

**PROTECTING
DEMOCRACY IN
THE WORKPLACE
SINCE 1935**



NLRB

**Performance and
Accountability Report**

FY2022

HOW THIS REPORT IS ORGANIZED

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

- SECTION 01** **The Management's Discussion and Analysis (MD&A) Section** provides an overview of the National Labor Relations Board's (NLRB or the Agency) mission, organization, mission-related goals, performance and financial systems highlights as well as the Agency's operational and casehandling highlights for Fiscal Year (FY) 2022. 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 of 1982 (FMFIA).
- SECTION 02** **The Performance Section** compares the NLRB's performance to its strategic goals and objectives as set forth in its current FYs 2022 through 2026 Strategic Plan. The current Strategic Plan includes three 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 stakeholders.
- SECTION 03** **The Financial Section** is composed of the NLRB's audited financial statements, related footnotes, and the Independent Auditor's Report.
- SECTION 04** **Other Information** provides the Top Management and Performance Challenges identified by the Inspector General in the current fiscal year, and the NLRB's summary of audit and management assurances, which details the Agency's review of compliance with the Payment Integrity Information Act of 2019 (PIIA). For an update on the Board's progress in addressing management and performance challenges from FY 2022 please see <https://www.nlr.gov/reports/inspector-general-reports/oig-semiannual-reports>.
- SECTION 05** **Appendices:**
- Appendix A: Acronyms used throughout this report
 - Appendix B: Glossary of terms used throughout this report
 - Appendix C: Historical performance data
 - Appendix D: Complete strategic goal structure

An electronic version of the NLRB FY 2022 PAR is available on the NLRB's website at <https://www.nlr.gov>. The NLRB's current Strategic Plan is also available at this website along with graphs and data which reflect the NLRB's work.

TABLE OF CONTENTS

Message From The Chairman	4
Board Members	6
Message From The General Counsel	7
FY 2022 Year In Review	10
Agency Operations	10
Technology Advances	12
Public Information Program	13
FY 2022 Statistical Highlights	15
SECTION 01	
About the NLRB	18
The National Labor Relations Act	18
The National Labor Relations Board	18
Employee Rights Under The NLRA	19
Statutory Structure	20
Organization	22
Casehandling Functions	23
Unfair Labor Practice Proceedings	23
Representation Proceedings	24
Compliance Proceedings	25
Administrative Functions	25
Casehandling Highlights	26
Performance Highlights	44
Financial and Systems Highlights	51
Operational/Performance Highlights	51
Budget Branch	51
Finance Branch	52
Acquisition Management Branch	52
Charge Card Program	52
Internal Control, Risk, and Performance Branch	53
Systems	54
Analysis of Financial Statements	54
Limitations of Principal Financial Statements	56
Compliance with Laws and Management Assurances	57
Antideficiency Act	57
Debt Collection Improvement Act	57
Digital Accountability and Transparency Act	57
Federal Information Security Management Act	58
Government Charge Card Abuse Prevention Act	58
Payment Integrity Information Act of 2019	58

Fraud Reduction Report	59
Prompt Payment Act	59
Federal Financial Management Improvement Act	59
Federal Managers' Financial Integrity Act	59
Annual Statement of Assurance	62
SECTION 02	
Program Performance	64
Performance Goals and Objectives	64
Measuring Performance	65
Factors Affecting Agency Performance	83
Case Intake	83
Budgetary Constraints	83
Settlements	83
Board Member Terms	84
General Counsel Term	84
Potential Effect of Statutory Changes	84
Reliability of Performance Data	85
Program Evaluation	85
SECTION 03	
Message From The Chief Financial Officer	88
Independent Auditor's Report	89
Principal Financial Statements	97
Notes To Principal Statements	101
SECTION 04	
Inspector General's Top Performance and Management Challenges	128
Summary of Audit and Management Assurances	131
Payment Integrity Information Act Reporting	132
Real Property	136
SECTION 05	
Appendices	142
Appendix A – Acronyms	142
Appendix B – Glossary	145
Appendix C – Historical Performance Measures	149
Appendix D – Strategic Goals	194

MESSAGE FROM THE CHAIRMAN



On behalf of the National Labor Relations Board, I am pleased to submit the Agency's FY 2022 Performance and Accountability Report. In times when more and more workers are joining together to improve their working conditions, the work of the NLRB is critically important to ensure that the right to engage in such collective action is adequately protected. The Agency is charged with administering and enforcing the National Labor Relations Act (NLRA), which guarantees the right of private sector workers to choose a union, if they desire, and to bargain collectively with their employers over wages, hours, working conditions, and other aspects of their employment. Additionally, with or without a union, the NLRA protects workers' right to act collectively to seek improvements at their workplace. The entire Agency takes seriously its mission to effectively enforce the Act, and we are proud of our achievements this year in expanding access to our services and increasing the efficiency of our operations. Yet, as discussed below,

we are also mindful of the potential challenges ahead in maintaining our high level of performance in an environment of increasing case intake but without accompanying increases in resources.

The Board itself is a five-member body that serves as an impartial decision-maker to resolve questions pertaining to union elections and adjudicate cases where unfair labor practices are alleged. The Act also authorizes the Board to engage in rulemaking, as appropriate. The Board is committed to producing quality decisions as efficiently as possible. Timely decision-making by the Board is vitally important, both to workers seeking the benefits of collective bargaining and to those who have been the victims of unfair labor practices. The Board accordingly has focused attention in recent years on reducing its case processing time, and we are continuing to make significant progress. In FY 2022, the Board issued 243 decisions in contested cases and 178 rulings, orders, or notices in other matters. Moreover, we processed those cases more efficiently. The median processing time between the assignment of a Board case and issuance of a decision decreased over 14 percent, from 91 days in FY 2021 to 78 days in FY 2022. The Board's prioritization of election-related matters was particularly successful—median processing time for a request for review of a regional decision in a representation case decreased 42 percent from 74 days in FY 2021 to 43 days in FY 2022.

The Board's case-processing achievements are attributable primarily to the hard work and dedication of our career staff. Indeed, we are fortunate to have a workforce that is committed to achieving the Agency's mission. But sustaining these achievements requires that their commitment to the work be supported by the commitment of adequate resources to the Agency. As more fully explained below, in FY 2022 the Agency received the same Congressional appropriation for the ninth consecutive year, despite increased costs. As a result, although the Board processed cases more quickly, we did not have the capacity to keep pace with a significant increase in case intake, leading to an increase in the number of cases pending before the

Board at the end of FY 2022 over FY 2021. Increased budgetary support is necessary to enable the Agency and its workforce to continue efficiently serving the employees, employers, and unions that count on us to resolve their workplace issues.

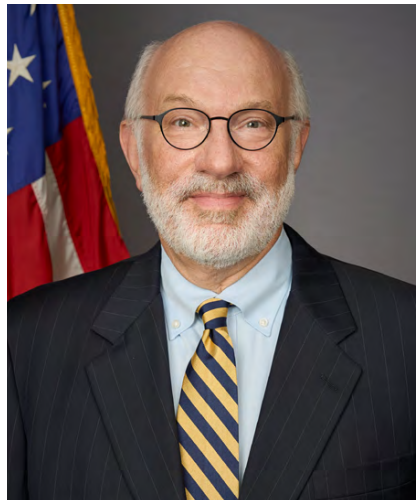
Adequate support is also needed to ensure that as many of those employees, employers, and unions as possible are aware of and can access the Agency's services. The entire Agency has continued to reinvigorate our outreach efforts, with an emphasis on ensuring greater public awareness, including among underserved communities, of the rights and responsibilities established by the Act, the Agency's role in enforcing the Act, and how to invoke our processes. Our emphasis on outreach is grounded in the reality that the Act's protections are meaningful only if all workers know their rights and how to assert them, and if all employers and unions understand their obligations and protections under the law. In the same vein, the Agency has enthusiastically embraced and is pursuing the goals of the President's Executive Orders seeking to enhance equity in access to government services and federal employment.

Finally, the NLRB also takes seriously its responsibility to the taxpayers to be careful stewards of public funds. 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. (A more detailed discussion of the Agency's internal controls can be found starting on page 57 of this report.) I have also made every effort to verify the accuracy and completeness of the performance data presented in this report.



Lauren McFerran
Chairman

BOARD MEMBERS



Chairman Lauren McFerran

Board Member Marvin E. Kaplan

Board Member John F. Ring

Board Member Gwynne A. Wilcox

Board Member David M. Prouty

MESSAGE FROM THE GENERAL COUNSEL



As General Counsel of the NLRB for the entire fiscal year, it is my honor and privilege to share many important accomplishments attained by the Agency's dedicated employees in this FY 2022 report.

The Office of the General Counsel (OGC) is responsible for the Agency's two primary functions: (1) to prevent and remedy unfair labor practices (ULPs) and (2) to protect workers' free choice regarding union representation. The OGC exercises general supervisory authority over the NLRB's 26 Regional and 22 Field Offices across the nation. In FY 2022, Regional case intake was in excess of 20,500 cases. This is the first time that case intake exceeded 20,000 since FY 2019, with representation intake cases exceeding 2,500 for the first time since FY 2016. The OGC also directly oversees Headquarters' divisions that are responsible for various casehandling, administrative, personnel and financial functions.

As to our financial operation, I am pleased to report that, during FY 2022, the Agency ensured that our appropriated funds were fully obligated, effectively resulting in spending 99.9 percent of the flat-lined budget of \$274.2M. The OGC undertook an aggressive plan to start addressing field staffing issues. For the first time since 2017, all Regional Director positions are now occupied, and all Regional Offices, except one, have their management positions filled. However, due to our budgetary constraints—the Agency has lost 25 percent of its purchasing power since 2014 (the first year of flat-funding)—the OGC was only able to authorize minimal hiring for other field positions. In order to adequately manage the FY 2023 cost of living and inflationary increases in labor and non-labor costs and to sufficiently address the significant increase in case intake through more hiring, the Agency's annual appropriation needs to be substantially increased.

In FY 2022, as with FY 2021, I issued a number of guidance memos to the Field Offices in order to further the OGC's goals of fully and effectively educating the public, protecting workers' rights, and enforcing the NLRA. For example, in GC Memo 22-01, *Ensuring Rights and Remedies for Immigrant Workers Under the NLRA*, I made clear that the Agency must zealously guard the rights of immigrant workers from entities that prey on them. GC Memo 22-01 focuses on how to ensure immigrant workers have safe, accessible and dignified engagement with our board agents; how we will robustly investigate and litigate ULPs involving immigrant workers; and how our ability to protect immigrant workers is greatly enhanced by our collaboration with other governmental agencies, including the Department of Homeland Security (DHS), in order to prevent abuse and provide protection to employees who are participating in Board and other agencies' processes.

I have also placed greater emphasis on seeking injunctive relief under Section 10(j) of the NLRA, as reflected in GC Memo 22-02, *Seeking 10(j) Injunctions in Response to Unlawful Threats or Other Coercion During Union Organizing Campaigns*. As will be discussed in greater detail in the Regional Highlights section of this report, by successfully obtaining interim injunctive relief under Section 10(j) in cases warranting it, the Agency has

better protected the statutory rights of workers under the NLRA through prompt action. Relatedly, in GC 22-05, *Goals for Initial Unfair Labor Practice Investigation*, after receiving input from internal stakeholders, I implemented revised time targets for Regional Offices to better effectuate timely and quality processing of unfair labor practice charges.

Further, in GC 22-04, *The Right to Refrain from Captive Audience and other Mandatory Meetings*, I set forth my reasoning as to why requiring economically-dependent employees to attend mandatory meetings to listen to employers' speeches concerning the exercise of the employees' statutory rights, especially during union organizing campaigns, violates the statute.

And, pursuant to prior GC Memos, 21-06, *Seeking Full Remedies*, and 21-07, *Full Remedies in Settlement Agreement*, Regions continued to successfully effectuate our rigorous settlement program to timely resolve meritorious unfair labor practices in a quality manner. In GC Memo 22-06, *Update on Efforts to Secure Full Remedies in Settlements*, I discussed the Regions' excellent work in securing the full panoply of remedies and the need to be proactive in ensuring compliance with terms of the settlement, including seeking default judgement on unfulfilled obligations. Over the last fiscal year, Regions secured direct and foreseeable consequential damages, letters of apology, and training for employees, supervisors and managers about the rights protected by the NLRA. Notably, Regions achieved settlements in 96 percent of meritorious cases while obtaining greater and significant remedies for workers, who were the victims of unfair labor practices.

A few notable settlements that the Agency helped to garner include *MasTec Advanced Technologies*, where the employer agreed to pay over \$3.1 million in backpay to 26 individuals, and *Universal Intermodal Services*, where the employer agreed to offer reinstatement to 66 driver employees with backpay, to recognize the union as the exclusive collective-bargaining representative, and to stop misclassifying its driver employees as independent contractors. And, in *Backflow & Fire Prevention, Inc.*, after the Region issued complaint, the parties reached a bilateral settlement agreement requiring the employer to pay backpay and consequential damages to unlawfully discharged employees for the financial hardships caused by those illegal terminations; to issue letters of apology to these employees; and to have an employer management official read the Agency's Notice to Employees in the presence of all employees, a Board Agent, and a union official.

I am equally proud of the litigation efforts of our Headquarters and Field Offices this fiscal year. For example, Regions, with assistance from the Division of Advice's Injunction Litigation Branch, successfully argued for injunctive relief in district court. In *Starbucks Corporation*, the Agency obtained injunctive relief requiring interim reinstatement of seven union supporters and enjoining the employer from continuing to discriminate against employees because of their activities on behalf of and support for the union. In *Arbah Hotel Corporation*, in addition to the Agency securing injunctive relief requiring the employer to recognize and bargain with the union, the Agency also obtained a contempt order against the employer to pay for our attorney fees and costs.

Further, in *Exela*, the Division of Enforcement Litigation, with assistance from the Division of Legal Counsel's Contempt, Compliance, and Special Litigation Branch, did an excellent job representing the NLRB in the United States Court of Appeals for the Fifth Circuit, which enforced the Board's Order and rejected the argument that the President's removal of the former NLRB General Counsel was improper. The Division of Legal Counsel's Contempt, Compliance, and Special Litigation Branch also successfully settled a federal lawsuit against the U.S. Virgin Islands and the Virgin Island Casino Control Commission whereby

the Commission agreed to not maintain and enforce territorial casino regulations that exceeded its Congressional authority in violation of federal law.

The OGC's goals to educate, protect and enforce have also been enhanced through inter-agency partnerships and cooperation. In GC Memo 22-03, *Inter-agency Coordination*, I embraced the many recommendations of the February 7, 2022, report by the White House Task Force on Worker Organizing and Empowerment. I firmly believe that this coordination enables full effectuation of our respective missions and strengthens our ability to serve the public and help workers, especially members of underserved communities as outlined in GC Memo 22-01.

This fiscal year, the OGC entered into new Memoranda of Understanding (MOUs) with other agencies, such as the U.S. Department of Justice - Antitrust Division, the Federal Trade Commission, and the Department of Labor's (DOL's) Wage and Hour Division and Office of Labor-Management Standards. These MOUs provide for information-sharing, investigation, enforcement, training, and outreach. Similarly, Field Offices renewed their efforts to actively participate in Labor Rights Week and to enter into Letters of Agreement, as did the OGC, with consulates of Central American countries to better educate workers and business owners in those communities about statutory rights and obligations.

As reflected above, the Agency's outreach efforts expand beyond workers. The OGC and Regions addressed stakeholders during a number of speaking engagements, including the Chamber of Commerce, International Franchise Association, Labor and Employment Relations Associations, State Bar Associations, HR Policy Association, labor organizations, worker advocacy groups, law schools and law firms. A notable effort that also occurred in FY 2022 involved collaboration between the OGC, DOL, the Federal Mediation and Conciliation Service, and the Small Business Administration (SBA) to provide a toolkit for small business owners to assist them with promoting and maintaining effective labor-management partnerships that benefit workers, small businesses, and communities around the country.

I would be remiss if I did not highlight that the Agency's ability to achieve all these tremendous successes, despite insufficient resources emanating from operating at flat funding for the last nine years and despite greater pressures associated with increased intake, is a testament to outstanding efforts, significant commitment, and exceptional management of resources. As General Counsel, I remain in awe of the talent and dedication that our Agency employees bring to work each and every day. I will continue to partner with them, and with others, to ensure that the Agency is doing all that it can to well and faithfully serve the public by comporting with our Congressional mandate to encourage the practice and procedure of collective bargaining and the free association of workers to improve their working conditions.



Jennifer A. Abruzzo
General Counsel

FY 2022 YEAR IN REVIEW

AGENCY OPERATIONS

Throughout FY 2022, the Board continued to focus on timely and efficiently issuing decisions in pending unfair labor practice (ULP) and representation cases, in recognition that long delays in the issuance of Board decisions undermines the purposes of the Act and mission of the Agency. As a result of these efforts, in FY 2022, the Board issued 243 decisions in contested cases – 132 decisions in ULP cases and 111 decisions in representation cases.

Significantly, the Board made great strides in processing those cases more efficiently—median processing time between the assignment of a Board case and issuance of a decision decreased over 14 percent, from 91 days in FY 2021 to 78 days in FY 2022. The Board’s prioritization of election-related matters was particularly successful—median processing time for a request for review of a regional decision in a representation case decreased approximately 42 percent from 74 days in FY 2021 to 43 days in FY 2022.

The Board’s increased efficiency, moreover, enabled it to achieve great success in issuing decisions in its oldest pending cases, defined as cases that, if not issued by the end of FY 2022, would have been pending before the Board for more than 18 months for ULP cases and more than 12 months for representation cases. The shorter timeframe for representation cases recognizes that case processing efficiency is particularly important in the context of effectuating employees’ wishes regarding union representation. Overall, 48 cases were identified as “oldest cases” for FY 2022.

As of the end of FY 2022, the Board had issued decisions in 41 of those oldest cases, including approximately 90 percent of the representation cases that were prioritized for completion. The issuance of decisions in these cases helped keep the median age of cases pending before the Board at the end of FY 2022 low, coming in at 108 days, which is well below the goal of 180 days or less. Although some of the oldest cases were not completed during FY 2022, this was due to circumstances unrelated to the Board’s commitment to this initiative, and these cases will be prioritized for completion in FY 2023.

Notably, the Board achieved these results notwithstanding the challenges presented by a marked increase in case intake at a time when budgetary constraints foreclosed the Board from adding staffing capacity and making much-needed upgrades to our electronic case-processing systems. The Board had an intake of 308 ULP and representation cases in FY 2022, up from 272 in FY 2021—an increase of over 13 percent. At the same time, however, the Agency received the same Congressional appropriation of \$274.2 million for the ninth consecutive year, despite increased costs. As a result, the Board was unable to expand its capacity to meet the demands of its increased caseload. So, although the Board processed cases more quickly, the total number of cases pending before the Board at the end of FY 2022 increased by 28 percent as compared to the end of FY 2021, from 113 cases last year to 145 cases this year. Nevertheless, the Board remains committed to issuing all of these decisions in as timely a manner as possible under the circumstances.

.....

The Board is equally committed to maintaining the high quality of its decisions. The Board is regularly apprised of the outcomes of cases that have been appealed to the federal courts of appeals and, as in years past, the Board enjoyed a high rate of judicial enforcement of its orders in FY 2022. Overall, 81 percent of challenged Board orders were enforced in full or in substantial part. In addition, senior leaders and staff on the Board-side regularly reviewed all appellate court decisions concerning Board orders to identify strengths and weaknesses in the Board’s decision-making. These strategies enabled the Board to continually evaluate ways to enhance the quality of its decisions.

Further, the Board continued to facilitate case processing throughout the Agency by maintaining its expanded use of Zoom for Government to conduct virtual hearings during the pandemic and the transition back to in-person hearings, and by supporting those virtual hearings with its “courtroom deputy” program. Through the end of FY 2022, the Agency had conducted a total of 307 virtual unfair labor practice hearings and 262 virtual representation case hearings. A large percentage of the virtual unfair labor practice hearings, moreover, were staffed by a Board-side employee who served as a “courtroom deputy” to assist the administrative law judge in managing the Zoom for Government platform to allow the judge to stay focused on the arguments, testimony, and other evidence presented in the hearing.

As further explained below, the Board also used its statutory authority to engage in rulemaking to invite public comment on important procedural and substantive questions facing the Agency. In November 2021, for example, the Board published an Advance Notice of Proposed Rulemaking seeking public input on the continued use of videoconference technology post-pandemic as an option to conduct, in whole or in part, all aspects and phases of unfair labor practice and representation case hearings where appropriate. In September 2022, the Board published a Notice of Proposed Rulemaking addressing the standard for determining joint-employer status under the NLRA. The Board anticipates that public comment on this proposal will greatly assist the Board in ensuring that its legal rules for deciding which employers should engage in collective bargaining best serve the goals of the Act and bring clarity and certainty to this area of the law.

Last, as described below, the Board supported the Agency’s implementation of significant cybersecurity measures and related technology to protect the integrity of our Information Technology (IT) systems, revitalized its congressional and public affairs program, prioritized increasing Diversity, Equity, Inclusion, and Accessibility (DEIA) for both internal and external stakeholders, continued to rebuild relationships with the unions representing Agency employees, and ensured the sound management of fiscal resources. In sum, the Agency achieved much success in FY 2022, and the NLRB looks forward to carrying this momentum into FY 2023.

TECHNOLOGY ADVANCES

Information Technology Advances FY 2022

In FY 2022, the Office of the Chief Information Officer (OCIO) continued to devote its limited resources to accomplishing essential Agency projects and required Government cybersecurity initiatives. Thus, despite significant budgetary constraints, OCIO made significant strides in advancing technologies to enable hybrid work, enhance electronic case management processes and reporting, modernize core IT services, dramatically increase Federal Information Security Management Act (FISMA)/National Institute of Standards of Technology (NIST) security related operations, and apply automation efficiencies to agency administrative functions. OCIO's ability to continue making similar improvements in FY 2023 depends on the Agency receiving adequate funding to support its operations.

Strengthening E-Government and Information Technology

While shifting from a maximum telework to hybrid work posture, the OCIO continued to deliver on the objectives, measures, and goals outlined in the Agency's Strategic Plan. Recent system modernization efforts include:

- Implementation of Reportspedia, an online centralized reports encyclopedia, for agency and public community use. Reportspedia is a web-based repository that provides users with the ability to easily search case information and documents.
- Large Case File Export Service, a reporting platform, which enables the Freedom of Information Act (FOIA) Branch employees to export extremely large and/or numerous case files for the purpose of FOIA responses and FOIA litigation. The new service resulted in a huge cost and time savings for FOIA staff by eliminating manual preparation processes and improving turnaround time from months to a few hours.
- Developed an automated document authoring system for the editing and merge of the annual Agency PAR. The system provides document oversight and collaboration through automated workflows, notification reminders, and final document generation.
- Modernized telephony/conferencing infrastructure to support hybrid work. Continued supporting COVID-19-related work-from-home efforts, assisting the Administrative Law Judges with Zoom hearings while also utilizing external SharePoint sites for guest access to share trial evidence and exhibits. Implemented Headquarters conference room systems using Microsoft Teams to facilitate employee equity and hybrid collaboration.
- Enhanced the security and reliability of IT services and solutions through investments in infrastructure, increasing the use of cloud computing and artificial intelligence, enabling multi-factor authentication for internal- and external-facing customer solutions, and modernizing mission critical infrastructure.

Additionally, NLRB used third-party Software-as-a-Service (SaaS), shared and managed services, and in-house systems to enable a flexible, reliable, scalable, secure, and cost-effective IT infrastructure. NLRB's IT modernization efforts were developed to leverage technology to facilitate data-driven decisions throughout the deployment of enterprise-wide platforms and solutions. The efforts resulted in providing secure and reliable access to NLRB's IT systems for internal and public-facing stakeholders.

Other IT accomplishments include:

- Launched a Classified Index of NLRB Decisions and Related Court Decisions (CiteNet) 2.0 which provides a modern user interface for the public and integrates the citation process into the agency's NxGen Case Management System.

- Provided the architecture, design, and reporting for the Agency Return to Work applications which allowed employees who were planning on working at the office the ability to submit a daily health check survey.
- Implemented Lexis-Nexis as the Agency's primary online legal research platform, providing significantly enhanced search functionality, as well as tools to analyze briefs and other legal documents and access to Federal dockets and records, reducing reliance on the U.S. Courts aging PACER system.
- Implemented SharePoint Process Automation using Microsoft Power Platform (Apps, Automate, BI) to streamline Agency processes, transitioning to electronic forms with routing, workflow, data storage, and management reporting.
- Addressed OMB Memorandum M-22-09 objectives:
 - Completed the implementation of core infrastructure upgrades for Zero Trust Architecture (ZTA).
- Addressed Cybersecurity and Infrastructure Security Agency (CISA) Binding Operational Directive (BOD) 20-01:
 - Enrolled in the CISA Cybersecurity Quality Services Management Office (Cyber QSMO) shared service offering to monitor and take actions on confirmed vulnerabilities disclosed through the Vulnerability Disclosure Policy (VDP) platform for all agency internet-accessible systems.

PUBLIC INFORMATION PROGRAM

The Agency's Public Information Program is one of the critical services provided to the American public, including employers, unions, and employees. Under this program, in addition to the services provided by the Office of Congressional and Public Affairs (OCPA) in Headquarters, Board agents in the field offices provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2022, the Agency's Regional Offices received 34,781 public inquiries regarding workplace issues. In responding to these inquiries, Board agents spend a considerable amount of time explaining the rights and responsibilities under the Act and of other government agencies, accepting charges, or referring parties to other federal or state agencies. In addition to Charges and Petitions filed in traditional paper form, a total of 3,485 Charges and Petitions were filed using fillable forms obtained from Regional Offices or from the Agency's website. An additional 4,565 Charges and Petitions were filed using the E-filing wizard on the Agency's website without assistance from Agency personnel.

The public may also contact the Agency through a toll-free telephone service (844-762-6572) designed to provide easy and cost-free access to information. Callers to this number will hear messages recorded in English and Spanish languages that provide a general description of the Agency's mission, contact information for other government agencies, and contact information for the Regional Offices in closest geographic proximity. Board staff also monitor publicinfo@nlrb.gov, an email account for general public inquiries.

Public outreach is encouraged and has been embraced at all levels of the Agency. Over the past few years, Board Members, General Counsels, Regional Directors, OCPA staff, and Board agents participated in numerous speaking engagements at events sponsored by law schools, bar associations, chambers of commerce, worker advocacy groups, and various other employer, union, and human resources professional groups to educate them on the NLRA and the role of the NLRB in impartially enforcing the Act. The Agency's leadership spoke with a variety of media outlets about the NLRB's congressional mandate and the rights and responsibilities under the Act. Additionally, the Director of OCPA corresponded with hundreds of reporters, explaining the NLRB's processes. Further, Regional Offices publish newsletters and participate in televised or radio public talk shows. The Agency has also been active on Twitter, Facebook, and Instagram accounts.



As part of the Agency's outreach to communities with limited English proficiency, in addition to the bilingual toll-free telephone service for inquiries, the NLRB employs Language Specialists and contracts with service providers whose job is to provide interpretation and translation services in various languages to assist 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 languages. 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. Finally, the Agency has teamed up with consulates from Central American countries to educate business owners and their employees about rights and obligations under the NLRA and with other federal agencies in conducting listening sessions among the Asian American and Pacific Islander community. These sessions will educate them about the rights of workers, listen to their concerns regarding treatment at their workplaces, and help resolve any confusion about the Agency's processes.

Also of note is the Agency's effort to increase interagency law enforcement efforts. Specifically, the Agency has shared information and provided advice with, among others, the DOJ's Antitrust Division, the Federal Trade Commission, and the New York State Office of the Attorney General, so that the NLRB can more readily collaborate with other labor and employment agencies, which will maximize scarce governmental resources.

FY 2022 STATISTICAL HIGHLIGHTS



The Board issued **243** decisions in contested cases:



87.7% of all initial elections were conducted within 56 days of filing of the petition.

Initial elections in union representation cases were conducted in a median of **37 days** from the filing of the petition.

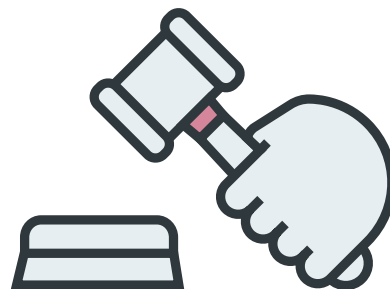


Regional Offices issued **738 complaints.**



84.3%

of meritorious ULP charges resolved within 365 days.



Regional Offices prevailed in

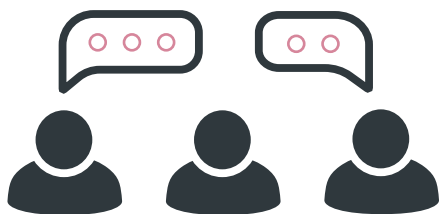
83.8%

of Board and administrative law judge (ALJ) decisions which were won, in whole or in part.

\$51,666,969

was recovered on behalf of employees as backpay, consequential damages, or reimbursement of fees, dues, and fines

and
995
employees offered
reinstatement.



The Agency received **34,781** inquiries through its Public Information Program.



The Division of Judges closed **122** hearings, issued **127** decisions, and achieved **343** settlements in cases on its trial docket.

**MANAGEMENT'S
DISCUSSION AND
ANALYSIS**



**PROTECTING
DEMOCRACY IN
THE WORKPLACE
SINCE 1935**

ABOUT THE NLRB

THE NATIONAL LABOR RELATIONS ACT (NLRA)

- Basic law governing relations between labor unions and business enterprises engaging in interstate commerce in the private sector.
- Serves the public interest by reducing interruptions in commerce caused by conflict between employers and employees.
- Embodies a bill of rights for workers, which establishes freedom of association for purposes of collective bargaining and concerted activities to improve terms and conditions in the workplace.
- Addresses the rights of employees and obligations of 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 ensuring that workers can freely express their wishes regarding union representation; and to protect workers' fundamental right to act together for their mutual aid or protection.

The NLRB acts only on those charges and petitions 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 87-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 at: <https://www.nlr.gov/>

Charges and Complaints – Data related to the investigation and prosecution of ULPs 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 rescission of union security agreements received by Regional Offices, elections held, and outcomes.

Decisions – Data related to decisions by the Board and NLRB ALJs.

Federal Litigation – Data related to litigation by Board attorneys before administrative law judges, the Board, and 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 ULPs, including backpay and offers of reinstatement.



MISSION STATEMENT

Vigorously advance the policies of the NLRA to promote collective bargaining by ensuring that workers can freely express their wishes regarding union representation and protecting workers' fundamental right to act together for their mutual aid or protection.

EMPLOYEE RIGHTS UNDER THE NLRA

The NLRA 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” are activities that seek to improve working conditions.
- 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 Agency's offices include its headquarters in Washington, D.C., a network of field offices throughout the United States (U.S.), and two satellite Judges' offices in New York City and San Francisco. 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/about-nlr/who-we-are/regional-offices>

THE FIVE-MEMBER BOARD

The five-member Board primarily acts as a quasi-judicial body, deciding cases based on 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.¹ The President designates one of the Board Members as Chairman. Board Member Lauren McFerran was designated as Chairman on January 20, 2021.

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 ULP cases and for the general supervision of the NLRB Regional Offices, and pursuant to a delegation by the Board, 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. With respect to the investigation and prosecution of ULP cases, the General Counsel has sole prosecutorial authority under the statute, independent of the Board. Jennifer A. Abruzzo was nominated by the President to serve as General Counsel, and was confirmed by the Senate on July 21, 2021, and sworn in on July 22, 2021.

¹ 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 lapse of time can occur between when a term expires and a new Board Member is confirmed, which means that a new Board Member would serve only the remaining portion of the five-year term to which they were appointed.

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

Appointee	Sworn In	Term to Expire
Lauren McFerran Chairman	8/10/2020 (as Board Member) 1/20/2021 (designated as Chairman)	12/16/2024
Marvin E. Kaplan Member	8/10/2017	8/27/2025
John F. Ring Member	4/16/2018	12/16/2022
Gwynne A. Wilcox Member	8/4/2021	8/27/2023
David M. Prouty Member	9/22/2021	8/27/2026
Jennifer A. Abruzzo General Counsel	7/22/2021	7/22/2025

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 regarding union representation and by preventing and remedying statutorily defined ULPs. The NLRB maintains a public-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 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 prevent and remedy certain ULPs on the part of employers and unions so as to effectuate employees' rights under the NLRA and promote commerce and strengthen the Nation's economy.

The three mission-related goals of the NLRB are:

- Ensure effective enforcement of the NLRA through timely and quality consideration and resolution of unfair labor practices with appropriate remedies.
- Protect employee free choice with timely and effective mechanisms to resolve questions concerning representation.
- Improve Public Awareness of Agency Mission and Activities.

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

UNFAIR LABOR PRACTICE PROCEEDINGS

The NLRA regulates the conduct of labor-management relations between employers and unions. The NLRB enforces the provisions of the Act through ULP proceedings, which are adjudicated and remedied through 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 the merits of ULP cases.

The General Counsel investigates ULP charges through the Agency's network of Regional, Subregional, and Resident Offices (collectively known as 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 ALJ, 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 record, according to the Act 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 U.S. Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board 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 temporary 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 Agency 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. Determining whether the use of Section 10(j) is appropriate in a particular case is dependent on preserving the Board's ability to effectively remedy the alleged ULP and ensuring the alleged violator would not 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 the 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 adversarial.² 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 determining whether certification should issue.

² 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.

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, although the Board holds the authority to determine the rules governing representation proceedings, the Board and the General Counsel have historically worked together in developing such procedures. The Board also 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

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. The 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 human capital functions of the Agency.

CASEHANDLING HIGHLIGHTS

The NLRB acts only on 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 a complaint absent settlement.

All proceedings originate with the filing of charges or petitions by employees, labor unions, or private-sector employers engaged in interstate commerce. During FY 2022, the public filed 17,998 unfair labor practice charges, containing one or more allegations of unlawful conduct, of which 41.2 percent were found to have merit. Also, in FY 2022, the NLRB received 2,511 representation petitions, including 2,414 petitions to conduct secret-ballot elections in which workers in appropriate units freely decide whether they want unions to represent them in collective bargaining with their employers, as well as 28 petitions for elections in which workers voted on whether to rescind existing union-security agreements. The NLRB also received two petitions seeking amendment and 61 petitions seeking clarification of an existing bargaining unit.

