,799

Note 12. Imputed Financing Costs

OPM pays pension and other future retirement benefits on behalf of federal agencies for federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other federal agencies at September 30, 2017 and 2016 consisted of:

(in whole dollars)	FY 2017	FY 2016
Office of Personnel Management:		
Pension expenses	\$ 5,426,278	\$ 7,008,181
Federal employees health benefits	10,916,004	13,235,881
Federal employees group life insurance program	26,587	27,387
Total Imputed Financing	\$ 16,368,869	\$ 20,271,449

Note 13. Appropriations Received

The NLRB received \$274,224,000 in warrants for both fiscal years ended September 30, 2017 and 2016.

Note 14. Statement of Budgetary Resources

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity’s budgetary general ledger in accordance with budgetary accounting rules that are incorporated into GAAP for the Federal government. The total Budgetary Resources of \$284,103,913 as of September 30, 2017 and \$280,966,896 as of September 30, 2016, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. The amount of budgetary

resources obligated for unpaid delivered and undelivered orders was \$25,477,713 for FY 2017 and \$27,658,841 for FY 2016. The NLRB’s apportioned unobligated balance available at September 30, 2017 was \$916,478 and at September 30, 2016 was \$602,325.

Apportionment Categories of New Obligations and Upward Adjustments.

NLRB’s new obligations and upward adjustments as of September 30, 2017 and September 30, 2016 by apportionment Category A and B are shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects or a combination of these categories. OMB does not require the Agency to separate its funding and therefore all obligations incurred were from one funding category.

(in whole dollars)	FY 2017	FY 2016
New Obligations and Upward Adjustments:		
Direct	\$ 277,450,230	\$ 275,144,463
Reimbursable	0	0
Total New Obligations and Upward Adjustments	\$ 277,450,230	\$ 275,144,463

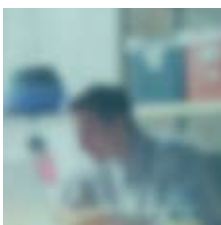
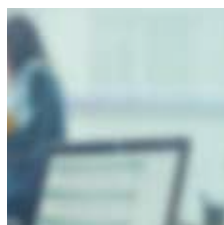
Note 15. Reconciliation of Net Cost of Operations to Budget

For the Month Ended September 30, 2017 and 2016		
(in whole dollars)	FY 2017	FY 2016
Resources Used to Finance Activities		
Current Year Gross Obligations	\$ 277,450,230	\$ 275,144,463
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Earned		
Collected	(88,779)	(178,272)
Recoveries of Prior Year Unpaid Obligations	(5,344,164)	(3,705,771)
Other Financing Resources		
Imputed Financing Sources	16,368,869	20,271,449
Total Resources Used to Finance Activity	\$ 288,386,156	\$ 291,531,869
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources not in the Net Cost of Operations		
Change in Undelivered Orders	(1,307,427)	(2,288,343)
Current Year Capitalized Purchases	(165,806)	(694,317)
Components of the Net Cost of Operations which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect		
Other Financing Sources Not in the Budget	(16,368,869)	(20,271,449)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	4,144,382	4,038,919
Disposition of Assets	99,511	0
Future Funded Expenses	(744,823)	270,105
Imputed costs	16,368,869	20,271,449
Bad Debt Expense	44,223	8,970
Other Expenses Not Requiring Budgetary Resources	(24,849)	(523,178)
Net Cost of Operations	\$ 290,431,367	\$ 292,344,025



OTHER INFORMATION

**PROTECTING DEMOCRACY IN
THE WORKPLACE SINCE 1935**



INSPECTOR GENERAL'S TOP PERFORMANCE & MANAGEMENT CHALLENGES

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 5, 2017

To: Board and General Counsel

From: David Berry
Inspector General

A handwritten signature in black ink, appearing to read "David Berry".

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General is required by section 3516 of title 31 to summarize what the Inspector General considers to be the most serious management and performance challenges facing the Agency and briefly assess its progress in addressing those challenges. This memorandum fulfills that requirement. The information provided in this report is based upon our reviews and investigations, as well as our general knowledge of the National Labor Relations Board's (NLRB or Agency) operations.

For the purpose of this report, an item can be noted as a management or performance challenge even though it is not a deficiency or within the control of the Agency. In our prior year's memorandum, we identified five management and performance challenges.

CHALLENGES

Manage the Agency

In prior reports, I categorized the challenges into specific items and provided a brief explanation of the specific issues. Although this reporting method meets the statutory requirement, last year I decided that method was not capturing an overarching challenge that this Agency faces.

Because of the technical expertise required to administer the enforcement of the National Labor Relations Act (NLRA), the NLRB tends to promote its employees to management rather than recruiting seasoned managers from outside. As a result, the NLRB's management team is dominated by attorneys and examiners. Those individuals are generally smart and well-intentioned public servants who time and again demonstrate a true commitment to enforcing the NLRA, but they are not always effective managers or leaders. There are exceptions to this tendency, but they are rare and generally follow an effort at restructuring, such as when the Office of the Chief Financial Officer (OCFO) was created, or in the hiring in administrative areas such as Human Resources.

Our audit reports and investigative activity over the last several years draw into focus a significant management challenge. In order for the Board or General Counsel, the NLRB's governance structure, to ensure that the Agency is properly managed, there must be sufficient internal controls and processes to ensure that the controls are implemented and that they are operating as intended. Our audits and investigations continue to have findings of instances of failures in the internal control processes at the NLRB that result from either the lack of a control, disregard for the implementation of established controls, or the failure to properly supervise employees. This lack of effective management puts at risk the NLRB's ability to meet its basic mission.

Manage the Agency's Financial Resources

Both the FY 2010 and FY 2011 audits of the financial statements contained a finding by the independent auditing firm that there was a significant deficiency in internal control. Although the findings were largely related to problems in the procurement process, our audit of end-of-the-year spending demonstrated that there was a lack of sound budgeting and planning processes that are essential to proper fiscal management.

In July 2012, the Board created the OCFO, implementing the final recommendation of the FY 2010 audit of the financial statements. That office now oversees the budget, procurement, and payment processes.

The creation of the OCFO was not a quick fix. The *Audit of the NLRB Fiscal Year 2014 Financial Statements* found both a material weakness and two matters that were each a significant deficiency in internal control. The *Audit of the NLRB Fiscal Year 2015 Financial Statements* found that the matter identified as a material weakness was not fully remediated and continued as a significant deficiency, but the other two matters were remediated. The *Audit of the NLRB Fiscal Year 2016 Financial Statements* found that the matter first identified in FY 2014 as a material weakness continued as a significant deficiency through FY 2016, and added a new matter as a significant deficiency.

We are aware that the OCFO took steps during FY 2017 to restructure the staff and address issues related to the sound management of the NLRB's financial resources. We have also observed that the Chief Financial Officer is fully engaged in addressing the issues of the prior audits and improving the OCFO's processes. We do, however, remain concerned that the OCFO is not properly staffed to ensure the effective management of the NLRB's financial processes.

Manage the NLRB's Human Capital and Maintain the Agency's Institutional Knowledge

These two challenges are interrelated. The need to maintain a stable and productive workforce is key to the NLRB's ability to fulfill its statutory mission. Factors outside the NLRB's control that may directly affect its ability to maintain a stable and productive

workforce include, but are not limited to, reduced or flat appropriations and the loss of key personnel through retirements.

In our audit work we have, over an extended period of time, observed the loss of institutional knowledge in management practices as new personnel take over key positions. In some circumstances when information about historical practices is available, the context regarding why the practice was developed has been lost with personnel changes. The challenge is to recruit qualified personnel who can improve management practices while understanding the NLRB's past practices.

The hiring freeze that was imposed in the second quarter of FY 2017 and the threat of a significant reduction in the NLRB's appropriation have made the management of human capital a Herculean task. We have observed, both in the Field and at Headquarters, offices that are clearly understaffed. Employees have expressed to us that the level of stress and frustration in the workplace caused by staffing issues was a factor in their decision to leave. This situation feeds upon itself and perpetuates the human capital challenges.

Manage the Agency's Information Technology Security

Our FY 2016 submission for the annual Federal Information Security Management Act (FISMA) security review noted our observation that a significant number of information technology (IT) security procedures were not in place and that most of what the IT security staff was doing was on an ad hoc basis. Overall, the NLRB Office of the Chief Information Officer received a FISMA score of 39 out of 100. During the *Audit of the NLRB Fiscal Year 2017 Financial Statements*, the auditors confirmed our observations.

We remain concerned about the status of the NLRB's IT security. At this time, it is our assessment that the loss of one key IT security employee could result in the collapse of all of the IT security processes. The Chief Information Officer must address this challenge by creating and effectively implementing a system of internal controls that meet the Government-wide IT security requirements.

Implement Audit Recommendations

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 33 open audit recommendations. Since that time, we added 12 and we closed 8. At this time, there are a total of 37 open recommendations. The oldest of the open recommendations is from an audit report issued in FY 2015. A recommendation is not closed until we verify that the implementing action appropriately addressed the issue that necessitated the recommendation.

SUMMARY OF AUDIT AND MANAGEMENT ASSURANCES

I. SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion: Unmodified					
Restatement: No					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
Lack of Information Technology Updated Policies and Procedures	0	1	0	0	1
Lack of Information Technology Contingency Plan and Testing	0	1	0	0	1
Total Material Weaknesses	0	2	0	0	2

II. SUMMARY OF MANAGEMENT ASSURANCES

EFFECTIVENESS OF INTERNAL CONTROL OVER OPERATIONS (FMFIA §2)

Statement of Assurance: Unqualified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

SUMMARY OF MANAGEMENT ASSURANCES (cont'd.)

COMPLIANCE WITH FINANCIAL SYSTEMS REQUIREMENTS (FMFIA §4)

Statement of Assurance: Unqualified						
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0

IMPROPER PAYMENTS INFORMATION ACT

Pursuant to the Improper Payments Information Act (IPIA) of 2002 (Public Law No. 107-300), dated November 26, 2002, and amended on July 22, 2010 by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 (Public Law No. 111-204), and again in 2012 with the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012 (Public Law No. 112-248); Under the Office of Management and Budget's (OMB) Circular A-123; Appendix C guidance, all agencies under the executive branch of the United States are required to comply with IPERIA.

The NLRB has only one program for budget purposes. For FY 2017, \$274,339,845 in disbursements were made, of which payroll, benefits and travel accounted for \$217,180,267, and \$36,000,353 was disbursed in the form of inter-governmental and miscellaneous payments. The NLRB paid \$21,209,225 to vendors, or about 8% of the total disbursements. Based on the agency's current controls, systems and continuous monitoring efforts, the NLRB concluded in FY 2015 that the Salaries and Expenses program is at low risk for improper payments.

The NLRB is committed to minimizing the risk of improper payments and we use a variety of system controls, separation of duties, and other procedures to reduce that risk and to promptly identify any improper payments that might occur. These controls are tested as part of the SSAE 18, A-123, and financial statement audit processes; they are also considered during the annual FMFIA process.

Given these controls, we estimate the improper payments rate to be at most 1.5 percent and the improper payments amount to be no more than \$4,115,098. This level is below the threshold

established by the OMB and therefore does not represent significant improper payments. The NLRB has reasonable assurance that controls over financial and non-financial operations are sufficient. No additional reporting requirements are necessary.

DO NOT PAY (DNP) INITIATIVE

The mission of the Treasury Do Not Pay (DNP) team is to "protect the integrity of the government's payment process by assisting agencies in mitigating and eliminating improper payments in a cost-effective manner while safeguarding the privacy of individuals." The NLRB echoes that sentiment and has made eliminating improper payments one of the agency's financial management priorities. The DNP portal is a multifaceted system that embraces resources from several agency subsystems i.e. Social Security Administration's Death Master File, GSA's System for Award Management (SAM) Exclusion Records as well as Treasury's Treasury Offset Program (TOP). DNP uses this network of systems in order to disseminate to agencies whom should or should not receive public funds in order to reduce or prevent the likelihood of improper payments.

In fiscal year 2017, the DNP portal vetted 10,120 payments for authenticity and validity. The number of payments made amounted to \$23,921,424.18 in disbursements that passed through DNP's network of red flag indicating systems. As a result, DNP identified 1 payment totaling \$51.82 that required further review because of a death record match. DNP did not identify any payments which matched a vendor name on the Excluded Parties List (EPL).

October 2015 - August 2016						
	Number (#) of payments reviewed for improper payments	Dollars (\$) of payments reviewed for improper payments	Number (#) of payments stopped	Dollars (\$) of payments stopped	Number (#) of improper payments reviewed and not stopped	Dollars (\$) of improper payments reviewed and not stopped
Reviews with DMF Public	10,129	\$ 23,921,424.18	N/A	N/A	1	\$ 51.82
Reviews with SAM Exclusions Public	10,120	\$ 23,921,424.18	N/A	N/A	0	\$0

- Payments reviewed for improper payments includes the total number of payments disbursed by the Agency through the PACER payment system minus any payments that were excluded from matching due to (1) a missing or unmatchable TIN (DMF only) or (2) a missing name.
- Payments stopped is currently not applicable since the Do Not Pay matching and adjudication process is based on post payment results.
- Improper payments reviewed and not stopped includes the total number of matches identified by the Do Not Pay Initiative that were adjudicated as proper by the Agency.

