

Office of Inspector General

SEMIANNUAL

REPORT

TO THE

CONGRESS



Covering APRIL 1, 1995 - SEPTEMBER 30, 1995

Twelfth Semiannual Report

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United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE INSPECTOR GENERAL

Washington, DC 20570-0001

October 31, 1995

Honorable William B. Gould IV, Chairman
National Labor Relations Board
1099 14th Street, NW, Room 11100
Washington, DC 20570

Honorable Frederick L. Feinstein, General Counsel
National Labor Relations Board
1099 14th Street, NW, Room 10100
Washington, DC 20570

Dear Chairman Gould and General Counsel Feinstein:

I am submitting herewith the Semiannual Report (SAR) for the Office of Inspector General (OIG). This SAR is prepared in accordance with Section 5 of the Inspector General Act and covers the period April 1, 1995, through September 30, 1995. I was designated as Acting Inspector General on July 25, 1994 and am serving until a permanent appointment is made.

We issued one audit report during this six-month period and have one audit currently underway. In addition we have 13 matters under investigation, down from 50 matters pending eighteen months ago. There were 9 matters pending at the beginning of this semiannual period. These investigations are discussed in the SAR. One of them, the investigation of workers' compensation claims, is discussed fully in the Strategic Plan and has already begun to show an opportunity for considerable savings.

This is my third SAR. I continue to enjoy the experience of this assignment and particularly working with the fine staff of the OIG. The work of the OIG during the last 6 months is described in this Report. The audit on performance measurements is almost completed. It has been delayed by the loss of one staff member. It will be however a report that will be well worth the wait. As described in earlier correspondence with you, our preliminary conclusions are that this Agency may be ahead of most agencies in the reporting capabilities mandated by the Government Performance and Results Act. On the investigative side, the recovery made by this office of investigative costs are a first for us. Our FECA program continues to present considerable opportunity for saving. Finally Appendix A of this SAR contains the Strategic Plan for this office. This was included in our last SAR but we have updated the Investigative Plan and are, for that reason, republishing it in this SAR.

None of this could have been accomplished without outstanding OIG staff work and without the cooperation of the Board, the General Counsel and their staffs. I am particularly indebted to Director of Administration Gloria Joseph and Acting Associate General Counsel B. Allan Benson. We have worked closely with them and always received prompt assistance and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Higgins, Jr.", written in a cursive style.

John E. Higgins, Jr.
Acting Inspector General

cc: The Board

FOREWORD

The National Labor Relations Board (Agency or NLRB), which employs about 2,000 employees and, for Fiscal Year 1995, has an annual budget of approximately \$176,000,000, is an independent agency which was established in 1935 to administer the principal labor relations law of the United States - - the National Labor Relations Act (NLRA). The provisions of the NLRA are generally applied to all enterprises engaged in, or to activities affecting, interstate commerce, including health care institutions and the United States Postal Service, but excluding other Governmental entities, railroads and airlines.

The Agency implements national labor policy to protect the public interest by helping to maintain peaceful relations among employers, labor organizations and employees; encouraging collective bargaining; and, by providing a forum for all parties to resolve peacefully representation and unfair labor practice issues. These functions are primarily carried out in two ways: (1) by conducting secret ballot elections to determine if a group of employees wishes to be represented for collective bargaining purposes by a labor organization, and (2) by preventing and/or remedying unfair labor practices committed by employers and unions.

The Chairman, four Board Members and a General Counsel are appointed by the President with the advice and consent of the Senate. The Chairman and Board Members have staggered terms of 5 years each and the General Counsel has a 4-year term.

The Agency, headquartered in Washington, DC, has 33 Regional Offices, some of which have Subregional and/or Resident Offices. This far-flung organization has handled unfair labor practice cases affecting hundreds of thousands of persons and has conducted representation elections in which millions of employees have decided whether they wished to be represented by a labor organization for collective bargaining purposes.

The mission of the Office of Inspector General (OIG) is to promote integrity, efficiency, and effectiveness by conducting audits and investigations in an independent manner and objectively reporting to the Chairman, the General Counsel and the Congress. The OIG Table of Organization provides for an Inspector General; a Supervisory Auditor; three Auditors; a Staff Assistant; and, a Counsel to the Inspector General.

REPORTING REQUIREMENTS

<u>ACT CITATION AND REQUIREMENT</u>	<u>PAGE</u>	
Section 4(a)(2)	Review of Legislation and Regulations.	None
Section 5(a)(1) and (2)	Significant Problems, Abuses and Deficiencies and Recommendations for Corrective Action.	1
Section 5(a)(3)	Prior Recommendations Not Yet Implemented.	.4
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.	5
Section 5(a)(5) and 6(b)(2)	Summary of Instances Where Information Was Unreasonably Refused or Not Provided.	No Instances
Section 5(a)(6)	List of OIG Audit Reports.	7
Section 5(a)(7)	Summary of Each Particularly Significant Report.	8
Section 5(a)(8)	Statistical Table on Management Decisions on Questioned Costs.	10
Section 5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use.	11
Section 5(a)(10)	Summary of Each Audit Over 6 Months Old For Which No Management Decision Has Been Made.	None
Section 5(a)(11)	Significant Revised Management Decisions.	None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Disagrees.	None

INSPECTOR GENERAL SUMMARY

During the current reporting period, the OIG issued one audit report.