The NLRB is focused on effectuating the dual purposes of the NLRA to ensure employees' free choice on union representation and to prevent and remedy statutorily defined unfair labor practices in an efficient manner that best serves the needs of the American people.

The cases summarized on the following pages highlight some of the Agency's more notable casehandling activities in furtherance of these purposes.

BOARD HIGHLIGHTS

BOARD REJECTS CHALLENGE TO GENERAL COUNSEL'S AUTHORITY

Aakash, Inc.

32-CA-282957, reported at 371 NLRB No. 46 (2022)

In granting the General Counsel's motion for summary judgment in this test-of-certification proceeding, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring concurring) rejected the employer's argument that current General Counsel Jennifer Abruzzo lacked the authority to issue and prosecute the complaint as a result of the President's purportedly unlawful removal of former General Counsel Peter Robb in January 2021. The Board found that the employer's contention was foreclosed by the Supreme Court's recent decision in *Collins v. Yellen*, 594 U.S. ___, 141 S. Ct. 1761 (2021), the confirmation of General Counsel Abruzzo by the Senate in July 2021, and the fact that General Counsel Robb's term would have expired in November 2021 in any event, meaning there could be no doubt about General Counsel Abruzzo's authority after that date.

COVID-19 RELATED DEVELOPMENTS

FY 2022 was a time of transition for the Agency and the employees, unions, and employers we serve as the country began to emerge from the COVID-19 pandemic. Most important, the Agency successfully reentered its headquarters and field offices throughout the country and began gradually resuming in-person operations. By the end of FY 2022, nearly all Agency employees had returned to their assigned duty stations and resumed performing in-person work. Moreover, in many instances the Agency had begun conducting in-person investigations of unfair labor practice charges, in-person hearings in unfair labor practice and representation cases, and in-person representation elections, though virtual options remained available in all of these circumstances. Further, as described below, the Board continued to update its decisional guidance on pandemic-related issues. In sum, although challenges remain, the Agency and its employees once again demonstrated their commitment to accomplishing the Agency's mission to enforce the NLRA.

Board Updates Considerations for Directing Mail-Ballot Elections

Starbucks Corporation

19-RC-295849, reported at 371 NLRB No. 154 (2022)

On review, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) issued a decision updating the considerations that guide Regional Directors in exercising their discretion in determining whether a representation election should be conducted by mail ballot, rather than by in-person manual voting, due to COVID-19-related conditions.

The decision, based on an election held in a Starbucks coffee shop in Seattle, modified one of the six factors in the Board's decision in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020). Previously, *Aspirus* factor 2 permitted Regional Directors the discretion to direct mail-ballot elections based on either a recent increase in new confirmed COVID-19 cases or recent testing positivity rates in the county encompassing the employer's facility, using data collected primarily by state and local governments. The Board changed factor 2 to allow Regional Directors the discretion to order a mail-ballot election in communities where the Centers for Disease Control (CDC) has determined that the risk of COVID-19 transmission in a particular community is "high," based on the CDC's more reliable county-based Community Level tracker. The decision did not alter any of the remaining five *Aspirus* factors.

The Board decided to apply this change prospectively only, however, to Regional Directors' subsequent decisions whether to conduct elections by mail or manual ballot, thereby leaving undisturbed the mail-ballot election conducted in this case and other previously ordered mail-ballot elections. Accordingly, the Board directed the Region to open and count the ballots, which had been held pending this decision.

Board Modifies Timing of Electronic Posting of Remedial Notices in Workplaces Impacted by COVID-19

Paragon Systems, Inc.

13-CA-274000, reported at 371 NLRB No. 104 (2022)

The Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) modified the timing of its electronic notice-posting requirement in circumstances where an employer has not yet reopened its facility due to COVID-19, or where a substantial complement of employees has not yet returned to work on site, and the employer is communicating with employees by electronic means. Under prior law, both physical and any electronic notice posting were deferred in either circumstance to within 14 days of the facility's reopening and staffing by a substantial complement of employees, as prescribed in *Danbury Ambulance Service*, 369 NLRB No. 68 (2020). In *Paragon*, the Board held that any required electronic notice posting must occur within 14 days after service by the Region, while retaining the *Danbury* schedule as to physical posting of the notice. The Board found that advancing the timing of the electronic notice posting to more promptly inform employees of unfair labor practices committed against them, and the steps that would be taken to remedy those violations, would better effectuate the purposes of the NLRA.

Board Issues Advance Notice of Proposed Rulemaking Seeking Input on Virtual Hearings in Unfair Labor Practice and Representation Cases

On November 5, 2021, the Board published an Advance Notice of Proposed Rulemaking (ANPRM) seeking public input on the continued use of videoconference technology post-pandemic as an option to conducting, in whole or in part, all aspects and phases of unfair labor practice and representation case hearings where appropriate. The Board's current Rules and Regulations provide for the taking of a single witness's testimony via video in an unfair labor practice proceeding upon a showing of good cause based on compelling circumstances. However, during the COVID-19 pandemic, the Board conducted most of its hearings entirely remotely in both unfair labor practice and representation cases. Although the Board intends to resume conducting hearings primarily in person, the Board is also considering whether to retain virtual hearings as an option for future use in appropriate circumstances. Accordingly, the ANPRM solicited responses to targeted questions addressing, among other things, stakeholders' experiences with remote hearings during the pandemic; the benefits and/or drawbacks of using videoconference technology to conduct remote hearings; and the need for potential amendments to the Board's rules to incorporate the use of videoconference technology to conduct remote hearings. The Board is currently evaluating the submitted comments.

DEVELOPMENTS IN THE LAW - UNFAIR LABOR PRACTICE CHARGES

Board Rules Workplace Policies Limiting Wearing Union Insignia, including Union Apparel, are Unlawful Absent Special Circumstances

Tesla, Inc.

32-CA-197020, 32-CA-197058, 32-CA-197091, 32-CA-197197, 32-CA-200530, 32-CA-208614, 32-CA-210879, and 32-CA-220777, reported at 371 NLRB No. 131 (2022)

The Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) reinstated longstanding precedent holding that employer attempts to impose any restriction on the display of union insignia, including by wearing union apparel, are presumptively unlawful, absent special circumstances that justify such a restriction. In so doing, the Board overruled *Wal-Mart Stores, Inc.*, 368 NLRB No. 146 (2019), which, contrary to that longstanding precedent, held that the “special-circumstances” test applies only when an employer completely prohibits union insignia. Accordingly, the Board found that it was presumptively unlawful for the employer in this case to maintain a policy that effectively prohibited employees from wearing t-shirts bearing union insignia, and further found that the employer failed to establish special circumstances justifying the prohibition in this case.

NLRB Rules Employers May Not Unilaterally Stop Union Dues Checkoff When Labor Contracts End

Valley Hospital Medical Center, Inc. d/b/a Valley Hospital Medical Center

28-CA-213783, reported at 371 NLRB No. 160 (2022)

On remand from the United States Court of Appeals for the Ninth Circuit, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) definitively resolved an issue that has been a potential source of instability for employees, unions, and employers in collective bargaining, holding that an employer’s statutory duty to maintain existing terms and conditions of employment after a collective-bargaining agreement expires applies to union dues checkoff. Thus, an employer is not free to unilaterally stop dues checkoff at contract expiration.

The Board initially addressed this issue in *Bethlehem Steel* (1962), holding that an employer was free to end dues checkoff upon contract expiration. The rationale for that decision, however, was later criticized by the Ninth Circuit, and others. In 2015, the Board, in *Lincoln Lutheran*, resolved that criticism in a fully rationalized decision concluding that dues checkoff was subject to the general statutory rule requiring employers to maintain most terms and conditions of employment after contract expiration to facilitate bargaining for a new agreement. But just a few years later, in *Valley Hospital I* (2019) a Board majority reversed *Lincoln Lutheran*, again permitting employers to stop checkoff when a contract expires. Once again, however, the Ninth Circuit rejected the Board’s rationale for its decision.

In order to foster stability in post-contract bargaining, the Board’s decision reversed *Valley Hospital I* and reinstated the rule of *Lincoln Lutheran*: that an employer, following contract expiration, must continue to honor a dues-checkoff provision established in that contract until either the parties have reached a successor agreement or a valid overall bargaining impasse that permits unilateral action by the employer.

NLRB Rules Union Did Not Unlawfully Decline to Disclose “Neutrality Agreement” Absent Evidence that it Affected Employees’ Terms and Conditions of Employment

National Nurses Organizing Committee-Texas (Bay Area Healthcare Group)

16-CB-225123, reported at 371 NLRB No. 132 (2022)

The Board (Chairman McFerran and Member Wilcox; Member Ring dissenting) found that the respondent union did not unlawfully decline a bargaining-unit employee’s request for a copy of a “neutrality agreement” that was executed by the union and the employer before the union began representing employees. The Board recognized longstanding precedent holding that a union, once it becomes the representative of employees, may be obligated to provide those employees with certain information related to the union’s performance as their representative. In this case, however, the Board found no evidence that any “neutrality agreement” between the union and the employer — in contrast to the collective-bargaining agreement that the union had provided to the employee — had any bearing on employees’ terms and conditions of employment. Last, the Board rejected as contrary to precedent and policy suggestions that “neutrality agreements” should be deemed presumptively relevant and thus disclosable absent a compelling justification. The Board thus concluded there was no basis for finding any violation of the Act in this case and dismissed the complaint.

Board Reaffirms Precedent Holding that After Contract Expiration Employers Must Maintain Status Quo With Respect to Mandatory Subjects of Bargaining Absent Impasse or Clear and Unmistakable Waiver by Union

PG Publishing d/b/a/ Pittsburgh Post-Gazette

06-CA-233676, reported at 371 NLRB No. 141 (2022)

The Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) held that after the parties’ collective bargaining agreement expired the employer violated Section 8(a) (5) and (1) of the Act by unilaterally laying off two employees—who were guaranteed five shifts per week under the terms and conditions of the expired agreement—prior to reaching an impasse in bargaining and in the absence of any clear and unmistakable waiver by the Union. In reaching this conclusion, the Board reaffirmed longstanding precedent holding that most terms and conditions of employment that are mandatory subjects of bargaining continue in effect after the expiration of a collective-bargaining agreement *by operation of law*, even if they do not continue in effect as a matter of contract. The Board observed that a union may waive its statutory right to compel post-expiration maintenance of the status quo, but any waiver must be “clear and unmistakable.” Further, although in limited circumstances such a waiver may be found in language contained in the expired agreement, the Board reaffirmed that general durational language is insufficient. In this case, the parties’ expired agreement stated only that employees would be guaranteed five shifts per week “for the balance of the Agreement.” Based on this language, the Board found that, *as a contractual matter*, the parties intended the guarantee to remain in place until the end of their agreement, but that this language did *not* clearly and unmistakably address what would happen *after* “the balance of the Agreement” passed, when the employer’s statutory duty to maintain the status quo came into play. As a result, the Board found that the employer’s unilateral action violated the Act.

Board Reaffirms that Discharging Employees to Discourage Other Employees' Protected Concerted Activity Violates the Act

Morgan Corp.

10-CA-650278, reported at 371 NLRB No. 142 (2022)

The Board (Chairman McFerran and Members Ring and Wilcox) held that the employer violated Section 8(a)(1) of the Act by discharging an employee in order to suppress protected concerted activity among his coworkers. The employee, who had just recently been hired, disclosed to his coworkers that he had already received a significant wage increase, one that exceeded raises given his more experienced colleagues and placed him at a higher hourly wage than at least one of them. This disclosure caused discussion and discontent among the coworkers, prompting one to complain to management that employees were displeased and were threatening to quit unless they too received higher wages. In response, the employer discharged the new employee, expressly for revealing his wage raise to his coworkers and for the resulting "mutiny" among them. In those circumstances, the Board held that, regardless of whether the new employee had himself engaged in protected concerted activity, the complaining coworker had done so by bringing a truly group concern to management. Moreover, the Board reasoned, the discharge sent a clear message to other employees that wage-related complaints would not be tolerated, reasonably tending to chill any future exercise of Section 7 rights.

DEVELOPMENTS IN THE LAW – REPRESENTATION ELECTIONS

Board Affirms Merit Determination Dismissal Process

Rieth-Riley Construction Co., Inc.

07-RD-257830 and 07-RD-264330, reported at 371 NLRB No. 109 (2022)

On review, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting in part) ruled that the Board's current election-procedure rules, adopted in 2020, continue to permit merit-determination dismissals of election petitions, despite changes in the Board's blocking-charge policy.

The Board held that when an unfair labor practice charge alleges conduct that would interfere with employee free choice in a representation election, and a Regional Director determines after conducting an administrative investigation that the charge has merit and should be prosecuted, the Regional Director may dismiss a pending election petition. The Board distinguished merit-determination dismissals from cases in which, prior to the Calendar Year (CY) 2020 changes in the rules, a Regional Director could block an election, based on a pending unfair labor practice charge that had not yet been reviewed. A majority of the Board (Chairman McFerran, Member Wilcox, and Member Prouty) found that in this case the Regional Director had properly dismissed a decertification petition, after finding merit in unfair labor practice charges.

THE BOARD INVITES PUBLIC INPUT ON IMPORTANT LABOR LAW QUESTIONS

Mandatory Arbitration Clauses

On January 18, 2022, in *Ralphs Grocery Company*, 371 NLRB No. 50 (2022) the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) invited parties and amici to submit briefs addressing whether the Board should adopt a new legal standard to determine whether confidentiality requirements in a mandatory arbitration agreement violate Section 8(a)(1) of the Act and other legal issues related to mandatory arbitration agreements.

Work Rules

On January 6, 2022, in *Stericycle, Inc.*, 371 NLRB No. 48 (2022), the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) invited briefs addressing whether the Board should adopt a new legal standard to determine whether employer work rules violate Section 8(a)(1) of the Act. In 2017, a prior Board, without seeking public input, established a new standard for analyzing the lawfulness of employer work rules in *Boeing Co.*, 365 NLRB No. 154 (2017), which was later refined in *LA Specialty Produce Co.*, 368 NLRB No. 93 (2019). Given the ubiquity of employer work rules and the importance of ensuring that such rules do not interfere with the exercise of employees' rights under Section 7 of the Act any more than is justified by legitimate employer interests, the current Board determined that it would be appropriate, with public participation, to evaluate the standard adopted in *Boeing*, revised in *LA Specialty Produce*, and applied in subsequent cases.

Independent Contractor Status

On December 27, 2021, in *The Atlanta Opera, Inc.*, 371 NLRB No. 45 (2021), the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) invited parties and amici to submit briefs addressing whether the Board should reconsider its standard for determining the independent contractor status of workers. Previously, a prior Board in *SuperShuttle DFW, Inc.*, (2019) had overruled the standard for determining independent contractor status that was set forth in *FedEx Home Delivery* in 2014. Given the importance of properly determining whether workers are statutory employees or independent contractors—who are excluded from the protections of the Act—the Board invited briefs to address the appropriate standard for making this determination.

Appropriate Bargaining Units

On December 7, 2021, in *American Steel Construction*, 371 NLRB No. 41 (2021), the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) invited briefing on the question whether the Board should reconsider its standard for determining if a petitioned-for bargaining unit is an appropriate unit, in circumstances where another party asserts that the only appropriate unit must include additional employees. Previously, in *PCC Structural*s, 365 NLRB No. 160 (2017), as revised in *The Boeing Co.*, 368 NLRB No. 67 (2019), a prior Board had overruled the existing standard, which was set forth in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), *enfd.* 757 F.3d 552 (6th Cir. 2013).

Consequential Damages Remedy for Employees

On November 10, 2021, in *Thryv, Inc.*, 371 NLRB No. 37 (2021), the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) invited briefs addressing whether the Board should expand its traditional make-whole remedy for employees who are discharged, laid off, or otherwise discriminated against to more fully account for their actual economic losses. The Board's traditional remedy for unlawful layoffs or terminations requires that employees be reinstated to their previous or substantially equivalent positions and be made whole for their loss of earnings and benefits, along with the search-for-work and interim employment expenses they incurred because of the unlawful conduct. The Board is interested in learning whether and in what circumstances these remedies should be expanded to provide more complete remedial relief for damages that are a direct and foreseeable result of a respondent's unfair labor practice.

THE BOARD INITIATES RULEMAKING

The Board Issues a Notice of Proposed Rulemaking on the Joint-Employer Standard

On September 7, 2022, the Board (Chairman McFerran and Members Wilcox and Prouty; Members Kaplan and Ring dissenting) published a Notice of Proposed Rulemaking (NPRM) in the Federal Register addressing the standard for determining joint-employer status under the NLRA. The NPRM proposes to rescind and replace the joint-employer rule that took effect on April 27, 2020. The proposed changes are intended to explicitly ground the joint-employer standard in established common-law agency principles, consistent with Board precedent and guidance that the Board has received from the United States Court of Appeals for the District of Columbia Circuit.

Under the proposed rule, two or more employers would be considered joint employers if they "share or codetermine those matters governing employees' essential terms and conditions of employment," such as wages, benefits, and other compensation, working hours and scheduling, hiring and discharge, discipline, workplace health and safety, supervision, assignment, and work rules. The Board proposes to consider evidence of both reserved and exercised control, as well as direct and indirect control, over these essential terms and conditions of employment when analyzing joint-employer status. The Board anticipates that public comment on these proposals will greatly assist the Board in ensuring that its legal rules for deciding which employers should engage in collective bargaining best serve the goals of the Act and bring clarity and certainty to these significant questions.

REGIONAL HIGHLIGHTS

Region Successfully Obtains Injunctive Relief in Classic Nip-in-the-Bud Litigation

Starbucks Corporation

15-CA-290336, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by, including but not limited to, disciplining the employee responsible for starting the organizing campaign; more closely supervising the employees; closing the area of the store on days organizers had previously invited the public and customers to show support for the campaign; and removing all pro-union materials from the community bulletin board inside the store, including notes authored by customers expressing support for the employees and their campaign. The Region also determined the Employer unlawfully terminated seven employees on the same day, including five of the six members of the union organizing committee.

Due to the mass discharge of the employee leaders of the union organizing campaign, the Region sought and obtained a Section 10(j) injunction relief from the District Court that required the Employer, among other things, to offer interim reinstatement of the seven employees in this classic nip-in-the-bud litigation. The Court also ordered the Employer to rescind and expunge unlawful discipline issued to employees, post the Court's Order with translations in other languages, and cease and desist from engaging in unlawful activities.

The Employer appealed to the Circuit Court and moved for a stay of the injunction pending appeal. The Region working with the Division of Advice's Injunction Litigation Branch successfully argued against the stay of the injunctive relief during the appeal.

Region Successfully Obtains Injunctive Relief Including a Bargaining Order and Reporting Obligation

RadNet Management Inc. d/b/a San Fernando Valley Advanced Imaging Center, et al.

31-CA-278848, et al.

After an investigation and determination of merit, the Region issued complaint and sought injunctive relief against the Employer for bargaining in bad faith, including engaging in persistent dilatory tactics by failing to respond to the Union's proposals, abruptly ending bargaining sessions, and failing and delaying in responding to the Union's request for information.

After the Region filed for Section 10(j) injunctive relief, the District Court ordered the Employer to meet and bargain in good faith and at reasonable times with the Union, and, if an agreement is reached, act in good faith to produce a signed agreement. The Court directed the Employer to submit written bargaining progress reports every 30 days to the Region and post copies of the court's order at its facility, granted the Region access to monitor compliance with the posting requirement and that the Employer hold one or more mandatory employee meetings at which a responsible Employer official or Board Agent will read the District Court order to the bargaining unit employees.

Region Successfully Obtains Injunctive Relief Including Reinstatement of Discriminatee and a Cease-and-Desist Order

Absolute Healthcare d/b/a/ Curleaf

28-CA-267540

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer created an impression of surveillance of the employees; threatened employees with the loss of tips; promised its employees benefits, including better employee discounts, if they did not form a union; and unlawfully fired the employee leader of a campaign among its employees to secure union representation. The Region initiated Section 10(j) injunction relief in District Court.

The District Court granted injunctive relief that required the Employer to reinstate a fired union supporter. The injunction also enjoined the Employer from threatening employees with losing their tips if they form a union, promising employees benefits if they do not join a union and creating an impression that employees' union activities were being kept under surveillance. The injunction also required the Employer to post the court's order at its store and to convene a meeting in which the order was read to the employees. The decision of the Administrative Law Judge is pending before the Board.

Region Successfully Obtains Injunctive Relief that Includes a Gissel Bargaining Order

NP Red Rock LLC d/b/a Red Rock Casino Resort Spa

28-CA-244484, et al.

After an investigation and determination of merit, the Region issued complaint alleging a myriad of violations of the Act which the Region litigated in an administrative proceeding. The Region sought and obtained 10(j) injunctive relief in District Court ordering an interim *Gissel* bargaining order. Along with the Employer ceasing and desisting engagement in numerous unlawful conduct, the District Court also required the Employer to conduct a mandatory employee meeting, at which the District Court order will be read in English and Spanish to all bargaining unit employees, supervisors, and managers. The Agency secured the Ninth Circuit affirmation of the District Court's order.

The Administrative Law Judge found that, during an organizing campaign the Employer engaged in unfair labor practices so serious and pervasive that they made a free and fair union election highly unlikely, which warranted a *Gissel* bargaining order, along with other remedies. The Judge found that the Employer had committed over 20 unfair labor practices in violation of the Act including: granting its employees "huge," "incredible," and "unheard of" new "free" healthcare, medical, and retirement benefits specifically designed to "devastate" the union organizing and election campaign; repeatedly threatening employees with loss of the new benefits and other reprisals if they voted for the Union; promising them even more benefits if they voted against the Union; and indicating that voting for the Union would be futile.

Region Successfully Obtains Injunctive Relief Including a Bargaining Order and Reporting Obligation

Grill Concepts Services, Inc. dba The Daily Grill

31-CA -276950

After an investigation and determination of merit, the Region issued complaint against the Employer alleging a failure and refusal to bargain in good faith with the Union and sought Section 10(j) injunctive relief. The District Court initially denied the injunction; however, upon a motion for reconsideration by the Region, the Court granted the injunction. The District Court ordered the Employer to meet and bargain with the Union, upon request, for a minimum of 24 hours a month, for at least six hours per session, until an agreement or lawful impasse is reached or until the parties agree to a respite in bargaining. The District Court ordered, among other actions, that the Employer submit written bargaining progress reports every 30 days to the Region, with a copy to the Union, and post copies of the Court's order at the Employer's facility.

Region Successfully Obtains Reinstatement of Discriminatee in the Union Organizing Effort

Amazon.com Services, LLC

29-CA-261755, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by discharging one of the active leaders of an employee movement at a Staten Island warehouse after he participated with other employees in a protest outside the warehouse. The employee movement began as protected concerted activity advocating for improved COVID-19 health and safety measures that later evolved into a union organizing campaign.

An Administrative Law Judge determined that the Employer discharged the employee for engaging in protected concerted activities and that the employee had not engaged in conduct warranting discharge under the Employer's own policies and practices. The Administrative Law Judge ordered the employee's reinstatement and payment of any back wages and benefits. The Employer's appeal to the Board is pending. The Region sought a Section 10(j) injunction requiring, among other things, interim reinstatement of the discharged activist. The injunction petition is pending in District Court.

Region Successfully Obtains Order Finding Joint Employer Status in Case Involving Protected Concerted Activity

ColArt Americas, Inc. and Staff Management Group LLC, Joint Employers

22-CA-252829

After an investigation and determination of merit, the Region issued a complaint alleging that the Employers were joint employers and that they violated the Act by threatening employees with unspecified reprisals if they discussed their concerns about work assignments and by discharging an employee for engaging in protected concerted activities. The Region litigated this case in an administrative proceeding.

The Administrative Law Judge found that the Employers, acting in their capacity as joint employers, violated the Act by threatening employees with reprisals if they spoke to each other about workplace conditions including racism, and by discharging an employee in retaliation for his concerted complaints to the Employer about these issues and his threats to file a charge with the NLRB. The Judge found that the manager's statement during a meeting that there would be "a problem" if employees spoke to each other about workplace conditions was a direct threat of unspecified reprisals in violation of the Act. The Judge found that the employee's complaints about the removal of chairs from some employee workstations, mistreatment of employees, and racism, although made individually, were concerted because they were aimed at initiating and inducing group action and that the Employers' termination of the employee was motivated by his protected concerted complaints and his threats to file a charge with the NLRB.

The Employers were held jointly liable for the unlawful termination and ordered to reinstate the employee and make him whole for any loss of earnings suffered due to the unlawful conduct. The case is pending with the Board.

Regions Obtain a Settlement that Includes Rescission of Unlawful Rule and Notice Posting

Amazon.com Services, LLC

13-CA-275270 et al. and 29-CA-278982 et al.

After their respective investigations, the Regions determined that the Employer had violated the Act by, but not limited to, interrogating employees about their protected concerted activities; orally promulgating an overly-broad and discriminatory directive or rules to discourage employees from engaging in protected concerted activity; promulgating both orally and in writing and since then maintaining and enforcing overly-broad and discriminatory rules to discourage employees from engaging in protected concerted activities.

The Employer, the Regions, and various Charging Parties entered into a nationwide settlement agreement which provided, among other things, that the Employer would rescind its policy that restricted employee access to non-work areas on non-work times beyond 15 minutes or more of employees' start and stop times — "the 15 minute rule." The Employer also agreed to notify its employees nationwide that it had rescinded this rule and further notify employees that it would stop discriminatory enforcement of the rule. The settlement agreement provided for nationwide postings of notices at its facilities and for 60 days continuously notifying employees of the rescission of the rule on its internal website and internal application.

The Region Obtains a Settlement that Includes a Mandatory Training Requirement for Union Officials

APWU

15-CB-274725, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Union violated the Act by, including but not limited to, failing to fairly represent members during various grievance proceedings and to provide information to the members when requested.

The Region obtained a settlement that included a mandatory training requirement for union officials and stewards along with the issuance of letters of apology to the affected members for the Union's failure to file and process grievances, and a notice posting.

The Region Obtains a Settlement that Includes Mandatory Training and Letters of Apology

Transit Management

15-CA-270279, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by the failing to comply with the terms of a 2021 settlement agreement. The complaint also alleged that the Employer engaged in numerous violations of the Act that included, but were not limited to: promising unspecified benefits and more favorable conditions if certain employees were removed from their roles as Union representatives; threatening employees with discharge and other unspecified reprisal and disparaging employees because they engaged protected concerted activities; and threatening to withhold hazard pay for employees unless the Union stopped processing grievances and canceled arbitrations; and disciplining employees who engaged in protected concerted activities.

The Region obtained a settlement that included mandatory training for managers and supervisors, the payment of backpay to five discriminatees, along with the issuance of letters of apology to two discriminatees, and the posting and mailing of the Notice to Employees.

The Region Obtains a Settlement that Includes Mandatory Training, Payment of Frontpay and Backpay, Notice Reading and Electronic Distribution of Notices

Juicy Seafood Baton Rouge LLC

15-CA-287728, et al.

After an investigation, the Region determined that the Employer violated the Act by, including but not limited to, discriminating against and discharging an employee for engaging in protected concerted activity, applying a facially neutral rule in retaliation for and in on order to restrict employees from engaging in protected concerted activity, and interfering with employees' rights by informing them that the Employer discharged employees for engaging in protected concerted activity.

The Region obtained a pre-complaint settlement that included mandatory training for managers and supervisors, the payment of pay backpay and frontpay to a discriminatee that totaled \$17,265, providing a neutral letter of reference and expunging the personnel files of the discriminatee, along with reading the notice at each shift and posting the notice and distributing it through GroupMe and text messages to all employees, supervisors, and managers.

The Region Obtains a Settlement that Includes the Payment of \$52,000 in Backpay and Frontpay and Mandatory Training for Managers and Supervisors

Site Partners, LLC a parent company of Site Barricade

16-CA-291658, et al.

After an investigation, the Region determined that the Employer violated the Act when it discharged four employees in response to union organizing efforts and protected concerted activity. The Employer also committed numerous hallmark Section 8(a)(1) violations, including threats, promise of benefits, solicitation of grievances, interrogation, and unlawful surveillance. The Region obtained a settlement that obviated the need to seek injunctive relief. The settlement terms included \$52,000 in backpay and frontpay, training for both supervisors and managers, as well as training for employees.

The Region Obtains a Settlement that Includes the Posting and Mailing of Notices and the Employee Rights Poster and the Payment of Backpay and Front Pay and Reimbursement of Benefits

Simms Fishing Products

19-CA-288911, et al.

After an investigation, the Region determined that the Employer violated the Act by suspending and discharging a production employee for discussing workplace issues and advocating for her daughters, who also worked in production at the company; unlawfully instructed the employee to refrain from “inserting herself” in workplace issues involving other employees; and unlawfully instructed one of the employee’s daughters to only speak with her supervisors about any workplace issues and concerns.

The Region obtained a settlement agreement requiring the Employer to post both the Notice to Employees and the Employee Rights poster for 60 days including on the Employer’s intranet site for 60 days, with access provided to the Region’s compliance officer/assistant in order to monitor the electronic posting; mail both the Notice and the Employee Rights poster to all employees who worked at the facility for at any time over the past year; pay 100 percent backpay plus front pay to the discriminatee, along with health benefits, 401k contributions, and a monthly \$650 bonus; and reimburse the discriminatee’s consequential damages for the additional mileage to commute to interim employment, as well as mileage and parking for a job search.

The Region Helped Garner a Global Settlement that Includes the Re-establishment of Business, Offers of Reinstatement to 66 Discriminatees and the Execution of a First Contract

Mason-Dixon Intermodal D/B/A Universal Intermodal Services

21-CA-252500, et al.

After separate investigations and determinations of merit, the Region issued complaints alleging numerous violations of the Act. The Region helped garner a global settlement on the eve of trial that resolved 11 unfair labor practice charges that were at various stages of litigation, including seven cases pending review before the Board on Exceptions and Cross-Exceptions to the 2021 recommended decision and order of an Administrative Law Judge that found that the Employer committed multiple violations of the Act.

The terms of the settlement included that the Employer re-establish its closed drayage business; provide offers of reinstatement to the approximately 66 affected drivers; pay millions in backpay to the approximately 66 affected drivers; recognize the Union as the representative of the unit of drayage drivers; enter into an agreed first collective bargaining agreement for the unit of drayage drivers. The Employer agreed not to misclassify drivers as independent contractors; provide an option for other drivers at its subsidiaries to transfer as full-time employees to the Union-represented drayage business; and post at various facilities and mail to the drivers a notice that informs employees of their rights and remedies of unfair labor practices under the National Labor Relations Act. The global settlement fully resolved the issues raised by complaints issued in 2021 and 2022.

The Agency Obtains a 10(e) Protective Restraining Order that Precludes the Employer from Transferring or Commingling Assets Until the Payment of \$287,355 or Providing Security for that Amount

Sameh Aknouk Dental Services

02-CA-263564, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by, including but not limited to, having threatened employees who engaged in protected concerted activities with discharge and unspecified reprisals; promised benefits and improved working conditions if employees abandoned their support for or membership in the union; and reduced work hours of the employees. When the Employer failed to file an answer, the Region filed a motion for a default judgment, the Board found that the Employer committed unfair labor practices by unilaterally reducing its employees' work hours and ceasing healthcare insurance contributions and ordered the employer to make the employees whole.

When the Employer failed to comply with the Board order, the Division of Enforcement's Appellate and Supreme Court Litigation Branch obtained enforcement in the Court of Appeals, but the employer failed to comply, and the Division of Legal Counsel's Contempt, Compliance, and Special Litigation Branch instituted contempt proceeding against the Employer. The Circuit Court issued a Protective Restraining Order pursuant to Section 10(e) of the Act upon motion by the Agency. The Court's order prohibited the Employer from transferring any assets unless and until it escrows sufficient funds to make whole its employees for its unfair labor practices. The Court's Protective Restraining Order prohibited the employer from disposing of its assets, commingling assets with associated entities, and establishing or expanding any lien on its assets, until it has either (1) provided the Board with accumulated backpay, estimated at the time of the Protective Restraining Order as \$237,355, or (2) otherwise provided security to the Board in that amount as may be agreed to by the Board.

The Agency Obtains a Settlement that Requires the Payment of \$250,000 to Nine Former Employees and Letters of Apology

Tito Contractors, Inc.

05-CA-119008, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act during an organizing campaign by, including but not limited to, threatening employees who engaged in protected concerted activities with discharge, the reduction of hours, and other unspecified reprisals including immigration related threats; interrogating, coercing, surveilling employees; and soliciting complaints and promising benefits if employees refrained from engaging in protected concerted activity. The Region litigated the case before an Administrative Law Judge and before the Board. The Board found that the Employer had violated the Act by discharging employees; interrogating employees about their protected activities; threatening employees with discharge, loss of overtime, and immigration-related reprisals for engaging in protected activities; and creating the impression that employees' protected activities were under surveillance.

The Region obtained a formal settlement agreement requiring that the Employer pay \$250,000 in backpay to nine former employees; expunge their employment records of any reference to their unlawful disciplines and discharges; issue a personal letter of apology to each former employee; and proceed with an expedited default process for resolution in case of noncompliance. The settlement resolved a multi-year litigation against the Employer that started with a series of charges in 2013.

The Appellate and Supreme Court Litigation Branch obtained enforcement of the Board's order in the Circuit Court. The Employer complied with all remedial orders except it challenged the amount of backpay owed. After the commencement of the compliance hearing, the parties agreed to resolve the remaining dispute through a Board settlement agreement. The settlement demonstrates the commitment to obtaining robust remedies for violations of the Act, including both monetary and non-monetary relief.

The Agency Helped Garner a Settlement of Contempt Allegations in which 26 Discriminatees are Paid \$3.12 Million in Backpay, Interest, and Expenses

MasTec Advanced Technologies

12-CA-024979, et al.

In FY 2020, the Contempt, Compliance, and Special Litigation Branch had filed a contempt petition against the Employer in Circuit Court, concerning a court-enforced Board order finding that the Employer had, among other things, maintained unlawful work rules at its facilities nationwide and unlawfully discharged 26 employees in its Orlando, Florida facility. This action was the latest in a nearly decade long effort to ensure compliance with orders and judgments to rectify violations of the Act.