FREEZE THE FOOTPRINT

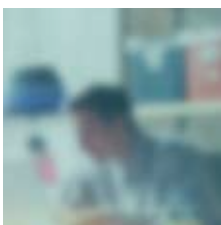
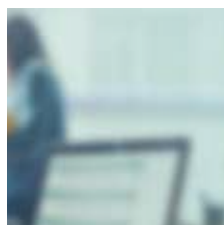
The Agency leases all buildings under occupancy agreements with the GSA, and as such does not provide square footage to the Federal Real Property Profile (FRPP).





APPENDICES

**PROTECTING DEMOCRACY IN
THE WORKPLACE SINCE 1935**



APPENDIX A

ACRONYMS

AAPI	Asian Americans and Pacific Islanders	EVS	Employee Viewpoint Survey
ABA	American Bar Association	FAA	Federal Arbitration Act
ADA	Antideficiency Act	FAR	Federal Acquisition Regulation
ADR	Alternate Dispute Resolution	FASAB	Federal Accounting Standards Advisory Board
ALJ	Administrative Law Judge	FCPIA	Federal Civil Penalties Inflation Adjustment Act
AMB	Acquisitions Management Branch	FFATA	Federal Funding Accountability and Transparency Act
AS	Administrative Systems	FISMA	Federal Information Security Management Act
BMS	Backpay Management System	FMFIA	Federal Managers' Financial Integrity Act
CATS	Case Activity Tracking System	FPB	Facilities and Property Branch
CCSLB	Contempt, Compliance and Special Litigation Branch	FPDS-NG	Federal Procurement Data System – Next Generation
CEP	Cultural Enhancement Program	FPPS	Federal Payroll and Personnel System
CFO	Chief Financial Officer	FRPP	Federal Real Property Profile
CLM	Contract Lifecycle Management	FTR	Federal Travel Regulations
COOP	Continuity of Operations	FY	Fiscal Year
COR	Contracting Officer Representative	GAAP	Generally Accepted Accounting Principles
CPAO	Congressional and Public Affairs Office	GPO	Government Publishing Office
CR	Continuing Resolution	GPRA	Government Performance and Results Act
CWTSato	(Carlson Wagonlit) NLRB's travel Management Service	GPRAMA	Government Performance and Results Modernization Act
Data Act	Digital Accountability and Transparency Act	GSA	General Services Administration
DCIA	Debt Collection Improvement Act	HCPO	Human Capital Planning Officer
DHS	Department of Homeland Security	IAA	Interagency Agreement
DMF	Death Master File	IBC	Interior Business Center
DNP	"Do Not Pay" List	INT	Interest Income
DOJ	Department of Justice	IOC	Indicator of Compromise
DOL	Department of Labor	IPERA	Improper Payments Elimination and Recovery Act
EEO	Equal Employment Opportunity		
EEOC	Equal Employment Opportunity Commission		

IPERIA	Improper Payments Elimination and Recovery Improvement Act	OMB	Office of Management and Budget
IPIA	Improper Payments Information Act	OPA	Office of Public Affairs
ITSM	Information Technology Services Management	OSC	Office of Special Counsel
IUS	Internal Use Software	OSHA	Occupational Safety and Health Administration
IWG	Interagency Working Group	PACER	Payments, Claims and Enhanced Reconciliation
LOA	Letters of Agreement	PAR	Performance and Accountability Report
LVER	Local Veterans Employment Representative Program	PAS	Presidential Appointees with Senate Confirmation
MD&A	Management’s Discussion and Analysis	PD	Position Description
MOU	Memorandum of Understanding	PIF	Presidential Innovation Fellows
NLRA	National Labor Relations Act	QR	Quick Response
NLRB	National Labor Relations Board	SAM	System for Award Management
NxGen	Next Generation Case Management System	SBA	Small Business Administration
OA	Occupancy Agreement	SEPM	Special Emphasis Program Manager
OBIA	Oracle Business Intelligence Application	SES	Senior Executive Service
OBIEE	Oracle Business Intelligence Enterprise Edition	T&A	Time and Attendance
OCFO	Office of the Chief Financial Officer	TIC	Trusted Internet Connection
OCIO	Office of the Chief Information Officer	TIN	Taxpayer Identification Number
OED	Office of Employee Development	TOP	Treasury Offset Program
OEEO	Office of Equal Employment Opportunity	UCC	Unified Communications Contract
OFCCP	Office of Federal Contract Compliance Programs	ULP	Unfair Labor Practice
OGE	Office of Government Ethics	USPS	United States Postal Service
OHR	Office of Human Resources	VRA	Veteran’s Recruitment Appointment
OIG	Office of Inspector General	WH	White House
OLMS	Office of Labor Management Standards	WHD	Wage and Hour Division
		WHIAAPI	White House Initiative on Asian Americans and Pacific Islanders

APPENDIX B

Glossary

Adjudicate: Formal judgment or decision about a disputed matter.

Adversarial: Of a trial or legal procedure in which the parties in a dispute have the responsibility for finding and presenting evidence.

Amicus Curiae: Friend of the court.

Arbitrator: An independent person or body officially appointed to settle a dispute.

Backpay: Payment for work done in the past that was withheld at the time, or for work that could have been done had the worker not been prevented from doing so.

Case: The general term used in referring to a charge or petition filed with the Board. Each case is numbered and carries a letter designation indicating the type of case.

Certiorari: A writ or order by which a higher court reviews a decision of a lower court.

Charge: A document filed by an employee, an employer, a union, or an individual alleging that a ULP has been committed by a union or employer.

Collective Bargaining: Negotiation between organized workers and their employer or employers to determine wages, hours, rules, and working conditions.

Complaint: A document that initiates “formal” proceedings in a ULP case. It is issued by the Regional Director when he or she concludes on the basis of a completed investigation that any of the allegations contained in the charge have merit and the parties have not achieved settlement. The complaint sets forth all allegations and information necessary to bring a case to hearing before an administrative law judge pursuant to due process of law. The complaint contains a notice of hearing, specifying the time and place of the hearing.

Compliance: The carrying out of remedial action as agreed upon by the parties in writing; as recommended by the administrative law judge in the decision; as ordered by the Board in its decision and order; or as decreed by the court.

Consented Election: A Regional Director will hold a prehearing conference to attempt to resolve bargaining unit issues and questions of voter eligibility without having to resort to a full hearing. This type of election eliminates the need for a formal hearing if all parties voluntarily reach an agreement.

Decisions: Data related to decisions by the Board and NLRB Administrative Law Judges.

Deferral: Under certain circumstances, it may be appropriate for a Regional Director to hold up making a determination on the merits of a charge pending the outcome of proceedings on related matters. Such matters may be pending in the parties’ contractual grievance procedure or before the Agency or other Federal, State or local agencies or courts.

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

Directed Election: An election which the Regional Director directs after evidence is presented at a hearing regarding the existence of questions concerning representation and the appropriateness of the bargaining unit sought by the petitioning party.

Expungement: When a first time offender of a prior criminal conviction seeks that the records of that earlier process be sealed, making the records unavailable through the state or Federal repositories.

Formal Action: Formal actions may be documents issued or proceedings conducted when the voluntary agreement of all parties regarding the disposition of all issues in a case cannot be obtained, and where dismissal of the charge or petition is not warranted. Formal actions are those in which the Board exercises its decision-making authority in order to dispose of a case or issues raised in a case. "Formal action" also describes a Board decision and consent order issued pursuant to a stipulation, even though a stipulation constitutes a voluntary agreement.

Gissel Bargaining Order: *Gissel* bargaining orders are orders to bargain with a union that may no longer have majority support because of serious employer ULPs that have poisoned the possibility of a fair election.

Impact Analysis: Provides an analytical framework for classifying cases so as to differentiate among them in deciding both the resources and urgency to be assigned each case. All cases are assessed in terms of their impact on the public and their significance to the achievement of the Agency's mission. The cases of highest priority, those that impact the greatest number of people, are placed in Category III. Depending on their relative priority, other cases are placed in Category II or I.

Injunctive Relief: A temporary remedy sought in case of egregious violations of the Act pending final action by the Board in which Counsel for the General Counsel asks a district court judge to issue an order requiring the charged party to cease and desist from engaging in violations of the Act and may also seek certain affirmative actions in order to return to status quo.

Injunctive Proceedings: The adjudicatory process by which Counsel for the General Counsel seeks injunctive relief, as described directly above, from a district court judge.

Interstate Commerce: In the U.S., any commercial transaction or traffic that crosses state boundaries or that involves more than one state. Government regulation of interstate commerce is founded on the commerce clause of the Constitution (Article I, section 8), which authorizes Congress "To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes."

Investigative Subpoena: Use of a subpoena during a case investigation to ascertain facts on which to base an initial administrative decision regarding the merits of charge allegations in jurisdictional issues.

Litigation: Data related to litigation by Board attorneys in federal court, including petitions for temporary injunctions, defending Board decisions in court, and pursuing enforcement, contempt and compliance actions.

“Make-Whole” Remedy: Offsetting an unlawfully discharged employee’s interim work search expenses against the amount of interim earnings deducted from backpay calculations.

Meritorious Unfair Labor Practice Charge: Charge allegations evidencing statutory violations.

“Mixed-Guard” Union: A union that has both security guards and non-guards as members.

“Nip-in-the Bud” Cases: Cases arising from allegations of unfair labor practices committed during union organizing campaigns.

Overage Case: To facilitate or simplify Impact Analysis, case processing time goals—from the date a charge is filed through the Regional determination—are set for each of the three categories of cases, based on priority. A case is reported “overage” when it is still pending disposition on the last day of the month in which its time target was exceeded. Cases that cannot be processed within the timelines established under the Impact Analysis program for reasons that are outside the control of the Regional Office are not considered to be overage.

P&P Committee: Practice and Procedure Under the NLRA Committee.

Petition: A petition is the official NLRB form filed by a labor organization, employee, or employer. Petitions are filed primarily for the purpose of having the Board conduct an election among certain employees of an employer to determine whether they wish to be represented by a particular labor organization for the purposes of collective bargaining with the employer concerning wages, hours, and other terms and conditions of employment.

Petitioner: The party who presents a petition to the court.

Prosecutorial: Acts related to the process of litigating against a charged party when meritorious charge allegations are found.

Protected Concerted Activity: The National Labor Relations Act (NLRA) protects employees’ rights to engage in protected concerted activities with or without a union, which are usually group activities (two or more employees acting together) attempting to improve working conditions, such as wages and benefits.

Remedies: Data related to remedies obtained to resolve unfair labor practices, including backpay and offers of reinstatement.

Reinstatement: To put back or establish again, as in a former position or state.

Representation Cases: Initiated by the filing of a petition—by an employee, a group of employees, a labor organization acting on their behalf, or in some cases by an employer.

Secret-ballot Elections: A voting method in which voter’s choices in an election or referendum are anonymous, forestalling attempts to influence the voter by intimidation and potential vote buying.

Settlements: A resolution between disputing parties about a legal case, reached either before or after court action begins.

Sua Sponte: A Latin phrase describing an act of authority taken without formal prompting from another party.

Social Media: Various online technology tools that enable people to communicate easily via the Internet to share information and resources. These tools can encompass text, audio, video, images, podcasts, and other multimedia communications.

Status Quo: A Latin phrase meaning the existing state of affairs, particularly with regards to social or political issues.

Statutory: Required, permitted, or enacted by statute.

Stipulated Election: The parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent.

Taft-Hartley Act: The Labor Management Relations Act, better known as the Taft-Hartley Act (enacted June 23, 1947) is a United States federal law that restricts the activities and power of labor unions. The Taft-Hartley Act amended the NLRA, informally the Wagner Act, which Congress passed in 1935.

Temporary Injunction: A court order prohibiting an action by a party to a lawsuit until there has been a trial or other court action, the purpose of which is to maintain the status quo and preserve the subject matter of the litigation until the trial is over.

Unfair Labor Practice (ULP): An unfair labor practice is illegal conduct by either a labor organization or an employer that violates the National Labor Relations Act.

Union: An organized association of workers formed to protect and further their rights and interests.

Withdrawals: Case resolution resulting from a charging party or petitioner deciding to withdraw the filing of an ULP charge or representation case petition.

APPENDIX C

Historical Performance Measures for Goals 1 and 2

Close meritorious (prosecutable) unfair labor practices on compliance within 365 days of the filing of the unfair labor practice charge.

Year	Interim Goal	Actual Performance
FY 2009	75.5%	79.7%
FY 2010	80.0%	84.6%
FY 2011	80.2%	83.2%
FY 2012	80.3%	83.8%
FY 2013	82.0%	82.4%

Resolve all charges of unfair labor practice cases 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.

Year	Interim Goal	Actual Performance
FY 2009	68.5%	71.0%
FY 2010	71.2%	73.3%
FY 2011	71.2%	72.5%
FY 2012	72.0%	72.7%
FY 2013	72.0%	73.3%

Resolve questions concerning representation in all representation cases within 100 days from the filing of the representation case petition.