The General Counsel requested that we determine whether there are any overlapping functions between the Division of Operations-Management and the Division of Administration. Our audit objectives were to: (1) identify functions being performed by both Divisions; (2) ascertain whether either Division is performing tasks which overlap the mission of the other, and (3) assess whether any such overlap is warranted. The results of this audit are described at Section 6 of this SAR.

We continued to work on an audit concerning the Agency's performance measurements. We are evaluating:

- ◆ The information system(s) for collecting performance statistics;
- ◆ The methods for translating statistics into performance data; and
- ◆ The Agency's use of the performance data in communicating its caseload and accomplishments.

Our review will also assess the Agency's status relative to implementing the Government Performance and Results Act (GPRA) which requires, beginning with Fiscal Year 1999, that each agency head submit to the President and Congress a report on program performance for the fiscal year just ended. Under the Act, agencies must establish performance goals for programs and identify performance indicators which assess whether measurable goals were achieved. Program funding could be affected by an agency's implementation of the Act

Thus far we have reviewed:

- ◆ the methods and systems for generating performance data in the Division of Judges, Office of Executive Secretary, Office of Representation Appeals, and the Division of Operations Management;
- ◆ NLRB Annual Reports including procedures for their compilation;
- ◆ procedures used to compile Regional Director monthly statistics;
- ◆ the GPRA, related literature and guidance, and other reporting requirements;
- ◆ the Case Handling Information Processing System (CHIPS);

- ◆ contract deliverables and progress reports relating to the Case Activity Tracking Subcommittee (CATS) initiative; and
- ◆ work products of the Performance Measurement Committee of NLRB's Labor-Management Partnership Council.

Because performance measurement is an important current issue of the Agency, we have decided to set out here three preliminary conclusions. These are not, of course, final audit opinions. These preliminary conclusions are:

(1) The current system is capable of producing Annual Reports, and it has an inventory of reports available which could be useful to management. However, the CATS initiative, through various task group documents and contractor deliverables, has identified needs that exceed CHIPS capabilities. Significant testing of the CHIPS data base was performed. Our testing did not reveal errors occurring with a frequency that would have a material effect on the Agency's Annual Report. It is our opinion that extraordinary efforts are not needed to identify and correct the CHIPS data base. The current process of providing regional offices with error reports for review and correction on a monthly basis is sufficient for assuring accuracy of the data.

(2) Our audit has reviewed the Government Performance and Results Act, OMB Guidance including the Government Performance and Results Act Implementation Plan Draft of August 1993, and the work of the Performance Measurement Committee. It is our view that the Agency is approaching the GPRA and its future requirements in an appropriate manner. The NLRB has coordinated with recognized experts in the field and with employees at all levels. Agency efforts began with defining a common performance measurement language and a framework for developing a strategic plan.

(3) The determination of which performance measures are most meaningful should be based on the Agency's strategic plan which is being developed to meet future reporting requirements. In our view the NLRB Annual Report and budget documents that the Agency currently compiles may already meet many of the "intermediate outcomes" reporting requirements of the GPRA. The NLRB has used performance measurement data to manage its caseload for more than 30 years. Indeed, the Agency may already be ahead of most government agencies in its GPRA reporting capabilities. This, of course, is not to say that the Agency could not add other intermediate outcomes if it desires. Page 4 of the definitions developed by the Performance Measurement Committee (PMC) notes that intermediate outcomes, "Are expected to lead to the ends desired, but are not themselves ends." One area which may need further development to meet the future requirements of the GPRA is "end outcomes." As stated on page 5 of the definitions developed by NLRB's PMC, "the end outcome could be: "The Agency has created a positive environment for the exercise of employee free choice and for the promotion of collective bargaining." By their nature, end outcomes are more difficult to develop and quantify and may evolve to reflect management priorities as the information produced is analyzed and used for strategic planning and stewardship of the Agency.

During the current reporting period, the Acting Inspector General placed a major emphasis upon joint investigations with other law enforcement agencies and “partnering” with the Agency where it would be mutually beneficial and present no conflict of interest. Among the activities of the OIG were:

- ◆ Seven cases previously opened remained under investigation.
- ◆ Six cases were opened and continued under active investigation.
- ◆ One case was closed by a conviction in Federal Court after prosecution by the Public Integrity Section, Criminal Division, Department of Justice.
- ◆ One case was referred to the Public Integrity Section, Criminal Division, Department of Justice for criminal prosecution.
- ◆ One case was referred to a United States Attorney for civil fraud enforcement of \$186,000.00 under the False Claims Act and the Affirmative Civil Enforcement Program.
- ◆ A joint review of Federal Employee’s Compensation Act claims continued to be conducted by the Agency and OIG, resulting in improvement in the Agency’s administration of the program.
- ◆ Eight “HOTLINE” calls were received and screened. A large number of these calls related to other agencies - and follow-up was made with the caller resulting in referral to the appropriate Inspector General.
- ◆ Several investigative subpoenas were issued and compliance was secured by the Inspector General.