In FY 2021, a special master hearing the contempt petition recommended that the Employer be held in contempt of court, finding on summary judgment that the Agency had proven each of its factual allegations with clear and convincing evidence, and further finding that the Employer's violations "were not isolated or sporadic; they related to almost every one of the remedial affirmative acts in the NLRB Order and continued for years." The special master also recommended, among other things, that Employer post notices nationwide, pay the Agency's costs and expenses, and be subject to prospective fines in the amount of \$50,000 for *each* future violation, plus prospective daily fines of \$2,500 for continuing violations. In October 2021, the Circuit Court adopted the special master's report and recommendation in full, and in June 2022, the Circuit Court ordered Employer to pay the Board \$40,000 for the Board's costs and fees for the contempt case.

The Region helped garner a settlement after onset of the compliance hearing as a result of the combined efforts of the Region and the Contempt, Compliance, and Special Litigation Branch. The settlement resolved the pending compliance issues which provided the 26 discharged employees with a total of \$3.12 million in backpay, interest, and expenses.

The Agency Obtains Compliance Stipulation that Includes the Payment of \$750,000 in Backpay to Four Discriminatees and Offers of Reinstatement

H&M's Croxton Intermodal Terminal

22-CA-089596, et al.

After an investigation and determination of merit, the Region issued a complaint alleging that the Employer violated the Act by unlawfully suspending and terminating four employees in retaliation for their concerted complaints regarding newly imposed work rules and health and safety issues. The Region successfully litigated the case before an Administrative Law Judge and the Board. The Board found that the employees were unlawfully suspended and terminated in retaliation for their concerted complaints regarding newly imposed work rules and health and safety issues.

The Appellate and Supreme Court Litigation Branch enforced the Board's order in the Court of Appeals requiring the Employer to offer reinstatement to four discriminatees and make them whole for loss of earnings and other benefits; compensate them for adverse tax consequences; file a report allocating the backpay award to the appropriate calendar year; expunge their unlawful suspensions and discharges from their files and notify them in writing that this was done; and post a Notice to Employees informing them of their rights under the Act.

The Region commenced its compliance effort, which involved vigorously enforcing the Court's order that ultimately resulted in a Compliance Stipulation. The Employer paid the four employees a total of \$750,000 in backpay. The Employer also agreed to offer the four employees reinstatement, expunged all references to the unlawful suspensions and discharges from their files, and posted a Notice to Employees.

The Agency Successfully Defends the President's Authority to Remove the Former General Counsel

Exela Enterprise Solutions Inc. v. NLRB

22-CA-272676

The Region issued a complaint alleging that the Employer violated the Act by failing and refusing to bargain with the union. The Employer challenged the constitutionality of the removal of the former General Counsel. The Region filed a motion for summary judgment with the Board. The Board found that the Employer's conduct constituted an unlawful failure and refusal to recognize and bargain with the Union in violation of the Act.

The Appellate and Supreme Court Litigation Branch working closely with Contempt, Compliance, and Special Litigation Branch obtained enforcement of the Board's order, whereby the Circuit Court of Appeals upheld the President's authority to remove the former General Counsel.

The Agency Obtains Injunctive Relief that Includes the Payment of Attorneys' Fees and Prospective Fines of \$10,000 Plus Daily Fines for Non-Compliance

Arbah Hotel Corporation d/b/a Meadowlands View Hotel

22-CA-257539

Upon issuance of complaint, the Region sought and obtained a 10(j) interim injunctive order by the District Court requiring the Employer to recognize and bargain with the Union over a successor collective-bargaining agreement and over the terms of a preferential hiring list. The order also required the Employer to offer reinstatement to the unit employees as their positions became available, provide the information requested by the Union, mail the court order to the unit employees, and to post the court order at the hotel when it reopens.

When the Employer failed and refused to comply, the Region working with the Injunction Litigation Branch filed a petition to hold the Employer in contempt of court. The District Court granted the petition against the Employer for failing to comply with the Court's temporary injunction. To remedy the Employer's failure to comply, the Court ordered the Employer to pay the Agency's attorneys' fees and costs and ordered prospective fines of \$10,000, in addition to daily fines, if the Employer continued not to comply with the court's order.

The Region successfully litigated the case before an Administrative Law Judge and the Board.

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 worked together in developing the current comprehensive Strategic Plan (FYs 2022–2026) and the PAR.

The NLRB's current Strategic Plan states the Agency's strategic goals, objectives, initiatives, performance measures, and management strategies. There are three 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 highly regarded for decades and modeled by other agencies to track case processing times. The NLRB has long used performance measures to pursue a dual approach to excellence in customer service, striving to deliver results that are both timely and of high quality. 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 work fully in the NxGen system, which provides for real-time review of all case file materials and consistent data reporting.

Data regarding mission-related goals are compiled using the Agency's NxGen Case Management system. This enterprise-wide electronic case management system is used by all divisions throughout Headquarters and the Regions and has data integrity reports which help isolate and correct 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 85.

The NLRB's mission-related goals (goal one, two, and five) represent the core functions of the Agency in its enforcement and education of the NLRA. Goal one focuses on the timely processing of unfair labor cases taking into consideration quality of processing and appropriate remedies. Goal two focuses on providing timely resolution of questions related to employee representation and opportunities to participate in union elections. Goal five focuses on engaging and communicating the mission of the Agency to the public. The NLRB's goals three and four are support goals. Goal three focuses on providing our talented employees with resources and career development. Goal four focuses on efficiently and effectively managing financial activities and delivering state of the art technology to effectuate the mission of the Agency. The goals are outcome-based and aligned with the mission of the Agency.

GOAL 1, OBJECTIVE 1 – PERFORMANCE MEASURES

Measure 1: The Field office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.

Year	Annual Goal	Actual Performance
FY 2022	100.1 days	84.8 days
FY 2023	100.1 days	
FY 2024	100.1 days	
FY 2025	100.1 days	
FY 2026	100.1 days	

Based upon an average, Field Offices met the goal by reaching case determination in 90 percent of unfair labor practice cases within 91 days pursuant to Memorandum GC 22-05, Goals for Initial Unfair labor Practice Investigations.

The measure was met this fiscal year even with the 22 percent increase in case intake and significant understaffing due to budgetary flat-funding. The new timeliness goals were implemented late in the fiscal year, and the Agency is in current development of a reporting system to accurately record and track all relevant case handling and progress for future reports.

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

Year	Annual Goal	Actual Performance
FY 2022	90%	81%
FY 2023	90%	
FY 2024	90%	
FY 2025	90%	
FY 2026	90%	

FY 2022 was an exceptionally busy year for the Board as overall case intake rose significantly while its staffing resources remained the same. Nevertheless, the Board actually increased the efficiency of its processing of both unfair labor practice and representation cases, as the median overall case processing time from case assignment to decision issuance was reduced by 14.3 percent from FY 2021, from 91 days for FY 2021 to 78 days for FY 2022. In addition, as noted below, the Board successfully prioritized the issuance of its oldest cases. The increasing number of total cases, however, contributed to the Board not quite meeting the 90 percent goal for this measure related to unfair labor practice cases, missing the goal by a relatively small margin (9 percent).

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Year	Annual Goal	Actual Performance
FY 2022	180 days or less	108 days
FY 2023	180 days or less	
FY 2024	180 days or less	
FY 2025	180 days or less	
FY 2026	180 days or less	

The Board's continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

GOAL 1, OBJECTIVE 2 – PERFORMANCE MEASURE

Measure 1: Conduct annual quality reviews of all Field offices' unfair labor practice case files with overall ratings.

Year	Annual Goal	Actual Performance
FY 2022	100%	100%
FY 2023	100%	
FY 2024	100%	
FY 2025	100%	
FY 2026	100%	

The Division of Operations-Management has completed its review of all Field offices' unfair labor practice case files. After substantially changing the quality review process and announcing the program to the

Field Offices, Operations reviewed examples representative of the breadth of the Field's case-related performance, furnishing timely feedback and guidance. The quality review encompassed not only a review of the substantive work but also of Agency systems and processes related thereto. Overall ratings have been provided to the Field Offices. The work of the Field Offices is being performed at the highest level in approximately 75 percent of the casehandling work reviewed and at a high level for the remaining casehandling reviewed.

GOAL 1, OBJECTIVE 3 – PERFORMANCE MEASURES

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

Year	Annual Goal	Actual Performance
FY 2022	85%	89.2%
FY 2023	85%	
FY 2024	85%	
FY 2025	85%	
FY 2026	85%	

Closed or advanced cases to the next stage in fewer than 300 days in 124 of 139 cases, or 89.2 percent exceeding the 85 percent of the strategic goal target.

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

Year	Annual Goal	Actual Performance
FY 2022	85%	82.9%
FY 2023	85%	
FY 2024	85%	
FY 2025	85%	
FY 2026	85%	

Closed cases or advanced cases to the next stage in fewer than 300 days in 59 cases closed during FY 2022, but took longer than 300 days to close or advance to the next stage in 12 cases (82.9 percent) short of the 85 percent goal.

GOAL 2, OBJECTIVE 1 – PERFORMANCE MEASURES

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

Year	Annual Goal	Actual Performance
FY 2022	85%	95%
FY 2023	85%	
FY 2024	85%	
FY 2025	85%	
FY 2026	85%	

The Regions met this measurement, with a pre-election agreement rate of 95 percent for cases not involving issues regarding the way elections are conducted.

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.

Year	Annual Goal	Actual Performance
FY 2022	90%	89%
FY 2023	90%	
FY 2024	90%	
FY 2025	90%	
FY 2026	90%	

The Board's focus on the timely issuance of decisions in representation cases in FY 2022 resulted in the Board missing the 90 percent goal for this measurement by a very small margin (1 percent). Importantly, the Board significantly increased the efficiency of its processing of representation cases, as the median processing time for requests for review from assignment to decision issuance was reduced by 42 percent from 74 days for FY 2021 to 43 days for FY 2022.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Year	Annual Goal	Actual Performance
FY 2022	180 days or less	108 days
FY 2023	180 days or less	
FY 2024	180 days or less	
FY 2025	180 days or less	
FY 2026	180 days or less	

The Board’s continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

GOAL 2, OBJECTIVE 2 – PERFORMANCE MEASURE

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency’s website.

On January 26, 2022, the Agency publicized and maintained the option to file election petitions electronically in both English and Spanish on its website, through press releases, and on social media. The Agency created brochures in Spanish to explain the NLRB’s process with a link to the Spanish e-filing system.

GOAL 5, OBJECTIVE 1 – PERFORMANCE MEASURES

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Time Period FY 2022	Users – English	Pageviews – English	Unique Pages – English	Users – Spanish	Pageviews – Spanish	Unique Pages - Spanish
Q1 2022	511,069	1,790,730	1,463,724	3,373	10,906	9,517
Q2 2022	657,310	2,138,269	1,791,996	5,153	11,213	9,752
Q3 2022	912,530	2,611,622	2,260,126	7,318	13,543	11,969
Q4 2022	869,980	2,496,420	2,128,430	13,022	16,901	14,903
Total	2,950,889	9,037,041	7,644,276	28,866	52,563	46,141

Account	Twitter followers	Facebook followers	Instagram followers	Total follower count
NLRB	20,700	23,000	726	44,426
NLRBGC	9,652	5,500	469	15,621
NLRBes	169	N/A	N/A	169
NLRBGCes	278	N/A	N/A	278
Total followers by platform	30,799	28,500	1,195	60,494

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

The Student Ambassador program has increased its capacity during this fiscal year.

The program reached 24 high school students from diverse communities. These students then indirectly reached their classmates at their high school events. Eight of the high school students came from a New York City Magnet High School. The program included four high school students who are foreign language speakers. These students then, as part of their projects, interviewed family members and told them about the Act. The students were from the Dominican Republic, Nicaragua, Togo, and the Ivory Coast. The program also conducted 62 outreach events for post-secondary and graduate students at 38 public and private colleges and universities located throughout the U.S.

FINANCIAL AND SYSTEMS HIGHLIGHTS

OPERATIONAL/PERFORMANCE HIGHLIGHTS

The Office of the Chief Financial Officer (OCFO) is comprised of the Budget, Acquisitions Management, Finance, and Internal Control/Risk/Performance (IRP) Branches. The OCFO reports directly to the Chairman and the General Counsel. 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 improve discipline, structure, and internal control in the financial management lifecycle and throughout the financial management process.

Below are some highlights from FY 2022 OCFO activities:

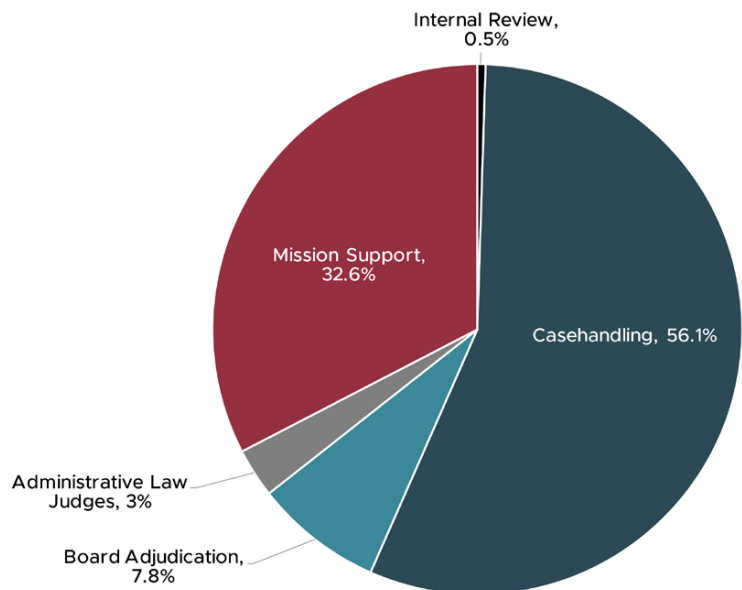
BUDGET BRANCH

The Budget Branch successfully executed the Agency’s multi-million-dollar budget by ensuring all labor and mission critical non-labor requirements were fully funded during the fiscal year.

The FY 2022 Budget provided \$274.2 million for the NLRB to fund the Agency’s statutory mission of resolving labor disputes through investigation, settlement, litigation, adjudication, education, and compliance. The NLRB has five Program Activities that define the major mission functions for budgetary reporting. In FY 2022, the Agency obligated \$273.8 million (99.9 percent) of its enacted appropriation to support these program activities leaving approximately 0.1 percent of the budget to support upward obligations that may arise in FY 2023.

The FY 2022 budget provided:

- \$153.7 million to support Casehandling
- \$89.2 million for Mission Support
- \$21.3 million for Board Adjudication
- \$8.2 million for Administrative Law Judges
- \$1.4 million for Internal Review



The NLRB FY 2022 annual staff compensation (salaries and benefits) accounted for approximately 79 percent of the budget, or \$216.5 million. The Agency obligated nine percent or \$23.8 million of its budget to fund GSA rent for the NLRB Offices at the Headquarters and across the country. Information technology amounted to \$21 million or eight percent of the NLRB's budget while the remaining four percent or \$12.5 million was allocated to fund non-labor expenses associated with facilities, security, court reporting, case-related travel, witness fees, interpreters and translation services, training, compliance with government-wide statutory and regulatory mandates, and other critical mission support related costs.

The Budget Branch coordinated its collaborative efforts with the Program Offices to address enterprise-wide unfunded requirements. During FY 2022, the Budget Branch reassessed funding requirements which allowed the Agency to invest over \$5.9 million in several high priority programs, including court reporting, cybersecurity, technology enhancements, and equipment.

FINANCE BRANCH

In FY 2022, the Finance Branch continued to provide excellent customer service to our internal and external customers. The Finance Branch successfully submitted the monthly Governmentwide Treasury Account Symbol (GTAS) and Central Accounting Reporting System (CARS) reporting to the U.S. Department of the Treasury (Treasury), Bureau of the Fiscal Service (BFS) in a timely manner. Additionally, the Finance Branch was also able to close seven Office of Inspector General (OIG) audit recommendations from the Backpay and Financial Statement audits from FYs 2014 through 2020.

During FY 2022, the Finance Branch successfully resolved approximately \$60,000 in Fund Balance with Treasury (FBWT) discrepancies with Treasury; and successfully paid 215 Backpay schedules for over \$14.3 million. In conjunction with the U.S. Department of Labor's Interior Business Center (IBC), the Finance Branch successfully implemented Oracle Analytics Server (OAS) for OCFO and created a dashboard for Finance Branch employees on March 20, 2022.

ACQUISITIONS MANAGEMENT BRANCH (AMB)

In FY 2022, AMB provided exceptional customer service to internal and external customers. AMB successfully executed all non-labor funds allocated in the FY 2022 Operating Plan by September 30, 2022. In addition, AMB closed several outstanding OIG audit findings on the FY 2018 Audit relating to Purchase Cards.

CHARGE CARD PROGRAM

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 the Office of Management and Budget (OMB) Circular No. 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 NLRB is currently utilizing CitiBank online tools to do enhanced monitoring and is in the process of configuring and implementing the Visa Intellink System for fraud, waste, and abuse monitoring. The Agency conducted

100 percent reviews of purchase transactions to deter fraud, waste, and abuse as well as identify areas for enhanced training.

INTERNAL CONTROL, RISK, AND PERFORMANCE (IRP) BRANCH

The IRP Branch performs reviews and evaluates existing policies, processes, and procedures to ensure compliance with applicable laws and regulations. The assessments and evaluations performed by the IRP Branch involve collaborative efforts with management and staff of various divisions and program offices within the NLRB. The results of these assessments help in forming short and long-term strategic decisions. In addition, the IRP Branch ensures that mechanisms, rules, and procedures are in place to:

- safeguard operations and the integrity of financial and accounting information, and
- promote accountability, and prevent fraud, waste, and abuse.

The IRP Branch provides recommendations and guidance for improvements to existing policies, processes, and procedures. It ensures that adequate documentation is in place to support the Chairman and the General Counsel's annual Statement of Assurance (SOA), which is published in the Annual PAR.

In FY 2022, the IRP Branch in conjunction with the other OCFO Branches conducted Fraud Risk Management Training for all OCFO employees. This training included presentations from subject matter experts from the U.S. International Trade Commission and the U.S. Department of Health and Human Services. The Branch executed quantitative and qualitative risk assessments including a fraud risk assessment for OCFO operations. The Branch also finalized the Agency's Internal Control Policy.

As part of the OMB Circular No. A-123 Internal Control reviews, the IRP Branch developed test plans and assessed the operating effectiveness of internal controls for all OCFO operations, as well as the evaluation and assessment of NLRB's Entity Level Controls. The results of these assessments were summarized in a Gap Analysis report that supports the NLRB's annual SOA.

During FY 2022, IRP Branch continued to develop the Agency's Risk Profile and assist the Agency in identifying, assessing, and managing risks. The IRP Branch worked collaboratively with OCIO in developing an automated Enterprise Risk Management (ERM) tool to help facilitate the NLRB's ERM activities of tracking, assessing, and prioritizing the Agency's most significant risks. An ERM Implementation Roadmap was also developed based on the results of the Agency's ERM maturity model assessment.

The IRP Branch worked closely with NLRB Program Areas to collect, compile, and summarize the Agency's quarterly performance indicators, which are reported annually in the PAR. The IRP Branch also reviewed and assessed quarterly performance data from various Program Areas to ensure that they align with the Goals and Objectives established in the Agency's FY 2022-2026 Strategic Plan. Additionally, the IRP Branch facilitated the review and completion of the Agency's PAR.

SYSTEMS

The NLRB obtains the majority of its financial systems and services from the Department of the Interior's Interior Business Center (IBC). The IBC provides shared services and offers administrative and financial services to the NLRB. The services provided include system support for procurement and contracts, payroll management, finance, accounting, and travel. The NLRB is responsible for overseeing the IBC and ensuring that financial systems and internal controls are in place to fulfill legislated and regulatory financial management requirements. The IBC provides shared services using the following systems:

- Oracle Federal Financials (OFF) – It is the integrated system of record for all financial transactions.
- Oracle Analytics Server (OAS) – This is the Interior Business Center's reporting tool. IBC's OAS reporting solution is a group of over 95 top level reports, 70 financial/purchasing reports (analysis), 22 payroll reports (analysis), four credit cards and Do Not Pay reports (analysis) across Oracle modules that the NLRB can customize to meet its own agency-specific needs. The IBC, in conjunction with the Finance Branch, successfully transitioned clients from the Oracle Business Intelligence Enterprise Edition (OBIEE) reporting tool to the Oracle Analytics Server on March 20, 2022.
- Federal Payroll and Personnel System (FPPS) – This is the personnel system of record, which interfaces with the Oracle system.
- E2Solutions – This is the eTravel system provided by Carlson Wagonlit (CWTSato) which is the NLRB's Travel Management Service. E2Solutions also interfaces with the Oracle system.
- Invoice Payment Platform (IPP) – This Treasury web-based system that provides a single, integrated, secure system to simplify the management of vendor invoices. It is offered at no charge to federal agencies and their vendors.

ANALYSIS OF FINANCIAL STATEMENTS

The NLRB prepares annual financial statements in accordance with U.S. 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 the PAR.

Balance Sheet

NLRB's assets were \$53.8 million as of September 30, 2022. The FBWT is NLRB's largest asset at \$46.8 million (87 percent). It represents undisbursed balances from appropriated funds for the past five years and balances held by NLRB on behalf the Government. It is an asset of a reporting entity and a liability of the General Fund of the U.S. Government. The FBWT is available to make expenditures and pay liabilities. NLRB's FBWT includes general funds, deposit funds, clearing accounts and miscellaneous receipt accounts.

The NLRB's Property, Plant, and Equipment (PP&E) represents the NLRB's second largest asset at \$6.3 million (12 percent). The PP&E decreased \$1.6 million (21 percent) from the prior year due to the accumulated depreciation and amortization of existing PP&E. NLRB's capitalized assets for construction in progress and the leasehold improvements increased due to prior year investments for office space alterations that were postponed due the COVID-19 pandemic.

The NLRB's liabilities were \$26.2 million as of September 30, 2022. The liabilities consisted of amounts owed to vendors, federal government trading partners, and Agency employees.

The Unfunded Annual Leave of \$15.5 million accounted for 59 percent of NLRB's liabilities, which decreased by \$914,749 (6 percent) from prior year. The NLRB employees used more leave in FY 2022 compared to the prior year. The Accrued Funded Payroll and Leave of \$3 million decreased by \$5 million (63 percent) due to a lower accrual factor calculation applied in FY 2022 and the timing of payroll processed at the end of the fiscal year. The Federal Employees' Compensation Act (FECA) Actuarial Liability of \$1.7 million increased by \$1.2 million (236 percent) due to the projected FECA liability, which is based on age factor, years of service, and the actual compensation of the employees included in the actuarial liability calculation.

Accounts Payable for intragovernmental activities of \$1.9 million increased by \$1.5 million (418 percent) primarily due to interagency agreements (IAAs) with General Service Administration, the timing of IPACs, billings and accruals. The related cost associated with prior year investments of office space alternations revamped after the delay of work deliverables due the COVID-19 pandemic.

Statement of Net Cost

The NLRB's appropriation is used for mission support activities to resolve cases associated with Unfair Labor Practices and Representation Cases filed by employees, employers, and unions. In FY 2022, the net cost of operations was \$289.6 million; 88 percent of the costs was used to resolve charges for Unfair Labor Practices and 12 percent was used for Representation Cases. The NLRB FY 2022 Budget was flat funded for the ninth consecutive year. NLRB had increases in cost associated with pay inflation, investment to support critical unfunded information technology and office space alterations that were previously delayed due to COVID-19 pandemic.

Statement of Changes in Net Position

The NLRB's net position is affected by changes in two components: Unexpended Appropriations and Cumulative Results of Operations. Unexpended Appropriations include the portion of the entity's appropriations represented by undelivered orders and unobligated balances. Unexpended Appropriations decreased \$1.7 million (4 percent) due to an increase in expenditures to fund mission support activities. Cumulative Results of Operations reflect the net results of operations since inception. Cumulative Results of Operations decreased \$1.8 million due to net increases in cost associated with NLRB's mission.

Statement of Budgetary Resources

The Statement of Budgetary Resources shows the budgetary resources available and the status at the end of the period. This statement also represents the relationship between budget authority and budget outlays and reconciles obligations to total outlays. For FY 2022, the NLRB's total budgetary resources were \$285.2 million which included appropriations of \$274.2 million and unobligated balance from prior years of \$11 million. In FY 2022, new obligations were \$275.2 million and total outlays were \$281 million. In FY 2022, the apportioned unexpired balance at the end of the year was \$411,050 which resulted in a decrease of \$337,394 (45 percent) from the prior year.

LIMITATIONS OF PRINCIPAL FINANCIAL STATEMENTS

The principal financial statements are prepared to report the financial position, financial condition, and results of operations, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from records of federal entities in accordance with federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same records. Users of the statements are advised that the statements are for a component of the U.S. Government.

COMPLIANCE WITH LAWS AND MANAGEMENT ASSURANCES

ANTIDEFICIENCY ACT (ADA)

The ADA prohibits an officer or employee of the U.S. Government 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 U.S., 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 ADA violations in FY 2022 at the NLRB.

DEBT COLLECTION IMPROVEMENT ACT (DCIA)

The DCIA is a U.S. legal act, regulating the collection of bad debts owed to the U.S. government. It dictates the whole debt recovery procedure and collection tools used for the collection of non-tax U.S. federal debts. Non-tax debts are considered all types of loans funded by the federal government, e.g., federal education loans, the U.S. Department of Housing and Urban Development (HUD) loan amounts (the so-called HUD debts), SBA loans, unpaid child support sums, etc. The main function of the DCIA is to maximize recovery of default amounts and late payments referring to federal non-tax bad debts. The DCIA acts together with the Treasury Financial Management Service (FMS) and controls U.S. non-tax delinquent amounts, which have remained unpaid for more than 180 days. After this period, such debts are to be transferred to the Treasury.

DIGITAL ACCOUNTABILITY AND TRANSPARENCY ACT (DATA ACT)

The DATA Act expands the Federal Funding Accountability and Transparency Act of 2006 (FFATA) 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 OMB Memorandum M-15-12, issued on May 8, 2015, the NLRB established the Data Act Policy and Standard Operating Procedures in order to increase the transparency of federal spending as required by the DATA Act and FFATA Act. The Data Act Policy is currently under revision to address findings issued during the OIG audit.

AMB inputs contracts directly into the Federal Procurement Data System – Next Generation (FPDS-NG). AMB has drafted and implemented the Independent Verification and Validation Policy to identify inaccurate data within the Federal Procurement Data System – Next Generation (FPDS-NG) to improve data accuracy and integrity.

The NLRB's service provider, IBC, has identified the required reportable data elements that will be provided for us to report from existing systems.

FEDERAL INFORMATION SECURITY MANAGEMENT ACT

The Federal Information Security Management Act of 2002 (FISMA), 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.

NLRB complies with M-22-05, December 6, 2021, Guidance on Federal Information Security and Privacy Management Requirements, by submitting second quarter, fourth quarter and annual FISMA reporting requirements and the annual Senior Agency Official for Privacy report to OMB as required.

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 OMB Circular No. 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 NLRB is currently utilizing CitiBank online tools to do enhanced monitoring and is in the process of configuring and implementing the Visa Intellink System for fraud, waste, and abuse monitoring.

PAYMENT INTEGRITY INFORMATION ACT OF 2019 (PIIA)

The PIIA amends government-wide improper payment reporting requirements by repealing and replacing the Improper Payments Information Act of 2002 (IPIA), the Improper Payments Elimination and Recovery Act of 2010 (IPERA), the Improper Payments Elimination and Recovery Act of 2012 (IPERIA), and the Fraud Reduction and Data Analytics Act of 2015 (FRDAA). Government-wide improper payment reporting is now required to include requirements carried forward unchanged from current law (including some that stem from OMB guidance), modified current-law requirements, and new requirements. A detailed report of the NLRB's improper payments activities is presented in the Other Information section on page 132.

FRAUD REDUCTION REPORT

During FY 2022, NLRB OCFO conducted Fraud Detection and Prevention Training for all OCFO employees. The OCFO conducted this training with the participation of subject matter experts from the U.S. International Trade Commission and the U.S. Department of Health and Human Services. The OCFO also executed quantitative and qualitative risk assessments, including a fraud risk assessment for OCFO operations. The Fraud Risk Assessment identified Fraud Risks related to payments and the internal controls currently being performed by the OCFO.

PROMPT PAYMENT ACT

The Prompt Payment Act was enacted in 1982 to ensure the federal government makes timely payments. Invoices are to be paid within 30 days after receipt and acceptance of goods 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 \$481 in FY 2022.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA)

The purpose of the Federal Financial Management Improvement Act of 1996 (FFMIA) is to advance federal financial management by ensuring that federal financial management systems provide accurate, reliable, and timely financial management information to the government's managers.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT (FMFIA)

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 SOA regarding internal controls and financial systems. The annual SOA 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 No. 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 that the control environment, risks, control activities, and performance results are communicated throughout the Agency.
Monitoring	Assessing the 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 designated Agency executives and managers on an Agency-wide basis. In completing this annual review, the designated executives and managers, in conjunction with subordinate staff as needed, used personal judgment as well as other sources of information to make their assessments. These sources included: knowledge gained from day-to-day operations; the Office of Inspector General (OIG) audits and investigations; program evaluations; reviews of financial systems; annual performance plans; and previous management reviews. The designated executives and 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.

Based on the internal controls program, reviews, and consideration of other information, 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 applicable laws and regulations.

The Statement of Assurance provided on page 62 is required by the FMFIA and OMB Circular No. A-123, *Management's Responsibility for Internal Control*.

FMFIA SECTION 2, MANAGEMENT CONTROL

Section 2 of the FMFIA requires federal agencies to report, based on annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place in FY 2022 provide 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, 2022, in accordance with the FMFIA and OMB Circular No. A-127, *Financial Management Systems*, Section 7 guidance. The NLRB's financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General, OMB, and the Treasury. The Agency also reviews the Statement on Standards for Attestation Engagements No. 18 (SSAE-18) for financial systems operated by IBC to ensure that independent auditors have also certified that the necessary controls are in place so that the NLRB can rely on those systems.



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

October 31, 2022

ANNUAL STATEMENT OF ASSURANCE

Management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982 (FMFIA). The National Labor Relations Board (NLRB or the Agency) assessed the effectiveness of internal control over reporting, efficiency of operations, and compliance with applicable laws and regulations in accordance with the Office of Management and Budget (OMB) Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the NLRB can provide reasonable assurance over the effectiveness and efficiency of its internal controls over reporting. Additionally, the NLRB has complied with the applicable laws and regulations as of September 30, 2022. Internal controls that were tested at the NLRB are operating effectively to provide reasonable assurance that the related control objectives were met during the specified period of assessment, and no material weaknesses and/or significant deficiencies were identified in the design or operating effectiveness of the internal controls.

In accordance with the requirements of the OMB Circular No. A-123, Appendix A, Management of Reporting and Data Integrity Risk, the NLRB assessed the effectiveness of internal control over financial reporting, which includes internal controls related to the preparation of the annual financial statements, safeguarding of assets, and compliance with applicable laws and regulations governing the use of the budget authority that could have a direct and/or material effect on the financial statements. The result of this evaluation provides reasonable assurance that the NLRB's internal controls over financial reporting were operating effectively as of September 30, 2022.

The NLRB has also submitted all the quarterly Fiscal Year 2022 Digital Accountability and Transparency Act of 2014 (DATA Act) reports to the U.S. Department of the Treasury as required. The NLRB continues to work on addressing the Office of Inspector General DATA Act findings and recommendations with the goal to remediate the findings and recommendations in the Fiscal Year 2023.

LAUREN MCFERRAN
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Date: 2022.11.01 17:03:34 -04'00'

Lauren McFerran
Chairman

JENNIFER ABRUZZO
Digitally signed by JENNIFER ABRUZZO
Date: 2022.11.02 14:30:33 -04'00'

Jennifer A. Abruzzo
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 three mission-related goals of the NLRB's current 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 employees 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 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 worked together in developing one comprehensive Strategic Plan and PAR.

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. The Agency has three mission-related goals that emphasize individual segments of case processing to promote timely, efficient, and well-managed casehandling and 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 of 1993 (GPRA) and the Government Performance and Results Modernization Act of 2010 (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 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 conducting 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 fully effectuate employees’ rights under the NLRA, which also works 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 commitment to resolve all disputes that are brought before us, and to provide a remedy and ensure that labor peace is maintained or restored. Noting that the Agency cannot *sua sponte*³ investigate the 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 (FYs 2022–2026). The actual historical results achieved for the performance measures and management strategies for FYs 2017–2021 can be found in Appendix C.

³ A Latin phrase describing an act of authority taken without formal prompting from another party.

GOAL 1 (MISSION):

**ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH
TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH
APPROPRIATE REMEDIES**

Objectives:

1. Achieve timely consideration and appropriate resolution of unfair labor practice charges at every stage of processing.
2. Demonstrate high quality performance in the prosecution and adjudication of meritorious unfair labor practice charges.
3. Promptly pursue remedies for statutory violations.

GOAL 1, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 1, MEASURE 1

Measure 1: The Field office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency’s timeliness goal.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100.1 days	100.1 days	100.1 days	100.1 days	100.1 days
ACTUAL	84.8 days	N/A	N/A	N/A	N/A

Based upon an average, Field Offices met the goal by reaching case determination in 90 percent of unfair labor practice cases within 91 days pursuant to Memorandum GC 22-05, Goals for Initial Unfair labor Practice Investigations.

The measure was met this fiscal year even with the 22 percent increase in case intake and significant understaffing due to budgetary flat-funding. The new timeliness goals were implemented late in the fiscal year, and the Agency is in current development of a reporting system to accurately record and track all relevant case handling and progress for future reports.

GOAL NO. 1, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	81%	N/A	N/A	N/A	N/A

FY 2022 was an exceptionally busy year for the Board as overall case intake rose significantly while its staffing resources remained the same. Nevertheless, the Board actually increased the efficiency of its processing of both unfair labor practice and representation cases, as the median overall case processing time from case assignment to decision issuance was reduced by 14.3 percent from FY 2021, from 91 days for FY 2021 to 78 days for FY 2022. In addition, as noted below, the Board successfully prioritized the issuance of its oldest cases. The increasing number of total cases, however, contributed to the Board not quite meeting the 90 percent goal for this measure related to unfair labor practice cases, missing the goal by a relatively small margin (9 percent).