Year	Interim Goal	Actual Performance
FY 2009	81.0%	84.4%
FY 2010	85.0%	86.3%
FY 2011	85.0%	84.7%
FY 2012	85.2%	84.5%
FY 2013	85.2%	87.4%

Historical Performance Measures for Goals 3 and 4

FY 2014 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies

Objective 1: Initiative 1

- The Division of Administration (DofA) established a Human Capital Planning Section (HCPS) to administer the Agency’s human capital management program. The draft Plan containing human capital goals, objectives, and strategies is expected to be completed in the first quarter of FY 15.
- Office of Human Resources (OHR) partnered with OPM’s Human Resources Solutions to pilot “USA Performance”, a newly developed automated web-based performance appraisal system tool. It is designed to streamline the manual performance management process and increase visibility and transparency in performance management process. The use of USA Performance aligns performance plans with strategic goals, and ensures compliance with Federal performance management regulations. The pilot began in June 2014, with performance of senior executives and the next phase will involve GS and prevailing grade employees.
- OHR meets regularly with Headquarters and field managers to assist in collaborative efforts with employees and the unions on a variety of workplace issues such as maxiflex, telework, and performance management programs.
- DofA’s Security branch was successful in reducing the reinvestigation backlog to approximately 750 from 1,018. The Agency expects the office to remain on target to complete the 20 percent goal, listed in the management strategies, next year.

- The DofA's Office of Employee Development (OED) expanded Skillport training software; electronically organized its developmental resources for Field Agents, including instructor modules, videos narrative resources; developed prototypes and piloted user-friendly online training for board agents; provided teambuilding to consolidated regions; and presented a 12-hour course on the "Seven Habits of Highly Effective People" to new Regional directors and a 90 minute workshop on "Promoting a Culture of Personal Accountability" that dealt with how to motivate people to take ownership of their work, an important skill for managing teleworkers .
- The Agency's Office of Equal Employment Opportunity (OEEO) timely submitted the Agency's annual MD715 report for Fiscal Year 2013 to the EEOC, which provides a demographic analysis of the Agency workforce by gender, race, national origin, and disability, in all stages of employee life (e.g., hiring, grade level distribution, training, promotions, separations).
- OEEO also provided a State of the Agency report to senior leadership to assist with strategies and enhance the diversity of its workforce.
- OEEO and OHR initiated a collaborative work group to develop a Strategic Recruitment Plan for the Agency. As part of the plan, OEEO posted to its web page recruitment resources for reaching out to diverse student populations of African American, Hispanic, Asian American and Pacific Islander, and Native American populations. It also sent out email communications to these resource organizations promoting recruitment through the Agency's Honors Attorneys program. OEEO is also developing the Special Emphasis Program Manager role for each of these populations, as well as for disabled employees and veterans, to enhance the Agency's outreach initiatives to these communities

Objective 1: Initiative 2

- OHR began developing a Quality Assurance and Quality Control Unit to assess and improve the accountability process. The following action steps will be taken as a result of OPM's hiring reform:
 - ◆ Evaluate current designated examining authority and merit promotion hiring timeframes;
 - ◆ Identify the impact of negotiated agreements on hiring timelines;
 - ◆ Analyze and recommend methods for measuring improvement in timeliness;
 - ◆ Develop a schedule to meet hiring timeliness;
 - ◆ Identify actions needed to address barriers;
 - ◆ Prioritize occupations within respective divisions;
 - ◆ Train OHR staff on all tools available through USA staffing.
- OHR has begun working with stakeholders to standardize over 1,300 of the Agency's position descriptions.
- The Agency hired a new Disability Coordinator, who maintains applications for applicants that have contacted the Agency to be considered for employment under the "Schedule A" Hiring Authority, and OHR plans to host a number of training presentations for managers and supervisors on "Schedule A" Hiring, as well as on the Selective Placement Program.

Objective 2: Initiative 1

- DofA’s Security Branch made improvements to its webpages, such that employees can find a host of information on physical security, personnel security, continuity of operations, classes offered by Department of Homeland Security, and policies from the Interagency Security Committee, and OPM Federal Investigative Service. Further, an Administrative Policies and Procedures Manual (APPM) on Personnel Security was updated and published and one on Physical Security is in draft form.
- DofA’s Facilities and Property Branch (FPB) developed an extensive Communication Plan that continues to inform employees about the Headquarters relocation, including managing expectations related to the cultural transition to a reduced-space work environment, and it provided physical tours. The project, which is dubbed, “Total Workplace Solutions,” also includes a web page devoted to all aspects of the new relocation including timing, neighborhood businesses, furniture, technology and other requirements.
- In addition, the FPB established a Headquarters Space Advisory Committee, which includes representatives from all Divisions and both employee Unions, to communicate updates on the new Headquarters
- Space Initiative and keep employees throughout the workforce informed on the latest project information.
- HCPS launched a Human Capital web page in order to provide a platform to distribute a wealth of information and guidance about NLRB’s human capital planning efforts.

- HCPS received and analyzed the 2013 Federal Employee Viewpoint Survey results and provided an executive level briefing to Senior Management and is in the process of doing the same with the recently published FY 14 FEVS results.
- OHR developed the Honorary Awards program, where a number of employees were acknowledged during an awards ceremony, and it implemented a regular schedule for providing service awards.

Objective 2: Initiative 2

- OHR benchmarked other agencies to identify ways to improve the on boarding program, and, along with Senior Managers, revamped the Agency’s on-boarding process.
- OHR provided one-on-one and group instructions to managers to assist them in providing guidance in understanding their role in communicating expectations to Agency employees on performance management.
- The former Director of Administration produced a quarterly Significant Happenings Report to report the work of the employees within the Division to senior management, and planned a Division-wide Recognition Day to celebrate the work of the Division and foster camaraderie, which was attended by the General Counsel, Deputy General Counsel, Assistant General Counsel, and Board Members.

Objective 2: Initiative 3

- The following policy statements were released to Board agents in 2014: Equal Employment Opportunity Policy Statement; Policy Statement on the Prevention of Unlawful Harassment, Including Sexual Harassment; Alternative Dispute Resolution (ADR) Policy Statement; and the Diversity and Inclusion Policy Statement.

- The MD-715 was timely submitted electronically in first quarter of 2014 calendar year to the EEOC providing FY 13 information.
- The NLRB offered Agency-wide diversity training, which was mandatory for managers and supervisors, on Transgender in the Workplace in 2012, made the sessions available on the OED website, and issued a related Agency-wide memo.
- With encouragement from senior leadership, the OEEO, OHR, and OED have partnered to develop a more robust diversity and inclusion training program. In furtherance, of this goal, senior leaders and representatives from various divisions have attended and accessed external programs.
- In 2003, the Agency established a mentoring program on the General Counsel-side for newly-hired and newly-transferred professionals and support staff in order to support the mandate that the Agency have workforce that reflects the diversity of our Nation. In FY 2014, the General Counsel asked that the program be revamped and the Mentoring Committee is working on doing so, including exploring best practices in mentoring at other federal agencies.
- The OEEO relies on the Agency’s cadre of collateral duty Special Emphasis Program Coordinators (SEPCs) to assist the Agency in its efforts to build and maintain an inclusive work environment. OEEO conducted four-one hour videoconference training sessions in 2013 and 2014. The training supports the SEPCs in carrying out their responsibilities and duties and also provides a forum to share ideas and best practices.
- OHR has educated and encouraged management to utilize the Local Veterans

Employment Representative Program to recruit for various positions. As a result, the Agency has hired at least eight veterans through the program.

FY 2014 Strategic Goal 4 (Support): Manage Agency Resources in a Manner That Instills Public Trust

Objective 1: Initiative 1

Measure:

- The Agency’s enterprise case management system, Next Generation Case Management System (NxGen), was made to replace 11 separate legacy systems and integrate into a single unified solution that leverages multiple technologies.

NxGen presently manages:

Internal users	1,350
Cases	263,355 (+10%*)
Case Actions of the Agency	766,343 (+27%*)
Documents, images, and videos, each linked to its Action and Case	4,678,794 (+47%*)

* All percentages are year-over-year calculations

Measure:

- The Agency soon will complete the consolidation of its separate legacy case tracking systems into an enterprise case management solution, a success that is rare within the Federal government. The last remaining Agency Office, the Contempt, Compliance, and Special Litigation Branch, will be migrated into NxGen beginning in the first quarter of FY 2015.

Measure:

- In FY 2014, the Agency expanded its electronic distribution of case documents with an E-Delivery pilot involving six Regions,

one party (USPS) and new 10 document types. The pilot recently has been expanded to two document types for all Regions. To date, 2,101 documents have been sent to the USPS electronically, resulting in notable savings to the NLRB and a great convenience to the USPS.

[10/1/2013 – 9/30/2014]

Number of E-Filings Received	29,127 (+15%*)
Number of Documents Received	43,031 (+13%*)
Number of Board and ALJ Decisions E-Served	737
Total Number of parties E-Served Decisions	55,191 (+3%*)
Number of E-Deliveries of Case Documents	2,101 (new process)

* All percentages are year-over-year calculations

Measure:

- The NLRB is committed to achieving the goals set forth in the President’s Open Government Directive. The three principles of transparency, participation, and collaboration inform current and future plans for the Agency’s information systems. With the near complete implementation of the NxGen, the Agency is able to provide improved information regarding its cases and significantly increase the number and type of case documents made available to the public. In FY 2014, the Agency also made substantial progress towards a new external search interface and public data warehouse that will continue to deliver on the goals of Open Government.

Number of NLRB Document Types Available for Public Access	197
Total Number of Case Documents Available for Public Access	346,109

Please see <http://www.nlr.gov/open/public-documents> for a list of the document types available to the public.

Objective 1: Initiative 2

Measure:

- In FY 2013, the Agency made the decision to expand the capabilities of the Office 365 Suite and utilize the cloud-based SharePoint offering. The Office 365 SharePoint solution provides all of the necessary components of a technology service catalog and complements the existing Intranet. In FY 2014, the Agency’s governance and development teams focused on streamlining business processes through forms automation with workflow and routing.
- ♦ As an example of these efforts, and to support the Agency’s new Collective Bargaining Agreement, the Administrative Systems team recently completed the development of and is piloting a comprehensive solution to automate the processes for requesting, routing and approval, and reporting for the following schedules: Telework, Alternate Work (e.g., Gliding Flex, Maxi Flex and 5-4-9), and Leave. Upon approval by a supervisor or manager, the requests are created as items on a shared Outlook calendar for each individual office so that all employees can determine where to contact someone if they are working, but not physically in the office. All approved items are then made available to the individual office’s timekeeper for filing, processing and record keeping. Aggregate reports are also available to HR, which will significantly reduce manual data calls that are performed each year in preparation for reports sent to the Office of Personnel Management (OPM).

Measure:

- Currently, the Agency utilizes disparate networks for its data and video conferencing services and manages 52 legacy phone systems from different voice service providers in the Field and Headquarters. The segregation of data, voice, and video services results in an inefficient use of Agency resources and creates communication and collaboration silos within critical business processes. Additionally, the Agency's present communications infrastructure provisions remote access for certain business processes only to Agency laptops, with limited support for mobile and tablet devices.
- The objectives of the Agency's Unified Communication and Collaboration (UCC) effort are to provide enhanced functionality to Agency staff while achieving cost savings through such strategies as consolidating networks and taking advantage of lower cost technical alternatives and contract vehicles. Specifically, the Agency is trying to create a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all locations including the office, at home and on the road. The Agency awarded a UCC contract on September 24 and the Agency expects the implementation to take between eight and 12 months. After the initial investments in the UCC build-out and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice and video networks, and anticipates the enhanced services to demonstrably improve administrative efficiencies.

Measure:

- With the increasing requests for collaboration, the Agency embarked upon efforts to implement SharePoint team sites to manage the need for document collaboration, discussion forums, wiki pages, and site mailboxes. Team sites are being created for all departments and divisions so that each office will have a secure place to store documents, create conversations, receive email alerts when changes occur, and collaborate on work products. Additionally, individual team sites are being created to support the various needs of the Agency. For example, to assist with the reduction of printed materials for conferences, team sites were created to review/edit presentations and conference materials and then store all materials to be made available to the participants. Furthermore, the Agency is addressing the need for document collaboration by geographically dispersed employees by providing access to the Office Online applications. This allows multiple employees the ability to simultaneously work on Word, Excel and PowerPoint documents, which provides increased collaboration and avoids confusion with managing multiple versions of documents that then need to be merged together.

Objective 1: Initiative 2**Measure:**

- All required reports to external regulatory bodies were prepared in accordance with established time lines.

Measure:

- OCFO has developed a formalized annual training plan for all allowance holders. During FY14, finance-related training was held as part of the Office Managers and Field Managers

trainings. Topics included Oracle Federal Financial processes, eTravel processes, and Federal Travel Regulations.

Measure:

- The OCFO Budget office has worked closely with the program offices and NLRB Senior Leadership to develop a detailed budget spend plan which serves to inform NLRB management for decision making.