A summary of the matters pending in the OIG at the end of the reporting period includes:

- ◆ In conjunction with the Department of Labor Inspector General, the OIG has continued a self initiated extensive review of potential fraudulent Federal Employees Compensation Act claims against the Agency.
- ◆ Two joint investigations are being conducted by the OIG with Regional Inspectors General of the Department of Labor Inspector General.
- ◆ A previously initiated “partnered” effort with the General Counsel in the review of possible misuse of GSA leased parking facilities has been expanded to include the economy and efficiency of GSA car use and continues at this time.
- ◆ A previously initiated “partnered” effort with the Director of Administration continues and will produce additional improvements in Agency case handling, cost tracking and supervisory staff training in the administration of the Federal Employees’ Compensation Act.

- ◆ Four OIG Investigative Subpoenas have been issued and are pending return.
- ◆ Thirteen cases remain open and under active investigation by the OIG.
- ◆ One defendant is awaiting sentencing in Federal Court.

During this reporting period, this OIG conducted a peer review of another Inspector General's audit program.

SECTION 1

DESCRIPTION OF SIGNIFICANT PROBLEMS, ABUSES AND DEFICIENCIES RELATING TO ADMINISTRATION OF PROGRAMS AND OPERATIONS AND DESCRIPTION OF OIG RECOMMENDATIONS FOR CORRECTIVE ACTION (MANDATED BY SECTION 5 (a) (1) AND (2) OF THE ACT)

AUDITS

"Review of Overlapping Functions Between the Division of Operations-Management and the Division of Administration" Case No. OIG-AMR-18

For a summary statement regarding the results of this Audit Report, see Section 6, Summary of Each Significant Audit Report at page 8 of this SAR.

INVESTIGATIONS

The following investigation was completed during this reporting period:

Submission of False Claims and Statements

An OIG Investigation Disclosed That . . . a Field agent in a Regional Office had submitted false claims supported by false statements on travel vouchers in order to receive several thousand dollars from the Board and the U.S. Government.

Action Taken . . . On January 17, 1995, the Acting Inspector General was notified by the Agency that irregularities had been found in the travel vouchers submitted by a Field agent in a Regional Office. Shortly thereafter, Counsel to the Inspector General met with senior management of the Regional Office and as a result, identified several potential false claims submitted by the employee within a single month. With the assistance of the Division of Administration, we conducted further investigation which included the examination of other claims submitted by the employee.

On March 1, 1995, the employee acknowledged false claims to OIG investigative staff and, as required, the case was referred to the Public Integrity Section of the Criminal Division, U.S. Department of Justice. In doing so, the Acting Inspector General recommended that DOJ utilize the least drastic alternative in its prosecution of the case. DOJ accepted the case for prosecution of violations of 18 U.S.C. 641 and 1001 and the recommendation of the Acting Inspector General. A report has been made to the General Counsel for his consideration of appropriate administrative action. Additional investigation by the OIG, with substantial assistance by senior management of the Regional Office, confirmed additional false claims.

On August 29, 1995, the defendant appeared before the Chief Judge Magistrate in a Federal Court and entered a plea of guilty to a violation of 18 United States Code 641 (Embezzlement). Prior to entering the plea, the employee resigned from his position with the Agency, furnished

\$13,506.00 in restitution and \$3,000.00 in reimbursement to the Inspector General for investigative expenses. This is the largest recoupment by this Office in its history and is the first occasion in which investigative expenses were recovered.

The defendant is currently awaiting sentencing.

INVESTIGATIVE REVIEWS

The following Investigative Review was initiated and acted upon during this reporting period:

Agency Administration of the Federal Employees Compensation Act

An OIG Investigative Review Disclosed That. Agency administrative practices in the handling and monitoring of claims by employees under the Federal Employees Compensation Act were in need of revision.

Action Taken As a result of a review of Agency procedures made as part of an OIG investigation involving FECA, a number of issues were identified which indicated that the Agency's administration of this program should be the subject of a proactive review by OIG. This program area operates on a charge-back basis with an annual cost from Agency operating funds of approximately \$550,000.

In preparation for this review, IG Counsel attended a one week seminar conducted by the Inspectors General of the Department of Labor (DOL) in conjunction with the Tennessee Valley Authority (TVA) and the Postal Inspection Service. Several additional days were spent working with the Inspector General of the TVA in Knoxville, Tennessee.