GOAL NO. 1, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	N/A	N/A	N/A	N/A

The Board’s continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

GOAL 1, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 2, MEASURE 1

Measure 1: Conduct annual quality reviews of all Field offices’ unfair labor practice case files with overall ratings.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	N/A	N/A	N/A	N/A

The Division of Operations-Management has completed its review of all Field offices’ unfair labor practice case files. After substantially changing the quality review process and announcing the program to the Field Offices, Operations reviewed examples representative of the breadth of the Field’s case-related performance, furnishing timely feedback and guidance. The quality review encompassed not only a review of the substantive work but also of Agency systems and processes related thereto. Overall ratings have been provided to the Field Offices. The work of the Field Offices is being performed at the highest level in approximately 75 percent of the casehandling work reviewed and at a high level for the remaining casehandling reviewed.

GOAL 1, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 1, OBJECTIVE 3, MEASURE 1

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	89.2%	N/A	N/A	N/A	N/A

Closed or advanced cases to the next stage in fewer than 300 days in 124 of 139 cases, or 89.2 percent exceeding the 85 percent of the strategic goal target.

GOAL NO. 1, OBJECTIVE 3, MEASURE 2

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	82.9%	N/A	N/A	N/A	N/A

Closed cases or advanced cases to the next stage in fewer than 300 days in 59 cases closed during FY 2022, but took longer than 300 days to close or advance to the next stage in 12 cases (82.9 percent) short of the 85 percent goal.

GOAL 2 (MISSION):

PROTECT EMPLOYEE FREE CHOICE WITH TIMELY AND EFFECTIVE MECHANISMS TO RESOLVE QUESTIONS CONCERNING REPRESENTATION

Objectives:

1. Achieve timely resolution of all questions concerning representation of employees.
2. Increase employees' opportunities to freely participate in election proceedings by making appropriate and effective use of technology.
3. Promptly pursue remedies for statutory violations.

GOAL 2, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 2, OBJECTIVE 1, MEASURE 1

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	85%	85%	85%	85%	85%
ACTUAL	95%	N/A	N/A	N/A	N/A

The Regions met this measurement, with a pre-election agreement rate of 95 percent for cases not involving issues regarding the way elections are conducted.

GOAL NO. 2, OBJECTIVE 1, MEASURE 2

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	90%	90%	90%	90%	90%
ACTUAL	89%	N/A	N/A	N/A	N/A

The Board’s focus on the timely issuance of decisions in representation cases in FY 2022 resulted in the Board missing the 90 percent goal for this measurement by a very small margin (1 percent). Importantly, the Board significantly increased the efficiency of its processing of representation cases, as the median processing time for requests for review from assignment to decision issuance was reduced by 42 percent from 74 days for FY 2021 to 43 days for FY 2022.

GOAL NO. 2, OBJECTIVE 1, MEASURE 3

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	180 days or less	180 days or less	180 days or less	180 days or less	180 days or less
ACTUAL	108 days	N/A	N/A	N/A	N/A

The Board’s continuing successful efforts to prioritize the completion of work on its oldest pending cases resulted in the Board exceeding its median age target for cases pending before the Board at the end of FY 2022 by 40 percent.

GOAL 2, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 2, OBJECTIVE 2, MEASURE 1

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency’s website.

On January 26, 2022, the Agency publicized and maintained the option to file election petitions electronically in both English and Spanish on its website, through press releases, and on social media. The Agency created brochures in Spanish to explain the NLRB’s process with a link to the Spanish e-filing system.

GOAL 3 (SUPPORT): ACHIEVE ORGANIZATION EXCELLENCE AND SERVE AS A MODEL EMPLOYER

Objectives:

1. Improve employee morale and labor relations
2. Increase opportunities for career enhancement through employee development
3. Recruit and retain a talented and diverse workforce

GOAL 3, OBJECTIVE 1 – PERFORMANCE MEASURE

GOAL NO. 3, OBJECTIVE 1, MEASURE 1

Measure 1: Maintain a target employee engagement index score of 67 percent on the Federal Employee Viewpoint Survey (FEVS), and in subsequent years establish new initiatives with the goal of increasing employee engagement.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	67%	67%	67%	67%	67%
ACTUAL	75%	N/A	N/A	N/A	N/A

The Human Capital Planning Office continues to meet with managers and supervisors to address FEVS results and work toward improving employee morale and employee engagement. Work continues at leveraging best practices to strengthen a culture of higher employee engagement. In this regard, the NLRB achieved a 75 percent Employee Engagement Index Score on the 2022 FEVS.

GOAL 3, OBJECTIVE 2 – PERFORMANCE MEASURE

GOAL NO. 3, OBJECTIVE 2, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) of the “Talent Management Index” using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	N/A	N/A	N/A	N/A

The NLRB achieved a 72 percent Talent Management Index score on the FY 2022 FEVS. Recruitment, retention, and developmental activities have been ongoing throughout the year with various initiatives. The Agency currently leverages its recruitment, retention, and developmental opportunities by using the Presidential Management Council, Interagency Rotation Program (PMC/IRP) program, and by having past participants discuss their experience with how the program assisted with their career growth. Also, the Strategic Recruitment Program continues to partner with employees in headquarters and the field offices on recruitment outreach initiatives. These initiatives provide opportunities for employees to attend career fairs and speak on recruitment panels at universities and colleges.

GOAL 3, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 3, OBJECTIVE 3, MEASURE 1

Measure 1: Satisfaction percentage rating (65 percent or above) for the “Job Satisfaction Index” using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	72%	N/A	N/A	N/A	N/A

The NLRB achieved a 72 percent Job Satisfaction Index score on the FY 2022 FEVS.

GOAL NO. 3, OBJECTIVE 3, MEASURE 2

Measure 2: Satisfaction percentage rating (65 percent or above) for the “Support for Diversity Index” using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	67%	N/A	N/A	N/A	N/A

The NLRB achieved a 67 percent Support for Diversity Index score on the FY 2022 FEVS.

The NLRB’s development of a Strategic Plan for DEIA ties together existing practices with new initiatives which support and are expected to improve the current Diversity Index score.

The Agency appointed a Chief Diversity Officer who will lead several priorities and goals under the NLRB’s DEIA Strategic Plan. A primary goal is to support initiatives focused on creating an inclusive workplace culture. To implement this goal, the NLRB is planning a robust DEIA training program to educate employees and enhance our tools. Training and education on topics such as unconscious bias, anti-racism, cultural competency and awareness, civility, workplace sensitivity, change management, and reasonable accommodation and accessibility are invaluable when collaborating with people of different abilities, cultures, races, ethnicities, genders, beliefs, and experiences.

GOAL 4 (SUPPORT):**MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST****Objectives:**

1. Make effective use of Agency's resources by proactively planning how best to deploy those resources, and continually monitor and reevaluate the execution of such plans to ensure we have strong processes and internal controls in place to identify and prevent any misuse or inefficiencies in the allocation of Agency resources.
2. Conduct all internal and external Agency business in an ethical and timely manner.
3. Develop a culture of Enterprise Risk Management (ERM) and Internal Controls to support the Agency's decision-making process.

GOAL 4, OBJECTIVE 1 – PERFORMANCE MEASURES**GOAL NO. 4, OBJECTIVE 1, MEASURE 1**

Measure 1: Achieving a clean audit opinion by ensuring that OCFO's operations are guided by appropriate processes and internal controls.

OCFO – Acquisition Management Branch

NLRB has submitted timely the DATA Act information to OMB monthly by respective FY 2022 reporting dates.

Issued the NLRB's Contracting Officer Representative (COR) Handbook. The COR Handbook is a comprehensive resource for CORs' managers and first-time, as well as experienced, CORs. The COR Handbook covers the procurement process beginning at the inception of a requirement through the closeout of the contract.

Issued the NLRB's Purchase Card Management Plan. As required by OMB Circular No. A-123, Appendix B Revised – A Risk Management Framework for Government Charge Card Programs, this plan outlines the policies and procedures within the NLRB that are critical to the management of the charge card program, to ensure that a system of internal controls is followed and to mitigate the potential for fraud, misuse, abuse, and delinquency.

NLRB continues to support minority business enterprises for contract awards.

Small Business Goal Status*						
Socio-economic Category	SBA Government Wide Small Business Goals	NLRB Statistics Q1 FY 2022	NLRB Statistics Q2 FY 2022	NLRB Statistics Q3 FY 2022	NLRB Statistics Q4 FY 2022	NLRB Statistics Overall FY 2022
Small Disadvantaged*	5%	11.1%	53.4%	72.7%	46.6%	51.3%
8(a)**	0%	11.1%	53.4%	69.5%	40.8%	46.6%
Veteran Owned**	0%	1%	0%	3.7%	2.3%	2.4%
Service Disabled	3%	0%	0%	0.4%	2.3%	1.7%
Women Owned	5%	5.3%	18.5%	8.8%	3%	5.4%
HUBZone	3%	-0.8%	45.8%	64.4%	24%	33%
Small Business	23%	48.6%	67.5%	83.3%	50.4%	58.3%

*In FY 2022, the NLRB was below in one out of the five government wide goals for small disadvantaged businesses because of de-obligations and spending being put in areas that were either for an existing contract or the requirement exceeded small business capabilities.

**8(a) and Veteran Owned are not designated as separate categories by the SBA when establishing Goals. The NLRB defines our small business goals by separating these two categories.

OCFO – Budget Branch

- Developed and managed the Agency’s FY 2022 Continuing Resolutions.
- Formulated the NLRB FY 2022 Operating Plan and obtained Board approval.
- Submitted the FY 2023 Congressional Justification on time.
- Developed Status of Funds Reports and provided budget briefings to the Agency Leadership.
- Maintained an Agency Unfunded Requirements List.
- Uploaded NLRB FY 2022 Quarterly Apportionments in Oracle Federal Financials in a timely manner.
- Conducted Mid-Year reviews with Office Program Offices.
- Completed the FY 2022 year-end closing process.
- Submitted the FY 2024 Budget Request to OMB.

OCFO – Finance Branch

- Submitted timely Governmentwide Treasury Account Symbol Adjusted Trial Balance System (GTAS) report to Treasury’s Bureau of the Fiscal Service (BFS) on a monthly and/or quarterly basis by its respective FY 2022 reporting dates: December 16, January 18, February 17, March 17, April 18, May 13, June 13, July 18, August 15, and September 15. FY 2022 year-end reporting was completed on October 18, 2022, meeting Treasury’s deadline.
- Submitted timely quarterly FY 2022 Intragovernmental Material Difference Report (MDR) to BFS by the reporting windows which were closed on the following dates: January 25th (due January 31st), April 25th (due April 29th, 2022), July 25, 2022 (due July 29, 2022).
- Submitted timely Treasury Report on Receivables (TROR) to BFS on a quarterly basis by the reporting windows. January 27, 2022, April 29, 2022. August 2, 2022, and September’s report is on target for submission by November 11, 2022.
- Submitted timely Central Accounting Reporting System (CARS)/Statement of Transactions (SOTs) reporting to BFS monthly by its respective reporting window close (3rd workday of the month).
- Provided timely quarterly updates on the corrective action plan activities to the Office of the Inspector General. The Agency close various audit findings and recommendations issued in previous financial statements audits and Backpay accounting audits.

Internal Control, Risk, and Performance Branch

- Executed quantitative and qualitative risk assessments including a fraud risk assessment for OCFO operations.
- Conducted OMB Circular No. A-123 Planning and Documentation Updates.
- Developed Test Plans and performed tests of the Operating Effectiveness of Internal Controls.
- Coordinated the evaluation and assessment of Entity Level Controls (ELCs).
- Documented the result from the test of Operating Effectiveness of internal controls and ELC and Fraud Risk assessments in a Gap Analysis Report.
- Finalized the Agency’s Internal Control Policy.

GOAL NO. 4, OBJECTIVE 1, MEASURE 2

Measure 2: Continue to support telework by employees and contractors, as well as virtual access to Agency processes by members of the public, to create opportunities to reduce costs associated with maintaining the Agency’s footprint in its Headquarters and Field offices, in accordance with General Service Administration (GSA) directives.

The Agency has implemented a strong telework program that provides flexible telework arrangements for Agency employees. The Agency negotiated a reentry-related telework program with one of its unions and a permanent telework program with its other union in reaching a successor collective-bargaining agreement. The Agency conducted an annual space assessment of all NLRB offices. This study identified how much square footage should be provided to each office based on staffing levels and the Agency’s space standards. A cost estimate was generated to reduce or eliminate the space. The Agency executed lease improvement and space reduction projects when funds became available.

GOAL 4, OBJECTIVE 2 – PERFORMANCE MEASURES

GOAL NO. 4, OBJECTIVE 2, MEASURE 1

Measure 1: Make progress towards an employee satisfaction percentage rating (65 percent or above) for the Agency’s ethical culture using the annual FEVS results.

YEAR	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
TARGET	65%	65%	65%	65%	65%
ACTUAL	71%	N/A	N/A	N/A	N/A

The Ethics Office supports Agency leadership in maintaining a vigorous and robust ethical culture by fully and timely complying with all relevant federal laws, regulations, applicable executive orders, management directives, and policies related to ethics in the workplace by meeting all regulatory requirements under the Ethics in Government Act (EIGA) and 5 C.F.R.§ 2638.104. Evidence of our success in this area can be illustrated by the Office of Government Ethics (OGE) Inspection Report which was issued on June 14, 2022. OGE did not identify any deficiencies in the NLRB’s Ethics Program.

During FY 2022, the Agency provided new hire training for all newly hired employees within 90 days of their appointment, ensured that all financial disclosure filers completed Annual Ethics Briefings as required, submitted all required reports to OGE (i.e., data calls, 1353 Semi-Annual Reports for Travel Reimbursement, Annual Questionnaire, Program Review Requests), coordinated with our partners in the Office of Human Resources (OHR) to communicate with new hires and newly appointed supervisors about their ethical obligations, and provided post-employment guidance to anyone separating from government service. The Agency also provided Political Appointees and Schedule C employees with important information about the Biden Ethics Pledge (Executive Order 13989) in the context of both recusals and gifts. To further support this category of employee, the Agency reviewed all speaking engagement invitations to ensure that the meeting or conference did not implicate Paragraph 2 of the Pledge and that the sponsor or any other entity was not offering a prohibited gift.

In addition, the Ethics Office supported the NLRB’s commitment to a strong ethical culture by creating an Ethics Pre-employment Guide to inform prospective employees about limitations imposed by ethics rules and regulations so that they would be able to make an informed decision before accepting an offer of employment. The guide also informed these individuals that after accepting employment, they may reach out to the Ethics Office with questions about the rules or their application to a particular situation. The Ethics Office also developed and distributed government and legal ethics resources on a variety of topics to support the mission work of the Agency; provided comprehensive ethics guidance to individual employees by request; and evaluated initiatives proposed by various offices to ensure that the initiatives were executed in an ethical manner. The Ethics Office also provided one-on-one Ethics Briefings when needed, including to officials new to government service and attorneys coming to the Agency from private practice.

Lastly, the Ethics Office is tasked with managing the Agency’s Financial Disclosure Program in accordance with EIGA and the Stop Trading on Congressional Knowledge (STOCK) Act. This involves providing one-on-one assistance to confidential and public financial disclosure filers; ensuring that staff who hold “Acting” positions for more than 60 days in a calendar year file New Entrant and Termination reports as they transition in and out of a filing position; reviewing all reports for compliance and sufficiency within 60 days of receipt and providing guidance concerning potential conflicts based on the review of these reports.

GOAL NO. 4, OBJECTIVE 2, MEASURE 2

Measure 2: Continue to respond to FOIA inquiries in a timely manner.

FOIA PAR Performance Measures:	FY 2022 Accomplishments:
Respond to at least 65 percent of initial FOIA requests within 20 working days.	During FY 2022, the Agency received 1,963 FOIA requests, of which 1,678 were processed in twenty days or fewer for a timeliness compliance rate of 85.5 percent.
By the end of the fiscal year, close the ten oldest cases (as reported in the prior FOIA Annual Report) that are not subject to litigation and/or do not require consultation and response from outside Agencies and/or the White House.	During FY 2022, the Agency closed 85.7 percent (six of seven) of the oldest cases as reported in the FY 2021 FOIA Annual Reports that are not subject to litigation and/or do not require consultation and response from outside entities. (Note: This calculation reflects the exclusion of three of the oldest cases reported in the FY 2021 FOIA Annual Report because they remain open due to ongoing litigation and are thus excluded from this measure.)
Respond to at least 80 percent of statutory appeals within 20 working days.	During FY 2022, the Agency processed 18 FOIA appeals, 16 of which were processed in twenty days or fewer for a timeliness compliance rate of 89 percent.
Post on the agency website the Division of Advice memoranda and case closing emails by the 30th of the month following the month in which the case closed.	During FY 2022, Division of Advice memoranda and case closing emails were processed and timely posted on the Agency website each month in full compliance with the performance measure.
Maintain a year-to-year backlog of less than 10 percent of all FOIA requests received.	During FY 2022, the Agency received 1,963 FOIA requests, of which 18 remained backlogged at the close of the fiscal year, for backlog rate of less than 1 percent (0.9 percent).

GOAL 4, OBJECTIVE 3 – PERFORMANCE MEASURES

GOAL NO. 4, OBJECTIVE 3, MEASURE 1

Measure 1: Reach an ERM maturity level-3 by FY 2026.

- Developed the ERM Policy, Agency Risk Appetite Statement, and Risk Management Council (RMC) Charter.
- Assessed Agency ERM maturity based on the developed ERM Maturity Model.
- Developed ERM Implementation Roadmap based on the results of the Agency’s ERM maturity.
- Ensured all Agency Risk Champions received the required ERM Training.
- Initiated the documentation of the Agency’s risk registers while exploring automation solutions to standardize this process.
- Worked collaboratively with OCIO in developing an Automated ERM System that will be used in tracking, assessing, and prioritizing the Agency’s most significant risks.

GOAL 5 (MISSION):

IMPROVE PUBLIC AWARENESS OF AGENCY MISSION AND ACTIVITIES

Objectives:

1. Improve agency outreach and public engagement, especially among members of underserved communities.

GOAL 5, OBJECTIVE 1 – PERFORMANCE MEASURES

GOAL NO. 5, OBJECTIVE 1, MEASURE 1

Measure 1: Increase the number of users who access the NLRB’s English and non-English language digital resources, including our public website and social media platforms.

Time Period FY 2022	Users – English	Pageviews – English	Unique Pages – English	Users – Spanish	Pageviews – Spanish	Unique Pages - Spanish
Q1 2022	511,069	1,790,730	1,463,724	3,373	10,906	9,517
Q2 2022	657,310	2,138,269	1,791,996	5,153	11,213	9,752
Q3 2022	912,530	2,611,622	2,260,126	7,318	13,543	11,969
Q4 2022	869,980	2,496,420	2,128,430	13,022	16,901	14,903
Total	2,950,889	9,037,041	7,644,276	28,866	52,563	46,141

Account	Twitter followers	Facebook followers	Instagram followers	Total follower count
NLRB	20,700	23,000	726	44,426
NLRBGC	9,652	5,500	469	15,621
NLRBes	169	N/A	N/A	169
NLRBGCes	278	N/A	N/A	278
Total followers by platform	30,799	28,500	1,195	60,494

GOAL NO. 5, OBJECTIVE 1, MEASURE 2

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

The Student Ambassador program has increased its capacity during this fiscal year.

The program reached 24 high school students from diverse communities. These students then indirectly reached their classmates at their high school events. Eight of the high school students came from a New York City Magnet High School. The program included four high school students who are foreign language speakers. These students then, as part of their projects, interviewed family members and told them about the Act. The students were from the Dominican Republic, Nicaragua, Togo, and the Ivory Coast. The program also conducted 62 outreach events for post-secondary and graduate students at 38 public and private colleges and universities located throughout the U.S.

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, budgetary constraints, 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, and other externalities such as the ongoing pandemic.

CASE INTAKE

The Agency's FY 2022 case intake totals 20,509 and includes 17,998 ULP cases and 2,511 representation cases. NLRB 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: impact of the COVID-19 pandemic on the economy and workers; ongoing nationwide efforts to improve the wages and working conditions of workers in the retail, technology and fast food industries; the increased prevalence and evolving tools and usage by employees of technology and social media in 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; bankruptcies; challenging questions regarding jurisdiction over certain 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.

BUDGETARY CONSTRAINTS

The Agency's annual appropriation directly impacts the Agency's ability to effectively and efficiently enforce the Act. The Agency's nine years of being flat-funded has resulted in a 25 percent decrease in purchasing power, severely restricting the Agency's ability to hire critical staff and provide needed resources throughout the Agency. Further, without adequate funding, the Agency cannot invest in crucial updates to its technology infrastructure to enable the Agency staff to perform their work in a timely manner, especially as case intake increases.

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. 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.

BOARD MEMBER TERMS

The staggering of Board Members terms and the filling of a vacant seat by an individual who will not be a Board Member for a full term has the potential to impair Board productivity, as extended vacancies that occur under this system can delay the issuance of cases as successive Board Members often have to get up to speed on the same case matters.

GENERAL COUNSEL TERM

Delays in confirming the President's nomination of the General Counsel impairs the NLRB's ability to fully effectuate important policies and initiatives to enforce the Act.

POTENTIAL EFFECT OF STATUTORY CHANGES

As a general matter, changes in the law can affect NLRB operations and could have consequences on the Agency's case load. 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 governance mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. Both the Board and General Counsel regularly track the status of all of their respective cases to determine performance against yearly targets that support the Agency's strategic goals and measures.

On the Board-side of the Agency, a group of senior management officials, including, among others, the Deputy Chief Counsels of each of the Board Members and the Executive Secretary, periodically review the status of cases, prioritize cases, and develop lists of cases that the Board Members 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 case management system that captures all case events and milestones 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.

In FY 2022, the Division of Judges closed 122 hearings, issued 127 decisions and achieved 343 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2022, the U.S. Courts of Appeals ruled on Board decisions in 21 enforcement and review cases. Of those cases, 81 percent were enforced or affirmed in whole or in part.

The General Counsel's Office has long had an evaluation program in place to assess the performance of its Headquarters and Regional operations. The Division of Operations-Management regularly reviews case decisions to determine the quality of litigation. Other NLRB 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.

With respect to the Regional Offices, the Quality Review Program of the General Counsel's Division of Operations-Management reviews ULP, representation, and compliance case files throughout the year 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 assess, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's initiatives and priorities, and compliance with Agency decisions. Due to the budgetary constraints as a result of the Agency being flat level funded for nine straight years, personnel from the Division of Operations-Management have not conducted site visits of the field offices; however, through the use of technology, interactions have taken place throughout FY 2022, such as conducting "town hall" meetings with the different offices. In addition, to assess the quality of litigation, Operations-Management reviews all ALJ and Board decisions that constitute a significant prosecutorial loss in evaluating the field offices' performance. The Regional Offices' performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities is also incorporated into the Regional Directors' annual performance appraisals.

The Office of the General Counsel is regularly informed of Regional Office activities, including the settlement and litigation success rates of ULP cases. In FY 2022, Regional Offices found merit in 41.2 percent of ULP cases filed of which over 96 percent settled. The Regional Office won 83.8 percent of ULP and Compliance matters in whole or in part. A total of over \$51 million was recovered in backpay, fines, dues and fees and 995 employees were offered reinstatement. As to monitoring representation cases, in FY 2022, 87.7 percent of all initial elections were conducted within 56 days of filing.

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 2022, the Injunction Litigation Branch (ILB) received 91 cases from Regional Offices to consider whether to seek discretionary injunctive relief under Section 10(j) of the Act. The General Counsel, through the ILB, submitted 21 cases to the Board for authorization. The Board authorized ILB to seek injunctive relief under Section 10(j) of the Act in all 21 cases submitted. The Regions filed 10(j) petitions for injunction in 19 cases. Petitions in the remaining two cases were scheduled to be filed after the close of the fiscal year. 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 93 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 contract 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 utilizing NxGen reports for the mission-related goals. The metrics and strategies are tracked and monitored throughout the fiscal year. The compiled data is then presented in this document.

The data reported by OCIO comes 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 case handling. The FOIA Office logs the question and collects several pieces of data about the inquiry, including 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 in order to track inquiry response times. The Ethics Office uses an electronic spreadsheet to track when an employee reaches out to the Office with an ethics inquiry.

**FINANCIAL
SECTION**



**PROTECTING
DEMOCRACY IN
THE WORKPLACE
SINCE 1935**

MESSAGE FROM THE CHIEF FINANCIAL OFFICER



November 4, 2022

I am pleased to present the NLRB's consolidated financial statements for the Fiscal Year (FY) 2022 Performance and Accountability Report (PAR). For the nineteenth consecutive year an independent auditor has rendered an unmodified or "clean" audit opinion on the NLRB's financial statements.

The Office of the Chief Financial Officer (OCFO) is responsible for improving efficiency and effectiveness in financial operations. The OCFO ensures reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. In FY 2022 the OCFO supported our customers through a hybrid workforce environment. In FY 2022 NLRB's year-end closing was executed smoothly leaving only approximately \$411,050 in unobligated funds, which is 0.1 percent of the total appropriated funds of \$274.2 million.

This was a concerted effort by the Program Areas, and the OCFO Branches (Budget, Finance, Acquisitions Management, and the Internal Control/Risk/Performance). To all of them, thank you for a job well done.

During FY 2022, the OCFO continued to focus on process improvement and internal control and conducted internal control reviews in accordance with OMB Circular No. A-123. The OCFO continued to update its FY 2022 Federal Managers Financial Integrity Act (FMFIA) Survey regarding the seventeen principles within the five components of internal control from the U.S. Government Accountability Office (GAO) Standards for Internal Control in the Federal Government (the "Green Book").

During FY 2022 the OCFO addressed and closed out 15 audit recommendations from previous years audits. I would like to acknowledge and thank the OCFO staff for their dedication to the NLRB's mission and their diligent efforts in working to resolve open audit items, maintaining an unmodified opinion on our financial statements, and working through the OMB Circular No. A-123 reviews. Their demonstrated knowledge of the NLRB programs and processes and their constant effort to provide excellent customer service were outstanding.

A handwritten signature in black ink, appearing to read 'Isabel Luengo McConnell'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Isabel Luengo McConnell
Chief Financial Officer

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

November 14, 2022

To: Lauren McFerran
 Chairman

Jennifer A. Abruzzo
 General Counsel

From: David P. Berry 
 Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2022 Financial Statements
 (OIG-F-27-23-01)

This memorandum transmits the audit report on the National Labor Relations Board (NLRB) Fiscal Year 2022 Financial Statements.

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 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 generally accepted government auditing standards issued by the Comptroller General of the United States and Bulletin 22-01, *Audit Requirements for Federal Financial Statements*, issued by the Office of Management and Budget.

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 generally accepted 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 14, 2022, and the conclusions expressed in the report. Our review disclosed no instances where Castro & Company did not comply, in all material respects, with generally accepted government auditing standards.

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

cc: Board
 Chief Financial Officer



1635 King Street
Alexandria, VA 22314
Phone: 703.229.4440
Fax: 703.859.7603
www.castroco.com

Independent Auditor's Report on the Financial Statements

Inspector General
National Labor Relations Board

Opinion

In accordance with the Accountability of Tax Dollars Act of 2002, we have audited the National Labor Relations Board (NLRB) financial statements. NLRB's financial statements comprise the balance sheets as of September 30, 2022 and 2021, the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended, and the related notes to the financial statements. In our opinion, NLRB's financial statements referred to above present fairly, in all material respects, NLRB's financial position as of September 30, 2022 and 2021, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audit in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the NLRB and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

NLRB Management is responsible for the (1) preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the Required Supplementary Information (RSI) in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in NLRB's Performance and Accountability Report (PAR), and ensuring the consistency of that information with the audited financial statements and RSI; and (4) designing, implementing, and maintaining effective 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 for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

Independent Auditor's Report
Page 2

In performing an audit of financial statements in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements in order to obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.
- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not part of the basic financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

NLRB's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not required as part of the financial statements or RSI. Management is responsible for the other information included in the NLRB's PAR. The other information comprises the Messages from the Chairman, General Counsel, and Chief Financial Officer, list of Board Members, Other Accompanying Information, and Appendices but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

Independent Auditor's Report
Page 3

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by Government Auditing Standards

In accordance with U.S. generally accepted government auditing standards and OMB Bulletin No. 22-01, we have also issued our reports dated November 14, 2022, 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 contracts that are required to be reported under U.S. generally accepted 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. generally accepted government auditing standards and OMB Bulletin No. 22-01 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.



Alexandria, VA
November 14, 2022



1635 King Street
 Alexandria, VA 22314
 Phone: 703.229.4440
 Fax: 703.859.7603
 www.castroco.com

**Independent Auditor’s Report on Internal Control over Financial Reporting Based on an
 Audit of Financial Statements Performed in Accordance with
 Government Auditing Standards**

Inspector General
 National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB), which comprise the balance sheets as of September 30, 2022 and 2021, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated November 14, 2022. We conducted our audit in accordance with 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. 22-01, *Audit Requirements for Federal Financial Statements*.

In connection with our audit of NLRB’s financial statements, we considered NLRB’s internal control over financial reporting, consistent with our auditor’s responsibilities discussed below.

Results of Our Consideration of Internal Control Over Financial Reporting

Our consideration of internal control was for the limited purpose described below and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies or to express an opinion on the effectiveness of NLRB’s internal control over financial reporting. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weakness or significant deficiencies may exist that have not been identified.

During our Fiscal Year 2022 audit, we identified deficiencies in NLRB’s internal control over financial reporting that we do not consider to be material weaknesses or significant deficiencies. Nonetheless, these deficiencies warrant NLRB management’s attention. We have communicated these matters to NLRB management and, where appropriate, will report on them separately.

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to NLRB’s internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Internal Control over Financial Reporting

NLRB management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor’s Responsibilities for Internal Control over Financial Reporting

Independent Auditor's Report on Internal Control
Page 2

In planning and performing our audit of NLRB's financial statements as of and for the year ended September 30, 2022, in accordance with U.S. generally accepted government auditing standards, we considered NLRB's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate under the circumstances, but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control over financial reporting. Accordingly, we do not express an opinion on NLRB's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, and contracts, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of NLRB's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of NLRB's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

This report is intended solely for the information and use of the management and 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.



Alexandria, VA
November 14, 2022



1635 King Street
 Alexandria, VA 22314
 Phone: 703.229.4440
 Fax: 703.859.7603
 www.castroco.com

Independent Auditor’s Report on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Inspector General
 National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB), which comprise the balance sheets as of September 30, 2022 and 2021, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated November 14, 2022. 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. 22-01, *Audit Requirements for Federal Financial Statements*.

In connection with our audit of NLRB’s financial statements, we tested compliance with selected provisions of applicable laws, regulations, and contracts consistent with our auditor’s responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, and Contracts

Our tests for compliance with selected provisions of applicable laws, regulations, and contracts disclosed no instances of noncompliance for Fiscal Year 2022 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, and contracts applicable to NLRB. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, and Contracts

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor’s Responsibilities for Tests of Compliance section below.

Responsibilities of Management for Compliance with Laws, Regulations, and Contracts

NLRB management is responsible for complying with laws, regulations, and contracts applicable to the NLRB.

Auditor’s Responsibilities for Tests of Compliance with Laws, Regulations, and Contracts

Our responsibility is to test compliance with selected provisions of laws, regulations, and contracts applicable to NLRB that have a direct effect on the determination of material amounts and disclosures in NLRB’s financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, and contracts applicable to NLRB. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, and Contracts

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, and contracts, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance

Independent Auditor's Report on Compliance with Laws and Regulations
Page 2

with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, and contracts is not suitable for any other purpose.

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.