Measure:

- During FY15 OCFO Finance Office plans to communicate obligation status reports to program offices through an automated monthly email. The development of the report has been completed within FY14 and the automated email generation will begin in FY 15. This report will help program managers to monitor their budgets at a more detailed level.

Measure:

- The Contracting Officers as well as the purchase card holders utilize the General

Services Administration’s (GSA), Federal Strategic Sourcing Initiative (FSSI) in the ordering of supplies and services. By doing so, the NLRB has increased its utilization of strategic sourcing from a savings rate of 14.47 percent in FY13 to 18 percent. In FY14, the NLRB increased its utilization of strategic sourcing higher with a savings rate of 34 percent; yielding a savings of \$106,168.

Measure:

- As demonstrated in the chart below, the NLRB increased the percentage of contract awards to small, disadvantaged owned businesses from Fiscal Year 2012 to Fiscal Year 2013 in all categories. During fiscal year 2014, the NLRB awarded the Unified Communications contract almost \$2M to a large business which impacted the small business categories. The Acquisition Management Branch will focus on making small businesses the supplier of choice in FY 2015.

FISCAL YEAR	TOTAL SMALL BUSINESS	WOMAN OWNED	SMALL DISADVANTAGED	VETERAN OWNED
Fiscal Year 2012	31.3%	7.9%	12.3	3.9%
Fiscal Year 2013	34.2%	17.9%	7.4%	4.9%
Fiscal Year 2014	29.1798%	12.4208%	10.1716%	4.4219%

Objective 2: Initiative 1

Management Strategies:

- The Agency formed an outreach committee, comprised of board agents from divisions, branches and offices throughout the Agency. The committee continues to explore new modes and methods to educate the public, particularly those, such as youth and immigrant populations, that may be unfamiliar with the Agency and the Act and may be more vulnerable to exploitation due to their lack of knowledge of workplace rights.
- In order to educate more audiences through non-traditional outreach, particularly those prone to exploitation, the Agency is trumpeting successes and recent cases of interest, as well as including human interest stories, so that the public can more easily relate to the information being shared. The CPAO is issuing news releases of recent cases, such as Board and court decisions, settlement agreements, and cases involving injunctive relief or compliance.
- The Agency is invigorating local relationships for joint outreach and local working group forums where there are regular meetings with board agents from other agencies to work on various joint projects/materials. These federal, state and local agencies include, but are not limited to, EEOC, local Human Rights Commissions, Wage and Hour, OSHA, Whistleblower, Unemployment Compensation, and Office of Special Counsel. Two Headquarters managers are tasked with facilitating quarterly roundtable discussions with Regional outreach coordinators to ensure sharing of best practices/materials. The Agency is also reviewing MOUs entered into decades ago and re-establishing connections with counterparts.

- As to Letters of Agreement (LOA), the Agency is continuing efforts to reach out to foreign embassies/ministries/consulates and finalize letters of agreement for education of workers and business owners. In FY 2013, the Agency executed a LOA with the Mexican embassy and selective consulates, and in FY 2014, with the Ministry of Ecuador. Efforts to parlay those national agreements into local agreements between Regions and consulates, and to provide materials to Regions for assistance with education per the LOA are ongoing.
- The Agency is culling and editing current outreach materials so that Board Agents have presentations with a uniform brand for Powerpoints and other formats in a central repository for use nationwide.

Objective 3: Initiative 1

Measure:

- Over the past year, the Chairman and General Counsel have jointly promoted several ethics program initiatives to all employees and visibly participated in the values-based training program presented in FY 2014. The training engaged employees in discussions of ethical decision making principles and considered how ethical decisions are made within the context of our own personal core values and those of the Agency. The training also stressed personal responsibility in the ethical decision making process.
- The General Counsel and Chairman also increased the staff of the Ethics Branch to ensure that sufficient resources are devoted to the program to facilitate effective program management and outreach to all employees.
- The NLRB Ethics Staff have met with the Board Members and the General Counsel

collectively and separately to discuss a range of government and legal ethics issues.

- The NLRB's Designated Agency Ethics Official has full access to Agency leadership and can approach them for assistance when the need arises.
- In addition, the combining of the NLRB's Legal Ethics Program with the Government Ethics Program has provided NLRB employees with a cohesive, comprehensive program, thus raising the visibility of the program among employees. Employees now know that they have one office where they can go with ethics questions and issues, where their questions will be addressed from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- The ethics staff was proactive in expanding the number of training products available to all NLRB employees. They developed a number of one-page, easy-to-read Job Aids designed to help employees identify potential government ethics issues and provide additional guidance where informational gaps might exist. The Job Aids focused on conflicts of interest, including both financial conflicts and appearance issues; the acceptance of gifts from outside sources; the acceptance from and the giving of gifts to coworkers; the Hatch Act; outside employment; the outside practice of law; and the government's 14 Principles of Ethical Conduct. The Chairman and General Counsel promoted the usefulness of the Job Aids and identified them as a valuable tool for promoting an ethical culture at the NLRB in a memo to all NLRB employees. Job Aids on legal ethics topics have been prepared as well.
- The Ethics web page on the NLRB's Intranet was revamped and rebranded as the "Ethical Highway." Thru the web page, ethics guidance materials are readily available to all NLRB employees. Articles on ethics appear monthly in the NLRB's employee newsletter, the All Aboard, alternating between legal ethics topics and subjects involving the government's rules and regulations. Monthly tips on legal ethics ("On the Road with the Ethics Code") are issued to the NLRB's Field Offices, and each Region has an ethics coordinator who assists in promoting them.
- The New Employees Ethics Orientation has been converted to an online module in the Agency's learning management system and is assigned to new employees as part of the on-boarding process. Completion of the module can be tracked within the system. This ensures that all new employees receive an orientation to the government's ethics rules and regulations and provides a brief overview of the screening wall that separates the adjudicatory and prosecutorial sides of the Agency. Forty-seven new employees were trained in FY 2014. The module has also been packaged as a refresher course for incumbent employees, which they can access anytime through the same system.
- The Ethics Staff provided in-person briefings on both government and legal ethics to the Agency's summer student interns, student volunteers, and detailees, and will continue to provide briefings at Agency conferences where they can reach large, diverse audiences. In August 2014, an ethics presentation was provided at the NLRB Regional Management Conference in Washington, DC. During the latter portion of FY 2014, the Ethics Staff introduced two ethics training initiatives. In

June, they began a new legal ethics training program for attorneys and field examiners in the NLRB's Field Offices that covers skip counsel issues and attorney-client privilege. During the course, Agency employees complete a "Testing Your Knowledge" quiz to test their knowledge in these areas.

- In September, the Ethics Staff launched a training campaign for all Agency employees on the benefits and pitfalls of using email in the NLRB's casehandling process. This training is being presented in weekly broadcasts and uses a variety of delivery methods, such as webcasts, podcasts, and job aids, to convey information. The Chairman and General Counsel promoted the program to employees prior to the launch of the campaign which helped to raise awareness of the importance of the training. The training campaign began in September and will conclude in December 2014. In addition, each weekly segment will be posted on the "Ethical Highway" page of the NLRB Insider after its initial broadcast.

Measure:

- As of September 30, 2014, 87 percent of ethics inquiries were resolved within 5 business days. Of the 557 inquiries received from November 14, 2013 through September 30, 2014, 447 required guidance memos that addressed the inquiry from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- As of September 30, 2014, 100 percent of the financial disclosure reports received were reviewed and certified within the 60-day regulatory time period. Where a reviewer identified either a potential or actual conflict of

interest, a memo was prepared and sent to the filer providing ethics advice and guidance.

Measure:

- The NLRB uses an electronic financial disclosure system, FDOOnline, for the filing and review of the Confidential Financial Disclosure Reports which are filed by designated employees within the Agency.
- While FDOOnline contains a component for filing Public Financial Disclosure Reports (OGE Form 278), the NLRB's Designated Agency Ethics Official decided to wait to require the electronic filing of public reports until after the Office of Government Ethics unveils the new electronic system it is currently testing. Until such time as that system is made available for use, Public Financial Disclosure Reports are still filed in paper copy, even though filers are encouraged to use the online, fillable version of the OGE Form 278 developed by the Office of Government Ethics.

Objective 3: Initiative 2

Measure

- Responses to internal auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an agency response. The OCIO responded completely and timely to internal audits and information requests, including:
 - ◆ Audit of the NLRB Fiscal Year Financial Statements
 - ◆ Audit of FY 2013 Sequestration – Preparation, Implementation, and Impact
 - ◆ Cloud Computing Audit
 - ◆ Federal Managers' Financial Integrity Act (FMFIA)

Objective 3: Initiative 3

- Responses to external auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an agency response.
- The CFO participated in the GAO’s Regulatory Cost Benefit Analysis (GAO 451043).
- The OCIO responded completely and timely to external information requests, including:
 - ◆ Questions posed in the Office of Management and Budget Memorandum M-14-04, Fiscal Year 2013 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management
 - ◆ The quarterly requirements for FISMA, Trusted Internet Connection (TIC), and Senior Agency Official for Privacy (SAOP) reporting
 - ◆ Exhibit 53 and the corresponding Information Technology section for the Congressional Budget Justification
 - ◆ NARA’s Annual Records Assessment and the OMB Records Directive (M-12-18) Report
- The OCIO responded appropriately to external technology mandates, including:
 - ◆ Having successfully consolidated its infrastructure, the Agency is taking full advantage of cloud computing’s benefits (*Cloud First, Federal Cloud Computing Strategy*) to maximize capacity utilization, improve IT flexibility and responsiveness, and minimize cost. Current efforts include utilizing:
 - ◆ Microsoft’s cloud-based, software and platform as services solutions, Office 365 and Azure for:
 - Email repositories and services; the Agency repurposed the nearly one million dollar investment in its email infrastructure to extend the lifespan of its NxGen on-premises infrastructure
 - Replacing its end-of-life collaboration platform with Microsoft’s SharePoint solution
 - Supplanting its near end-of-life network attached storage and desktop backup with Microsoft’s Office 365 One Drive for Business solution
 - ◆ Amazon’s Elastic Compute Cloud to:
 - Host its NxGen case management development environment
 - Save approximately \$500,000 over the next 6 years by hosting its legacy Momentum financial data rather than accepting the proposal of the Department of the Interior’s (DOI) Interior Business Center (IBC)
 - ◆ The ServiceNow cloud Information Technology Services Management (ITSM) platform, which the OCIO uses to be more transparent, provides Agency staff with multiple ways to get quality support, and as the technology enabler of its internal effectiveness initiatives
 - ◆ GovDelivery cloud services to deliver all case participant communications, including for its electronic services initiative.
- The Agency was acknowledged for having achieved compliance with OMB’s TIC Initiative, version 2.0. As such, it is one of a few small civilian agencies that have complied with this mandate.

Objective 3: Initiative 4

Measure:

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of seven days for requests received from October 1, 2013 to September 30, 2014. The Agency received 4,458 requests for this period and responded to 4,093 of those requests in 1-20 days. Thus, 91.81 percent of the FOIA requests were processed within the 20- day statutory time period.

Measure:

- The Agency sought an extension of time to process a request beyond the 20-day period in 7.08 percent of the FOIA requests received during this time period.

Measure:

- The Agency received 20 FOIA Appeals from October 1, 2013 to September 30, 2014. The average elapsed days to process the appeal was 22 working days. In 9 of the 20 FOIA appeals, a final determination was made within 20 working days. Two of the appeals received during this period were pending as of September 30, 2014.

FOIA centralization is underway and will be expanding in the coming months. Centralization of FOIA processing will ensure greater consistency and efficiencies in FOIA handling. In August, the NLRB’s FOIA Branch hired a new Branch Chief, who has provided assistance towards full centralization of the processing of Regional FOIA requests.

**FY 2015 Strategic Goal 3 (Support):
Achieve Organizational Excellence**

Management Strategies:

Objective 1: Initiative 1:

- The Office of Human Resources (OHR) collaborated with executive officials to refine and expand its performance management program. It held training sessions for Executive staff, Regional staff and Headquarters managers and supervisors on relevant areas of the performance management system. The training focused on the significance of establishing performance plans, providing timely mid-year progress reviews, ensuring that all employees are given appraisals, aligning performance plans with the Agency’s strategic goals, and ensuring that performance plans hold employees accountable for achieving results appropriate to their level of responsibility.
- A comprehensive Strategic Human Capital Plan is being developed.
- OHR and the Division of Legal Counsel collaborate regularly to ensure adherence to Agency policies and collective bargaining agreements.
- Management and union representatives successfully work on a Reasonable Accommodations Policy, which was approved by the EEOC.
- OHR issued guidance that expounded on workplace flexibilities for childbirth, adoption, foster care and elder care.
- OHR, on behalf of various NLRB organizational units, issued many recognition awards to employees during FY 2015, including length of service, project and retirement awards.