After meeting with Agency staff, the OIG conducted a review of the administration of the program and found a need for a strengthening of the administration of the program. Our review found that information on current operating costs, while available via computer from DOL, were not being furnished to the Agency until well over a year later. We also found that while the review and monitoring function of these claims rests with DOL, the workload of that Agency is such that if any monitoring is to be done it must be done by the NLRB or it is not done at all. Review of the coordination between the Agency and the Office of Worker's Compensation of DOL indicated that many claims had not been reviewed in several years and some death benefit claims had not been reviewed in nearly two decades.

Meeting with Agency officials on a cooperative basis, a screening model was developed by the OIG and used by the Agency to identify claims which had a high risk of fraud, waste and abuse. As a result of the screening model, and input from program officials, several cases have been identified for further investigation. In addition, the Agency is now following up on existing death claims to determine the current status of the beneficiaries.

Agency officials have developed a working relationship with DOL both in the Washington, DC headquarters as well as the Regional Offices of DOL that administer the program. The Agency has set up a system to regularly review and update files. In conjunction with the DOL, the

Agency is arranging for updated, computerized records information, as well as training for supervisors in the proper administration of the FECA program.

This proactive effort on the part of the OIG, coupled with a partnership relationship with the Agency, will continue. It is anticipated that the risk of fraud, waste and abuse in the program area will continue to be reduced, and at the same time the availability of this important program to legitimately injured Agency employees will be enhanced.

This Investigative Review developed from and is consistent with the OIG Investigative Strategic Plan. The review was conducted with the strong support and partnered effort of the Director of the Division of Administration and the staff of the Personnel Branch, in conjunction with the Inspectors General of DOL and TVA.

SECTION 2

**IDENTIFICATION OF EACH SIGNIFICANT RECOMMENDATION
DESCRIBED IN PREVIOUS SEMIANNUAL REPORTS
ON WHICH CORRECTIVE ACTION NOT COMPLETED
(MANDATED BY SECTION 5 (a) (3) OF THE ACT)**

**“REVIEW OF THE QUALITY CONTROL PROGRAM OVER CASEHANDLING”
CASE NO. OIG-AMR-17**

This report presents an assessment of the General Counsel’s quality control program; a program intended to ensure that Regional Offices handle cases in conformance with established standards. Casehandling begins with the filing of an unfair labor practice charge or a representation petition with one of the Agency’s field offices. During Fiscal Year 1993 about 40,000 cases were closed by the Agency’s 33 Regional Offices. This audit addressed that aspect of the quality control program which focuses on assuring that individual cases are handled in accordance with prescribed standards. We (1) reviewed the processes for establishing policies and procedures relating to case handling; and (2) evaluated the methods for obtaining reasonable assurance that quality standards were being met. Our audit assessed management controls relating to the annual review of the quality of work performed by the Regional Offices.

In sum, this quality control program provides reasonable assurances that standards are maintained and it (the program) is integrated with the Agency’s performance evaluation system. We made four recommendations for change, two of which would modify the methods used in selecting the specific cases to be quality reviewed. The other two recommendations related to the types of cases actually selected for review. Management agreed with the four recommendations.

We are now awaiting a report on how the implementation of the recommendations was effected.

- ◆ Audit Report issued on February 8, 1995
- ◆ Management Decision on March 21, 1995
- ◆ Final Action on the four recommendations and action plan - Estimated for Second Quarter Fiscal Year 1996

SECTION 3

SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES AND RESULTANT PROSECUTIONS AND CONVICTIONS (MANDATED BY SECTION 5 (a) (4) OF THE ACT)

The following matters were: (1) referred for prosecution during earlier reporting periods and remain pending, (2) referred for prosecution during this reporting period, (3) acted upon by prosecutive authorities during the reporting period with the noted results, and/or (4) had administrative action taken after a declination of prosecution:

Two matters were in the process of criminal prosecution during this reporting period. In OIG-I-136, we had previously referred a matter, and in OIG-I-74 we made a referral to the Public Integrity Section, Criminal Division, U.S. Department of Justice, consistent with the Inspector General's statutory responsibility under Section 4(d) of the Inspector General Act to "expeditiously report to the Attorney General whenever (there are) reasonable grounds to believe that there has been a violation of Federal criminal law."

In OIG-I-136, after investigation of a matter originally referred by the General Counsel, the OIG obtained a full admission of false claims and statements made against the United States by a professional employee assigned to a Regional Office. As a result of this investigation, the individual pleaded guilty to a violation of 18 USC 641 (embezzlement) in Federal Court, and is now awaiting sentence. The individual resigned from the Agency, and provided \$13,506.00 in restitution of stolen funds and \$3,000.00 in investigative costs to the Inspector General. Because of the cooperation provided by the defendant in this case, the Acting Inspector General made a recommendation to the Department of Justice for the application of the least drastic alternative available in prosecutorial discretion in charging and disposition in this matter. That recommendation was accepted. The subject pleaded guilty and is currently awaiting sentencing by the Federal Court.