Castro & Company, LLC

Alexandria, VA
November 14, 2022

PRINCIPAL FINANCIAL STATEMENTS

AUDITOR'S REPORTS AND PRINCIPAL FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

National Labor Relations Board

BALANCE SHEETS - As of September 30, 2022 and 2021

(in dollars)

	2022	2021
Assets		
Intragovernmental:		
Fund Balance with Treasury (Note 3)	\$ 46,763,279	\$ 54,910,487
Accounts Receivable, net (Note 5)	0	67,906
Advances and Prepayments (Note 4)	0	1,646
Total Intragovernmental	46,763,279	54,980,039
Other than Intragovernmental:		
Accounts Receivable, net (Note 5)	696,288	700,291
General Property, Plant, and Equipment, net (Note 6)	6,280,207	7,899,517
Advances and Prepayments (Note 4)	42,761	26,706
Total Other than Intragovernmental	7,019,256	8,626,514
Total Assets (Note 2)	\$ 53,782,535	\$ 63,606,553
Liabilities		
Intragovernmental:		
Accounts Payable	\$ 1,914,947	\$ 369,796
Benefit Program Contributions Payable	953,496	2,507,334
FECA Liabilities (Note 7)	1,611	48,452
Total Intragovernmental	2,870,054	2,925,582
Other than Intragovernmental:		
Accounts Payable	3,013,390	4,134,546
Federal Employee and Veteran Benefits Payable	139,238	372,249
Unfunded Annual Leave (Note 7)	15,533,971	16,448,720
FECA Actuarial Liability (Note 7)	1,671,221	497,655
Accrued Funded Payroll & Leave and Payroll Taxes Payable	2,998,695	8,106,564
Total Other than Intragovernmental	23,356,515	29,559,734
Total Liabilities	\$ 26,226,569	\$ 32,485,316
Commitments and Contingencies (Note 15)		
Net Position		
Unexpended Appropriations - Funds from Other than Dedicated Collections	\$ 37,790,199	\$ 39,523,320
Total Unexpended Appropriations (Consolidated)	\$ 37,790,199	\$ 39,523,320
Cumulative Results of Operations - Funds from other than Dedicated Collections	(10,234,233)	(8,402,083)
Total Cumulative Results of Operations (Consolidated)	(10,234,233)	(8,402,083)
Total Net Position	\$ 27,555,966	\$ 31,121,237
Total Liabilities and Net Position	\$ 53,782,535	\$ 63,606,553

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, 2022 and 2021

(in dollars)

	2022	2021
Program Costs		
Resolve Unfair Labor Practices		
Net Cost	\$ 253,992,270	\$ 258,158,547
Resolve Representation Cases		
Net Cost	35,589,614	28,080,001
Costs	289,581,884	286,238,548
Less: Earned Revenue	(5,740)	(98,171)
Net Cost of Operations	\$ 289,576,144	\$ 286,140,377

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, 2022 and 2021

(in dollars)

	2022	2021
Unexpended Appropriations:		
Beginning Balance	\$ 39,523,320	\$ 39,359,517
Appropriations Received	274,224,000	274,224,000
Other Adjustments	(1,338,323)	(1,600,700)
Appropriations Used	(274,618,798)	(272,459,497)
Net Change in Unexpended Appropriations	(1,733,121)	163,803
Total Unexpended Appropriations:	\$ 37,790,199	\$ 39,523,320
Cumulative Results of Operations:		
Beginning Balances	\$ (8,402,083)	\$ (7,630,592)
Appropriations Used	274,618,798	272,459,497
Imputed Financing	13,125,196	12,909,389
Net Cost of Operations	(289,576,144)	(286,140,377)
Net Change in Cumulative Results of Operations	(1,832,150)	(771,491)
Total Cumulative Results of Operations: Ending	\$ (10,234,233)	\$ (8,402,083)
Net Position	\$ 27,555,966	\$ 31,121,237

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

National Labor Relations Board**STATEMENTS OF BUDGETARY RESOURCES**

For the Years Ended September 30, 2022 and 2021

(in dollars)

	2022	2021
Budgetary Resources		
Unobligated balance from prior year budget authority, net (discretionary and mandatory)	\$ 11,004,773	\$ 11,301,969
Appropriations (discretionary and mandatory)	274,224,000	274,224,000
Spending Authority from offsetting collections (discretionary and mandatory)	3,598	98,171
Total Budgetary Resources (Note 11)	\$ 285,232,371	\$ 285,624,140
Status of Budgetary Resources		
New Obligations and upward adjustments (total)	\$ 275,154,470	\$ 274,420,561
Unobligated balance, end of year:		
Apportioned, unexpired accounts	411,050	748,444
Unexpired unobligated balance, end of year	411,050	748,444
Expired unobligated balance, end of year	9,666,851	10,455,135
Unobligated balance, end of year (total)	10,077,901	11,203,579
Total Budgetary Resources	\$ 285,232,371	\$ 285,624,140
Outlays, Net (total) (discretionary and mandatory)		
Outlays, net (total) (discretionary and mandatory)	\$ 281,032,885	\$ 270,778,575

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 NLRB is an independent federal agency established in 1935 to administer the 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 by either an employer, a union, or both. The NLRB's authority is divided both by law and delegation. The five-member Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP charges before 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

The accompanying 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 books and records of the NLRB in accordance with GAAP and the accounting standards issued by the Federal Accounting Standards Advisory Board (FASAB) in the format prescribed by the OMB Circular A-136, Financial Reporting Requirements. GAAP for federal entities are the standards prescribed by the FASAB, which is the official standard-setting body for the federal government.

The NLRB's financial statements should be read with the understanding that they are for a component of the United States Government whose liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and that the payment of all liabilities other than for contracts can be abrogated by the federal government acting in its capacity.

The NLRB 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 FFMIA 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. The NLRB uses the Department of Interior's financial management

system, and that system is FFMI compliant. Thus, the NLRB's financial management system complied with the requirements of FFMI and produced records in accordance with USSGL at the transaction level.

The NLRB's financial statements reflect both accrual and budgetary basis of accounting. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized as incurred, without regard to receipt or payment of cash. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds. Budgetary accounting principles are designed to recognize the obligation of funds according to legal requirements.

The Balance Sheet presents the Agency's assets and liabilities, and the difference between the two is the Agency's net position. The Agency's 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. The Agency's 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 the Agency's fiduciary activities. Fiduciary cash and other assets are not assets of the federal government.

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

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 A-11, Preparation, Submission, and Execution of the Budget.

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. Unless a settlement is reached, the NLRB Regional Office will issue and prosecute a complaint against the party being charged if it believes that the charge has merit. 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 based on 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. See chart below with the calculations for FY 2022 and FY 2021, through September 30.

	2022 Percentage	2021 Percentage
C Cases (Unfair Labor Practices)	88%	90%
R Cases (Representation)	12%	10%
	100%	100%

C. Budgetary Basis of Accounting

The NLRB’s programs and activities are funded through annual appropriations. Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the Treasury to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at fiscal 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 is incurred. Only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

D. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

E. Revenue and Other Financing Sources

As a component of the Government-wide reporting entity, the NLRB is subject to the federal budget process, which involves appropriations that are provided annually. The financial transactions that are supported by budgetary resources, which include appropriations, are generally the same transactions reflected in the NLRB and the Government-wide financial reports.

The NLRB’s budgetary resources reflect past congressional action and enable the NLRB to incur budgetary obligations, but they do not reflect assets to the Government as a whole. Budgetary obligations are legal obligations for goods, services, or amounts to be paid based on statutory provisions (e.g., Social Security benefits). After budgetary obligations are incurred, the U.S. Treasury will make disbursements to liquidate the budgetary obligations and finance those disbursements in the same way it finances all disbursements, using some combination of receipts, other inflows, and borrowing from the public.

F. Fund Balance with the Treasury

FBWT is an asset of a reporting entity and a liability of the General Fund. The amounts represent commitments by the Government to provide resources for particular programs, but they do not represent net assets to the Government as a whole.

The NLRB does not maintain cash in commercial bank accounts. Treasury processes cash receipts and disbursements. Funds with the Treasury consist of appropriated and deposited funds that are available to pay current liabilities and finance authorized purchase commitments. In addition, funds held with Treasury also include escrow funds that are not appropriated but are fiduciary in nature. The fiduciary funds are not assets of the federal government; therefore, they are not recognized on the Balance Sheet.

G. Accounts Receivable, Net

Accounts Receivable typically consists of 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 is 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 fiscal 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, to accurately match expenses with the period in which the benefits are received from the software. The NLRB uses the straight-line method of amortization.

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.

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 FOIA requests that must be transferred to the Treasury at the end of each fiscal year.

J. Liabilities

Liabilities represent amounts that are likely to be paid by the NLRB as the result of transactions or events that have already occurred; however, no liabilities are paid by the NLRB without an appropriation. Liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity. Intragovernmental liabilities arise from transactions with other federal entities.

Accounts Payable

Accounts payable represent amounts due to federal and nonfederal entities for goods and services received by the NLRB that have not been paid at the end of the accounting period. Intragovernmental accounts payable represent payable transactions with other federal entities. nonfederal accounts payable represent transactions with nonfederal entities.

Accrued Payroll

Accrued payroll consists of salaries, wages, and other compensation earned by employees but not disbursed as of September 30, 2022 and 2021. The liability is estimated for reporting purposes based on historical pay information.

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. Liabilities not covered by budgetary resources include, unfunded leave, Federal Employees' Compensation Act (FECA) and unemployment compensation.

Unfunded Leave

A liability for annual and other vested compensatory leave is accrued as earned and reduced when taken. The value of employees' unused annual leave at the end of each fiscal quarter is accrued as a liability. At the end of each fiscal quarter, the balance in the accrued annual leave account is adjusted to reflect current pay rate and leave balances. To the extent the current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed when used, and in accordance with federal requirements, no accruals are recorded for unused sick leave.

Unfunded Federal Employees' Compensation Act

The FECA was established by Public Law 103-3 which 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 the 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 the DOL but not yet reimbursed by the NLRB. The NLRB reimburses the DOL for the actual claim amount as funds are appropriated for this purpose. There is generally a two to three-year period between payment by the DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by the 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 claimants on a case-by-case basis to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants.

Unfunded Unemployment

The NLRB's unemployment programs provide unemployment benefits to eligible workers who become unemployed through no fault of their own and meet certain other eligibility requirements. The Unemployment Compensation for Federal Employees program provides benefits for eligible, unemployed, former civilian Federal employees. The NLRB's liability for unemployment includes and costs incurred but unbilled as of the quarter end, as calculated by DOL, and not funded by current appropriations.

L. Commitments and Contingencies

Commitments reflect binding agreements that may result in the future expenditure of financial resources that are not recognized on the Balance Sheet.

A loss contingency is an existing condition, situation, or set of circumstances involving uncertainty as to possible loss to an entity. The uncertainty should ultimately be resolved when a future event occurs or fails to occur. A contingent liability should be recorded when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable, and the future outflow or sacrifice of resources is measurable.

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.

M. Life Insurance and Retirement Plans

Federal Employees' Group Life Insurance (FEGLI) Program

The 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 either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees' Retirement System (FERS), a defined benefit and contribution plan. Congress created the Federal Employees Retirement System (FERS) in 1986, and it became effective on January 1, 1987, pursuant to Public Law 99-335. Since that time, new Federal civilian employees who have retirement coverage are covered by FERS. 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 seven percent of pay for CSRS employees.

FERS is a retirement plan that provides benefits from three different sources: a Basic Benefit Plan, Social Security, and the Thrift Savings Plan (TSP). Two of the three parts of FERS (Social Security and the TSP) can go with the employee to their next job if they leave the federal government before retirement. The Basic Benefit and Social Security parts of FERS require an employee to pay their share each pay period. The NLRB withholds the cost of the Basic Benefit and Social Security from the employee's pay as payroll deductions. After an employee retires, the federal government pays the annuitant monthly annuity payments for the rest of their life.

The Thrift Savings Plan is long-term retirement savings and investment plan that is administered by the Federal Retirement Thrift Investment Board. The TSP is an account that the NLRB automatically sets up for the employee. Each pay period the NLRB deposits into the employee account. FERS or CSRS employees who began or rejoined federal service after October 1, 2020, the NLRB will automatically enroll the employee in the TSP, and 5 percent of the basic salary is deducted from the employee's paycheck every pay period and deposited into the TSP account. FERS or CSRS employee who began or rejoined federal service between August 1, 2010, and September 30, 2020, were automatically enrolled at 3 percent. FERS employee hired before August 1, 2010, and are not contributing their own money, still have a TSP account with accruing Agency/Service Automatic (1 percent) Contributions. An employee can also make their own contributions to their TSP account and the NLRB will make a matching contribution. Traditional (pre-tax) contributions allow employees to delay paying taxes on their contributions and their earnings until they withdraw them. Roth (after-tax) contributions, the employee pays taxes on your contributions as they make them.

The maximum amount of base pay that an employee participating in FERS may contribute is \$20,500 in CY 2022 to this plan. Employees belonging to CSRS may also contribute up to \$20,500 of their salary in CY 2022 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2022 is \$6,500. For CY 2022, the regular and catch-up contributions may not exceed \$27,000. 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 employee 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 FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities applicable to its employees on its financial statements. 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 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 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 is also provided by OPM regarding the full cost of health and life insurance benefits.

As of September 30, 2022, the NLRB, utilizing OPM provided cost factors, recognized \$2,488,371 of pension expenses, \$10,611,169 of post-retirement health benefits expenses, and \$25,656 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$13,125,196 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM. In comparison, in FY 2021, the NLRB recognized \$2,467,290 of pension expenses, \$10,417,004 of post-retirement health benefits expenses, and \$25,095 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$12,909,389 as an imputed financing source from OPM.

N. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the GSA and commercial copier leases. NLRB leases all buildings through GSA. The NLRB pays GSA a standard level user 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 the NLRB's headquarters and regional offices and the personal property leases are for fleet vehicles and copiers.

O. Net Position

Net position is composed of unexpended appropriations and cumulative results of operations.

Unexpended Appropriations include the portion of the NLRB's appropriations represented by undelivered orders and unobligated balances. Unexpended appropriations on the Balance Sheet must equal unexpended appropriations on the Statement of Changes in Net Position (SCNP). The NLRB does not have unexpended appropriations attributable to Funds from Dedicated Collections.

Cumulative Results of Operations represent the net results of operations since inception plus the cumulative amount of prior-period adjustments. Cumulative results of operations on the Balance Sheet should equal cumulative results of operations on the SCNP. The NLRB does not have cumulative results of operations attributable to Funds from Dedicated Collections.

P. Use of Management Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions, and exercise judgement that affects the reported amount of assets, liabilities, net position, and disclosure of contingent assets and liabilities as of the date of the financial statements, as well as reported amounts of financing sources, expenses, and obligations incurred during the reporting period. The assumptions made and estimates used by the NLRB to prepare the financial statements are based upon the facts that exist when the financial statements are prepared and on various other assumptions that are believed to be reasonable under the circumstances. Changes in estimates are reflected in the period in which they become known. Actual results may differ from those estimates. The notes to the financial statements include information to assist the reader in understanding the effect of changes in assumptions on the related information.

Q. 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.

R. Subsequent Events

Subsequent events and transactions occurring after fiscal year-end through the date of the auditor's opinion have been evaluated for potential recognition of disclosure in the financial statements. The date of the auditor's opinion also represents the date that the financial statements were available to be issued.

NOTE 2. NON-ENTITY ASSETS

Non-Entity assets represent miscellaneous receipts collected and related accounts receivable (net of allowance for doubtful accounts). 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, 2022 and 2021, is as follows:

(in dollars)	2022	2021
Non-Entity Assets		
Fund Balance with Treasury	\$ 0	\$ 0
Total Non-Entity Assets	0	0
Total Entity Assets	53,782,535	63,606,553
Total Assets	\$ 53,782,535	\$ 63,606,553

Additionally, the 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 3. FUND BALANCE WITH TREASURY

Treasury performs cash management activities for all federal agencies. The NLRB's FBWT represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. The status of FBWT as of September 30, 2022 and 2021 consists of the following:

FUND BALANCE WITH TREASURY

(in dollars)	2022	2021
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	\$ 411,050	\$ 748,444
Unavailable	9,666,851	10,455,135
Obligated Balance Not Yet Disbursed	36,685,378	43,706,908
Non-budgetary Fund Balance with Treasury	0	0
Total	\$ 46,763,279	\$ 54,910,487

The status of FBWT may be classified as unobligated available, unobligated unavailable, or obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in the current year of operations. Unavailable unobligated balances are not available to fund new obligations because they are expired. 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 FBWT do not agree with obligated and unobligated balances reported on the Statement of Budgetary Resources because the FBWT includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts (non-entity).

NOTE 4. ADVANCES

Intragovernmental

As of September 30, 2022 and 2021, the NLRB reported advances to the Department of Transportation for the employee transit subsidy program totaling \$0 and \$1,646, respectively.

Public

As of September 30, 2022 and 2021, the NLRB reported advances for postage meter funding totaling \$42,761 and \$26,706, respectively.

NOTE 5. ACCOUNTS RECEIVABLE, NET

As of September 30, 2022 and 2021, the NLRB reported accounts receivable, net totaling \$696,288 and \$768,197 respectively.

(in dollars)	2022	2021
Intragovernmental		
Accounts Receivable	\$ 0	\$ 67,906
With the public		
Accounts Receivable	750,871	756,187
Total Accounts Receivable	750,871	824,093
Allowance for Doubtful Accounts	(54,583)	(55,896)
Accounts Receivable, net	\$ 696,288	\$ 768,197

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 as of September 30, 2022 and 2021.

2022			
(in dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Construction In Progress	\$ 1,448,079	\$ 0	\$ 1,448,079
Equipment	3,776,101	2,907,542	868,559
Leasehold Improvements	7,405,114	4,595,510	2,809,604
Internal Use Software	45,060,728	43,906,763	1,153,965
Total Property, Plant and Equipment	\$ 57,690,022	\$ 51,409,815	\$ 6,280,207

2021			
(in dollars)	Asset Cost	Accumulated Depreciation / Amortization	Net Asset Value
Equipment	\$ 3,859,957	\$ 2,469,793	\$ 1,390,164
Leasehold Improvements	6,935,780	3,896,065	3,039,715
Internal Use Software	45,060,728	41,591,090	3,469,638
Total Property, Plant and Equipment	\$ 55,856,465	\$ 47,956,948	\$ 7,899,517

NOTE 7. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

Liabilities are classified as liabilities covered by budgetary resources, liabilities not covered by budgetary resources, and liabilities not requiring budgetary resources. Liabilities not covered by budgetary resources require future congressional action whereas liabilities covered by budgetary resources reflect prior congressional action. Regardless of when the congressional action occurs, when the liabilities are liquidated, Treasury will finance the liquidation in the same way that it finances all other disbursements, using some combination of receipts, other inflows, and borrowing from the public.

The NLRB's 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 FOIA 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, 2022 and 2021, is as follows:

(in dollars)	2022	2021
Liabilities Not Covered by Budgetary Resources		
Intragovernmental		
FECA - Unfunded	\$ 1,611	\$ 48,452
Total Intragovernmental	1,611	48,452
Liabilities with the Public		
Estimated Future FECA	1,671,221	497,655
Accrued Annual Leave	15,533,971	16,448,720
Total Liabilities Not Covered by Budgetary Resources	17,206,803	16,994,827
Total Liabilities Covered by Budgetary Resources	9,019,766	15,490,489
Total Liabilities	\$ 26,226,569	\$ 32,485,316

NOTE 8. 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 dollars)	2022	2021
Resolve Unfair Labor Practices		
Intragovernmental Costs	\$ 83,730,408	\$ 81,902,714
Costs with the Public	170,261,862	176,255,833
Total Net Cost – Resolve Unfair Labor Practices	253,992,270	258,158,547
Resolve Representation Cases		
Intragovernmental Costs	11,732,377	8,908,588
Costs with the Public	23,857,237	19,171,413
Total Net Cost – Resolve Representation Cases	35,589,614	28,080,001
Less: Earned Revenue	(5,740)	(98,171)
Net Cost of Operations	\$ 289,576,144	\$ 286,140,377

NOTE 9. OPERATING LEASES

GSA Real Property. The NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of the NLRB's occupancy agreements 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 occupancy agreements with GSA, which set forth terms and conditions for the space the Agency will occupy for an extended period. Included within the occupancy agreements 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 2023 through FY 2027.

Rental expenses for operating leases for the period ended September 30, 2022, were \$23,542,818 for Agency leased space and \$2,591,170 for Agency building security. For FY 2021, the operating lease costs were \$23,663,212 and the Agency building security was \$2,630,724.

Future Space Lease Payments	
Fiscal Year	GSA Real Property Cost (in dollars)
2023	\$ 25,573,700
2024	26,852,385
2025	28,195,004
2026	29,604,754
2027	31,084,991
After 5 Years	32,639,240
Total	\$ 173,950,074

GSA Fleet. The future fleet payments reflect the expense for 12 vehicles used for official NLRB business throughout the United States. Expenses for the fleet vehicles for the period ending September 30, 2022, was \$38,945; for FY 2021 the cost was \$46,320.

Future Fleet Lease Payments	
Fiscal Year	GSA Fleet Cost (in dollars)
2023	\$ 48,000
2024	50,400
2025	52,920
2026	55,566
2027	58,344
After 5 Years	61,349
Total	\$ 326,579

Commercial Copiers. The commercial copier rental expense reflects lease contracts for copy machines located at the NLRB Headquarters and Field Offices. For FY 2022, the commercial copier yearly contract is \$154,288; for FY 2021 the cost was \$154,288.

Future Copier Lease Payments	
Fiscal Year	Copier Lease Cost (in dollars)
2023	\$ 154,288
2024	180,000
2025	185,400
2026	190,962
2027	196,691
After 5 Years	206,525
Total	\$ 1,113,866

Digital Mailing System. The digital mailing system expense reflects lease contracts for mailing systems and postage meters located at the NLRB Headquarters and Field Offices. For FY 2022, the digital mailing system cost was \$76,083 for 2021 the cost was \$62,368.

Future Digital Mailing Lease Payments	
Fiscal Year	Digital Mailing Lease Cost (in dollars)
2023	\$ 108,723
2024	108,723
2025	108,723
2026	114,160
2027	119,868
After 5 Years	125,862
Total	\$ 686,059

Security Screening Machines. The security screening machines expense reflects lease contracts for x-ray machines located at the NLRB Headquarters and Field Offices. For FY 2022, the security screening machines cost was \$10,978; for 2021 the cost was \$10,149.

Future Security Screening Machine Payments	
Fiscal Year	Security Screening Machine Lease Cost (in dollars)
2023	\$ 10,978
2024	10,978
2025	10,978
2026	0
2027	0
After 5 Years	0
Total	\$ 32,934

NOTE 10. INTER-ENTITY COSTS

Goods and services are received from other federal entities at no cost or at a cost less than the full cost to the providing federal entity. Consistent with accounting standards, certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost in the Statement of Net Cost and are offset by imputed revenue in the Statement of Changes in Net Position. Such imputed costs and revenues relate to employee benefits. However, unreimbursed costs of goods and services other than those identified are not included in the financial statements.

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, 2022 and 2021 consisted of:

(in dollars)	2022	2021
Office of Personnel Management:		
Pension Expenses	\$ 2,488,371	\$ 2,467,290
Federal Employees Health Benefits	10,611,169	10,417,004
Federal Employees Group Life Insurance Program	25,656	25,095
Total Imputed Financing Costs	\$ 13,125,196	\$ 12,909,389

NOTE 11. STATEMENT OF BUDGETARY RESOURCES

The purpose for the federal budgetary accounting is to control, monitor and report on funds made available to federal agencies by law and to help ensure compliance with the law. 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 following budget terms are commonly used from OMB Circular A-11, Preparation, Submission and Execution of the Budget (Section 20.3):

https://www.whitehouse.gov/wp-content/uploads/2018/06/a11_web_toc.pdf

- *Appropriation* - a provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.
- *Budgetary resources* - amounts available to incur obligations in a given year. Budgetary resources consist of new budget authority and unobligated balances of budget authority provided in previous years.
- *Offsetting collections* - payments to the Government that, by law, are credited directly to expenditure accounts and deducted from gross budget authority and outlays of the expenditure account, rather than added to receipts. Usually, offsetting collections are authorized to be spent for the purposes of the account without further action by Congress. They usually result from business-like transactions with the public, including payments from the public in exchange for goods and services, reimbursements for damages, and gifts or donations of money to the Government and from intragovernmental transactions with other Government accounts. The authority to spend offsetting collections is a form of budget authority.

- *Offsetting receipts* - payments to the Government that are credited to offsetting receipt accounts and deducted from gross budget authority and outlays, rather than added to receipts. Usually, they are deducted at the level of the agency and subfunction, but in some cases they are deducted at the level of the Government as a whole. They are not authorized to be credited to expenditure accounts. The legislation that authorizes the offsetting receipts may earmark them for a specific purpose and either appropriate them for expenditure for that purpose or require them to be appropriated in annual appropriations acts before they can be spent. Like offsetting collections, they usually result from business-like transactions with the public, including payments from the public in exchange for goods and services, reimbursements for damages, and gifts or donations of money to the Government, and from intragovernmental transactions with other Government accounts.
- *Obligation* - a binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.
- *Outlay* - a payment to liquidate an obligation (other than the repayment of debt principal or other disbursements that are “means of financing” transactions). Outlays generally are equal to cash disbursements but also are recorded for cash-equivalent transactions, such as the issuance of debentures to pay insurance claims, and in a few cases are recorded on an accrual basis such as interest on public issues of the public debt. Outlays are the measure of Government spending.

For further information about the budget terms and concepts, see the “Budget Concepts” chapter of the Analytical Perspectives volume of the President’s Budget.

<https://www.whitehouse.gov/omb/budget/analytical-perspectives/>

The NLRB’s total budgetary resources was \$285,232,371 as of September 30, 2022, and \$285,624,140 as of September 30, 2021, 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 NLRB received \$274,224,000 in appropriations as of September 30, 2022, and September 30, 2021. The NLRB’s apportioned unobligated balance available at September 30, 2022, was \$411,050 and at September 30, 2021 was \$748,444.

NOTE 12. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Undelivered orders are purchase orders issued by the NLRB during the FY 2022 and the five expiring fiscal years, which have not had delivery of the required product or service as of September 30, 2022 and 2021. It is anticipated that these undelivered items will be provided in future periods and will require resources obligated during the respective fiscal years.

Undelivered Orders as of September 30, 2022 and 2021		
(in dollars)	2022	2021
Intragovernmental		
Paid	\$ 0	\$ 0
Unpaid	10,104,553	10,035,026
Total Intragovernmental	10,104,553	10,035,026
Public		
Paid	42,761	28,353
Unpaid	17,610,015	18,298,293
Total Public	17,652,776	18,326,646
Total	\$ 27,757,329	\$ 28,361,672

NOTE 13. FIDUCIARY ACTIVITIES

The fiduciary cash and other assets are not assets of the federal government, are not recognized on the Balance Sheet, and are assets of a non-federal party for which the federal government is responsible.

The NLRB Escrow Accounts are fiduciary deposit funds presented in accordance with SFFAS 31, Accounting for Fiduciary Activities, and OMB Circular A-136, *Financial Reporting Requirements*. The Escrow Accounts, Restraining Order Cases (420X6152) and Backpay Cases (402X6154) are authorized by Title 31 United States Code, Section 3513 and Title 29 United States Code, Section 151-169. The Escrow Account, Restraining Order Cases (420X6152) was established to separate cases related to protective restraining orders.

The NLRB investigates and adjudicates disputes between private sector employees, employers, and unions. Part of the NLRB's mission is to determine if the employer (or sometimes the union), herein referred to as respondent, engaged in unfair labor practices, which resulted in a loss of employment or wages for the affected employees (discriminatees). In some cases, the respondent is ordered to pay monetary amounts to the discriminatees. These payments can be paid by respondent directly to the discriminatees or they can pay the NLRB, which disburses the funds to the discriminatees. The NLRB is authorized to collect funds on behalf of discriminatees.

The fiduciary funds collected by the NLRB are held in escrow and 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. NLRB's fiduciary funds are not invested.

The NLRB executed a Memorandum of Understanding (MOU) with the Treasury that established agreed upon policies and procedures for investing monies in, and redeeming investments held by, the fiduciary fund account in Treasury. The NLRB manages these funds in a fiduciary capacity and does not have ownership rights against its contributions and investments; the assets and activities summarized in the schedule below are not presented in the financial statements. The NLRB's fiduciary activities are disclosed in this note.

**Schedule of Fiduciary Activity
As of September 30, 2022 and 2021**

(in dollars)	2022			2021		
	Fund 420X6152	Fund 420X6154	Total Funds	Fund 420X6152	Fund 420X6154	Total Funds
Fiduciary Funds						
Fiduciary net assets, beginning of year	\$ 0	\$ 23,397,224	\$ 23,397,224	\$ 2,000	\$ 31,163,779	\$ 31,165,779
Fiduciary revenues	0	1,439,234	1,439,234	(2,000)	4,778,021	4,776,021
Disbursements to and on the behalf of beneficiaries	0	(14,054,946)	(14,054,946)	0	(12,544,576)	(12,544,576)
Increase (Decrease) in fiduciary net assets	0	(12,615,712)	(12,615,712)	(2,000)	(7,766,555)	(7,768,555)
Fiduciary net assets, end of year	\$ 0	\$ 10,781,512	\$ 10,781,512	\$ 0	23,397,224	23,397,224

**Fiduciary Net Assets
As of September 30, 2022 and 2021**

(in dollars)	2022			2021		
	Fund 420X6152	Fund 420X6154	Total Funds	Fund 420X6152	Fund 420X6154	Total Funds
Fiduciary Funds						
Fund Balance with Treasury	0	10,781,512	10,781,512	0	23,397,224	23,397,224
Total Fiduciary net assets	\$ 0	\$ 10,781,512	\$ 10,781,512	\$ 0	\$ 23,397,224	\$ 23,397,224

NOTE 14. RECONCILIATION OF NET COST TO NET OUTLAYS

SFFAS 53, *Budget and Accrual Reconciliation*, amended SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting* and 24, *Selected Standards for the Consolidated Financial Report of the United States Government*, and rescinded SFFAS 22, *Change in Certain Requirements for Reconciling Obligations and Net Cost of Operations*. SFFAS 53 provided for the budget and accrual reconciliation (BAR) to replace the statement of financing. The BAR explains the relationship between the NLRB's net outlays on a budgetary basis and the net cost of operations during the reporting period. The reconciliation starts with the net cost of operations as reported on the Statement of Net Cost and will be adjusted by components of net cost that are not part of net outlays. Common components include depreciation and gains and losses on disposition of assets and changes in assets and liabilities (e.g., accounts receivable, accounts payable and salaries and benefits) not affecting budget outlays. Net cost of operations is also adjusted by budget outlays that are not part of net operating cost. Components of budget outlays that are not part of net operating cost include acquisition of capital assets, inventory, and other assets. Other reconciling differences, when applicable, include timing differences.

Reconciliation of Net Cost to Net Outlays As of September 30, 2022			
(in dollars)	Intra- governmental	With the public	Total 2022
Net Cost	\$ 95,457,045	\$ 194,119,099	\$ 289,576,144
Components of Net Cost That Are Not Part of Net Outlays:			
Other		15,657	15,657
Increase/(decrease) in assets:			
Accounts receivable		752,183	752,183
Other assets		42,761	42,761
(Increase)/decrease in liabilities:			
Accounts payable	(1,552,646)	1,134,132	(418,514)
Salaries and benefits	(1,553,838)	(5,340,879)	(6,894,717)
Other liabilities	46,841	(2,088,315)	(2,041,474)
Total Components of Net Cost That Are Not Part of Net Outlays	(3,059,643)	(5,484,461)	(8,544,104)
Components of Net Outlays That Are Not Part of Net Cost:			
Acquisition of capital assets			
Total Components of Net Outlays That Are Not Part of Net Cost			
Other Temporary Timing Differences		845	845
Net Outlays	\$ 92,397,402	\$ 188,635,483	\$ 281,032,885
Related Amounts on the Statement of Budgetary Resources			
Outlays, net			281,032,885
Distributed offsetting receipts			0
Agency Outlays, Net			\$ 281,032,885

Reconciliation of Net Cost to Net Outlays As of September 30, 2021			
(in dollars)	Intra- governmental	With the public	Total 2021
Net Cost	\$ 90,713,131	\$ 195,427,246	\$ 286,140,377
Components of Net Cost That Are Not Part of Net Outlays:			
Other		13,858	13,858
Increase/(decrease) in assets:			
Accounts receivable	67,906	707,385	775,291
Other assets	26,404	(1,048)	25,356
(Increase)/decrease in liabilities:			
Accounts payable	458,990	(1,371,941)	(912,951)
Salaries and benefits	(261,422)	(539,666)	(801,088)
Other liabilities	128,009	(14,591,598)	(14,463,589)
Total Components of Net Cost That Are Not Part of Net Outlays	419,887	(15,783,010)	(15,363,123)
Components of Net Outlays That Are Not Part of Net Cost:			
Acquisition of capital assets		-	-
Total Components of Net Outlays That Are Not Part of Net Cost		-	-
Other Temporary Timing Differences		1,321	1,321
Net Outlays	\$ 91,133,018	\$ 179,645,557	\$ 270,778,575
Related Amounts on the Statement of Budgetary Resources			
Outlays, net			270,778,575
Distributed offsetting receipts			0
Agency Outlays, Net			\$ 270,778,575

NOTE 15. COMMITMENTS AND CONTINGENCIES

In addition to future commitments discussed in Note 9, Operating Leases, the NLRB is committed under obligations at fiscal year-end for goods and services which have been received and not yet paid or for goods and services which have been ordered but not yet received. These are unpaid delivered orders.

The NLRB was not party to any legal actions that were likely to result in a material liability. Accordingly, no provision for loss is included in the financial statements.

NOTE 16. COVID-19 ACTIVITY

In FY 2022 and FY 2021, the NLRB received an annual appropriation of \$274,224,000 to carry out the functions vested in it by the Labor-Management Relations Act of 1947. The NLRB did not receive a supplemental appropriation or had a significant amount of budgetary activity associated with responding to COVID-19 as of September 30, 2022 and 2021.

**OTHER
INFORMATION**



**PROTECTING
DEMOCRACY IN
THE WORKPLACE
SINCE 1935**

INSPECTOR GENERAL'S TOP PERFORMANCE AND MANAGEMENT CHALLENGES

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 12, 2022

To: Board and General Counsel

From: David Berry
 Inspector General

A handwritten signature in black ink, appearing to read "D. Berry", is written over the printed name of David Berry.

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General (OIG) 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 National Labor Relations Board (NLRB or 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 and observations of the NLRB's 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. The challenges noted below are not OIG findings or matters that necessarily involve mismanagement or any type of failure on the part of the NLRB's leaders or managers. In our view, a challenge is just that, a task or endeavor that is made difficult by the circumstances. In our prior year's memorandum, we identified five management and performance challenges.

CHALLENGES

Manage the Agency

In Fiscal Year (FY) 2020, we described this challenge as being almost exclusively related to the pandemic. We noted that initially there was a rapid, almost instantaneous, switch to an entirely remote work force. In FY 2021, it was reasonably anticipated that the NLRB would begin the process of bringing employees back to its offices as the vaccine became readily available. Unfortunately, rather than seeing that return, the pandemic continued to create a great deal of uncertainty and presented evolving challenges for the Agency. We also note that in FY 2021, the NLRB had a complete change in leadership. In FY 2022, the NLRB began a return to its offices, but continued to operate with a significant number of its employees working remotely. As a result, the challenges facing the Agency during the height of the pandemic have not been completely resolved and remain a significant issue as

the Agency works to meet its statutory mission by receiving and investigating charges, conducting elections, and issuing decisions with an increasing level of case intake.

Manage the Agency's Financial Resources

In July 2012, the Board created the Office of the Chief Financial Officer (OCFO), implementing a recommendation from the FY 2010 audit of the financial statements. The OCFO includes the budget, procurement, and finance functions. In five audits of the financial statements in the following years, the audits reported findings related to significant deficiencies and/or material weaknesses involving financial management. Also, in our audit of the FY 2019 lapse in funding, we found several internal control issues related to the OCFO's budget processes.