- OHR held its annual Administrative Professional Day Recognition Ceremony on April 23, 2015 to honor the Agency’s outstanding administrative professionals.
- The Agency held its second annual Honorary Awards Program, which recognized eleven employees in a number of different categories.
- The Agency developed and implemented an Agency-wide Cultural Enhancement Program, which will enhance the ability of our increasingly diverse workforce to better work together, and to better understand the cultural differences among the public we serve. The program was launched with holding an “all hands” meeting which featured internal and external speakers who addressed the importance of inclusion and civility to a productive workplace. This was followed by online interactive module and podcasts in which a diverse group of employees shared their life and work experiences, as well as videos and online forums for employees to continue to discuss these topics.
- The Office of Employee Development (OED) also developed and rolled out online training materials, enabling Headquarters employees to better utilize Outlook 2013, Lync and Word 2010, and produced scenario-based videos on ethics topics.
- OED updated the Agency’s Management Training Program by developing components such as: enhanced individual development planning and mentoring; obtaining the skills needed for the next level of management; and a pre-supervisory program.
- The General Counsel and the Deputy General Counsel addressed Regional and Headquarters staff in Divisions/Branches/Offices

acknowledging and congratulating them on their achievements, and seeking suggestions for Agency improvements.

Objective 1: Initiative 2:

- OHR and the Office of Equal Employment Opportunity (OEEEO) worked together on the Strategic Recruitment Committee and are developing a Strategic Recruitment Plan.
- OHR routinely partnered with the Local Veterans Employment Representative Program (LVER) to recruit for commonly filled positions, and placed at least five veterans through this program this fiscal year.
- The Agency regularly uses the Veteran’s Recruitment Appointment (VRA) Special Hiring Authority to place disabled veterans.
- OHR worked to bolster the integrity of its recruitment process and adherence to OPM regulations. It created a series of internal procedures and manuals that are used to correctly navigate the process. It worked diligently with OPM to redraft its Excepted Service and Pathways policies to ensure that adequate consideration is provided to viable candidates. Furthermore, in direct correlation to OPM’s Hiring Reform and the 80-Day Hiring Model, OHR attained an average 74-day hiring rate from the beginning of the process to the on-boarding of the employee for FY 2015.
- OHR implemented a process for applicants with disabilities (Schedule A) which includes a specific mailbox for these applications, retention for 30 days, and focused review when a new vacancy arises in the Agency. If an applicant’s qualifications prove to be a match for the job, that information will be forwarded to the hiring manager for further consideration. Presently, applicants are

made aware of the program through Agency vacancy announcements on USAJobs and OPM's website.

- The Agency continued to utilize USAJobs in announcing vacancies to a broad category of applicants, including veterans and persons with disabilities.
- OHR entered into a Memorandum of Understanding with the Department of Veteran Affairs to participate in the "VA for Vets Program," in order to process non-competitive hiring actions for veterans and to take part in the in "Feds for Vets" initiative.

Objective 2: Initiative 1:

- Facilities and Property Branch (FPB) continued its extensive Communication Plan to keep Headquarters staff informed on matters related to the relocation of the Headquarters facility.
- Following the move, FPB implemented a practice requiring FPB employees to courtesy copy all branch employees on building related requests to ensure that multiple staff are not working on the same task. This practice of sharing information has also resulted in staff feeling more included and aware of work matters transpiring within the branch.
- The Security Branch continued to issue its customer feedback questionnaire, soliciting information to ensure that customer assistance is timely and professional.
- OHR improved communications by distributing numerous documents and notifications via its Ask HR Program.
- The Agency analyzed the 2014 Federal Employee Viewpoint Survey results and is implementing best practices and strategies for strengthening employee engagement and

organizational performance through focused leadership and increased communication.

- In response to the Federal Employee Viewpoint Survey results from FY 2014, Agency managers developed action plans that included: greater transparency, sharing of information, and solicitation of employee input.
- Guidance information on Employee Viewpoint Survey (EVS) action planning, and best practices involving effective leadership, communication, and engagement, was posted to the Human Capital Planning internal web page.
- The Human Capital Planning Officer (HCPO) developed a structured communication plan to increase employees' awareness of the EVS. The response rate to the 2015 EVS increased by 15 percent and there was a 4 percent increase employee engagement scores and a 5 percent increase in global satisfaction scores.

Objective 2: Initiative 2:

- OHR met with incoming Honors Attorneys to seek their feedback on the onboarding process, and how it could be enhanced and improved.
- Training was provided to managers/supervisors on the appraisal process, including how to write performance appraisals, performance management requirements, and their role in communicating expectations to Agency employees on performance management protocols and processes. The training highlighted the importance of getting employees involved in creating their performance plans and having regular feedback discussions with employees.
- The Congressional and Public Affairs Office issued news releases on case successes.

- The General Counsel and the Deputy General Counsel addressed Headquarters staff in Divisions/Branches/Offices acknowledging and congratulating them in their achievements, and seeking suggestions for Agency improvements.
- Significant organizational accomplishments are also regularly highlighted to all staff in the Agency newsletter.

Objective 2: Initiative 3:

- OEE0 collaborated with OED and the Division of Operations-Management to design and implement a foundational and ongoing diversity and inclusion training program for all Agency employees in alignment with Executive Order 13583.
- OHR continues to provide training to Agency hiring managers on special hiring authorities, including Schedule A, in alignment with Executive Order 13548.
- The Management Directive “MD715” is an affirmative EEO program by which federal agencies can assess, identify deficiencies and conduct barrier analysis of obstacles to equal employment opportunity and develop ongoing action plans to correct the self-identified deficiencies and work collaboratively to remove identified barriers. The NLRB submitted its report in March 2015 to the EEOC.
- Agency SES Leadership participated in external diversity and inclusion training.
- OEE0 prepared four policy statements that were adopted and issued by Agency leadership on 1) Agency EEO Policy; 2) Statement on the Prevention of Unlawful Harassment; 3) Agency Statement Promoting Alternative Dispute Resolution; and 4) Diversity and Inclusion Policy Statement.
- OEE0 partnered with OHR to incorporate language describing specific standards for inclusion in supervisors’ and managers’ performance appraisals to measure management accountability on building and maintaining an inclusive work environment.
- The General Counsel’s Mentoring Workgroup analyzed the Agency’s existing mentoring program and made recommendations on how mentoring can be further developed as a tool to maintain a diverse workforce. In response to the General Counsel’s request, the workgroup investigated mentoring models at other federal agencies and their best practices for implantation.
- OEE0 designated staff as Special Emphasis Program Managers (SEPMs) responsible for developing program initiatives that enhance employment opportunities for specific demographic populations and tools to support employee affinity groups.
- OEE0 supports programming initiatives for the Agency’s cadre of collateral duty Special Emphasis Program coordinators.

**FY 2015 Strategic Goal 4 (Support):
Manage Agency Resources in a Manner
That Instills Public Trust**

Objective 1: Initiative 1:

Measure:

- The Agency completed the consolidation of its separate legacy case tracking systems into an enterprise case management solution, a success that is rare within the Federal government. The last remaining Agency Office, the Contempt, Compliance, and Special Litigation Branch, was migrated successfully into NxGen in September. NxGen was designed and implemented to replace 11 separate legacy systems and integrate them

into a single unified solution that leverages multiple technologies. This was the most comprehensive technology project undertaken at the NLRB, and its success has been essential to the Agency’s mission.

NxGen presently manages:

Internal users	1,350
Cases	286,117
Case Actions of the Agency	876,076
Documents, images, and videos, each linked to its Action and Case	6,050,259

Measure:

- In FY 2014, the Agency expanded its electronic distribution of case documents with an E-Delivery pilot involving six Regions, one party (USPS) and new 10 document types. In FY 2015, 781 documents were sent to the USPS electronically, resulting in notable savings to the NLRB and a great convenience to the USPS.
- On April 14, 2015, the Agency expanding its electronic filing program to enable constituents to E-File charges and petitions, the two initiating documents for the Agency’s cases. The Agency has received 3,098 electronically filed charge and petitions from the launch of the new service through the end of the fiscal year. Over the course of the fiscal year, the Agency received 58,662 documents of all types through its E-filing program and electronically delivered 3,422 documents to nearly sixty-thousand parties.

Measure:

The NLRB has counted millions of votes, investigated hundreds of thousands of unfair labor practice charges, and issued thousands of decisions. The numbers tell an important part of the Agency’s story. Making what we

do accessible to the public is an important part of the NLRB’s mission. For example, the total number of case documents available for public access was 692,456, including Tally of Ballot information. This data is downloadable for analysis at <https://www.nlr.gov/news-outreach/graphs-data>.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the document types available to the public.

Objective 1: Initiative 2:

Measure:

- Through FY 2015, the Administrative Systems (AS) team actively sought to develop automated solutions to streamline Agency processes.
- The AS team completed a development effort to streamline the enrollment and management processes for the Voluntary Leave Bank. Dynamic reporting was also delivered to the managers and committee to provide aggregate statistics on many aspects of the system.
- The AS team also developed a workflow process for authoring, routing and editing, approving and publishing of documents. This repeatable process will allow groups of users to store documents centrally in a secure authoring library, allowing documents to be finalized and then published to a separate location for consumption by a larger audience.
- The AS team completed a development effort for OHR involving organizing and categorizing all positions and position descriptions (PDs) within the Agency, modifying the PD library, assisting the OHR team with the creation of a set of standardized PD, and developing a streamlined process for OHR and Agency

supervisors / managers to update all PDs every three years.

- The AS team completed a development effort and migration of content and documents into a SharePoint site for all continuity of operations (COOP) members. Authors can now create, edit, route and receive approval for yearly COOP plans, and all COOP documents are now available at any time and may be accessed remotely.

Measure:

- The Agency awarded its Unified Communications (UC) contract on September 24, 2014, and now expects the implementation to take up to 20 months. After the initial investments in the UC build-out and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice and video networks, and anticipates the enhanced services to demonstrably improve administrative efficiencies.
- The first priorities were to upgrade networks in the Agency’s Field Offices and two existing datacenters, and to add network connections to its two new voice datacenters and new Headquarters. These changes add significant bandwidth to the Field Offices, are based on a new, more modern networking technology, and provide greater redundancy to our critical infrastructure. Forty Field Offices are now live on the new network, as are the two existing datacenters, one of the new voice datacenters, and the Agency’s Headquarters.
- All employees in Headquarters now use Skype for Business (SfB) for voice calls, voicemail and instant messaging, as the OCIO deployed the necessary Microsoft Office software and delivered over 775 new unified communications devices.

- OCIO and Operations Management are in the process of planning the SfB deployment to the Field Offices.

Measure:

- The AS team continued to build team sites, on request, for geographically dispersed employees to collaborate using Office Online applications, SharePoint lists and discussion forums. Enhanced capabilities continue to be added to allow for user-based filtering of content and more granular management of permissions for documents.
- The AS team completed a development effort for OHR, creating an “Ask HR” knowledge base, which consists of answers to common questions, and if no information is present, a workflow capability will allow a new question to be submitted, routed, and ultimately, become part of the knowledge base.
- The AS team also completed a development effort for the Office of the Chief Financial Officer (OCFO), creating an “Ask the CFO” knowledgebase, which consists of information related to the Acquisitions Management, Finance and Budget branches.

Objective 1: Initiative 3:

Measure:

- Required reports to external regulatory bodies were prepared in accordance with established time lines.

Measure:

- OCFO held monthly meetings with Contracting Officers and Contracting Officer Representatives (COR’s) to discuss unliquidated obligation amounts, monitor burn rates, and request funding increases and deobligations.

Measure:

- OCFO continued to develop a formalized annual training plan for all allowance holders. During FY 2015, finance-related training was incorporated during the monthly obligation monitoring meetings, to include COR's who recently on-boarded with the Agency.

Measure:

- The Finance Branch hosted a training session for CORs and provided a tracking tool to enable increased accuracy and timeliness of reporting burn rates, unliquidated obligation amounts, request for increased funding, and request for de-obligation of funding.
- The Budget Branch worked closely with the program offices and senior leadership to develop a detailed budget spend plan, which is a living document of estimates and actual amounts and is updated monthly on the prior months execution.
- The Budget Branch has developed several tools for various budget execution line items to monitor timely obligation and liquidation of funds, such as monitoring GSA rent charges, individual training requests, and mass transit benefit funding levels. Some budget lines have demonstrated variable spending cycles during the year, which requires additional training to program managers on the importance of monitoring those cycles to ensure funding requests cover the requirements.

Measure:

- The Acquisitions Management Branch (AMB) provided training to Purchase Card Holders regarding electronic submission of monthly statements, and provided guidance on purchase card user registration via the Citibank portal.

- AMB also provided monthly and quarterly reports to the Associate General Counsel of Operations- Management, which provided greater insight and transparency on purchasing habits of field offices that it oversees.

Measure:

- The NLRB has increased the percentage of contracts awarded woman-owned and small disadvantaged business categories. With AMB's focus on small businesses as the suppliers of choice, continuing to increase the number of awards to small businesses is achievable.