In OIG-I-74, after investigation by the OIG, on a matter originally referred by the General Counsel, conducted in cooperation with the Inspector General of the Department of Labor, the OIG has referred to the Public Integrity Section, Criminal Division, for potential criminal prosecution under 18 USC 1001 and 1920 a case involving false statements to obtain benefits under the Federal Employee's Compensation Act by a professional employee assigned to a field office. This matter has also been referred to the United States Attorney in the jurisdiction for civil fraud enforcement under the False Claims Act to recover approximately \$186,000.00 received by the employee.

SECTION 4

**SUMMARY OF RESTITUTION MADE OR FINES PAID
AS A RESULT OF CIVIL OR CRIMINAL INVESTIGATIONS
AND/OR AUDITS
(NOT MANDATED BY THE ACT)**

Although not mandated by any provision of the Act, this section serves as a statistical summary of all amounts restituted or fines paid to the government as a result of investigations, both criminal and civil, or audits.

AMOUNTS RESTITUTED DURING REPORTING PERIOD

Audit Based Restitutions:

FY 1995: none

Investigation Based Restitutions and/or fines - Civil:

FY 1995: Initial forfeiture order of \$186,000.00; matter currently on appeal

Investigation Based Restitutions and/or fines - Criminal:

FY 1995: Restitution of Embezzled Funds - \$13,506.00¹
Restitution of OIG Investigative Costs - \$3,000.00²

¹ This is the largest amount received by the OIG in a single criminal case.

² This is the first time the OIG has secured the recovery of investigative costs.

SECTION 5

LIST OF EACH AUDIT REPORT ISSUED
(MANDATED BY SECTION 5(a)(6) OF THE ACT)

Dollar Value (in thousands of \$)

<u>REPORT TITLE AND NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>	<u>RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE</u>
Review of Overlapping Functions Between the Division of Operations- Management and the Division of Administration (OIG-AMR-18)	- 0 -	- 0 -	- 0 -

SECTION 6

SUMMARY OF EACH SIGNIFICANT AUDIT REPORT IN SECTION 6
(MANDATED BY SECTION 5 (a) (7) OF THE ACT)

"REVIEW OF OVERLAPPING FUNCTIONS BETWEEN THE DIVISION OF OPERATIONS-MANAGEMENT AND THE DIVISION OF ADMINISTRATION"
CASE NO. OIG-AMR-18

The General Counsel requested the Office of Inspector General (OIG) to ascertain whether an overlapping of administrative functions exist between the Division of Operations-Management (DOM) and the Division of Administration (DofA). DOM includes departmental staff in Headquarters and the Regional Offices. An overlapping function was defined as the performance of similar tasks by both DOM and DofA. Duplications would occur if the same tasks were repeated.

We concluded that DOM was performing some personnel related functions which overlap with the mission of the DofA. However we also concluded that although overlap was occurring, DOM and DofA were not duplicating each other's efforts. In addition to staffing positions and maintaining personnel records, the DOM was performing administrative functions in such areas as financial management and training. The OIG determined that the DOM was performing administrative functions in conformance with applicable laws and regulations. Our evaluation of management controls ascertained that the policies and procedures utilized by the DOM reasonably ensure that personnel actions are processed as intended. While we found some duplication of records, our overall assessment was that there was no material overlap with the DofA in areas other than personnel related areas including recruitment, hiring and promotions.

With respect to the Regional Offices, we noted that they have been delegated the appropriate authorities necessary to carry out personnel related tasks at the local level and much of what is done at the local level comes under the general supervision of the DOM departmental staff. Some officials both in DofA and DOM indicated that regional officials need more direct contact with individuals in the Personnel Branch who are considered experts in personnel management issues. Officials in the DofA cited erroneous vacancy announcements and delays in the processing of Requests for Personnel Action as consequences when offices outside of the Personnel Branch perform personnel related tasks. The DofA was unable to provide specific examples of such delays or errors.

The General Counsel relies on the DOM to ensure that Regional Directors, who act on behalf of the Board and General Counsel, adhere to Board and Office of the General Counsel (OGC) policies. In order to assure a consistent nationwide application of those policies, it is necessary to have Headquarters' management of the Regional Offices. While we find no duplication of management efforts, we have, as discussed in the Report, found some overlap.

There are two questions which we believe that the General Counsel should consider in assessing whether any identified overlap between DOM and DofA is warranted.

(1) Would consolidating personnel related functions under the DofA adversely affect the DOM's capacity to oversee the activities of the Regional Offices?

(2) Would a consolidation of personnel related functions under the DofA result in economies of effort since the Personnel Branch would then provide support directly to the Regional Offices? In regard to this second question, savings to be accrued would involve those instances when a DOM official needs to consult with the DofA prior to handling a personnel matter.