At the end of FY 2020, the OCFO closed a number of pending audit recommendations from the prior financial statement audits and reported a significantly lower lapse in funding as compared to FY 2019. Also, the audit of the FY 2020 financial statements did not have significant deficiency or material weakness findings. During FY 2021, we continued to see a significant effort related to improving internal controls and financial management. For the audit of the FY 2021 financial statement, the OCFO did not receive any new recommendations. During FY 2022, the OCFO continued to address prior years' internal control findings and implemented 15 recommendations closing out three audits related to financial management. Seven recommendations remain open, including one from the Audit of the NLRB Fiscal Year 2014 Financial Statements.

Manage the Agency'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.

As we stated in prior Management Challenge reports, in our audit work we have, over an extended time period, observed a 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 the personnel changes.

In FY 2021 we reported that, despite a significant effort to fill inherited vacancies, at the end of the fiscal year, 7 of the 26 Regional Director positions were vacant, with three of the positions being vacant for more than a year. By the end of FY 2022, the NLRB made significant progress in filling senior management vacancies and all Regional Director positions were filled. When we spoke with managers involved in field operations, they reported that significant work remains to fill personnel shortages as the result of internal promotions, additional workload related to increased case work, and the availability of funding. To understand these issues more clearly, we are initiating an audit that will focus on performance-based staffing in the Regional Offices.

Manage the Agency's Information Technology Security

The FY 2016 Federal Information Security Modernization Act (FISMA) review was the start of the change from reviewing what the Agency was doing to assessing the maturity of the Agency's information technology (IT) security processes. For the past several years, the Office of the Chief Information Officer (OCIO) made steady progress in improving the Agency's IT security processes and maturity level. For FY 2020, the OCIO met at least the "managed and measurable" level across the five FISMA IT security functions and obtained an overall maturity level assessment of "effective." That steady improvement over an extended period of time represented a significant effort on the part of the OCIO security staff. In FY 2021, we observed that the OCIO continued its progress and again received a FISMA maturity level assessment of "effective." In FY 2022, the OCIO met the "optimized" level for all five FISMA IT security functions and again achieved a rating of "effective."

As we stated in our prior reports, despite the prior efforts to address information security, threats to the NLRB's information systems will not abate in the future. Because of the rapid changes in technology that results in evolving threats, we expect that the OCIO will continue to face challenges as it works to keep the NLRB network secure. To meet those challenges, the OCIO will need adequate funding to maintain and update the NLRB's systems and maintain an appropriate staffing level of skilled personnel to manage the processes.

Implement Audit Recommendations

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 24 open audit recommendations. During FY 2022, we added 13 recommendations and closed 19. Currently, there are 18 open recommendations. As with the prior fiscal year, the oldest open recommendation is from an audit report issued in FY 2015. The reduction in the number of open audit recommendations is noteworthy and represents a significant effort on the part of the Chief Financial Officer.

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
	0	0	0	0	0

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

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

PAYMENT INTEGRITY INFORMATION ACT REPORTING

The PIIA amends government-wide improper payment reporting requirements by repealing and replacing the Improper Payments Information Act of 2002 (IPIA), the Improper Payments Elimination and Recovery Act of 2010 (IPERA), the Improper Payments Elimination and Recovery Act of 2012 (IPERIA), and the Fraud Reduction and Data Analytics Act of 2015 (FRDAA).

For FY 2022, \$281,235,483 in disbursements were made, of which payroll, benefits, and travel accounted for \$223,253,052, and \$525,092 were disbursed. Additionally, the NLRB paid \$57,457,338 to vendors for about 20 percent of the total disbursements.

The Agency's latest IPIA assessment, for FY 2022, and review performed by an independent consultant concluded that the NLRB program and activities were at a low risk for improper payments.

During FY 2022, the Agency performed an independent review that evaluated the procedures in the Agency's payment and disbursement processes. It also tested and assessed the design and effectiveness of controls. Given these controls, the IPIA assessment found no improper payment in the testing and found that the estimated improper payments to be within the thresholds defined by IPIA. Thus, improper payments for the NLRB's programs did not exceed \$10 million and 1.5 percent of the program total expenditures or \$100 million of the total program expenditures. The Agency estimates the improper payments rate to be at most 1.5 percent and the improper payment amount to be no more than \$4,218,532.24. Therefore, the NLRB has effective procedures and controls in place for its payment and disbursement processes. The NLRB has reasonable assurance that controls over financial and non-financial operations are sufficient. No additional reporting requirements are necessary.

Improper Payments Elimination and Recovery Chart

Program Name	Published Payment Integrity information with the annual financial statement	Posted the annual financial statement and accompanying materials on the agency website	Conducted improper payment (IP) risk assessments for each program with annual outlays greater than \$10,000,000 at least once in the last three years	Adequately concluded whether the program is likely to make IPs and unknown payments (UP) above or below the statutory threshold	Published IP and UP estimates for programs susceptible to significant IPs and UPs in the accompanying materials to the annual financial statement	Published corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement	Published an IP and UP reduction target for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement	Demonstrated improvements to payment integrity or reached a tolerable IP and UP rate	Developed a plan to meet the IP and UP reduction target	Reported an IP and UP estimate of less than 10 percent for each program for which an estimate was published in the accompanying materials to the annual financial statement
Payroll	Yes	Yes	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commercial Contracts		Yes	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Information regarding the Annual Data Call submission can be found at <https://www.paymentaccuracy.gov>.

DO NOT PAY (DNP) INITIATIVE

The mission of the Treasury’s 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 the Treasury Offset Program (TOP). DNP uses this network of systems in order to disseminate to agencies who should or should not receive public funds in order to reduce or prevent the likelihood of improper payments.

In FY 2022, the DNP portal vetted 5,548 payments for authenticity and validity. The number of payments made amounted to \$36,824,490.08 in disbursements that passed through DNP’s network of red flag indicating systems. As a result, DNP identified three payments totaling \$28,080.84 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 2021 - September 2022						
	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	5,548	\$36,824,490.08	N/A	N/A	N/A	\$0
Reviews with SAM Exclusions Public	5,548	\$36,824,490.08	N/A	N/A	N/A	\$0

- Payments reviewed for improper payments includes the total number of payments disbursed by the Agency through the Payments, Claims and Enhanced Reconciliation (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 DNP 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 DNP Initiative that were adjudicated as proper by the Agency.

REAL PROPERTY

The GSA, the nation's largest public real estate organization, provides workspace for more than 1.2 million federal workers through its Public Buildings Service. Approximately half of federal employees are housed in buildings owned by the federal government and half are located in separate leased properties, including buildings, land, antenna sites, etc. across the country. GSA charges rent to over 100 federal agencies, which is deposited into the federal buildings fund and used to operate the government's buildings and pay rent to private companies for leased space.

The GSA serves as the real estate agent for the NLRB by providing office space in federal and leased space. GSA is the organization that makes the appropriate and final determination for NLRB office locations. Federal building occupancy is the preferred choice. GSA determines which space is the most cost effective for the government. GSA lease actions start +/- 18 months prior to lease expiration. The lease is signed between the lessor and GSA. The agency signs an occupancy agreement (OA) with GSA.

This link takes you to the GSA's website: <https://www.gsa.gov/tools-overview/buildings-and-real-estate-tools/inventory-of-gsa-owned-and-leased-properties>. The chart below provides information on NLRB locations.

https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp							
NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
Headquarters	1015 Half Street, SE Washington, DC 20570-0001	Leased	DC0719	ADC07116	152,872	6/30/2015	6/29/2025
R-1 Boston	Thomas P. O'Neill Federal Building 10 Causeway Street - Suite 1001 Boston, MA 02222-1072	Federal	MA0153	AMA00119	8,813	9/1/2022	3/14/2032
SR-34 Hartford	A. A. Ribicoff Federal Bldg & Courthouse 450 Main St 4th Floor Hartford, CT 06103-3503	Federal	CT0054	ACT01875	14,602	9/27/2020	5/31/2030
R-2 New York	Jacob K. Javits Federal Building 26 Federal Plaza, Room 3614 New York, NY 10278-0104	Federal	NY0282	ANY02166 & ANY02687	3,853	9/12/2022	1/31/2030
R-3 Buffalo	Niagara Center Building 130 S. Elmwood Avenue, Suite 630 Buffalo, NY 14202-2387	Leased	NY7340	ANY07196	10,296	9/20/2015	9/19/2025
RO-3 Albany	Leo W. O'Brien Federal Building 11A Clinton Ave, Room 342 Albany, NY 12207-2366	Federal	NY0300	ANY02196	3,993	3/1/2019	2/28/2029
R-4 Philadelphia	100 Penn Square East, Suite 403 Philadelphia, PA 19107-3323	Leased	PA0549	APA04935	12,525	10/16/2018	10/15/2028

<https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp>

NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
R-5 Baltimore	Bank of America Center- Tower II 100 South Charles Street, Suite 600 Baltimore, MD 21202-2700	Leased	MD0395	AMD05219	20,050	6/14/2012	6/13/2024
RO-5 Washington, DC	1015 Half Street, SE - Suite 6020 Washington, DC 20570-0001	Leased	DC0719	ADC07116	Incl. w/ Headquarters	6/30/2015	6/29/2025
R-6 Pittsburgh	William S. Moorhead Federal Building 1000 Liberty Avenue, Room 904 Pittsburgh, PA 15222-4	Federal	PA0233	APA01602	18,365	12/15/2018	12/14/2028
R-7 Detroit	P. V. McNamara Federal Building 477 Michigan Avenue, Room 05-200 Detroit, MI 48226-2569	Federal	MI0131MC	AMI05260	12,173	2/1/2019	1/31/2028
RO-7 Grand Rapids	Gerald Ford Federal Bldg 110 Michigan St NW, Rm 299 Grand Rapids, MI 49503-23	Federal	MI0137	AMI04500	6,465	9/27/2020	8/31/2029
R-8 Cleveland	Anthony J. Celebrezze Federal Building 1240 East 9th Street, Room 1695 Cleveland, OH 44199-2086	Federal	OH0192	AOH00148	19,286	1/1/2017	10/31/2027
R-9 Cincinnati	John Weld Peck Federal Building 550 Main Street, Room 3003 Cincinnati, OH 45202-3	Federal	OH0189CN	AOH05409	22,971	2/1/2018	1/31/2028
R-10 Atlanta	Peachtree Summit Federal Building 401 W. Peachtree St. NW Suite 472 Atlanta, GA 30308-3525	Federal	GA0087	AGA04525	2,691	3/1/2021	2/28/2031
SR-11 Winston-Salem	Republic Square 4035 University Parkway Suite 200 Winston-Salem, NC 27106-3325	Leased	NC2178	ANC02253	10,209	5/1/2021	12/18/2023
RO-10 Birmingham	Ridge Park Place, Suite 3400 1130 South 22nd Street Birmingham, AL 35205-2871	Leased	AL2154	AAL02336	3,853	8/14/2012	8/13/2027
RO-26 Nashville	810 Broadway - Suite 302 Nashville, TN 37203-3859	Leased	TN2038	ATN02958	3,605	4/15/2013	4/14/2023
R-12 Tampa	South Trust Plaza Suite 530 201 East Kennedy Blvd Tampa, FL 33602-5824	Leased	FL2155	AFL03931	11,702	4/1/2018	3/31/2023

OTHER INFORMATION

<https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp>

NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
RO-12 Miami	Claude Pepper Federal Building Federal Building, Room 1320 51 SW 1st Avenue Miami, FL 33130-1608	Federal	FL0061	AFL00498	5,769	6/1/2013	3/31/2032
SR-24 San Juan	La Torre de Plaza Suite 1002 525 F. D. Roosevelt Avenue San Juan, PR 00918-1002	Federal	PR3928	APR02840	9,343	7/1/2014	6/30/2027
R-13 Chicago	Dirksen Federal Building and Courthouse 219 South Dearborn Street, Suite 808 Chicago, IL 60604	Federal	IL0205	AIL06640	23,860	1/1/2016	12/31/2031
R-14 St. Louis	Robert A. Young Federal Building 1222 Spruce Street, Room 8.302 St. Louis, MO 63103-2829	Federal	MO0106	AMO00055	13,487	6/1/2017	5/31/2032
SR-17 Overland Park	8600 Farley Street, Suite 100 Overland Park, KS 66212	Leased	KS1492	AKS01959	11,057	1/13/2014	1/12/2024
RO-14 Tulsa	Tulsa Federal Building 224 South Boulder Avenue, Room 322 Tulsa, OK 74103-3027	Federal	OK0063	AOK00169	2,233	9/27/2020	8/20/2030
R-15 New Orleans	F. Edward Hebert Federal Building 600 South Maestri Place, 7th Floor New Orleans, LA 70130-3413	Federal	LA0034	ALA01186	18,296	2/6/2019	1/31/2029
SR-26 Memphis	The Brinkley Plaza Bldg. 80 Monroe Avenue, Suite 350 Memphis, TN 38103-2481	Leased	TN2220	ATN03204	3,131	7/10/2021	5/19/2022
RO-15 Little Rock	Metropolitan National Bank Building 425 West Capitol Ave., Suite 1615 Little Rock, AR 72201-3401	Federal	AR0063	AAR02922	2,501	12/1/2021	11/30/2031
R-16 Fort Worth	Fritz G. Lanham Federal Building 819 Taylor Street, Room 8A24 Ft. Worth, TX 76102-6178	Federal	TX0224	ATX00305	12,112	11/1/2012	9/30/2026
RO-16 Houston	Mickey Leland Federal Building 1919 Smith Street, Suite 1545 Houston, TX 77002	Federal	TX0298	ATX02117	5,352	10/1/2014	9/30/2029
RO-16 San Antonio	Garcia Federal Building 615 East Houston Street, Suite 559 San Antonio, TX 78205-1	Federal	TX0164	ATX07520	2,517	9/27/2020	9/30/2027
R-18 Minneapolis	212 3rd Avenue South Minneapolis, MN 55401-2221	Federal	MN0036	AMN03832	14,152	9/27/2020	4/30/2030
SR-30 Milwaukee	310 West Wisconsin Avenue, Suite #700 Milwaukee, WI 53203-2211	Leased	WI1542RP	AWI02887	10,226	9/1/2013	3/7/2026

<https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp>

NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
R-19 Seattle	Jackson Federal Building 915 2nd Avenue, Room 2948 Seattle, WA 98174-1078	Federal	WA0101	AWA00901	16,307	11/1/2017	10/31/2027
SR-36 Portland	Edith Green -Wendell Wyatt Federal Building 1220 SW 3rd Avenue Portland, OR 97204-2825	Federal	OR0043	APR04200	5,478	10/1/2013	9/30/2028
R-20 San Francisco	Phillip Burton Federal Building 450 Golden Gate Avenue 3rd Fl Suite 3112 San Francisco, CA 94102	Federal	CA0154	ACA12090	10,510	9/1/2022	8/31/2032
SR-37 Honolulu	Prince Kuhio Federal Building 300 Ala Moana Boulevard, Room 7-245 Honolulu, HI 96850-4980	Federal	HI0011	AHI00093	3,661	10/1/2017	9/30/2027
R-21 Los Angeles	U.S. Courthouse 312 N Spring Street, 10th floor Los Angeles, CA 90017-5449	Leased	CA0041	ACA11399	17,945	10/1/2018	9/30/2028
RO-21 San Diego	555 West Beech Street, Suite 418 San Diego, CA 92101-2939	Leased	CA5938	ACA08118	1,965	1/1/2018	6/30/2023
R-22 Newark	Federal Building 20 Washington Place, 5th Floor Newark, NJ 07102-3	Federal	NJ0056	ANJ00031	17,633	8/1/2017	7/31/2027
R-25 Indianapolis	Minton-Capehart Federal Building 575 N. Pennsylvania Street, Room 238 Indianapolis, IN 46204-1577	Federal	IN0133	AIN00258	12,930	3/1/2018	10/31/2028
SR-33 Peoria	101 SW Adams Street, 4th Floor Peoria, IL 61602	Leased	IL2637	AIL06665	5,599	6/1/2015	5/31/2025
R-27 Denver	Byron G. Rogers Federal Building 1961 Stout Street, 13th Floor Denver, CO 80202-5433	Federal	CO0039	ACO05930	12,743	11/8/2013	11/15/2028
R-28 Phoenix	2600 North Central Avenue, Suite 1400 Phoenix, AZ 85004-3099	Leased	AZ7319	AAZ04330	13,253	12/1/2011	11/30/2024
RO-28 Albuquerque	The Federal Building and U. S. Courthouse 421 Gold Avenue SW, Suite 310 P.O. Box 567 Albuquerque, NM 87103-2181	Federal	NM0502	ANM01766	5,028	7/1/2017	6/12/2027
RO-28 Las Vegas	Foley Federal Building and Courthouse 300 S Las Vegas Blvd, Suite 2-901 Las Vegas, NV 89101	Federal	NV0013	ANV02878	7,952	2/1/2015	1/31/2030
R-29 Brooklyn	Two Metro Tech Center 100 Myrtle Avenue, 5th Floor Brooklyn, NY 11201-4201	Leased	NY7402	ANY07506	23,238	9/11/2016	9/10/2023

OTHER INFORMATION

<https://catalog.data.gov/dataset/inventory-of-owned-and-leased-properties-iolp>

NLRB Location	Address	Current Building Type	GSA Location Code	GSA Occupancy Agreement (OA) Number	Current Rentable Square Footage	OA Term Start Date	OA Term Expiration Date
R-31 West Los Angeles	11150 West Olympic Blvd, Suite 700 Los Angeles, CA 90064-1824	Leased	CA7365	ACA10028	18,774	2/19/2013	2/18/2023
R-32 Oakland	Oakland Federal Building 1301 Clay Street, Room 300-N Oakland, CA 94612-5211	Federal	CA0281	ACA00440	18,009	11/9/2018	10/31/2028
DOJ- Washington, DC	1015 Half Street, SE - Suite 6034 Washington, DC 20570-0001	Leased	DC0719	ADC07116	Incl. w/ Headquarters	6/30/2015	6/29/2025
DOJ-New York	Jacob K. Javits 26 Federal Plaza, Suite 41-120 New York, New York 10036-5503	Federal	NY0282	ANY09511	4,047	9/11/2017	9/10/2027
DOJ-San Francisco	Ronald Dellums Oakland Federal Building 1301 Clay Street, Suite 1550S San Francisco, CA 94612	Federal	CA0281	ACA12244	2,022	11/1/2022	10/31/2032

APPENDICES



**PROTECTING
DEMOCRACY IN
THE WORKPLACE
SINCE 1935**

APPENDIX A

ACRONYMS

AAPI	Asian Americans and Pacific Islanders
ABA	American Bar Association
ADA	Antideficiency Act
ADR	Alternate Dispute Resolution
ALJ	Administrative Law Judge
AMB	Acquisitions Management Branch
AS	Administrative Systems
BMS	Backpay Management System
CATS	Case Activity Tracking System
CCSLB	Contempt, Compliance and Special Litigation Branch
CCU	Centralized Compliance Unit
CDM	Continuous Diagnostic Monitoring
CEP	Cultural Enhancement Program
CFO	Chief Financial Officer
CLM	Contract Lifecycle Management
COOP	Continuity of Operations
COR	Contracting Officer Representative
CPAO	Congressional and Public Affairs Office
CR	Continuing Resolution
CWTSato	(Carlson Wagonlit) NLRB's travel Management Service
CY	Calendar Year
Data Act	Digital Accountability and Transparency Act
DCIA	Debt Collection Improvement Act
DEIA	Diversity, Equity, Inclusion, and Accessibility
DHS	Department of Homeland Security
DMF	Death Master File
DNP	"Do Not Pay" List
DOJ	Department of Justice
DOL	Department of Labor
EDW	Enterprise Data Warehouse
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
E-File	Electronic Filing
FAA	Federal Arbitration Act
FAR	Federal Acquisition Regulation
FASAB	Federal Accounting Standards Advisory Board
FCPIA	Federal Civil Penalties Inflation Adjustment Act
FEVS	Federal Employee Viewpoint Survey
FFATA	Federal Funding Accountability and Transparency Act

FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FOIA	Freedom of Information Act
FPB	Facilities and Property Branch
FPDS-NG	Federal Procurement Data System – Next Generation
FPPS	Federal Payroll and Personnel System
FRPP	Federal Real Property Profile
FTR	Federal Travel Regulations
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GPO	Government Publishing Office
GPRA	Government Performance and Results Act
GPRAMA	Government Performance and Results Modernization Act
GSA	General Services Administration
HCPO	Human Capital Planning Officer
IAA	Interagency Agreement
IBC	Interior Business Center
ILAB	Bureau of International Labor Affairs
INT	Interest Income
IOC	Indicator of Compromise
IPERA	Improper Payments Elimination and Recovery Act
IPERIA	Improper Payments Elimination and Recovery Improvement Act
IPIA	Improper Payments Information Act
IRP	Internal Control, Risk, and Performance
IT	Information Technology
ITSM	Information Technology Services Management
IUS	Internal Use Software
IWG	Interagency Working Group
JCMS	Judicial Case Management System
LOA	Letters of Agreement
LVER	Local Veterans Employment Representative Program
MD&A	Management's Discussion and Analysis
MOU	Memorandum of Understanding
NAC	Network Access Control
NIST	National Institute of Standards of Technology
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
NxGen	Next Generation Case Management System
OA	Occupancy Agreement
OBIA	Oracle Business Intelligence Application
OBIEE	Oracle Business Intelligence Enterprise Edition

OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OCPA	Office of Congressional and Public Affairs
OED	Office of Employee Development
OEEEO	Office of Equal Employment Opportunity
OFCCP	Office of Federal Contract Compliance Programs
OGC	Office of the General Counsel
OGE	Office of Government Ethics
OHR	Office of Human Resources
OIG	Office of Inspector General
OLMS	Office of Labor Management Standards
OMB	Office of Management and Budget
OPA	Office of Public Affairs
OSC	Office of Special Counsel
OSHA	Occupational Safety and Health Administration
PACER	Payments, Claims and Enhanced Reconciliation
PAR	Performance and Accountability Report
PAS	Presidential Appointees with Senate Confirmation
PD	Position Description
PIF	Presidential Innovation Fellows
PIAA	Payment Integrity Information Act of 2019
PP&E	Property, Plant, and Equipment
QR	Quick Response
RA	Reasonable Accommodation
SAM	System for Award Management
SBA	Small Business Administration
SEPM	Special Emphasis Program Manager
SES	Senior Executive Service
T&A	Time and Attendance
TIC	Trusted Internet Connection
TIN	Taxpayer Identification Number
TOP	Treasury Offset Program
UCC	Unified Communications Contract
ULP	Unfair Labor Practice
USPS	United States Postal Service
VRA	Veteran's Recruitment Appointment
WAN	Wide-Area Network
WH	White House
WHD	Wage and Hour Division
WHIAAPI	White House Initiative on Asian Americans and Pacific Islander

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.

Consent 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: 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: 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: A remedy that provides a victim of an unfair labor practice with full restoration of his or her status prior to the unfair labor practice, which includes backpay, consequential damages, and other remedial relief.

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: A case is reported “overage” when it is still pending disposition after its time target was exceeded.

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 or a person or entity who files a representation case petition with the Agency.

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

Protected Concerted Activity: The NLRA protects employees’ rights to engage in protected concerted activities with or without a union, which are activities to improve working conditions, such as wages and benefits.

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

Reinstatement: To put a victim of an unfair labor practice back to his or her job.

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 litigation 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 U.S. 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 unlawful 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

Goal 1: Promptly and fairly resolve through investigation, settlement or prosecution, unfair labor practices under the NLRA. This goal is new as of FY 2019 and there is not five years of historical data available to present.

Measure 1: Realize a 5 percent annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	101 days	95 days	90 days
ACTUAL	106 days	74 days	70.5 days	66 days

Measure 2: Realize a 5 percent annual decrease in the average time between issuance of complaint and settlement by ALJ or issuance of ALJ decision.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	230 days	218 days	206 days
ACTUAL	242 days	264 days	283 days	286 days

Measure 3: Realize a 5 percent annual decrease in the average time between issuance of ALJ decision and Board order.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	556 days	527 days	497 days
ACTUAL	585 days	513 days	544 days	305 days

Measure 4: Realize a 5 percent annual decrease in the average time between issuance of a Board order and the closing of a meritorious ULP case.

YEAR	FY 2018	FY 2019	FY 2020	FY 2021
TARGET	Baseline	616 days	583 days	551 days
ACTUAL	648 days	541 days	578.5 days	869 days

Goal 2: Promptly and fairly resolve all questions concerning representation of employees.

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

Year	Target	Actual
FY 2017	85.7%	89.9%
FY 2018	85.8%	88.8%
FY 2019	85.8%	90.7%
FY 2020	85.8%	84.2%
FY 2021	85.9%	82.3%

HISTORICAL PERFORMANCE MEASURES FOR GOALS 3 AND 4

FY 2017 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Strategies:

Employee Development

- OHR continues its partnership with the 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.
- OEEEO 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). OEEEO conducted quarterly meetings with a cross section of organizational units, including the 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.
- OEEEO 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.
- 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 FEVS organizational assessments with Agency heads and senior executives FEVS 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 FEVS 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 FEVS Agency-wide strategic areas of focus (*effective leadership and communication*) and its impact on improving FEVS 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 FEVS. The HCPO plans to rollout Sensing Sessions to other organizations with the Agency.

- OHR also administered the annual Administrative Professional Program where six Agency employees were selected for recognition.

FY 2017 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	1,379
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-Serviced 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 <https://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 and 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 Apprenticeship 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

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.
- 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 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.
- 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 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 the Ethics Office 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 percent of requests	10.5%	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	20 working days	32.35 workings 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 FY 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.

FY 2018 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Strategies:

Employee Development

- The agency continued to move forward with the transition to USA Performance. Guidance was issued on July 3, 2018, to managers and supervisors on completing the first rating phase using USA Performance for all Non-Bargaining Unit Employees.
 - OPM conducted an audit to make certain that the essential points of the Agency's performance management system are in compliance. This was validated by OPM staff during the Human Accountability Assessment Framework (HCAAF) audit in April 2018. OPM advised that NLRB systems provided robust tools and resources to support the process.
- Security Branch hosted Active Shooter Preparedness Training for the Headquarters employees. The Security Branch is ensuring through Office Managers that all field offices have received this critical training. The last time this was coordinated through the field offices was in FY 2016.

- Office of Employee Development (OED) developed online content for legal writing and provide legal writing coaching for Headquarters employees.
- Office of Employee Development (OED) continued updating the Management Development Program curriculum to align with the Federal Supervisory and Managerial Frameworks and Guidance to address critical future skills needed by the Agency.
 - Additionally, upon the acquisition of additional staff, HCPO plans to work with leadership to develop a core set of HRstat metrics to use in tracking and analyzing competencies and skills gap data for NLRB's mission critical occupations. The Security Branch worked with OED to release the FY 2016 Continuity of Operations Training for Agency personnel, for the third year in row via Skillport.
- HCPO developed a draft Human Capital Operating Plan pursuant to the newly revised regulations at 5 CFR 250. The draft outlines human capital goals, objectives, and strategies and is currently being reviewed by management.
- The Agency continued to comply with OPM's hiring reform efforts by using the 80-day hiring model.

Workforce Management

- The Agency continues to provide information and pertinent training regarding disability in the workforce, workplace laws and regulations, as well as information on Agency recruitment. During the 4th Quarter, OHR embarked on a new partnership with several Senior Community Employment Service Program (SCSEP) affiliates for Headquarters and Chicago and New York field offices.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system. The process is being used with all non-bargaining unit employees. The rollout for bargaining unit employee will occur during FY 2019.
- OHR management team finalized narratives for their program areas to ensure that all HR professionals deliver a unified New Employee Orientation (NEO).
- Office of Equal Employment Opportunity (OEEEO) continues to lead the Agency-wide effort to develop programs for the Agency through the EEOC's Management Directive 715 (MD715).
 - OEEEO held two quarterly meetings with a cross section of organizational units, including OHR, OED and the Division of Operations-Management (Ops).
 - It was determined that many EEO and inclusion efforts have a technology component, including handling EEO data, responding to Agency reporting requirements and 508 accessibilities. OEEEO consulted with the Office of the Chief Information Officer (OCIO) in the 2nd quarter to ensure improved reporting in the MD715 report. It was determined that OCIO will be a regular partner in all quarterly model EEO meetings. Each office is required to identify, develop, measure, and report out on its progress on issues related to barriers to full opportunity. These efforts will result in a more relevant and responsive MD715 report and plan.
- OEEEO, OHR and OED delivered comprehensive mandatory training for managers and supervisors on the Agency's revised Reasonable Accommodation Policy.
- OED led the effort to develop comprehensive mentoring and career development programs for administrative support professionals and for all employees.

- OED identified resources to develop Individual Development Plans for Agency employees.
- OEEO is leading the effort to develop an Agency-wide Diversity and Inclusion Council, as a best practice among federal agencies and as part of the Agency's Diversity and Inclusion Strategic Plan (FY 2012 and FY 2016), to fully engage all employees by serving as a platform for discussion of diversity and inclusion issues and to develop recommendations to leadership. This proposed council would serve as the platform for recognition of Agency Employee Resource Groups.

Motivation

- HCPO conducted 16 FEVS organizational assessments with senior executives on the CY 2017 FEVS 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 FEVS scores; identifying best practices for managing staff to higher levels of engagement; engaged in root cause analyses and action planning efforts for challenge areas.
 - HCPO developed an FEVS Action Planning Toolkit for organizations to utilize in developing action strategies to effect change.
 - During the assessment meetings, the HCPO also discussed, inter alia, the two FEVS Agency-wide strategic areas of focus: effective leadership and communication. As a result, leadership will continue to engage in FEVS action planning efforts and implement best practices designed to drive higher levels of employee satisfaction and engagement, with a particular focus on improving the work environment.
- The HCPO completed a comprehensive analysis of the FY 2017 FEVS results and provided each division/office with a comprehensive organizational assessment briefing of the FEVS results. During those briefings, a target of increasing the number of employees responding to the FY 2018 FEVS was set at a five percent increase over the FY 2017 FEVS participation rate.
 - The implemented strategies included the HCPO building successive weekly communications with managers and supervisors during the survey administration period where they would encourage their staff to participate; a communication plan that provided division/office heads with a weekly report on their organization's participation levels; an FEVS Management Toolkit to leverage in promoting the FEVS; and FEVS promotional flyers distributed in NLRB's work space promoting the survey administration period.

FY 2018 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.

NxGen presently manages:	
Internal users	1,242
Cases	352,032
Case Actions of the Agency	1,225,231
Documents, images, and videos, each linked to its Action and Case	10,375,671

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	50,682
Number of Documents Received	79,293
Number of Board and ALJ Decisions E-Served	593
Total Number of parties E-Serviced Decisions	27,249
Number of E-Deliveries of Case Documents	4,148

The total number of case documents available for public access in FY 2018 was 1,259,762

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

■ To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating approximately 100 of the Agency's processes/forms using SharePoint, InfoPath, web services and Microsoft Azure components. The processes completed in FY 2018 are:

- Administrative Professional Award Nomination
- Advanced Annual and Sick Leave
- Duress Alarm Test
- Facilities Request
- Honorary Award Nomination
- Property Pass
- Recruitment Strategy
- Superior Qualifications
- Training Request

- The Administrative Systems team also completed the modernization of two applications; Archivalware and WIP/CiteNet, to remediate security vulnerabilities associated with end-of-life operating system support and allow for the continued growth of the systems with respect to access control and data management.
- The Administrative Systems team also completed several projects designed to make the SharePoint-based intranet a robust, dynamic, and secure location for employee collaboration:
 - Development of a new Events and Announcements application was deployed. This will allow contributors the ability to input events or announcements to be posted on the Intranet homepage, the Events and Announcements home page and email notifications to be sent for greater visibility and awareness.
 - Launched a redesign of the Service Catalog to provide easy to use categorization of services and allows for growth to add additional services as processes are automated. Included in a recent updated release was an alternate view of all services alphabetized A-Z for another easy way to find and launch the services.
 - Implemented a dynamic Staff Directory which allows employees to easily find office and staff information through browse and/or search.
 - Created various private office workspaces with document libraries, discussion boards, and calendars for group collaboration.

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 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 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.
- AMB continues 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 2018, bulk orders have taken place in November, February, May, and August 2018.
- 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. NLRB will work towards achieving the statutory goal for service-disabled veteran owned businesses in FY 2019.
- From October 1, 2017, – September 30, 2018, a total of \$28,057,166.00 and 244 contract actions were reported within the Federal Procurement Data System (FPDS). Out of this amount, \$18,211,493.00 and 119 actions went to small businesses. This is a 22 percent increase in awards given to small business from the previous year. In FY 2017, NLRB awarded 41.70 percent to small businesses. In FY 2018, this percentage increased to 65 percent.

Category	Gov-Wide Goal	2018	2017	2016	2015	2014	2013
Small Business	23%	65%	41.7%	36.5%	39.7%	31.6%	34.1%
Women Owned Small Business	5%	5%	7.47%	11.1%	12.4%	13.5%	17.8%
Small Disadvantaged Business	5%	52%	28.3%	8.0%	10.7%	11.0%	7.3%
Service-Disabled Veteran Owned Small Business	3%	1%	1.6%	2.4%	0.3%	0.9%	0.3%
HUBZone	3%	41%	23.3%	3.4%	2.1%	2.2%	0.8%

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, the Workplace Justice Project, and workers' rights clinics, to educate the public about the NLRA
- Staffing booths at informational fairs
- Responding to inquiries from individuals who seek consular services
- Participating in Platicas en Consulado (Consul on Wheels)
- Participating in various Labor Rights Week activities in numerous locations throughout the country sponsored by different consulates, including Mexico, El Salvador, Philippines, and Guatemala
- Appearing on Spanish-radio talk show

Other Agency activities directed at the immigrant population included:

- 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, Shaanxi Federation of Trade Unions, and State Tobacco Monopoly Administration of China

Activities directed at the youth population include:

- Leading discussions for high school and middle school classes concerning the development of the NLRA
- Participating in the Great American Teach In

The agency continues to partner with The Department of Homeland Security (DHS), The Department of Labor (DOL) and (Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ, and Equal Opportunity Employment Commission (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 the Vulnerable Workers Project
- Participating in “listening sessions” coordinated by the Asian American and Pacific Islanders community
- Participating in Wage Theft Task Force discussions
- Participating in SBA Ombudsman roundtables and listening sessions

The Agency produced an informational pamphlet entitled “Protecting Employee Rights,” which contains an expanded discussion of an employee’s right to engage in concerted activity and other rights under the NLRA, which is available on the NLRB website and in hard copy, in English and Spanish.