**Objective 2: Initiative 1:
Management Strategies:**

Immigration Population

- The Agency met with local consulates of various countries to educate consular officials about the NLRB's protections and processes.
- The Agency provided direct outreach to immigrant populations by:
 - ◆ Participating in Labor Rights Week activities
 - ◆ Speaking in Spanish and other languages at events organized by the consulates or other community groups to educate the public about the rights afforded under the NLRA
 - ◆ Holding news conferences to disseminate information helpful to immigrant communities
 - ◆ Participating in interviews on Spanish-language radio stations
 - ◆ Staffing phone banks to respond to inquiries from immigrant populations
 - ◆ Staffing booths at informational fairs
 - ◆ Responding to inquiries from individuals who seek consular services

- The Agency has joined with other federal agencies to educate the public by:
 - ◆ participating in the Vulnerable Workers Project
 - ◆ participating in numerous “listening sessions” with those from the Asian American and Pacific Islanders Community
 - ◆ Other Agency activities include:
 - meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes
 - meeting with members of the Commission on Human Relations to provide an overview of NLRA rights
 - making presentations about the NLRA to officials of the French, Colombian, Spanish, and German embassies
 - speaking at naturalization ceremonies to new citizens from approximately 35 countries about rights they have under U.S. labor laws
- The Agency signed an MOU with the Ministry of Foreign Affairs of the Republic of Colombia. Various Regional offices also held local signing ceremonies with local Columbian consulates, with follow-up outreach sessions.
- The Agency partnered with DHS, DOL (WHD, OSHA and OFCCP), OSC, DOJ and EEOC in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws.
- The Agency presented at the national EEOC EXCEL Conference in Washington, DC, on concerted activity in social media
- DOJ’s Office of Special Counsel hosted two webinars for NLRB field personnel to covering the intersection of the NLRA and immigration law.
- Internal Agency deliberations occurred concerning effective outreach methods, including targeting specific audiences through the use of twitter, You Tube, Facebook, and news aggregators.
 - ◆ Since its release in August 2013, the NLRB app has been downloaded 19,296 times
 - ◆ The Agency implemented a Sharepoint site available to all of its outreach officers. This site includes a centralized area for collecting outreach presentation materials and a discussion board for addressing outreach inquiries
 - ◆ The Agency maintains a link on its public website for outreach requests, which are routed to the appropriate Region
 - ◆ The Agency has inserted QR codes in its correspondence to direct the public to our website.

Youth

- The Agency led discussions for high school and middle school classes in English and Spanish concerning the development of the NLRA and the New Deal, as well as the workers’ statutory rights and the Board processes.
- The Agency held mock trials for schools to demonstrate how an unfair labor practice trial is conducted.
- The Agency engaged in the Workplace Street Law Project in Washington, DC, which educates high school students about their rights as workers.

- ◆ More Regional Offices are considering producing newsletters in electronic format for delivery through GovDelivery
- Outreach sessions for veterans and employee advocate organizations were held explaining Protective Concerted Activity, in particular.

Objective 3: Initiative 1:

Measure:

- The NLRB requires all Public Financial Disclosure filers, who are the leadership of the Agency (SES and PAS), to complete our annual ethics briefing. This year's briefing served as a reminder to our leadership of all the available ethics training products.
- The "Braking Bad Email Habits" training series emphasized that Agency employees should use their government email in a way that complies with government and legal ethics rules, and avoids the disclosure of confidential case-related information. A related memo was sent to all field professionals to encourage those that had not yet reviewed the material to do so as it was an effective learning tool.
- The Ethics Office provided general ethics guidance to Board Members regarding the use of private social media accounts while serving as a Member of the Board, and met with the Deputy General Counsel, the Chief of Staff to the Chairman, and others to offer guidance in identifying potential conflicts of interest in an administrative program.
- At the request of the General Counsel, the Ethics Office developed and delivered a training session on Civility during the Attorney Trial Training and presented a similar session to Headquarters staff.
- The Ethics Office helped establish a reporting process that would ensure that newly hired and newly promoted employees receive required ethics training and complete required financial disclosure reports (as appropriate) in a timely manner.

Measure:

The Ethics Office continued to seek out opportunities to educate Agency employees about their ethical obligations.

During FY 2015 the following was provided:

- A conclusion to the "Braking Bad Email Habits" series that covered the ethical use of government email.
- A Skip Counsel and Attorney-Client Privilege training program was presented to nine Regional Offices.
- Monthly distribution of the "On the Road with the Ethics Code" Job Aids that provide timely legal ethics information to all board agents.
- Monthly Agency newsletter articles. These articles covered, where to find government and legal ethics information on the Agency website, how to navigate gift giving during the holiday season, and provided real-life examples of the consequences of violating criminal conflict of interest statutes.
- Ethics social media guidance for distribution to the Presidential Appointees.
- The redistribution of a Hatch Act job aid to serve as a reminder about partisan political activity.
- Presented legal ethics topics at two attorney conferences co-sponsored by the NLRB and assisted in planning the ethics programming for a conference.
- Provided ethics briefings to newly appointed Regional Directors.

- Distributed one-page Job Aid covering Seeking Other Employment.
- Partnered with the OED to begin development of two legal ethics training programs for online/on-demand distribution to all legal professionals.
- Developed and presented a training session on Civility. This program was offered to attendees at the Trial Training in August and to professionals in Enforcement Litigation, CCSLB, and the Washington Resident Office.
- Provided guidance to the General Counsel and Board Members regarding speaking events where certain topics may create an appearance issue for the Agency or lead to discussion that could put the speaker at risk of making comments that could be construed as “prejudging” a case, and lead to requests for recusal.

Measure:

- As of September 30, 2015, the Ethics staff received 622 inquiries and 87.7 percent were resolved within 5 business days.

Measure:

- As of September 30, 2015, 100 percent of the financial disclosure reports submitted were reviewed within the 60-day regulatory time period. Where a reviewer identified either a potential or actual conflict of interest, a memo was prepared and sent to the filer providing ethics advice and guidance.

Measure:

- Ethics staff rolled out the Office of Government Ethics (OGE) electronic filing system to all filers of the OGE 278. This included:
- Meeting with OGE project managers

- Attending user and administrator training sessions
- Completing systems and user testing to ensure that NLRB employees would be able to use the system via the NLRB network and agency provided laptops
- Finalization of NLRB Filer training materials to include: job aids, user guide, demonstration videos, and online training module
- Creation of 278e Integrity webpage on the NLRB Insider where all training materials are archived
- Live training sessions on how to file your 278e in Integrity for the first time

Objective 3: Initiative 2:

- The OCIO responded timely to internal audits and information requests including:
 - ◆ Audit of the NLRB Fiscal Year Financial Statements
 - ◆ Fiscal Year 2014 Review of Internal Controls (FMFIA Survey)
- The OCFO submitted timely Corrective Action Plans as required in response to the Fiscal Year 2014 Financial Statement Audit and also timely prepared a corrective action plan for OIG Travel Audit OIG-AMR-75-15-02. The actions that were taken and submitted to remediate recommendations found in Audit OIG-AMR-65-11-03 “Purchase Cards” were reviewed by the OIG.

Objective 3: Initiative 3:

The OCIO responded timely to external information requests including:

- Questions posed in the Office of Management and Budget Memorandum M-15-01, Fiscal Year 2014-2015 Guidance on Improving

Federal Information Security and Privacy Management Practices

- Exhibit 53 and the corresponding Information Technology section for the Congressional Budget Justification
- NARA's 2014 Records Management Self-Assessment
- FY 15 Q1 Federal Information Security Management Act (FISMA) Data Call
- Trusted Internet Connection (TIC) POA&M February 2014 Data Call
- FY 15 Q2 Federal Information Security Management Act (FISMA) Data Call
- Multiple security- and privacy-related ad hoc data calls, including for MS15-011 software "bug" and Indicators of Compromise (IOCs) related to OPM's personnel systems data breach.

Objective 3: Initiative 4:

Measure:

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of fourteen days for requests received from October 1, 2014 to September 30, 2015. The Agency received 4,644 requests for this period and responded to 3,543 of those requests in 1-20 days. Thus, 78.34 percent of the FOIA requests were processed within the 20-day statutory time period.

Measure:

- The Agency sought an extension of time to process a request beyond the 20-day period in about 20 percent of the FOIA requests received during the fiscal year.

Measure:

- The Agency received 24 FOIA Appeals from October 1, 2014 to September 30, 2015. The average elapsed days to process the appeal was 24 business days.

FY 2016 Strategic Goal 3 (Support): Achieve Organizational Excellence

Management Strategies:

Employee Development

- The Office of Human Resources (OHR) continued its partnership with the Office of Personnel Management (OPM) on the implementation of USA Performance, a new performance management reporting system.
 - ◆ OHR issued a memorandum titled Performance Management Validation Cycle to all Agency employees to inform that all management officials had to complete a Performance Management Validation Spreadsheet certifying that they had issued properly executed performance plans to all of their employees.
 - ◆ OHR completed a data validation, which showed that more than 86 percent of employees were issued properly executed performance plans. OHR's goal of 100 percent execution of performance plans will be achieved with the full implementation of USA Performance in June 2017.
- The Office of Employee Development (OED) developed online content for legal writing and provided legal writing coaching for Headquarters employees.
- OED is updating the Management Development Program curriculum to align with the Federal Supervisory and Managerial Frameworks and Guidance released by OPM on September 28, 2015.

- The Security Branch worked with OED to release the 2016 Continuity of Operations Training for Agency personnel via Skillport, and also hosted an Active Shooter Training Event at NLRB Headquarters, which was internally posted for access by all employees.
- In compliance with OPM’s hiring reform efforts, OHR implemented a Standard Operating Procedure to provide a detailed explanation and overview of the processes to be followed when a vacancy has been identified and when positions are filled internally.

Workforce Management

- OHR continued to utilize the Workforce Recruitment Program for College Students with Disabilities as a hiring flexibility for managers to recruit qualified postsecondary students and recent graduates with disabilities who are interested in summer internships or permanent jobs.
- OHR leveraged its relationship with U.S. Department of Veterans Affairs through the Feds for Vets Program, which allows for the recruitment of veterans under various special hiring appointing authorities, such as veterans who are 30 percent or more disabled. Under the program, approximately five special hiring appointments were completed and one appointment was converted to a career-conditional appointment.
- The Human Capital Planning Office (HCPO) implemented a communication plan to encourage employees to take the Employee Viewpoint Survey (EVS), which included guidance on monitoring the participation rates, talking points, and FAQs.
- OHR made enhancements to the New Employee Orientation that includes more

information about the Agency to help new employees transition successfully.

- The Office of Equal Employment Opportunity (OEEO) developed and implemented a training program mandatory for all supervisors’ managers and senior executive leaders on whistleblower rights and protections for all Agency employees.
- OEEO recommended that supervisors’ and managers’ appraisals contain more specific language to measure their efforts to maintain an inclusive work environment, as an action item from the MD715 report submitted to the EEOC.
- OEEO, OED, and the Division of Operations-Management collaborated in the Agency workgroup on the Culture Enhancement Program and rolled out training podcasts and interviews from a diverse array of Agency employees in segments throughout the fiscal year.
- OEEO sponsored the Agency’s network of Asian American and Pacific Islander employees in its request for support from Agency leadership. OEEO conducted a briefing with Agency leadership on the topic of Employee Resource Groups (ERGs).
 - ◆ There was a briefing by OPM diversity and inclusion experts for Agency leadership to address questions about ERGs.
 - ◆ Consultations with the unions representing Agency employees will assist OEEO when drafting final recommendations to Agency leadership.
- OEEO and OHR briefed leadership on the Strategic Recruitment Plan and received critical feedback for the plan. OEEO and OHR

are working to implement the plan in early fiscal year 2017.

- OEEO develops and hosts special emphasis observances at Headquarters, some of which have been made available to field offices through simultaneous broadcast and/or digital recording.

Motivation

- HCPO conducted 16 EVS organizational assessments with senior executives on the 2015 EVS results focusing on: identifying Agency trends/ barriers behind low survey scores; reviewing and prioritizing targeted areas of change; identifying outcomes that enable the organization to transition to higher EVS scores; identifying best practices for managing staff to higher levels of engagement; and action planning efforts.
 - ◆ During the organizational assessments, results were provided and the two EVS Agency-wide strategic areas of focus, effective leadership and communication, were discussed.
 - ◆ Agency leadership will be implementing action plans/best practices designed to drive higher levels of employee satisfaction and engagement within their respective organizations, with a particular focus on improving effective leadership and communication.
 - ◆ The HCPO also developed an EVS Action Planning Toolkit for organizations to utilize in developing action strategies to effect change.

**FY 2016 Strategic Goal 4 (Support):
Manage Agency Resources in a Manner
That Instills Public Trust**

Information and Technology:

The Agency uses a legacy case tracking solution called NxGen which is an enterprise case management system.

The NxGen System presently manages:

Internal users	1,368
Cases	309,700
Case Actions of the Agency	1,001,206
Documents, images, and videos, each linked to its Action and Case.....	7,543,929

The Agency expanded electronic distribution of case documents in FY 2016 through the USPS for 15 document types, resulting in 626 documents being sent to the USPS electronically and savings for the NLRB.

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency.

Number of E-Filings Received	51,229
Number of Documents Received	79,011
Number of cases filed thru E-Filing Charges and Petitions.....	9,958
Number of Board and ALJ Decisions E-Served.....	803
Total Number of parties E-Serviced Decisions.....	54,262
Number of E-Deliveries of Case Documents	3,546

The total number of case documents available for public access in FY 2016 was 984,663

In FY 2016, the Agency expanded the use and capabilities for electronic filing to enable parties to E-File charges and petitions using an

online forms wizard on the NLRB website that automatically creates the charge or petition form.