SECTION 7

**STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND TOTAL DOLLAR VALUE OF QUESTIONED AND UNSUPPORTED COSTS
(MANDATED BY SECTION 5 (a) (8) OF THE ACT)**

		<u>Dollar Value</u>	
	<u>NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	- 0 -	- 0 -
C. For which a management decision was made during the reporting period:			
(i) Disallowed costs	- 0 -	- 0 -	- 0 -
(ii) Costs not disallowed	- 0 -	- 0 -	- 0 -
D. For which no management decision has been made by the end of the reporting period	- 0 -	- 0 -	- 0 -

SECTION 8

**STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND DOLLAR VALUE OF RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE
(MANDATED BY SECTION 5 (a) (9) OF THE ACT)**

	<u>NUMBER</u>	<u>Dollar Value</u> <u>RECOMMENDATIONS THAT</u> <u>FUNDS BE PUT TO BETTER USE</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	0 -
C. For which a management decision was made during the reporting period:		
(i) Recommendations agreed to by management	- 0 -	- 0 -
(ii) Recommendations not agreed to by management	- 0 -	- 0 -
D. For which no management decision has been made by the end of the reporting period	- 0 -	- 0 -

APPENDIX A

**STRATEGIC PLAN
OFFICE OF INSPECTOR GENERAL
NATIONAL LABOR RELATIONS BOARD
FISCAL YEARS 1995 - 1999
(MANDATED BY A GAO REVIEW OF OIGs AT
DESIGNATED ENTITIES - NOV. 1993)**

I. AUDITS

One of the reasons the Inspector General Act was amended in 1988 (Pub. L. 100-504) was to provide an independent audit and investigative capability at 34 Designated Federal Entities including the National Labor Relations Board (NLRB). The mission of this Office of Inspector General (OIG) is to promote integrity, efficiency, and effectiveness at the NLRB by: (1) conducting audits and investigations in an independent manner and (2) objectively reporting to Agency officials and the Congress. We conduct audits that ascertain: the reliability of Agency assertions in its performance and financial reports; whether program goals are being achieved; if operations are conducted economically and in accordance with applicable laws and regulations; and whether resources are being safeguarded. We investigate allegations of fraud and abuse or other misconduct by NLRB employees and individuals who conduct business with the Agency.

The Agency's mission is to administer the principal labor relations law of the United States -- the National Labor Relations Act (NLRA) which is generally applied to all enterprises engaged in interstate commerce, including health care institutions and the United States Postal Service, but excluding other Governmental entities, railroads and airlines. The NLRA is intended to protect the public interest by helping to maintain peaceful relations among employers, labor organizations and employees by encouraging collective bargaining; and, by providing a forum for all parties to peacefully resolve representation and unfair labor practice issues.

RISK ASSESSMENT

During Fiscal Year 1993 remedial actions were taken regarding more than 11,000 cases of unfair labor practices which had been filed with the NLRB. As a result, over 4,000 employees were offered reinstatement. Over \$54 million in backpay and other reimbursements were recovered for more than 21,000 employees. Almost 22,000 charges of unfair labor practices were investigated and determined to lack merit and therefore dismissed by the Agency or withdrawn by the charging party. In Fiscal Year 1993, NLRB certified more than 3,600 elections in which over 223,000 employees were eligible to vote. During the next 5 years NLRB cases will effect actions that directly involve over one million workers and impact labor issues for many more. Our strategic plan is designed to ascertain whether the NLRB is fulfilling its mission in an effective and economical manner. During the next 5 years we will assess: management controls intended to

ensure the quality of casehandling; how well the functional areas are delivering support services to the program offices; and, the propriety of the Agency's process for reporting on its performance.

While formulating this strategic plan, we solicited the views of senior Agency officials, the Congressional committees which have an oversight interest in the NLRB, and OIG staff. In order to develop a strategic plan covering a 5-year period, the OIG identified the critical elements pertaining to program and functional areas at the NLRB. We utilized our audit universe to assess **the program and functional areas and ascertain those matters on which OIG resources will be focused**. Factors considered in determining audit priorities included requirements established by law or regulation, areas that appear susceptible to fraud or waste, dollar magnitude or impact of the activity on the Agency's mission, and the OIG's prior experience.

The NLRB's mission is primarily carried out in two ways: (1) by conducting secret ballot elections to determine if a group of employees wishes to be represented for collective bargaining purposes by a labor organization, and (2) by preventing and/or remedying unfair labor practices committed by employers and unions. Casehandling begins when an unfair labor practice charge or representation petition is filed with one of the NLRB's 52 Regional, Subregional or Resident Offices. In handling unfair labor practice cases, the NLRB is concerned with resolving labor disputes first by settlement and then, if necessary, through judicial proceedings. In order to handle cases and accomplish the NLRB's mission, program offices need support services in functional areas such as financial management, personnel matters, acquisition of goods and services, and information resources.

AUDIT STRATEGIES - PROGRAM AREAS

- ◆ The NLRB compiles statistics on the various stages of case processing and translates this data into performance information. Case processing relates to representation and unfair labor practice matters filed with the Agency. We will evaluate the: (1) information system(s) for collecting performance statistics; (2) process for translating statistics into performance data; and (3) Agency's use of the performance data in communicating its caseload and accomplishments. This evaluation may also provide useful information to the NLRB in relation to the Government Performance and Results Act of 1993. The Act requires, beginning with Fiscal Year 1999, that each agency head submit to the President and Congress a report on program performance for the fiscal year just ended. Under the Act, Federal managers must establish performance goals for agency programs and identify performance indicators which assess whether measurable goals were achieved. Program funding could be affected by an agency's implementation of the Act.
- ◆ Casehandling is the principal means by which the Agency accomplishes its mission. We will determine the effectiveness of management controls intended to ensure quality case work by evaluating the method(s) for: (1) establishing quality standards pertaining to casehandling; and (2) obtaining reasonable assurance that quality standards are being followed.