The Agency maintains webpages for each individual regional office. This webpage contains news articles relevant to the particular region. To ensure that these pages remain fresh, news articles are tagged by the Agency’s Office of Public Affairs and automatically loaded on the Region’s webpage.

The Agency maintains an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.

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

The Agency inserted QR codes to its correspondence to direct the public to the website.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency’s General Counsel and Chairman, the Ethics Staff:

- Prepared and distributed the FY 2017 Annual Ethics Briefing to all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics. The Ethics Office presented the briefing through the Agency’s learning management system and covered conflicting financial interests, impartiality, misuse of position, gifts, and the NLRB’s Supplemental Regulations. As of the December 31st due date, 92 percent of Agency filers had completed the FY 2018 Annual Ethics Briefing. Employees who did not complete the training by the specified due date indicated that their delay was due to technical issues and schedule conflicts (mission related or scheduled leave). However, all filer employees completed the training requirement on or before January 5, 2018.
- Distributed the FY 2017 Annual Ethics Briefing to all Agency supervisors and managers. By making this briefing available to supervisors and managers, the Ethics Office ensured that all management employees are in a position to identify potential ethics issues and avoid situations that distract from the mission of the Agency.

Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of During FY 2018, the Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Reissued Speaking Engagement memo to all Agency employees. This document provided general guidance about speaking engagements and emphasized the difference between speaking in an official versus a personal capacity. In addition, the memo encouraged the use of the NLRB Waiver Addendum which affirms that by consenting to the recording of a presentation, an NLRB employee is not permitting the sponsor to use their official title or likeness to advertise or endorse the recording, or endorse any other products or services offered by the organization.
- Distributed guidance memo to all Agency employees that addressed monetary and in-kind donations to disaster relief programs, and individual donations to coworkers who were victims of Hurricanes Maria and Irma.
- Partnered with the Office of the Chief Financial Officer (OCFO) to draft a policy statement relating to the acceptance of travel reimbursement from a non-federal source.
- Assisted Board and General Counsel in evaluating ethics recusal obligations.
- Partnered with the Office of the Chief Information Officer (OCIO) to index legal ethics Tips of the Month by subject matter. This feature of SharePoint should make it easier for Board agents to find legal ethics resources more efficiently.
- Assisted the General Counsel's office in developing a process for approving speakers for NLRB sponsored events.

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

During FY 2018, the Ethics Staff:

- Revised and reissued a memo to all Agency employees concerning speaking engagements and encouraged the use of the NLRB Waiver Addendum to comply with the misuse provisions in the Standards of Conduct. This document also reminded employees about the prohibition on soliciting travel reimbursement which is found in the gift regulations.
- Provided customized ethics training to newly confirmed political appointees and their front office staffs.
- Developed a post-employment webcast which is provided to all employees who retire or resign from government service. This webcast supplements the Agency's post-employment guidance documents by providing general guidance covering the Federal Government post-employment restrictions applicable to all government employees, as well as specific post-employment restrictions from the ABA Model Rules of Professional Conduct applicable to Agency attorneys. It helps to ensure the confidentiality of information that belongs to the Agency.

- Began development of the FY 2018 Annual Ethics Briefing which will be offered to all financial disclosure filers, as well as all supervisors and managers, before the end of the calendar year.

Measure:	Goal	2018	2017	2016	2015	2014
Percentage of inquiries resolved within 5 business days	85%	89%	92%	83%	87.7%	87%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2018, the Ethics Office received 927 inquiries. 826 (89 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2016 were reviewed within 60 days. During this review the Ethics Office 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 2017. 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 2018, the Agency completed its review of:

- 31 Annual Confidential Financial Disclosure Reports (OGE 450)
- 105 Annual Public Financial Disclosure Reports (OGE 278e)
- 13 New Entrant Public Financial Disclosure Reports (OGE 278e)
- 119 Monthly Transaction Reports (OGE 278T)
- 11 Termination Reports (OGE 278)

Note: Review and approval of New Entrant and Annual filings resulted in 118 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
- OCIO addresses data calls related to DHS Binding Operational Directive 18-01, Enhanced Email and Web Security.
- OCIO responded to data calls in relation to BOD 18-02, High Value Assets (HVA).
- OCIO submitted FISMA quarterly reports to DHS.
- Juniper ScreenOS and Firewall and VPN Server Data Call in Q1.
- CISCO vulnerability Data Call in Q2.

FOIA:

Measure:	2018	2017	2016	2015	2014
Respond to initial FOIA requests within 20 working days	41 days; 54.8%	46 days; 35.9%	33 days; 36.6%	14 days; 78.34%	7 days; 91.81%
Seek a statutory extension for less than 15 percent of requests	1%	10.5%	25.4%	20%	7.08%
Respond to statutory appeals within 20 working days	20 working days	20 working days	32.25 working days	24 working days	20 working days

Summary

- From October 1, 2017, to September 30, 2018, the FOIA Branch received 1,312 requests and responded to 780 of those requests within 1-20 days. Thus, 54.8 percent of the FOIA requests were processed within the 20-day statutory time period.
- During FY 2018, the FOIA Branch sought an extension of time to process a FOIA request beyond the 20-day statutory time period in 1 percent of the FOIA requests received.
- During FY 2018, the FOIA Branch received 12 FOIA Appeals. The average response time was 20 working days. The Agency did not seek an extension of time to respond to the FOIA appeals.
- The NLRB had a FOIA request backlog of 294 at the end of FY 2017. At the end of FY 2018, the NLRB had a FOIA request backlog of 90, which reflects a backlog decrease of 69.39 percent.

Reports

Each year, the FOIA Branch prepares an Annual Report, which contains statistics on the number of FOIA requests and appeals received, processed, and pending during the fiscal year, and the outcome of each request. The NLRB FOIA Annual Reports and the NLRB FOIA Quarterly Reports are available on the:

- 1) NLRB website at <https://www.nlr.gov/reports>,
- 2) DOJ website at <https://www.justice.gov/oip/reports-1>, and
- 3) FOIA.gov website <https://www.foia.gov/>

The FOIA requires each agency Chief FOIA Officer to report to the Attorney General on their performance in implementing the law and the efforts to improve FOIA operations. The NLRB Chief FOIA Officer Reports are publicly available on the:

- 1) NLRB website at: <https://www.nlr.gov/reports>, and
- 2) DOJ website at <https://www.justice.gov/oip/reports-1>

Proactive Disclosure

In response to receiving several monthly requests for certain records filed or issued by the twenty-six Regional Offices, the FOIA Branch created a webpage where requesters may directly search for these records. These records are: Representation Petitions and Certifications in RD, RM, and RC cases; and Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, and CE cases. The FOIA Branch began posting the January 2017 records online at: <https://www.nlr.gov/region-monthly-uploads>. On a monthly basis, the FOIA Branch maintains and updates this webpage with new responsive records in accordance with the FOIA.

In July 2017, the FOIA Branch became a FOIAonline participating agency. As the FOIA case management system, FOIAonline provides the FOIA Branch with technology tools for FOIA tracking, processing, and posting. Additionally, the NLRB has proactively made more responsive records available to the public on the FOIAonline website <https://foiaonline.gov/foiaonline/action/public/home>.

Training

The FOIA Branch continues to promote and use the DOJ training tools such as the FOIA Professional e-Learning Module and the Federal Employee e-Learning Module, which are available to all Agency employees on the NLRB e-Learning platform.

If you are unfamiliar with the FOIA, please view the *DOJ FOIA Training for Federal Government Employees* available on the NLRB's Skillport and contact your colleagues in the FOIA Branch.

FY 2019 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Strategies:

Employee Development

- The agency continued to move forward with the transition to USA Performance.
 - The transition of all employees to the automated performance management system was concluded effective June 1, 2019.
 - The performance management team responded to questions and assisted all employees during their transition.
 - OHR continues to transition appraisals for all agency employees to Electronic Official Personnel Folder (eOPF) from the USA Performance system.
- Office of Employee Development (OED) offered monthly webinars for administrative professionals, periodic retirement seminars, and other training topics in addition to the robust catalog of online training content covering general skills, technical topics, and legal education.
- OED launched an online Individual Development Plan (IDP) form and conducted training on the IDP process and form for employees and supervisors.
- HCPO developed a draft Human Capital Operating Plan pursuant to the newly revised regulations at 5 CFR 250. The draft outlines human capital goals, objectives, and strategies and is currently being reviewed by management.

- The Agency continued to comply with OPM's hiring reform efforts by using the 80-day hiring model.
- The Office of Equal Employment Opportunity (OEEO) participated as resource personnel on the General Counsel's Joint Labor-Management EEO Advisory committee, enabling employee participation as agents of diversity and inclusion, through their collective-bargaining representative.
- During FY 2019, the security Branch reduced the number of backlogged reinvestigations from 462 to 336.

Workforce Management

- The Agency continued to provide information and pertinent training regarding disability in the workforce, workplace laws and regulations, as well as information on Agency recruitment. OHR embarked on a new partnership with the Senior Community Employment Service Program (SCSEP) affiliates, for the Agency's Headquarters office and initiated new partnership with Melwood, an organization that employs individuals with differing abilities.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system.
- OHR management team continued to revise its New Employee Orientation (NEO) to ensure a unified and stellar presentation to new employees. Some of the changes in FY 2019 include:
 - Personalized orientation specifically to the orientee
 - Information about the Employee Assistance Program and eOPF
 - Included policy documents such as Equal Employment Opportunity (EEO) policy statement, Policy statement on the Prevention of Unlawful Harassment, including Sexual Harassment and the Alternative Dispute Resolution (ADR).
- OEEO submitted the Agency's annual Management Directive (MD 715) Report to the equal Employment Opportunity Commission (EEOC) during the 4th quarter of FY 2019.
 - OEEO held two quarterly meetings with a cross section of organizational units, including OHR, the Office of Employee Development (OED), the Division of Operations-Management (Ops) and the OCIO, to build a fully integrated model EEO program under MD 715 goals.
- OEEO collaborated with OHR to develop revisions to the Agency's Reasonable Accommodation Procedures, in order to comply with guidance from the EEOC.

Motivation

- HCPO conducted 17 FEVS organizational assessments with senior executives on the FY 2018 FEVS results which became available in FY 2019 for review and analysis. The assessments focused 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 FEVS scores; identifying best practices for managing staff to higher levels of engagement; and action planning efforts for challenge areas.
- The HCPO completed a comprehensive analysis of the FY 2018 FEVS results and provided each division/office with a comprehensive organizational assessment briefing of the FEVS results.
 - Included in the comprehensive analysis were discussions of strategies with leadership to promote higher employee participation.

- The strategies involved the HCPO building successive weekly communications with managers and supervisors during the survey administration period that encourage all employees to participate; developing a communication plan that provides division/office heads with a weekly report on their organization’s participation levels; leveraging an FEVS Management Toolkit for management to promote the FEVS; and distributing an FEVS promotional flyers in NLRB’s work space that promotes the survey administration period.
- Additionally, the HCPO fostered greater transparency with the Agency’s FEVS action planning efforts surrounding FEVS results and encouraged an open two-way communication between leadership and employees on the FEVS results.
- Leadership committed to make a more concerted effort to both transmitting and receiving feedback information, which would inherently translate into a higher employee participation rate in the FEVS. The NLRB’s FY 2018 FEVS participation rate exceeded the FY 2018 governmentwide FEVS participation rate by 21 percentage points.

FY 2019 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-File) to allow constituents to electronically file documents with the Agency. In FY 2019:

Number of Documents Received	79,381
Number of E-Filings Received	49,852
Total Number of parties E-Serviced Decisions	41,689
Number of E-Deliveries of Case Documents	5,695
Number of Board and ALJ Decisions E-Served	656

Providing accessible information to the public is an important part of the NLRB’s mission:

Total Number of Case Documents Available for Public Access	1,489,477
Number of NLRB Document Types Available for Public Access	560

Please see <https://www.nlr.gov/open/public-documents> for a list of the document types available to the public and <https://www.nlr.gov/reports> for updated metrics for FY 2019 Charges and Complaints, Petitions and Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

- To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath, web services, and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers work to complete the automation of the process. Following are the processes that were either completed or are ongoing in FY 2019:
 - Case Records Unit Weekly Statistics
 - Facilities Request enhancements
 - Form 13 – Purchase Request
 - Form 4197 – Employee Exiting
 - Bicycle Benefits Program Reimbursement Certification
 - HR Employee Suggestion Form
 - HR Workforce Relations Activity Tracker
 - HR Performance Management Activity Tracker
 - Individual Development Plan
 - Records Disposition
 - Request a Photographer
 - Request for Retirement Annuity Estimate
 - Temporary Records Loan
 - Transcripts and Exhibits
 - Transportation Reimbursement Form
- The Administrative System's Team also completed the following:
 - Deployed 95 Polycom Trio8500 conference phones in the agency to enhance the unified communications platform.
 - Deployed an enhancement to the Personnel Security Case Management System (PSCMS) to automate the background initiation process. NLRB sponsors enter the candidate's information which is routed to the candidate to complete the form which is then routed to the Security Branch for processing. This remediated a security risk for securely routing sensitive information.
 - Developed and implemented the Translation Information Management System which allows Agency employees the ability to request interpreting and translation services to a group of Language Specialists within the Agency. The system manages the workflow processes associated with the request and the allocation of resources to manage the requests.
 - Developed Google Analytics Dashboard for public website metrics which allows Agency employees the ability to view metrics related to most popular pages, number of visitors per month, most popular browsers and devices. Date ranges can be set to show trends. Added additional separate dashboards for the eFiling, eService, and Charge and Petition applications.

- Implemented enhancements to the Agency Events and Announcements system to assist with communication to all Agency employees.
- Completed the design and development of a Performance Awards Matrix system that allows for the collection of performance data from managers and supervisors to easily calculate awards for employees.

Financial Management:

- For FY 2019 the Budget office engaged in quarterly reviews with Program Managers (PMs) throughout the Agency providing accountability to ensure the execution of funds was completed efficiently and effectively throughout the year. The quarterly reviews also provided the opportunity to take remedial action to address any budget issue identified in the FY 2019 Spend Plan Reviews with Leadership.
 - The Budget Office developed a Spend Plan Analysis tool to track expenses and report on projections, allowing routine briefings to Agency Leadership on budget status, projections, and estimated funding surplus levels.
- The OCFO addressed three audit recommendations from previous audits during FY 2019:
 - Audit of FY 2014 Financial Statements (OIG-F-19-15-01) – Recommended a reconciliation for each GSA agreement to ensure that the obligations were valid, and the documentation existed to clearly support that the goods or services were ordered.
 - Audit of the FY 2016 Financial Statements (OIG-F-21-17-01) – Recommended an assessment of the OCFO organizational structure to ensure that the OCFO was adequately staffed to comply with accounting and financial reporting standards.
 - Audit of the Data Act: (OIG-AMR-83-18-01) – Recommended that the OCFO coordinate with other users of the Oracle financial system to determine if they had similar Data Act findings.
- The OCFO coordinated a multiple organization coalition that included OMB, IRS, Treasury to address questions on backpay and travel.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- In response to the OMB Directive M-19-13, strategic sourcing/category management initiatives, the Agency collects data on those initiatives and reports out annually on progress towards increasing the utilization of the initiatives.
- Small Business Goal Status.

Category	Gov-Wide Goal	2019	2018	2017	2016	2015
Small Business	23%	68.78%	65%	41.70%	36.51%	39.75%
Women Owned Small Business	5%	9.83%	5%	7.47%	11.19%	12.46%
Small Disadvantaged Business	5%	58.48%	52%	28.33%	8.02%	10.71%
Service-Disabled Veteran Owned Small Business	3%	0.75%	1.62%	2.42%	0.31%	0.97%
HUBZone	3%	38.57%	23.33%	3.43%	2.13%	2.27%

Office Space Management

- In accordance with General Services Administration (GSA) guidelines, 15 field offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- Distributed newsletters describing recent case developments electronically using govdelivery in the Regional Offices.
- Produced an informational pamphlet entitled “Protecting Employee Rights,” which contained an expanded discussion of an employee’s right to engage in concerted activity and other rights under the NLRA, which is available on the NLRB website and in hard copy, in English and Spanish.
- Maintained webpages for each individual regional office that contain news articles relevant to that region. To ensure that these pages remain fresh, news articles are tagged by the Agency’s Office of Public Affairs and automatically loaded on the Region’s webpage.
- Maintained an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.
- Maintained an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.
- Conducted regional outreach that provided information about the Act and the Agency’s processes to unions and small business owners. This included outreach to law firms representing employers, employees, and unions, and organizations representing trade groups (such as LERA and SHRM), professional societies, and groups sponsored by various embassies and consulates, including Mexico, El Salvador, Guatemala, and the Philippines. The Agency also appeared on radio programs to discuss various aspects of the Act. Various offices also participated in Labor Rights Week, sponsored by various Central American consulates.

To better educate workers and employers the NLRB:

- Continued to partner with The Department of Homeland Security (DHS), The Department of Labor (DOL), (Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and Office of Federal Contract Compliance Programs (OFCCP), OSC, DOJ, EEOC in an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment, and Immigration Laws.
- Partnered with DOL, EEOC, and DOJ to develop and implement employer.gov, a companion site to worker.gov, to provide information about the Agency relevant to employers.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Prepared the FY 2019 Annual Ethics Briefing for all Public and Confidential Financial Disclosure filers as required by the Office of Government Ethics. Presented an in-person briefing during the Agency's Leadership Conference held in D.C. on September 18, 2019. The training covered conflicting financial interests, impartiality, misuse of position, gifts, the NLRB's Supplemental Regulations, and the importance of protecting confidential Agency information.
- Analyzed data obtained through the FY 2019 Ethics Survey and provided several recommendations to leadership to continue to develop a robust ethical culture at the NLRB.
- Reissued CFC guidance memo and Job Aid to all Agency employees. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Reissued Speaking Engagement memo to all Agency employees. This document provided general guidance about speaking engagements and emphasized the difference between speaking in an official versus a personal capacity. In addition, the memo encouraged the use of the NLRB Waiver Addendum which affirms that by consenting to the recording of a presentation, an NLRB employee is not permitting the sponsor to use their official title or likeness to advertise or endorse the recording, or endorse any other products or services offered by the organization.
- Developed a short five-question survey designed to evaluate the effectiveness of the NLRB's ethics program. The collected information will help engage Agency Leadership in discussions about how to continue to build a strong and robust ethical culture at the NLRB.

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

During FY 2019, the Ethics Staff:

- Distributed reminder email which highlighted the limitations the Hatch Act places on federal employee partisan political activity. The message also summarized additional Office of Special Counsel (OSC) guidance issued in July which addressed federal employee conversations about current events, policy issues, and matters of public interest that, depending on the circumstances, could violate the Hatch Act.
- Revised and reissued the Outside Employment memo to all Agency employees which provided a reminder that outside employment includes the provision of unpaid services such as charitable work and speaking and writing engagements. This memo also served as a reminder that the NLRB's Supplemental Regulations require all employees to obtain written approval before engaging in outside employment.
- Distributed short one-page email blasts designed to remind all employees about key ethics regulations to include: misuse of position, financial conflicts, the Hatch Act limitations, impartiality in performing official duties, gifts, and the importance of protecting confidential Agency information.

Measure:	Goal	2019	2018	2017	2016	2015
Percentage of inquiries resolved within five business days	85%	88.9%	89%	92%	83%	87.7%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2019, the Ethics Office received 839 inquiries. 743 (88.9 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2019 were reviewed within 60 days.
- In mid-January ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2017. In all cases, the review of each report was completed within 60 days of receipt and filers were notified of any real or potential conflicts.

During FY 2019, the Agency completed its review of:

- 140 Monthly Transaction Reports (OGE 278T)
- 83 Annual Public Financial Disclosure Reports (OGE 278e)
- 29 Annual Confidential Financial Disclosure Reports (OGE 450)
- 12 Termination Reports (OGE 278)
- 5 New Entrant Public Financial Disclosure Reports (OGE 278e)

During FY 2019 the Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the STOCK Act.

Internal and External Audit Responses:

- Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2019.

FOIA:

From October 1, 2018, to September 30, 2019, the Agency:

- Received 1,351 FOIA requests in FY 2019 and responded to 1,419 (FY 2019 + prior year backlog/pending) of those requests within 1-20 days. Thus, 69.65 percent of the FOIA requests were processed within the 20-day statutory time period.
- Sought an extension of time to process three requests beyond the 20-day period for FOIA requests received. Thus, .22 percent of the FOIA requests were extended an additional ten days on the due date.

- The Agency received 11 FOIA appeals and responded to 12 (FY 2019 + prior year backlog/pending) FOIA appeals. The average amount of days to process these appeals was 17.33 working days. The lowest number of working days to process these appeals was three. The highest number of working days to process these appeals was 22. Eleven appeals were processed within 20 days. Thus, 91.66 percent of the FOIA appeals were processed within the 20-day statutory time period.
- Did not see an extension of time for the FOIA appeals received in FY 2019.

Reports

Each year, the FOIA Branch prepares an Annual Report, which contains statistics on the number of FOIA requests and appeals received, processed, and pending during the fiscal year, and the outcome of each request. The NLRB FOIA Annual Reports and the NLRB FOIA Quarterly Reports are available on the:

- 1) NLRB website at <https://www.nlr.gov/reports>,
- 2) DOJ website at <https://www.justice.gov/oip/reports-1> , and
- 3) FOIA.gov website <https://www.foia.gov/>

The FOIA requires each agency Chief FOIA Officer to report to the Attorney General on their performance in implementing the law and the efforts to improve FOIA operations. The NLRB Chief FOIA Officer Reports are publicly available on the:

- 1) NLRB website at: <https://www.nlr.gov/reports>, and
- 2) DOJ website at <https://www.justice.gov/oip/reports-1>

FY 2020 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE AND PRODUCTIVITY IN THE PUBLIC INTEREST

Employee Development

- During FY 2020, OHR transitioned all Agency employees to USA Performance, the automated performance management system.
 - The Agency's Performance Management Program continued to provide training and coaching with robust tools and resources to make certain the essential points of the Agency's Performance Management System met the key activities for the four (4) appraisal cycles.
- The Office of Employee Development (OED) continues to offer a wide array of online and blended media training offerings to enhance employee development at the Agency. During FY 2020, there were 9,860 individual courses completed in Skillport, 786 course enrollments through West LegalEdcenter, and monthly training on the Agency's internal case management system (NxGen) through the Training Tuesday program.
 - Additionally, OED offered monthly live training sessions via webinar on general skills and leadership topics. In FY 2020, OED expanded its online training offerings to include an online simulation for Trial Training and conducted a virtual teambuilding event for the Board-side staff and a virtual conference for Regional Directors.

- OED continued to offer Individual Development Plan (IDP) tools via an online form available to all employees.
 - The IDP tool includes self-assessments, goal planning worksheets, and an IDP form that employees can use to plan for and track their development activities.
- OED aligned the Agency's Leadership Development Program (LDP) with the supervisory and managerial training frameworks provided by OPM and with the Senior Executive Service (SES) Executive Core Qualifications. The LDP provides development resources for aspiring supervisors, new and current managers and supervisors, aspiring executives, and existing executives.
 - The LDP guide and offerings are made available on the Agency's intranet site. OED has also completed a Training Needs Assessment to identify Agency-wide development needs in critical job fields and has developed a competency model framework to chart career progression and inform gap analysis.
- OHR continues to hire in accordance with federal guidelines and follows procedures to attract a diverse workforce that includes Veterans.
- In 4th quarter of FY 2020, OEEO launched annual mandatory training for Agency managers and supervisors to meet training requirements from the Office of Special Counsel. In addition, the OEEO director briefed newly appointed Regional Directors and Deputy General Counsels on the Agency's Equal Employment Opportunity (EEO) program and on federal sector EEO regulations regarding whistleblower protections, prohibited personnel practices and prohibitions against retaliation.

Workforce Management

- OED began working with HCPO to develop an agency-wide succession plan during the 4th quarter of FY 2020.
- OHR partnered with the OEEO on a self-identifying process for employees to anonymously identify their race, national origin, and disability through Employee Express.
- OHR continued to validate that employees have performance plans through its new USA Performance reporting system.
 - The process is used for all NLRB employees to include all bargaining unit, non-bargaining unit, and Professional Association employees. All employees were issued a performance plan at the beginning of the reporting period.
 - Performance appraisals were issued in June for NLRB Union staff members and July for non-union employees.
- OHR seamlessly transitioned the New Employee Orientation (NEO) to a 100 percent virtual and interactive presentation using Skype technology, due to COVID-19.
 - This included coordinating with the Office of the Chief Information Officer (OCIO) for new employees to obtain computer and log-in information and with the Security Branch to receive government credentials.
 - Additionally, the OHR added the NLRB's Office of Equal Employment Opportunity (OEEO) to the NEO.

- OEEO continued to provide resources and serve as a consultant for Agency managers to field questions on ways to handle sensitive EEO issues.
 - OEEO identified appropriate resources for diversity and inclusion training, and presented it to the OEEO staff, all Agency EEO counselors and Special Emphasis Program Coordinators at Headquarters and in all field offices.
 - OEEO collaborated with the OED to develop and present training Agency-wide training on unconscious bias.
- During FY 2020, the Security Branch reduced the number of backlogged reinvestigations to 284 from 331.

Motivation

- HCPO completed enhancements to its SharePoint website. The enhancements promote information sharing on a variety of employee engagement topics and include an interactive ideation portal and a toolkit to facilitate communication with the HCPO. It is expected that not only will communications improve between the HCPO and the workforce, but communication and engagement will also improve between employees and managers as a result of these new tools, which should help strengthen overall agency performance and employee engagement.
- The HCPO developed a *Your Voice Matters!* ideation portal on its SharePoint site where employees can access and contribute to driving greater employee engagement by submitting new ideas/suggestions and also by suggesting solutions to existing organizational problems/barriers.
 - The HCPO will review the site daily and help adjudicate submitted ideas/suggestions into action. Additionally, after an idea/suggestion is implemented, a listing of implemented actions will be posted to the site so that employees can be made aware of how they helped managers and supervisors boost employee engagement and address real-time organizational challenges.
- Additionally, the HCPO completed and made accessible a collection of FEVS accomplishments so that employees could know about what actions leadership have implemented in response to their feedback to the FEVS. These measures enhance transparency, which should motivate employees to participate in the FEVS at a much higher rate.
- The HCPO issued a memorandum to all employees signed by the Chairman and General Counsel on the value of the FEVS and soliciting employee participation in the 2020 FEVS. The HCPO also published FAQs to the FEVS on its SharePoint site, which addressed commonly asked questions regarding the 2020 FEVS.

FY 2020 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-file) to allow constituents to electronically file documents with the Agency. In FY 2020:

Number of E-Filings Received	14,320
Number of Documents Received	24,869
Number of Board and ALJ Decisions E-Served	483
Total Number of parties E-Serviced Decisions	30,694
Number of E-Deliveries of Case Documents	58,520

Providing accessible information to the public is an important part of the NLRB's mission:

Number of NLRB Document Types Available for Public Access	560
Total Number of Case Documents Available for Public Access	1,619,011

Please see <https://www.nlr.gov/open/public-documents> for a list of the document types available to the public and <https://www.nlr.gov/reports> for updates metrics for FY 2020 Charges & Complaints, Petitions & Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

In FY 2020 the following new enhancements were developed for the Agency's public website:

- **MyNLRB** – Allows stakeholders to personalize their website experience with targeted regional news and case information and access to their saved searches.
- **Advanced Data Search** – Provides stakeholders the ability to create, save and download ad hoc searches for case and election data.
- **Spanish Translations** – Provides Spanish translations of approximately 40-50 pages of the public website with the ability for users to switch back and forth between Spanish and English.
- **Interactive Map** – Provides Unfair Labor Practice (C) and Representation (R) case data via an interactive map interface.

To streamline Agency processing, the Administrative Systems Team focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath, and/or PowerApps/Automate, web services, and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers work to complete the automation of the process. Following are the processes that were either completed, updated with enhancements or are ongoing in FY 2020:

- Case Records Unit Weekly Statistics
- Form 4197 – Employee Exiting
- Professional Liability Insurance Form
- Facilities Request Form

- Retirement Estimate Annuity Form
- Employee Suggestion Form
- Memento of Recognition
- Shred Service Verification Form
- Travel Card Request
- Travel Training Form
- Transportation Reimbursement
- Payroll Ticketing System
- Ethics Skip Counsel
- Ethics Legally Protected Information
- Ethics Inquiry

The Administrative System's Team also completed the following:

- Completed the development of an EEO Case Tracking System to automate their case processing end-to-end and provide a better mechanism for monthly and yearly reporting.
- Completed the development of a case tracking system for the Reasonable Accommodation process.
 - The Reasonable Accommodation process provides a means in which to request and track accommodations for NLRB employees and applicants for employment to ensure that qualified individuals with disabilities enjoy equal access with respect to the: (a) application process; (b) to enable an individual with a disability to perform essential job functions; and (c) to provide equal access to the benefits and privileges of employment; unless to do so would cause undue hardship to the NLRB; and to handle requests as quickly as possible, and in as confidential manner.
- Continued development to automate a case tracking system for the Special Counsel Labor Relations Branch which will track grievances, integrate with the EEO case tracking system and other general inquiries from management.
- Completed the development and deployment of the automation of the GC memorandum process. GC memos are authored in Microsoft Word and upon final approval, a workflow process converts the document to pdf and transfers it to both the Agency Intranet and Agency public website.
- Completed the development and deployment of a reporting dashboard for the Acquisitions Management Branch using Microsoft PowerBI for the entire purchase card dataset. Data is ingested from multiple sources (CitiBank, Oracle Federal Financials and Excel).
- Due to COVID-19, OCIO implemented a process within SharePoint for creating secure sites for the Administrative Law Judges and their bailiffs to manage their Hearings and Cases with external parties. Documents and evidentiary information are made available to parties on a case to ensure Hearings can occur remotely.

Financial Management:

- Provided a response to address Questions for the Records received from the Chair and Ranking Members of the Subcommittee on Department of Labor, Health and Human Services, and Education and Related Agencies.
- Developed monthly Status of Funds Reports and conducted Quarterly Reviews where the NLRB examined overall spending and the budgetary impacts due to the COVID-19.
- Routinely monitored and performed reviews of unliquidated obligations to properly report obligation balances and commitments.
- During FY 2020, the OCFO addressed and closed out thirteen audit recommendations from previous year's audits.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- In response to the OMB Directive M-19-13, strategic sourcing/category management initiatives, the Agency collects data on those initiatives and reports out annually on progress towards increasing the utilization of the initiatives.

Small Business Goal Status*						
Category	Gov-Wide Goal	2020	2019	2018	2017	2016
Small Business	23%	58.79%	68.78%	65%	41.70%	36.51%
Women Owned Small Business	5%	1.298%	9.83%	5%	7.47%	11.19%
Small Disadvantaged Business	5%	52.18%	58.48%	52%	28.33%	8.02%
Service-Disabled Veteran Owned Small Business	3%	0.963%	0.75%	1.62%	2.42%	0.31%
HUBZone	3%	41.56%	38.57%	23.33%	3.43%	2.13%

*In FY 2020 the NLRB was below three out of the five government wide goals because of de-obligations and spend being put in areas that were either for an existing contract or the requirement exceeded small business capabilities.

Office Space Management

- In accordance with General Services Administration (GSA) guidelines, 18 field offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- Met with local consulates of various countries to educate consular officials about the NLRB's protections and processes and delegation from the Korean Federation of Trade.
- Led discussions for high school and middle school classes concerning the development of the NLRA, workers' statutory rights, and Board processes.

- Maintained webpages for each individual regional office that contain news articles relevant to that region. To ensure that these pages remain fresh, news articles are tagged by the Agency's Office of Public Affairs and automatically loaded on the Region's webpage.
- Maintained an internal SharePoint database through which the Agency outreach coordinators post and share outreach materials and participate in a discussion board sharing ideas and leads for outreach.
- Maintained an interactive smart phone app which provides information about employer and employee rights under the NLRA and contact information.
- The Regional Offices conducted outreach that focuses on protected concerted activity vs. union activity. This includes outreach to law firms, labor organizations, trade groups, law school and graduate school groups, and professional societies.

To better educate workers and employers the NLRB:

- Presented to Staten Island District Attorney's Economic Crimes Bureau - Exchange information about what each respective agency does – the NY agency is a task force to prosecute wage crimes, which oftentimes overlaps with cases, e.g., protected concerted activity wage complaints.
- Maintained Memorandum of Understanding (MOUs) with Immigrant and Employee Rights Section of the Civil Rights Division of the Department of Justice; Occupational Safety and Health Administration; USPS; Wage and Hour Division, U.S. Department of Labor; Mine Safety and Health Administration, U.S. Department of Labor; Illinois Labor Relations Commission.

Ethics:

The Ethics Staff continued to communicate with Agency leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's General Counsel and Chairman, the Ethics Staff:

- Distributed the 2019 Annual Ethics Briefing through the Agency's Learning Management System, which included a recorded message from the Chairman and the General Counsel, to all Agency supervisors and managers. By making this briefing available to supervisors and managers, the Ethics Staff ensures that all management employees are in a position to identify potential ethics issues and avoid situations that distract from the mission of the Agency. All supervisors and managers (non-filers) completed this training requirement by Q1 FY 2020.
- Continued to assist the Board and General Counsel in evaluating ethics recusal obligations and to involve management in the recusal process.
- Renewed annual MOU with the Office of Human Resources to ensure that all newly hired employees and all newly promoted supervisors receive required ethics notifications in compliance with the Executive Branch Ethics Program Amendments, 81 Federal Register 76,271.
- Assisted General Counsel's Office with update to casehandling policy to include the development of a conflicts of interest worksheet to assist Board Agents with identifying potential conflicts of interest before beginning an investigation.
- Developed a protocol for the review and approval of internal NLRB solicitations that benefit coworkers and their families who are victims of the COVID-19 pandemic.