Number of cases filed thru Charge and Petition Wizard was **805** in FY 2016.

Please see <http://www.nlr.gov/open/public-documents> for a complete list of the 564 document types available to the public.

- The Administrative Systems team continued its effort to migrate all content from the current intranet platform, which was mostly static, to a new intranet platform office by office.
- The team automated and launched the process of authoring, editing, approval and publishing of Operations-Management memorandums.
- The team completed the automation of the training request and approval process by developing a web-based form with routing, approval, data storage for advanced reporting, and records management.
- The Agency awarded its UCC contract on September 24, 2014. Through FY 2016, 48 Field Offices, the two existing datacenters, two new voice datacenters, and the Agency's HQ were upgraded to the new network and 47 field offices were fully migrated to Skype for Business.
- In FY 2016, the OCIO deployed over 1020 iPhone 6's and 6-Pluses to the Field.

Financial Management:

- To enhance internal controls of the purchase card program, Acquisition Management Branch (AMB), in coordination with the Budget Office implemented a process by which quarterly target amounts for purchase card spending are sent to each of the

Headquarters and Regional Offices. These amounts are disseminated at the beginning of each quarter to the Office of Operations-Management. Operations-Management is responsible for communicating specific dollar amounts to the respective Regional Offices, and for tracking the overall expenditures from the regional offices.

- ◆ In addition to quarterly target amounts sent to the Headquarters Offices, all headquarters purchase card holders submit a Form 13 (Requisition/Procurement Request Form) for certification and approval of appropriated funds prior to making any purchase via their Government issued purchase card. This process helps certify that appropriated funds are approved and available for purchase.
- ◆ AMB provided monthly and quarterly reports to the Budget Office which offered greater insight and transparency on purchasing habits and spending. By spending hours analyzing what was being purchased on the p-card and working with the Budget Office, senior leadership had more visibility into that budget line item on the Spend Plan. Analysis of this data also identified purchases that should be on a contract and lead to the establishment of the HQ and field office quarterly bulk purchases.
- In the Agency's continuing effort to increase its financial integrity, financial statement crosswalks were established in order to accurately and efficiently integrate general ledger account balances to the NLRB financial statements. This reduces the timeframe it takes to produce the statements.
- Updated and submitted the NLRB Travel Card Management Plan, as well as travel charge

card metrics, to OMB per the A-123 Appendix B guidance.

- Developed and disseminated procedure guides for witness payment processes to allow for more timely payments.
- Developed and disseminated travel reimbursement processes internally with accounting technicians and externally with office managers and travel arrangers to increase accuracy in travel reimbursements.
- Successfully implemented the Undelivered Orders (UDO) review process, performed on a quarterly basis that assists in liquidating obligations timely and accurately.
- As demonstrated in the chart below, the NLRB has exceeded the statutory goals established by federal executive agencies in all categories except one, namely the service-disabled veteran owned small businesses. AMB continues to focus on small businesses as the supplier of choice, and particularly on increasing the number of awards to service-disabled veteran owned small business.
- During FY 2016, the Agency reported a total of \$20.26M and 372 contract actions in the Federal Procurement Data System (FPDS). Of this amount, \$7.4M and 181 actions went to small businesses.

Fiscal Year SBA Goaling Report

Category	Goal	2016	2015	2014	2013
Small Business	23%	36.51%	39.75%	31.65%	34.13%
Women Owned Small Business	5%	11.19%	12.46%	13.5%	17.81%
Small Disadvantaged Business	5%	8.02%	10.71%	11.05%	7.36%
Service-Disabled Veteran Owned Small Business	3%	2.42%	0.31%	0.97%	0.32%
HUBZone	3%	3.43%	2.13%	2.27%	0.84%

Agency Outreach

- Designated Immigration Coordinators in each Regional office act as a liaison between the office and Headquarters staff regarding casehandling issues that may affect the immigrant worker community.
- The Agency prepared outreach materials for immigrant communities for use during outreach events, and a letter that outreach coordinators may use to introduce themselves to organizations that serve immigrant communities and offer outreach services. The outreach coordinators have been provided with a “collaboration packet” with the contact information for their outreach counterparts with the EEOC, WHD, and OSHA.
- During FY 2016, the Agency provided direct outreach to immigrant populations by:
 - ◆ Speaking in Spanish and other languages at events organized by the consulates or other community groups, such as the Workplace Justice Project to educate the public about the NLRA
 - ◆ Participating in interviews on Spanish-language radio stations
 - ◆ Responding to inquiries from individuals who seek consular services
 - ◆ Speaking at naturalization ceremonies to new citizens
 - ◆ Participating in Asian Public Interest and Public Service Panels
 - ◆ Meeting with foreign labor and business representatives to provide information about employee rights under the NLRA and NLRB processes
- Activities directed at the youth population include:
 - ◆ Leading discussions for high school and middle school classes concerning the development of the NLRA and the New Deal, as well as workers’ statutory rights and Board processes
 - ◆ Holding mock trials for schools to demonstrate how an unfair labor practice trial is conducted
 - ◆ Engaging in the Workplace Street Law Project in Washington, DC, which educates high school students about their rights as workers
 - ◆ Participating in a union-sponsored youth-to-youth apprentice training
- The agency is Partnering with The Department of Homeland Security (DHS), DOL (Wage and Hour Division (WHD), OSHA, Office of Labor Management Standards (OLMS), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ and EEOC in an IAWG for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws. The work group seeks to:
 - ◆ Ensure agencies’ immigration enforcement and worker protection policies, promote workers’ cooperation with labor and employment law enforcement authorities without fear of retaliation;
 - ◆ Ensure federal enforcement authorities are not used by parties seeking to undermine worker protection laws by enmeshing immigration authorities in labor disputes; and,
 - ◆ Ensure the consistent enforcement of federal labor, employment, and immigration laws.
- The Agency has produced a new informational pamphlet, available on the NLRB website in both English and Spanish, titled “Protecting Employee Rights,” which contains an

expanded discussion of an employee’s right to engage in concerted activity and other rights under the NLRA.

- The Agency maintains an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.

Ethics:

- The NLRB requires all Public Financial Disclosure filers, who are the leadership of the Agency (SES and PAS), to complete the annual ethics briefing. Scenarios were provided that demonstrated how well-meaning federal employees could violate government ethics laws and regulations when participating in outside activities, fundraising, and speaking engagements.
- The Ethics Office developed and delivered a Job Aid that covered participation as a member of a Board Directors for a non-federal organization. All employees are required to request permission from their approving official prior to accepting a position on a Board. Approving Officials are directed to consult with the Ethics Office prior to granting approval. A list of information that employees must give to their approving officials is also provided.
- The Ethics Office developed an addendum that is used by all NLRB employees and Presidential Appointees to affirm that by consenting to the recording of a presentation, the NLRB employee or official is not permitting the sponsor to use their official title or likeness to advertise or endorse the final product. This addendum is consistent with the requirement, reinforced by the Office of Government Ethics (OGE) at its latest symposium, that Executive Branch employees take reasonable steps to ensure that a third party does not misuse a

government employee’s position to promote their products or events.

The Ethics Staff continued to seek out opportunities to educate all Agency employees about their ethical obligations. Throughout FY 2016 the ethics branch:

- Distributed a Speaking Engagements guidance memo to all Agency employees which provided employees with general guidance regarding speaking engagements, and explained how to distinguish between speaking in an official versus a personal capacity.
- Provided OHR with government ethics information that will be used in the OHR New Hire Orientation presentation.
- Provided guidance to the General Counsel and Board Members regarding speaking events where certain topics may create an appearance issue for the Agency or lead to discussion that could put the speaker at risk of making comments that could be construed as “prejudging” a case, and lead to requests for recusal.
- Provided legal ethics guidance regarding Immigration and Candor to the Tribunal in consultation with the Immigration Unit.

Guidance Provided

Measure:	Goal	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%

- During FY 2016, the Ethics Office received 844 inquiries. 737 (83%) were resolved within 5 business days.
 - ◆ The increase in the number of days to provide guidance is directly related to the significant number of cases in a new area; conflicts involving Board of Director positions. The Ethics Office identified and responded immediately to more routine matters within the targeted time frame. In order to respond more quickly to more complex situations, a template was developed in order to create customized responses for the various types of Board of Director positions. 52% of 53 cases involving Board of Directors exceeded the 5 business day benchmark. However, the Ethics Office kept everyone apprised of their progress prioritized according to need.
- All financial disclosure reports filed in FY 2016 were reviewed within 60 days. During this review we confirmed that all filers had been provided appropriate ethics guidance relating to their reportable assets, outside arrangements, and outside employment activities.

Note: Review and approval of New Entrant and Annual filings (Confidential and Public) resulted in 126 memos that remind and educate filers about their reporting obligations, potential conflicts, and recusal obligations.

Internal and External Audit Responses:

Responses to internal auditors have been prepared and all deadlines have been successfully coordinated regarding the OIG audit recommendations.

The OCIO and the OCFO responded completely and timely to external information requests including:

- Juniper ScreenOS and Firewall and VPN Server Data Call in Q1
- CISCO vulnerability Data Call in Q2
- Independent Financial Statement Audit

FOIA: Processing Times

Measure:	2016	2015	2014
Respond to initial FOIA requests within 20 working days	32.7 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15% of requests	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	32.35 workings days	24 working days	20 working days

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of 32.7 working days for requests received from October 1, 2015 to June 30, 2016. The Agency received 2,682 requests for this period and responded to 982 of those requests in 1-20 days. Thus, 36.6 percent of the FOIA requests were processed within the 20-day statutory time period.
- The Agency sought an extension of time to process a request beyond the 20-day period in about 25.4 percent of the FOIA requests received during the fiscal year.
- The Agency received 23 FOIA Appeals from October 1, 2015 to June 30, 2016. The average elapsed days to process the appeal was 32.35 business days.

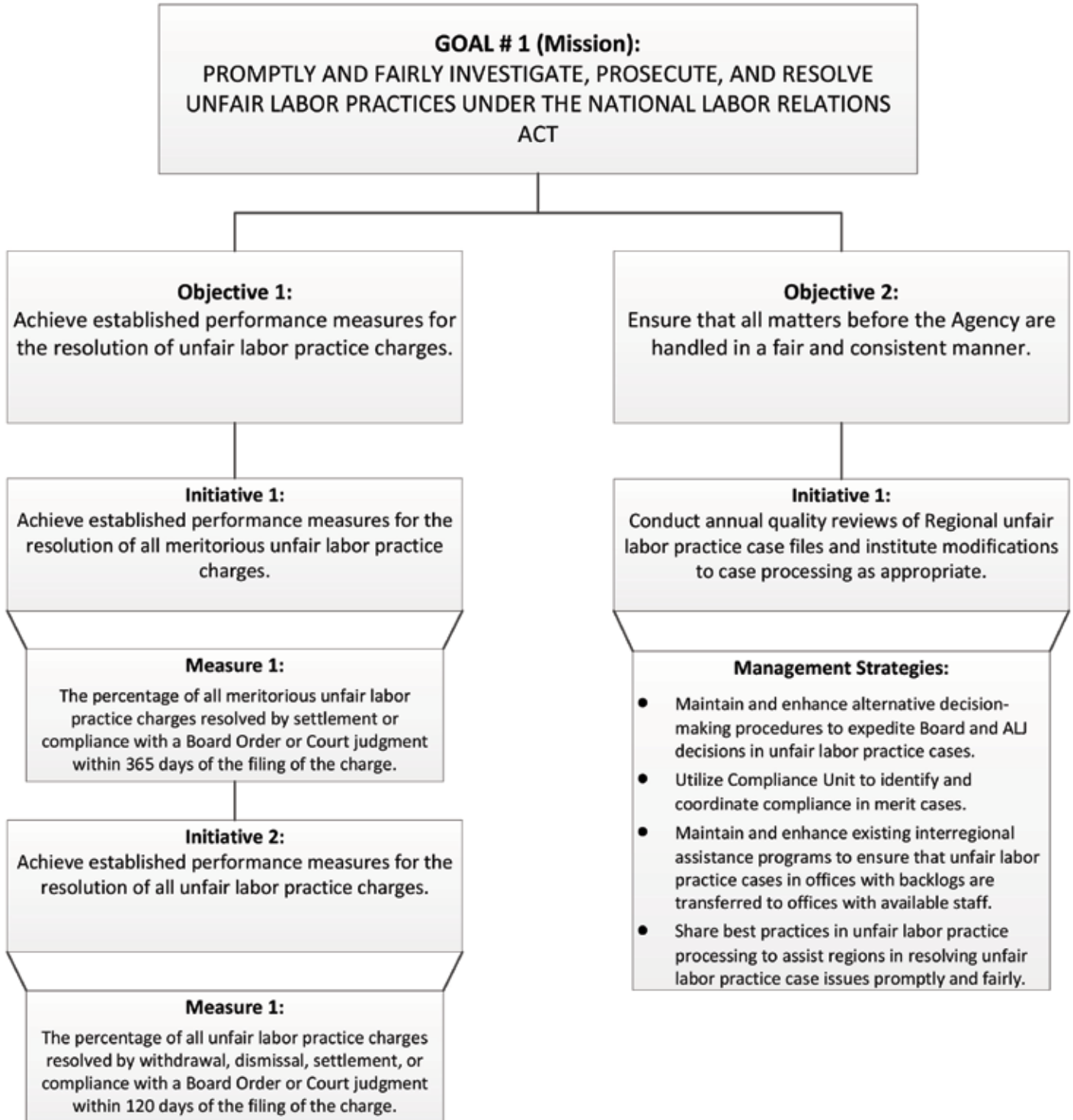
The increase in processing times correlates to the centralization. In 2014 FOIA duties were handled by Headquarters and each Field/

Regional Office by their respective FOIA Points of Contacts (POCs). For uniformity and consistency in FOIA handling, it was decided to centralize FOIA processing and this began at the end of FY 2014 with Headquarters processing, in addition to its own requests, those of Regions 10 and 28. By June of 2015, all FOIA requests were handled at HQ. The consolidation resulted in a very significant increase in the amount of requests handled by Headquarters. In addition, the Branch was dealing with new staff members, who required necessary training

to become proficient in handling requests. There were also difficulties associated with the technology that was available to the Branch. However, the technology has been upgraded and the Branch is currently working with OCIO on making additional improvements to the technology. With the staffing and technology issues well in hand, the Agency anticipates significant improvements in processing times in FY 2017.