- ◆ Regional Offices receive unfair labor practice charges, investigate them, determine merit, and settle or prosecute those cases deemed meritorious. In some instances employees are awarded backpay or other reimbursements. During Fiscal Year 1993 over \$54 million in reimbursements to employees discriminated against in violation of their organizational rights was obtained by the NLRB from employers and unions. We will evaluate the controls over the computation and disposition of reimbursements.
- ◆ In some backpay cases, lump sum payments are remitted by employers or unions to NLRB's Finance Branch which handles distribution of the monies including tax calculations. If discriminatees cannot be located those monies are also remitted to the Finance Branch. We will evaluate the controls over the receipt, maintenance and disposition of those monies.
- ◆ Cases generally reach the headquarters Five-Member Board when parties contest decisions made by an NLRB Regional Director or an administrative law judge (ALJ). Cases involve either allegations of unfair labor practices by employers or unions; or disagreements about elections to determine whether employees wish to be represented by a union. The OIG will follow-up a review by GAO which reported that action was needed to improve case processing time at Headquarters.
- ◆ The NLRB is considering establishing time standards for ALJs to adjudicate cases. The Agency's Division of Judges may also take a more active role in conducting settlement negotiations with the parties to facilitate the expeditious resolution of unfair labor practice proceedings. We will assess the impact of these actions and whether the intended results are being achieved.

AUDIT STRATEGIES - FUNCTIONAL AREAS

- ◆ Assess the Agency's financial management function and ascertain whether it delivers accurate and timely data and if it provides stewardship over NLRB resources. Thus, we will determine if:
 - financial reports and statements were consistent and meaningful;
 - transactions were in conformance with appropriation law and processed in accordance with accounting principles;
 - there is accountability over property; and
 - internal controls are effective.

- ◆ Evaluate the effectiveness of NLRB's budgeting process. In doing so we will review budget:
 - planning;
 - formulation;
 - justification; and
 - allocation.

- ◆ Assess personnel practices for establishing employee responsibilities and appraising individual performances. Our review will also address:
 - performance measures;
 - awards; and
 - training.

- ◆ Evaluate whether controls over time and attendance practices are effective and are being implemented as intended. (Note: Time and attendance procedures are the primary controls over payroll costs which historically has represented about 77 percent of the expenses incurred by the NLRB.)

- ◆ Assess whether the acquisition function is meeting the Agency's needs in an effective and efficient manner. Separate evaluations will be conducted for goods versus services to assure that:
 - needs are clearly identified;
 - actions conform with laws and regulations;
 - purchases are competitively priced;
 - there is timely delivery and the acquired items were acceptable to user; and
 - there is property control.

- ◆ Determine if the NLRB's information resources function optimizes Agency effectiveness by providing employees with the tools needed to accomplish their duties. In doing so we will examine:
 - long range planning;
 - use of technology including research capabilities;
 - computer security; and
 - customer support.

OIG AUDIT RESOURCES

This Strategic Plan sets forth 13 audits which we believe substantially address areas in which the Agency must be effective if the NLRB is to accomplish its mission. We estimate 20 staff years will be needed to conduct the 13 audits over the 5-year period (4 FTE per year). A standard staff

year consists of about 1600 direct hours. We plan to expend about 50 percent of our direct audit resources on the program areas and 50 percent on the functional areas.

The OIG staff includes one supervisory and two staff auditors. Completion of this Strategic Plan within 5 years will necessitate that the audit staff devote all of its efforts to the 13 reviews previously identified. It is highly probable that, during the next 5 years, audit resources will be needed for projects other than the 13 reviews discussed in this Strategic Plan. In Fiscal Year 1995 the NLRB was appropriated about \$176 million including funding for a Full-Time Equivalent Employment (FTEE) of 2054. The NLRB's FTEE will be reduced to 1883 FTEE by the end of Fiscal Year 1999. Under these circumstances the Agency may not be able to allocate any additional positions to the OIG. Without additional personnel our Strategic Plan will require more than 5 years to complete. If successfully implemented this plan will: provide audit coverage to many of the most critical program and functional areas within the Agency; and, enable the OIG to assess many of the factors which could impede mission accomplishment by the NLRB.