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

During FY 2020, the Ethics Staff:

- Provided technical requirements to OCIO staff in order to redesign the Ethics SharePoint page to enhance search capabilities and to develop various webforms designed to help the Ethics Office gain efficiencies in case processing.
- Distributed agency-wide a variety of information which highlighted the limitations the Hatch Act places on federal employee partisan political activity. These messages included: a link to a brief online overview of the Hatch Act; Office of Special Counsel's (OSC) guidance covering how to determine whether an organization is a partisan political group and whether certain activities that an organization engages in would be considered political activity under the Hatch Act; an OSC announcement explaining that face masks which display a partisan political slogan or image may not be worn in the workplace and while on duty; a brief reminder covering how to avoid Hatch Act violations while using Agency email; and an OSC press release explaining the role of the Hatch Act.
- Revised and reissued a memo to all Agency employees concerning participation in protests and demonstrations.
- Provided general ethics reminder to all employees via email to emphasize that ethics staff is available to answer any government or legal ethics question during the COVID-19 pandemic. The importance of maintaining confidentiality while teleworking with others in the employee's household was also emphasized.

Measure:	Goal	2020	2019	2018	2017	2016
Percentage of inquiries resolved within 5 business days	85%	92%	88.9%	92%	95%	83%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

- During FY 2020, the Ethics Office received 633 inquiries. 587 (92 percent) were resolved within five business days.
- All financial disclosure reports filed in FY 2020 were reviewed within 60 days.
- In mid-January ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2019. In all cases, the review of each report was completed within 60 days of receipt and filers were notified of any real or potential conflicts.

During FY 2020, the Agency completed its review of:

- 30 Annual Confidential Financial Disclosure Reports (OGE 450)
- 2 New Entrant Confidential Financial Disclosure Report (OGE 450)
- 82 Annual Public Financial Disclosure Reports (OGE 278e)

- 11 New Entrant Public Financial Disclosure Reports (OGE 278e)
- 117 Monthly Transaction Reports (OGE 278T)
- 4 Termination Reports (OGE 278)

During FY 2020 the Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the Stop Trading on Congressional Knowledge (STOCK) Act.

Internal and External Audit Responses:

- Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2020.

Freedom of Information Act:

From October 1, 2019, to September 30, 2020, the Agency:

- Received 1,327 FOIA requests in FY 2020 and responded to 1,393 (FY 2020 + prior year backlog/pending). 1,137 of those requests were responded to within 1-20 days. Thus, 82 percent of the FOIA requests were processed within the 20-day statutory time period.
- Sought three extensions of time to process a request beyond the 20-day period for FOIA requests received. Thus, the Agency statutory extensions for less than one percent (0.23 percent) of its cases received.
- The Agency received 17 FOIA appeals and responded to 18 (FY 2020 + prior year backlog/pending) FOIA appeals. The average amount of days to process these appeals was 13 working days. The lowest number of working days to process these appeals was 2. The highest number of working days to process these appeals was 20. Thus, 100 percent of the FOIA appeals were processed within the 20-day statutory time period.
- Did not seek an extension of time for the FOIA appeals received in FY 2020.

FY 2021 STRATEGIC GOAL 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE AND PRODUCTIVITY IN THE PUBLIC INTEREST

Employee Development

- The Office of Employee Development (OED) continues to work with the Human Capital Planning Office (HCPO) to develop an agency-wide succession plan and OED continues to offer an online Individual Development Plan (IDP) tool. In FY 2021, OED conducted IDP workshops for employees and supervisors to educate individuals on the benefits of IDPs and the process for developing a meaningful IDP.

- OED leverages internal communication mechanisms to promote employee development. For example, OED provides monthly articles on employee development topics for inclusion in the agency's internal newsletter that is provided to all employees
 - Additionally, OED has facilitated multiple online events using webinar technology for audiences of up to 300 attendees.

Workforce Management

- The Office of Human Resources (OHR) continues to validate that employees have performance plans through the new USA Performance reporting system.
 - The process is used for all NLRB employees to include bargaining unit, non-bargaining unit, and Professional Association employees. The Performance Management Team provides pertinent information and offers scheduled individualized team and group performance management training throughout the year.
- The FOIA Branch was added to the new employee orientation.
- OHR verified that new hire's federal and state taxes are entered into FPPS correctly.
- All employees have received their performance plan for 2020-2021 and midyear feedback. Expectations are reinforced daily, and employees' performances were highlighted during the TMG audit.
- The Security Branch enrolled Agency personnel in the Rap Back Program which provides electronic reporting on post appointment arrests of Agency employees, contractors, students, and volunteers.
- Security Branch reduced the number of backlogged reinvestigations to 168, which was 285 at the beginning of FY 2021.
 - Since FY 2012 the NLRB implemented the reinvestigation requirement every five years in accordance with 5 Code of Federal Regulations (CFR) 731, the branch has decreased the backlogged investigations from 1,050 to 168.
- The Office of the Equal Employment Opportunity (OEEO) prepared and posted No FEAR data on the Agency's public website. OEEO submitted Agency EEO Compliance report to EEOC on May 10, 2021.
- OEEO continued collaborative efforts to collect Agency workforce data from Human Resources, the Office of Employee Development, the Division of Operations-Management in preparation for the Agency's annual Management Directive (MD) 715 report for FY 2020, which enabled the timely submission of the report to the EEOC on June 15, 2021.
- OEEO prepared and submitted the State of the Agency briefing report for the FY 2019 MD715 report in FY 2021. This report summarizes Agency accomplishments and challenges in attaining model EEO status and outlines strategies to reach goals.
- OEEO supported Agency's efforts to accomplish the goals of Executive Order (EO) 13985 on Advancing Racial Equity and Support for Underserved Communities through the Federal Government through its participation on the Agency Equity workgroup and by providing resource material for the group.
 - In support of EO 13985, OEEO participated in the Agency's Equity Workgroup to assist in the development of the Agency's 200-day Equity Report.

Motivation

- HCPO kicked off a multi-year collaboration with the Division of Legal Counsel to improve employee engagement. This effort should result in higher responses to the Federal Employee Viewpoint Survey (FEVS) in subsequent years for this organization.
- HCPO continued to make available to employees, via the HCPO’s SharePoint site, access to its virtual suggestion box where employees can submit suggestions and submit creative and innovative ideas on how to strengthen employee engagement and offer ideas on workplace improvements.
- OHR’s Performance Management Team has completed the automated revitalized Suggestion Award Program.
 - o The program will encourage employees to submit constructive new ideas that will directly contribute to the economy, efficiency, or directly improve operations and or services within the agency. Release date for this program is tentatively scheduled for the Fall of 2021.
- OHR’s Performance Management Team ensures that nominations are collected for the Administrative Professional Award and Honorary Awards Programs using an automated nomination process via SharePoint. This process proves to be very instrumental in making the nomination process easy, efficient, and convenient to all parties. Award ceremonies were held in April and June 2021 respectively.
 - The Special Act and On-the-Spot-Award Program was funded to offer monetary recognition to deserving employees for their performance efforts during the fiscal year.

FY 2021 STRATEGIC GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES IN A MANNER THAT INSTILLS PUBLIC TRUST

Information and Technology:

The Agency uses an electronic filing program (E-file) to allow constituents to electronically file documents with the Agency. In FY 2021:

Number of E-Filings Received	50,069
Number of Cases Filed Through E-File Charges and Petitions (OCP)	10,777
Number of Documents Received	139,726
Number of Board and ALJ Decisions E-Served	278
Total Number of parties E-Serviced Decisions	22,873
Number of E-Deliveries of Case Documents	69,588

Providing accessible information to the public is an important part of the NLRB’s mission:

Number of NLRB Document Types Available for Public Access	563
Total Number of Case Documents Available for Public Access	1,742,081

Please see <https://www.nlr.gov/open/public-documents> for a list of the document types available to the public and <https://www.nlr.gov/reports> for updates metrics for FY 2020 Charges & Complaints, Petitions & Elections, Decisions, Litigation, Remedies, Recent Filings and Tally of Ballots.

During FY 2021, the following enhancements were completed for the Agency public website which increased or made case data more transparent to constituents:

- Interactive Map – Uses an interactive map to show C and R case data for each region.
- Advanced Data Search – Creates and downloads customized reports for case and election data.
- MyNLRB – Allows users to authenticate using Login.gov and personalize their experience for tracking individual cases, saved searches and aggregated regional content.
- Spanish site – Provides approximately 50 pages of documents translated into Spanish to reach a larger part of the constituency.
- Career Portal – Places a new focus on attracting top talent to the NLRB.

The OCIO continues to work with the FOIA Branch to design and develop a process for relating NLRB cases on the Agency public website with FOIA requests.

To streamline Agency processing, the Administrative Systems Team is focused on Business Process Automation using SharePoint as the platform. The Administrative System's team is in the process of automating over 200 of the Agency's processes/forms using SharePoint, InfoPath and/or PowerApps/Automate, web services and Microsoft Azure components. The business analysts continue to collect requirements and document the process flows, while the developers are working to complete the automation of the process. Following are the processes that were either completed, updated with enhancements or are ongoing in FY 2021:

- Automated Funds Request
- Bicycle Benefits Reimbursement
- Courier Authorization
- COVID-19 Employee Paid Leave
- COVID-19 Vaccination Certification Form
- Driver's License Verification
- Employee Suggestion Form
- Ethics Inquiry Form
- Ethics Skip Counsel
- Ethics Legally Protected Information
- Facilities Request Form
- Memento of Recognition
- Payroll Ticketing System
- Performance Award Matrix
- Professional Liability Insurance
- Purchase Card Transaction Request
- Records Management Weekly Statistics
- Retirement Estimate

- Superior Qualifications
- Temporary Property Removal
- Travel Training Form
- Transportation Reimbursement

The Administrative Systems Team also completed the following:

- Completed the design and development of a Reasonable Accommodation (RA) Case Management system which tracks the entire workflow of an RA case and integrates with the Form 13 purchase request. System is in final testing and is planned to be deployed in FY 2022.
- Completed the implementation of Microsoft Teams and subsequent retirement of Skype for Business. Microsoft Teams provides both communication and collaboration in the form of telephony, video, chat, screen sharing, and integration with other Microsoft platforms (SharePoint, Planner, Power platform, Office suite, etc...). Finalized the governance model and worked with many Agency offices for the creation of Teams and channels to increase collaboration.
- Due to COVID-19, OCIO implemented a process within SharePoint for creating secure sites for the Administrative Law Judges and their bailiffs to manage their hearings and cases with external parties. Documents and evidentiary information are made available to parties on a case to ensure hearings can occur remotely.
- In response to the FOIA Branch's inability to send large documents to FOIA requesters, the Administrative System's team designed and developed a secure large file transfer system. FOIA Branch employees have an internal-only interface to upload the files with an expiration date which are only accessible to the email address associated with the file(s). The FOIA requester receives an email with a link to download the file and are unable to forward the email to another party.
- Completed 75 percent of a three terabyte shared drive migration with each office as a cost savings measure to retire the legacy file share servers, migrate all of the files, data and permissions to the related Team's sites which increases collaboration using Teams and SharePoint.
- Designed and developed a Budget and Spending Dashboard using SharePoint and PowerBI which enables the OCFO and senior management the ability track funds actuals and spending from the Agency's Operating Plan.

Financial Management:

- Provided a response to address the Congressional Questions for the Records received from the Chair and Ranking Members of the Subcommittee on Department of Labor, Health and Human Services, and Education and Related Agencies.
- Developed and uploaded the FY 2022 Budget Blueprint data into the OMB MAX Information System.
- The OCFO submitted all quarterly and annual reporting requirements to Congress, OMB, and Treasury.
- Developed the NLRB FY 2023 Budget Request to OMB.
- Developed Status of Funds Reports and briefed Leadership on the Agency's status of the Agency's Funds and available unallocated resources.

- During FY 2021 the OCFO addressed and closed out 18 audit recommendations from previous year's audits.
- Developed a series of budget scenarios for the FY 2022 OMB Passback and developed the Agency Passback Appeal strategy and draft Passback response to OMB.

Small Business Goal Status*						
Category	Gov-Wide Goal	2021	2020	2019	2018	2017
Small Business	23%	68.57%	58.79%	68.78%	65%	41.70%
Women Owned Small Business	5%	4.32%	1.298%	9.83%	5%	7.47%
Small Disadvantaged Business	5%	57.80%	52.18%	58.48%	52%	28.33%
Service-Disabled Veteran Owned Small Business	3%	0.83%	0.963%	0.75%	1.62%	2.42%
HUBZone	3%	48.21%	41.56%	38.57%	23.33%	3.43%

*In FY 2021, the NLRB was below two out of the five government wide goals because of de-obligations and spending being put in areas that were either for an existing contract or the requirement exceeded small business capabilities. Due to the COVID-19 pandemic, requirements were diverted to existing contracts to promptly support the Agency's immediate needs.

Office Space Management

In accordance with GSA guidelines, 22 field offices have been identified to undergo a space reduction as part of the five-year project plan to reduce the NLRB footprint.

Agency Outreach

The Agency furthered its outreach to unrepresented employees, unions, and small business owners in the following ways:

- On September 2, 2021, General Counsel and Mexican Ambassador to the U.S. signed a Letter of Arrangement (LOA) strengthening ties between the NLRB, the Mexican Embassy, and its consulates around the country.
- Additionally, the LOA expands upon the collaboration that has existed for many years between local NLRB offices around the country and the network of Mexican consulates across the U.S., by enhancing efforts to provide Mexican workers, their employers, and Mexican business owners in the U.S. with information, guidance, and access to education regarding their rights and responsibilities under the National Labor Relations Act.
- The Regional offices signed separate LOAs with local consulates, including Philadelphia, Los Angeles, Miami, Texas, and Boston.
- Additionally, Regional offices participated in Labor Rights Week activities with various Mexican consulates and other federal agencies, including participating in a phone bank, participating in various tabling events with consulate partners, and participating in a radio show to discuss labor rights for immigrants.

The Agency produced and engaged in various outreach activities and efforts, such as:

- Produced a short video discussing Section 7 rights as applied to immigrant workers to be played in Mexican and other embassy waiting rooms.
- Established a student ambassador program to reach out to high school age individuals, which was created by the New York Regions.
- Launched a new Spanish language version of its website, [NLRB.gov/es](https://www.nlr.gov/es), where members of the public can access resources on their workplace rights and how to file a complaint, learn about the agency's history and current duties, and request a speaker from the NLRB.
- Launched two Spanish language Twitter accounts—@NLRBes for Board-side news and decisions and @NLRBGces for news and information from the General Counsel's office.
- Launched a Facebook account for the General Counsel's office and Instagram accounts for the Board-side and General Counsel-side.
- Created a video for social media of the Deputy General Counsel discussing freedom of association.
- Developed a “know your rights” content for social media that explains workers' rights under the NLRA was created.
- Created a flyer and PowerPoint presentations to inform the public about the Agency.
- Conducted outreach to Latino organizations, members of Congress, and media through the Agency's Office of Congressional and Public Affairs.
- Began issuing Spanish-language press releases.
- Participated in clinic for workers with disabilities.
- Conducted outreach to the Asian American Bar Association of New York to host clinic.
- Participated in equal pay forum with the National Council of 100 Women.
- Participated in White House Initiative on Asian American Pacific Islander listening session.
- Participated in Cafecito con los Consulares in San Francisco.

To better educate workers and employers the NLRB:

- Presented to California Labor Trafficking Task Force Subcommittee.
- Presented to Make the Road NJ (focusing on Latino and other minority workers).
- Met with representatives of the Mexican Embassy to provide training, discuss renewal of MOU, and establish joint outreach opportunities.
- Presented updates of the NLRB to Healthcare Labor Relations Advisory Committee (association of legal counsels representing employers in labor relations).
- Presented to management-side labor law firm on developments under the NLRA.
- Met with the U.S. Department of Labor (DOL), Bureau of International Labor Affairs to establish joint outreach opportunities.
- Collaborated with New York Interagency Community on Asian Americans and Pacific Islanders Month events.

- Participated in the Alameda County Labor Trafficking Task Force.
- Delivered Joint Presentation with DOL Wage and Hour concerning essential workers in Detroit.

Ethics:

The Ethics Staff continued to communicate with Agency Leadership about the status of ethics projects and to discuss notable ethics issues.

In coordination with the Agency's GC and Chairman, the Ethics Staff:

- Continued to assist the Board and General Counsel in evaluating ethics recusal obligations.
- Reissued Combined Federal Campaign (CFC) guidance memo and Job Aid to all Agency employees at the start of the FY 2021 CFC campaign. These documents covered the relevant rules and regulations, including those applicable to CFC events, and discussed the importance of preventing coercive activity when a supervisor serves as a campaign coordinator and/or keyworker for the CFC.
- Participated in transition related tasks to include: preparing various staff for meetings with the Biden Transition Team; working with newly appointed leaders to maintain the NLRB's ethical culture; and meeting with potential nominees and White House ethics officials to discuss the Ethics Office's role in ensuring the integrity of the NLRB's programs and processes.
- Met with GC and Chairman front offices and the Office of Congressional Public Affairs (OCPA) to present research of federal agency social media policies, summaries of First Amendment cases, and issues to consider when developing a comprehensive social media policy for the Agency.

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

During FY 2021, the Ethics Staff:

- Distributed the CY 2020 Annual Ethics Briefing through the Agency's Learning Management System to all financial disclosure filers as well as managers and supervisors. This program included a message from the Agency's Designated Agency Ethics Official (DAEO) which emphasized the importance of making compliance with ethics regulations a *personal responsibility of everyone* but noted that it is particularly important for the Agency's managers and supervisors.
- Renewed annual MOU with the Office of Human Resources to ensure that all newly hired employees and all newly promoted supervisors receive required ethics notifications in compliance with the Executive Branch Ethics Program Amendments, 81 Federal Register 76,271.
- Participated in Operation's Regional Directors (RD) Roundtable where the Ethics Office updated Regional Management on trending legal and government ethics issues. The Ethics Office also presented new resources that were developed to assist the field in identifying potential legal ethics concerns.
- Launched new Ethics intranet site which provides a user-friendly organization; new search tools; three new online forms to help the Ethics Office collect relevant facts so that ethics inquiries can be handled more efficiently; and several newly developed legal ethics training resources.
- Provided customized ethics briefing to the newly appointed Political Appointees with Senate Confirmation (PAS) and Schedule C appointed employees.

- Provided new hire orientation to all new NLRB employees within 90 days of appointment to the Agency.
- Distributed various training resources and reminders covering key ethics laws and regulations; the Hatch Act; and the importance of maintaining the NLRB’s Screening Wall. Many of these resources and reminders were distributed Agency-wide while others were directed to specific categories of employees to support their particular mission work.
- Distributed a memo which provided guidance for employees interacting with NLRB social media accounts via personal social media accounts.
- Presented content at several Agency meetings and conferences. Ethics Staff emphasized that all employees have a personal responsibility to comply with the Rules of Professional Conduct, the Standards of Conduct and the Criminal Conflict of Interest Statutes.
- Assisted various offices in developing policies to ensure compliance with the NLRB’s internal screening wall that separates the prosecutorial and adjudicatory sides of the Agency and protects confidential information from disclosure to the other side.
- Distributed post-employment guidance to all employees scheduled to retire or resign from government service and answered specific post-employment inquiries from former employees of all levels.
- During FY 2021, the Ethics Office received 651 inquiries. 622 (95 percent) were resolved within 5 business days.

Measure:	Goal	2021	2020	2019	2018	2017
Percentage of inquiries resolved within 5 business days	85%	95%	92%	88.9%	92%	95%
Percentage of submitted financial disclosure reports reviewed within 60-days	100%	100%	100%	100%	100%	100%

The Ethics staff continued to use technology to help filers complete filing requirements under the Ethics in Government Act (EIGA).

During FY 2021, Ethics staff supported filers through:

- One-on-one assistance with online filing systems.
- Job Aids and checklists to help filers accurately report their financial holdings.
- Monthly reminders which emphasize the importance of reviewing brokerage statements for transactions which are reportable under the Stop Trading on Congressional Knowledge (STOCK) Act.

In mid-January, Ethics staff began to receive Public (OGE 278e) and Confidential (OGE 450) Financial Disclosure reports for CY 2020. Completed the review of 99 percent of all reports within 60 days of receipt and the Ethics Office notified the filer of any real or potential conflicts.

During FY 2021, the Agency completed its review of:

- 31 Annual Confidential Financial Disclosure Reports (OGE 450)
- 2 New Entrant Confidential Financial Disclosure Report (OGE 450)
- 82 Annual Public Financial Disclosure Reports (OGE 278e)
- 6 New Entrant Public Financial Disclosure Report (OGE 278e)
- 170 Monthly Transaction Reports (OGE 278T)
- 13 Termination Reports (OGE 278)

Internal and External Audit Responses:

Responses to internal and external auditors have been prepared and all deadlines were successfully met in FY 2021.

Freedom of Information Act:**From October 1, 2020 to September 30, 2021, the Agency:**

- The Agency received 1,436 FOIA requests and responded to 1,410 FOIA requests. The Agency responded to 1,264 FOIA requests in 1-20 days. Thus, 90 percent of the FOIA requests were processed within the 20-day statutory time.
- The Agency sought five extensions of time to process a request beyond the 20-day period for the FOIA requests received from October 1, 2020, to September 30, 2021. Thus, the Agency sought statutory extensions for less than 1 percent of requests.
- The Agency received 11 FOIA appeals and responded to five FOIA appeals from October 1, 2020 to September 30, 2021. The number of average days to process these appeals was 19.4 working days. The lowest number of working days to process these appeals was 18. The highest number of working days to process these appeals was 20. Thus, 100 percent of the FOIA appeals were processed within the 20-day statutory time.
- The Agency did not seek an extension of time for the FOIA appeals received from October 1, 2021, to September 30, 2021.

APPENDIX D

STRATEGIC GOALS

GOAL 1 (MISSION): ENSURE EFFECTIVE ENFORCEMENT OF THE NATIONAL LABOR RELATIONS ACT THROUGH TIMELY AND QUALITY CONSIDERATION AND RESOLUTION OF UNFAIR LABOR PRACTICES WITH APPROPRIATE REMEDIES

Objective 1: Achieve timely consideration and appropriate resolution of unfair labor practice charges at every stage of processing.

Measure 1: The Field office operations reach determinations on all unfair labor practice charges within 90 percent of the Agency's timeliness goal.

Measure 2: Issue 90 percent of pending unfair labor practice cases that, by the end of the fiscal year, will have been pending before the Board for more than 18 months.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Management Strategies:

- Maintain and enhance existing interregional assistance programs to ensure that unfair labor practice cases in offices with backlogs are transferred to offices with available staff.
- Using the Board's electronic case management system, continually monitor the status of unfair labor practice cases pending before the Board to ensure that priority cases are on track to issue by the end of the fiscal year.

Objective 2: Demonstrate high quality performance in the prosecution and adjudication of meritorious unfair labor practice charges.

Measure 1: Conduct annual quality reviews of all Field offices' unfair labor practice case files with overall ratings.

Management Strategies:

- Provide regular and timely feedback to the Regions of the quality of their unfair labor practice investigation and prosecution.
- Maintain and enhance alternative decision-making procedures to expedite Board and ALJ decisions in unfair labor practice cases; on the Board side, for example, maximize opportunities to circulate cases with pre-prepared draft opinions in order to fast-track the issuance of final decisions.
- Proactively pursue voluntary settlement of unfair labor practice cases, including through the Board's Alternative Dispute Resolution program that is available to parties following the issuance of a decision by an administrative law judge.
- Utilize intra-agency working groups and committees to continually evaluate quality of investigations, litigation, and compliance.
- Evaluate all losses of adjudicated unfair labor practices deemed significant to institute modifications to the Agency's litigation program, as appropriate.

Objective 3: Promptly pursue remedies for statutory violations.

Measure 1: Ensure that at least 85 percent of Board Orders are closed or advanced to the next stage in fewer than 300 days.

Measure 2: Ensure that at least 85 percent of Federal Circuit Court Orders are closed or advanced to the next stage in fewer than 300 days.

Management Strategy:

- Share best practices in unfair labor practice processing to assist Field offices in resolving unfair labor practice case issues promptly and fairly.

Definitions:

Advanced to the Next Stage – The following actions consists of advancements: a) the filing of a petition for court enforcement or review, b) referral to contempt, or c) issuance of a Compliance Specification.

Modifications to Case Processing – Through training and performance management, modify practices or approaches that are not consistent with the Agency’s quality standards – such modifications will also include identifying new best practices that improve the quality of the Agency’s case processing, and disseminating these, through updates to case processing guidance and related training.

Significant Losses of Adjudicated Unfair Labor Practices – Significant losses of adjudicated unfair labor practices are Administrative Law Judge or Board decisions resulting in either dismissal of the entire complaint, or dismissal of allegations that substantially affect the make-whole remedy, such as reinstatement or other terms and conditions of employment.

GOAL 2 (MISSION): PROTECT EMPLOYEE FREE CHOICE WITH TIMELY AND EFFECTIVE MECHANISMS TO RESOLVE QUESTIONS CONCERNING REPRESENTATION**Objective 1: Achieve timely resolution of all questions concerning representation of employees.**

Measure 1: Reach 85 percent pre-election agreement rate in representation elections not involving issues regarding the way the elections are conducted.

Measure 2: Issue 90 percent of pending representation cases that, by the end of the fiscal year, will have been pending before the Board for more than 12 months.

Measure 3: Ensure that the median age of all cases pending before the Board at the end of each fiscal year is 180 days or less.

Management Strategies:

- Using the Board's electronic case management system, continually monitor the status of representation cases pending before the Board to ensure that priority cases are on track to issue by the end of the fiscal year.
- Maintain and enhance streamlined alternative decision-making procedures, such as circulating cases to the Board with draft opinions, rather than following the process of soliciting votes on case issues prior to a draft decision being prepared to expedite Board decisions in representation cases.
- Maintain and enhance existing interregional assistance programs to ensure that representation cases in offices with backlogs are transferred to offices with available staff.
- Identify and utilize procedures to ensure careful and timely processing of Requests for Review, Special Appeals, and Hearing Officer Reports.
- Stay abreast of other federal and state agencies' approaches to representation case processing and share best practices in representation case processing internally to assist Field offices in resolving representation case issues promptly and fairly.

Objective 2: Increase employees' opportunities to freely participate in election proceedings by making appropriate and effective use of technology.

Measure 1: Promote awareness of the option to file election petitions electronically, in English or Spanish, through the Agency's website.

Management Strategies:

- Enhance the effectiveness of existing technologies, and investigate the potential benefits offered by new technologies, to maximize employees' opportunities to participate in election proceedings.
- Increase greater access to the Agency's electronic filing system for non-English filers.

GOAL 3 (SUPPORT): ACHIEVE ORGANIZATION EXCELLENCE AND SERVE AS A MODEL EMPLOYER

Objective 1: Improve employee morale and labor relations

Measure 1: Maintain target employee engagement index score of 67 percent on the Federal Employee Viewpoint Survey (FEVS), and in subsequent years establish new initiatives with the goal of increasing employee engagement.

Management Strategies:

- Examine the feasibility of creating employee resource groups (ERGs) to promote better employee engagement by following appropriate OPM and EEOC guidance and utilizing best practices of similar agencies.
- Ensure that managers engage with the Agency's employees and their representatives to help implement and effectuate Agency policies and collective bargaining agreements that balance performance, productivity, and workplace flexibilities.

Objective 2: Increase opportunities for career enhancement through employee development

- Ensure that managers engage with the Agency's employees and their representatives to help implement and effectuate Agency policies and collective bargaining agreements that balance performance, productivity, and workplace flexibilities.

Objective 3: Increase opportunities for career enhancement through employee development

Measure 1: Satisfaction percentage rating (65 percent or above) of the “Talent Management Index” using the annual FEVS results.

Management Strategies:

- Explore the use of employee affinity groups at headquarters and in Field offices for recruitment, retention, and developmental activities.
- Maintain a current strategic plan that includes human capital goals, objectives, and strategies and a workforce plan that is consistent with the Human Capital Framework (HCF) of the Office of Personnel Management (OPM).
- Enhance employee development and learning opportunities through Skillport, West Legal Ed, and other on-line and blended media.
- Identify core competencies for managers and actions necessary to close skill gaps.
- Promote individual development plans (IDPs) for employees by proactively encouraging participation.

Objective 4: Recruit and retain a talented and diverse workforce

Measure 1: Satisfaction percentage rating (65 percent or above) for the “Job Satisfaction Index” using the annual FEVS results.

Management Strategies:

- Clearly and consistently communicate to employees how their work supports the Agency’s ability to achieve its mission.
- Regularly seek opportunities to give employees appropriately challenging work assignments to develop their skills, grow their engagement, and enhance their opportunities for advancement.
- Create and grow participation in formal and informal mentorship programs for new hires and new supervisors, specifically to include those who identify as a member of an underrepresented group, to maximize their prospects for long-term success in the Agency.

Measure 2: Satisfaction percentage rating (65 percent or above) for the “Support for Diversity Index” using the annual FEVS results.

Management Strategies:

- Involve all Agency employees as participants and responsible agents of diversity, mutual respect, and inclusion.
- Reassess Agency mentoring programs to ensure they are used as tools to maintain a diverse workforce and consistently provide opportunities to participate in such programs in all organizational units.
- Encourage participation in special emphasis observances.
- Fully and timely comply with all relevant federal laws, regulations, applicable executive orders, management directives and policies related to promoting diversity, equity, inclusion, and accessibility in the workplace.
- Demonstrate leadership accountability, commitment, and involvement regarding diversity, equity, inclusion, and accessibility.
- Provide on-going diversity, equity, inclusion, and accessibility training for senior leadership.
- Evaluate all levels of management on their proactivity in maintaining an inclusive work environment.
- Continue to attract qualified and diverse applicants from different demographics, including veterans and persons with disabilities, by following the Office of Personnel Management (OPM) and Equal Employment Opportunity Commission (EEOC) guidance and utilizing best practices of similar agencies.

GOAL 4 (SUPPORT): MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST

Objective 1: Make effective use of Agency's resources by proactively planning how best to deploy those resources, and continually monitor and reevaluate the execution of such plans to ensure we have strong processes and internal controls in place to identify and prevent any misuse or inefficiencies in the allocation of Agency resources.

Measure 1: Achieving a clean audit opinion by ensuring that OCFO's operations are guided by appropriate processes and internal controls.

Management Strategies:

- Effective management of fiscal resources by administering the NLRB's budget through the development and implementation of an annual Operating Plan that aligns the budget resources to the Agency's priorities and the Strategic Plan.
- Meeting contracting goals through strengthened acquisition planning and creating innovative business strategies that achieve cost-effective contracting solutions.

Measure 2: Continue to support telework by employees and contractors, as well as virtual access to Agency processes by members of the public, to create opportunities to reduce costs associated with maintaining the Agency's footprint in its Headquarters and Field offices, in accordance with General Service Administration (GSA) directives.

Management Strategies:

- Increase information sharing within the Agency through mechanisms that are easy for employees to contribute to and access.
- Employ ongoing, transparent project oversight from the Administrative Systems Integrated Project Team comprised of users/customers and developers.
- Modernize the Agency's systems using technological advances, automation tools, and artificial and business intelligence protocols to continuously improve the productivity of the Agency while maintaining aspects of the current systems based on organizational priorities.
- Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency.

Objective 2: Conduct all internal and external Agency business in an ethical and timely manner.

Measure 1: Make progress towards an employee satisfaction percentage rating (65 percent or above) for the Agency's ethical culture using the annual FEVS results.

Measure 2: Continue to respond to FOIA inquiries in a timely manner.

Management Strategies:

- Fully and timely comply with all relevant federal laws, regulations, applicable executive orders, management directives and policies related to ethics in the workplace.
- Use technology to maintain an ethics education program that reaches all NLRB employees at all levels.
- Ensure substantial compliance with employee ethics training and financial disclosure requirements.

Objective 3: Develop a culture of Enterprise Risk Management (ERM) and Internal Controls to support the Agency's decision-making process.

Measure 1: Reach an ERM maturity level-3 by FY 2026.

Management Strategies:

- Establish and develop an ERM program to include policies and procedures that will strengthen leadership decision making.
- Integrate Internal Control activities into Agency operations.

Definition:

Substantial Compliance – Compliance with the substantial or essential regulatory requirements that satisfies their purpose or objective even though there may be individual deficiencies beyond the organization's control.

GOAL 5 (MISSION): IMPROVE PUBLIC AWARENESS OF AGENCY MISSION AND ACTIVITIES

Objective 1: Improve agency outreach and public engagement, especially among members of underserved communities.

Measure 1: Increase the number of users who access the NLRB's English and non-English language digital resources, including our public website and social media platforms.

Measure 2: Increase the number of participants, including foreign language speakers, in the NLRB's outreach to students.

Management Strategies:

- Expand Agency outreach programs to better reach underserved communities.
- Begin gathering and analyzing meaningful demographic data about individuals and organizations—on a voluntary and anonymous basis—that use or are considering using Agency services.
- Expand digital resources for non-English speakers
- Augment the Agency's outreach effort by creating a dedicated Outreach Committee chaired by a senior official from the Division of Operations-Management with partners from Field offices, the Office of Congressional and Public Affairs, and other Headquarters Mission Support Divisions, with responsibility to develop and implement national and field outreach initiatives that expand access to underserved and underrepresented communities.
- Continue the NLRB Equity Assessment Team's exploration of additional ways to achieve the key goal of Executive Order 13985 to advance equity for all in understanding and accessing the Agency's services.
- Employ increased non-traditional outreach to the following underserved populations:
 - Historically Marginalized Populations
 - Immigrant Populations
 - Youth Population
- Improve accessibility and functionality of Agency website and social media. Institute an automated satisfaction survey for website users and evaluate responses for further action.
- Engage with organizations to better educate workers and employers, through activities, such as:
 - Letters of Agreement (LOA) with embassies
 - Joint outreach with sister agencies
 - Memorandums of Understanding (MOU) with other agencies related to coextensive investigations
- Focus on Protected Concerted Activity, Collective Bargaining, and Union Activity:
 - Expand public usage of the NLRB's social media network, including the NLRB's Smartphone app and other technology
 - Provide additional information on the NLRB's public website
 - Continually evaluate opportunities for the Agency to make greater use of existing and new social media platforms
 - Develop more internal informational materials housed in a centralized location for use by board agents at recruitment and outreach events



National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

www.nlr.gov