APPENDIX D

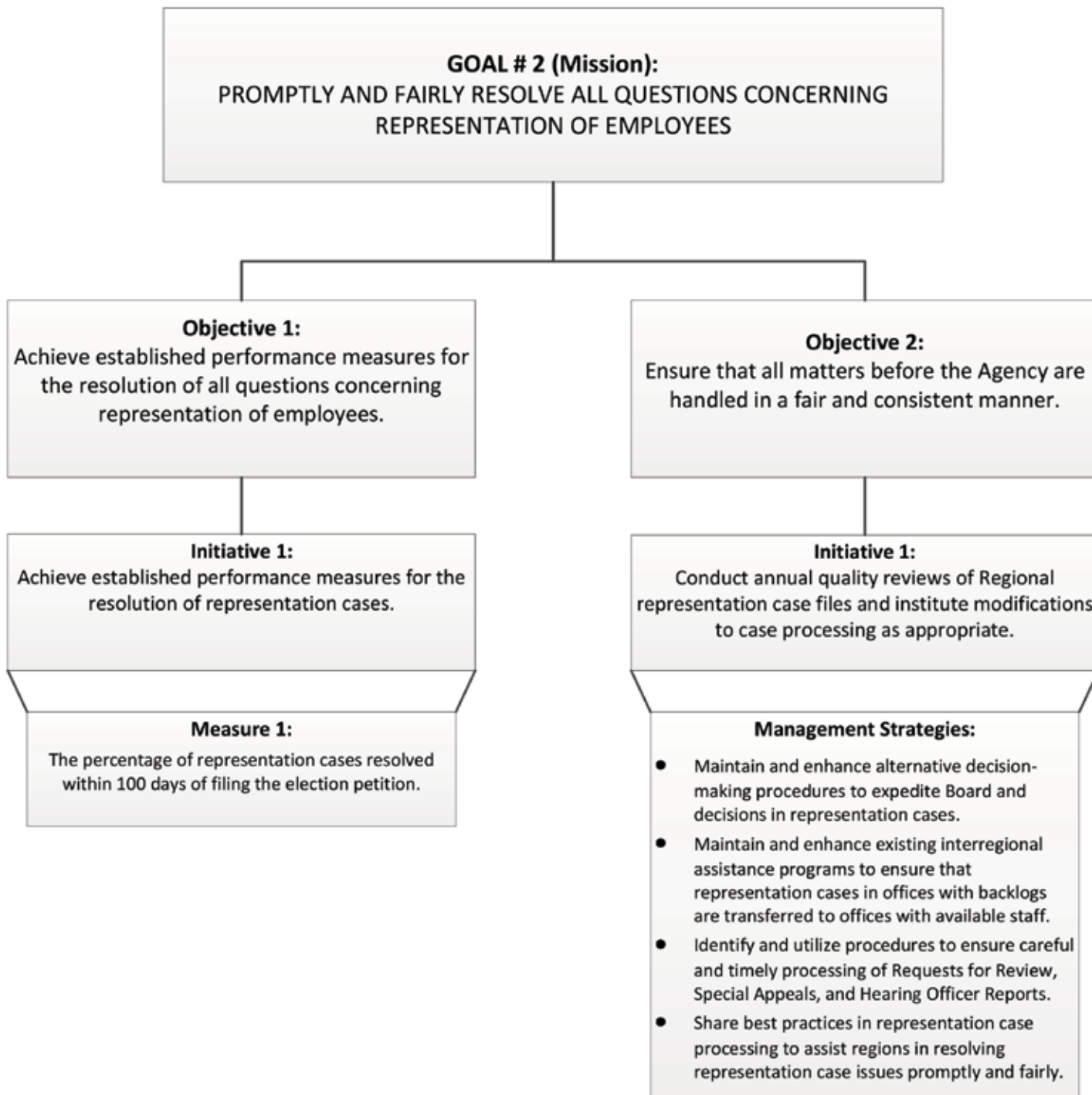
APPENDIX D-1



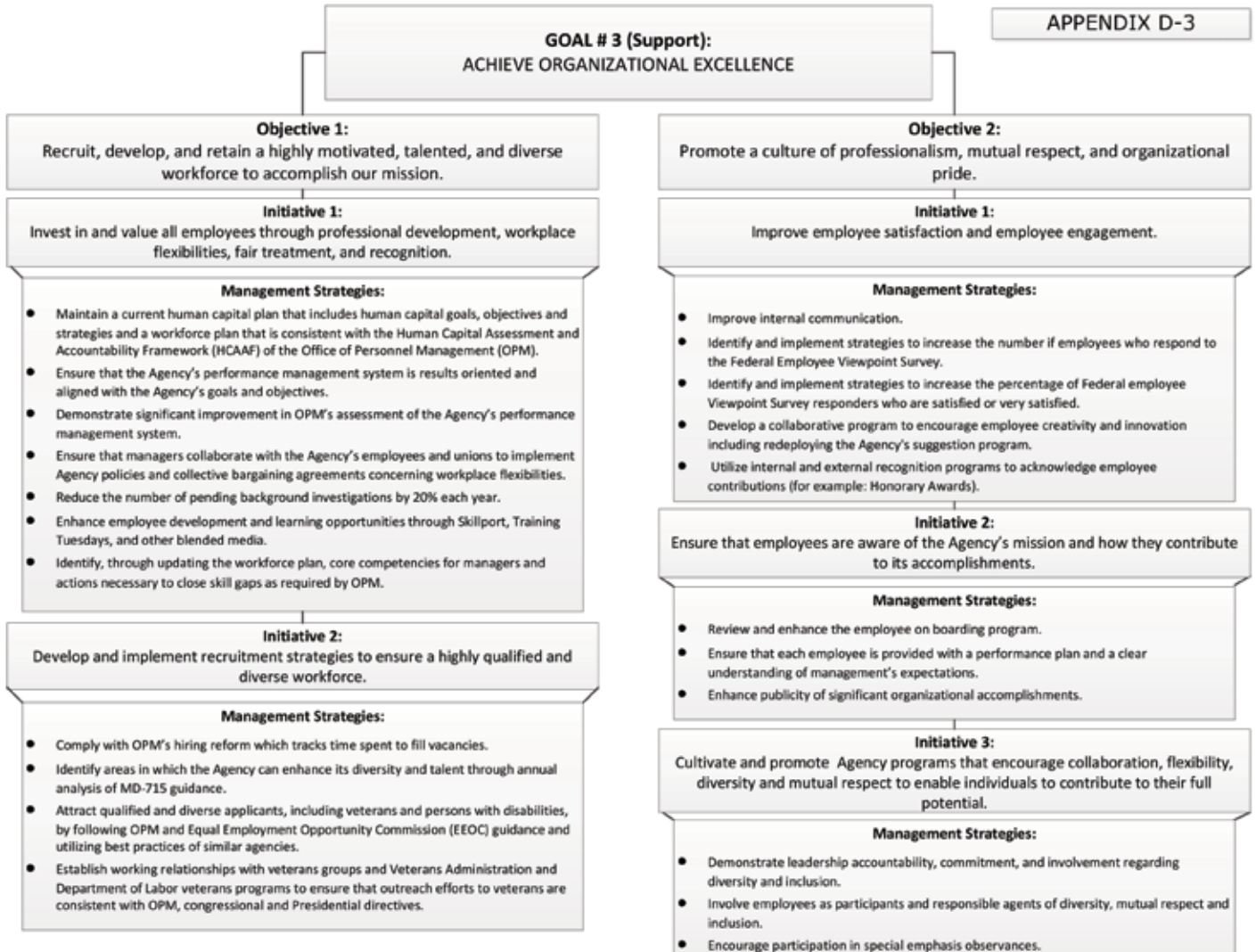
(Footnotes)

¹ Deputy General Counsel Jennifer A. Abruzzo assumed the role of Acting General Counsel on November 1, 2017.

APPENDIX D-2



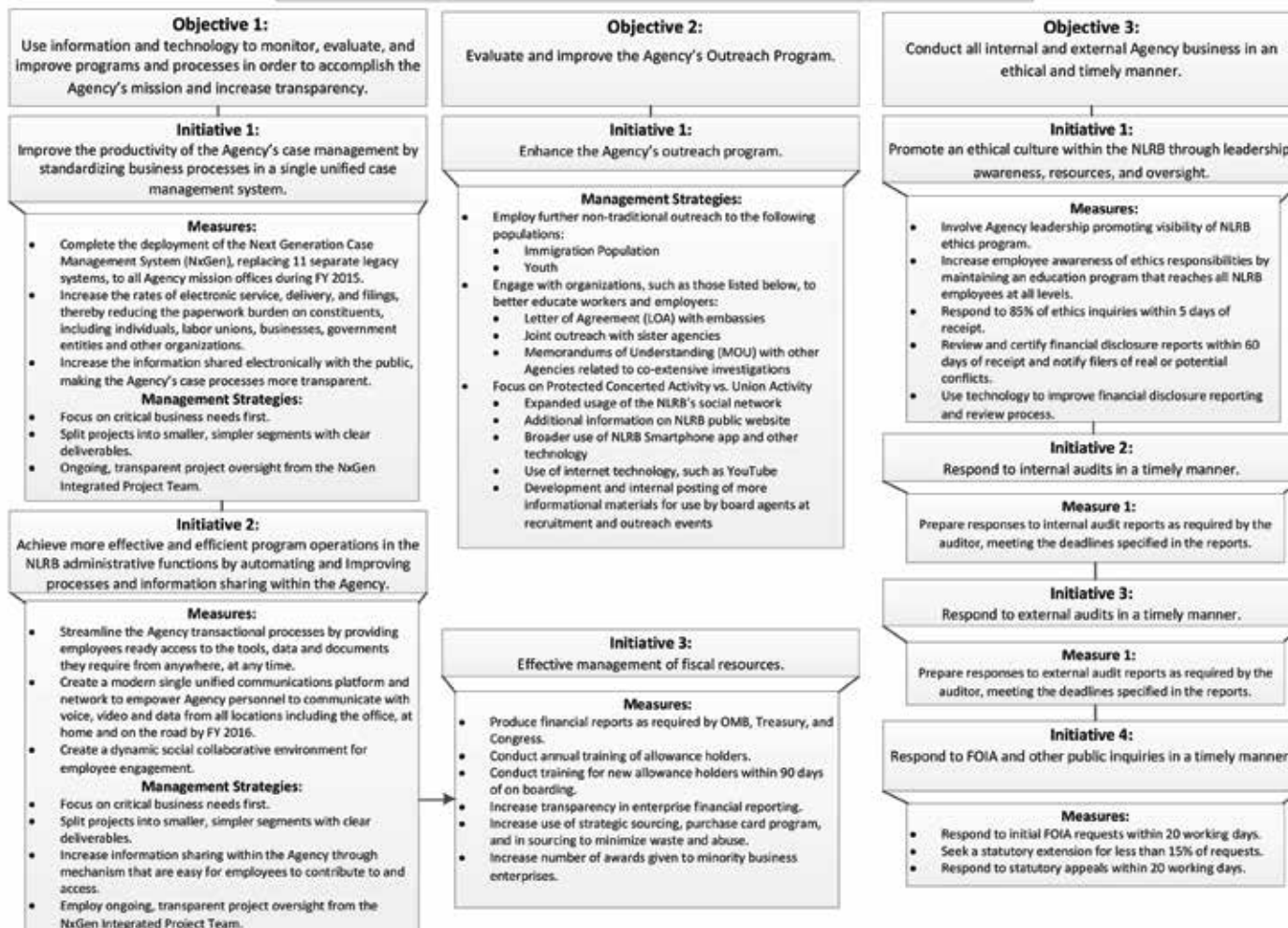
APPENDIX D-3



APPENDIX D-4

GOAL # 4 (Support):
MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

APPENDIX D-4





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