PERFORMANCE MEASURES

- ◆ accomplishment of the OIG's Annual Audit Plan which identifies those reviews which are to be conducted each fiscal year
- ◆ results of the quality review -- performed every 3 years by an external entity -- which assesses the OIG's conformance with generally accepted government auditing standards
- ◆ audit recommendations accepted by the Agency and management's comments which are included in their entirety in each OIG report
- ◆ management's comments regarding the OIG's semiannual reports
- ◆ requests from management for services

STRATEGIC PLAN - INVESTIGATIONS

RESOURCE ANALYSIS

The investigative responsibility in the Office of Inspector General is assigned to the Inspector General and to the Counsel to the Inspector General. Criminal investigations are conducted by counsel.

RISK ANALYSIS

The NLRB has about 56 offices throughout the country and these offices and their staffs operate with a high degree of independence and autonomy from Washington. While the Agency itself is exceptionally well managed, this dispersion and independence of staff creates a somewhat greater potential for risk than what might be generally expected in a less dispersed organization.

ENVIRONMENTAL ANALYSIS

The Office of Inspector General at the NLRB has a high level of credibility and a reputation for independence. It is anticipated that this will continue, and that more staff and members of the public will continue to bring to the attention of the OIG areas of suspected improper activity. This is the re-active portion of the mission challenge. Other areas for potential investigation are less adaptive to being initiated by "hotline" or similar conduits and require pro-active efforts by the Inspector General and the proactive application of investigative and legal resources. One proactive method is to increase the visibility of the OIG. This heightened visibility will increase the effectiveness of OIG operations in an environment of limited resources by providing added deterrence to improper activities and by encouraging increased cooperation.

Recognizing that the staffing is not likely to increase, it is incumbent upon the OIG to utilize its existing investigative assets in a manner that will have the greatest impact possible upon accomplishment of workload and in assuring that the overall goals - prevention and detection of fraud, waste and abuse and increasing the economy and efficiency of the Agency - are attained within available resources. To paraphrase the National Performance Review - to do more and better - with less - and do it more quickly and in a "smarter" manner.

OBJECTIVES - STANDARDS & PERFORMANCE

The objectives identified to guide the investigative and legal functions over the long term - and the stated Standard and current Performance are:

◆ **OBJECTIVE:** **Provide timely responses to complaints brought to the OIG.**

⇒ **STANDARD:** *Immediate Screening and Initial Case Disposition*

⇒ **PERFORMANCE:** *In all cases brought to the attention of the Inspector General, a full screening was accomplished, and, where appropriate, a full case was opened at once.*

◆ **OBJECTIVE:** Increase proactive identification of potential areas of abuse to assure early and effective interdiction.

⇒ **STANDARD:** *Minimum of One Pro-Active Area Active at All Times.*

⇒ **PERFORMANCE:** *The Acting Inspector General identified the Agency handling of claims under the Federal Employees Compensation Act as a proactive area of investigative program review, resulting in substantial progress by the Agency during the reporting period. The area of travel funds has been selected for the next proactive investigative review,*

◆ **OBJECTIVE:** Utilize available resources from other agencies either with concurrent jurisdiction or under "investigative assistance projects" such as envisioned by the Executive Committee on Integrity and Efficiency.

⇒ **STANDARD:** *10% of cases worked on a joint or assisted basis.*

⇒ **PERFORMANCE:** *In excess of 20% of open cases are being worked on a joint or assisted basis.*

◆ **OBJECTIVE:** Adopt enhanced investigative models to allow for expedited handling of investigations, while increasing quality outputs consistent with Department of Justice and Merit System Protection Board standards for referral where appropriate.

⇒ **STANDARD:** *All open cases under active investigation, with referral as appropriate.*

⇒ **PERFORMANCE:** *All open cases are under expedited case handling, with two criminal and one administrative referral during the reporting period.*

◆ **OBJECTIVE:** Place emphasis on conducting those investigations which will produce the greatest impact upon the effectiveness of Agency operations while continuing to develop quality criminal cases and administrative cases.

⇒ **STANDARD:** *A case is to be opened on each matter that will seriously effect operations.*

⇒ **PERFORMANCE:** *A case has been opened on every matter of significance that has been brought to the attention of the Inspector General, without creating a case backlog. Quality referrals continue to be made both to the Department of Justice and to the Agency.*

◆ **OBJECTIVE:** Enhance relationships with Agency officials to assure a cooperative effort wherever possible, and to provide accelerated release of investigations to allow the Agency to pursue appropriate administrative actions on a timely basis.

⇒ **STANDARD:** *Level of Customer Satisfaction.*

⇒ **PERFORMANCE:** *OIG has continued to work to build and maintain positive working relationships with Agency officials, resulting in enhanced level of joint projects. Administrative referrals have been made on a timely basis. No negative feedback has been received on investigative operations or reviews from the Agency.*

◆ **OBJECTIVE:** Maintain a high level of technical training and proficiency for staff to assure maximization of limited human resources.

⇒ **STANDARD:** *Level of Training Completed*

⇒ **PERFORMANCE:** *During the reporting period, the counsel/investigator continued training provided from a number of sources including the PCIE/ECIE, FLETC, the Department of Justice, Office of Personnel Management and others.*

◆ **OBJECTIVE:** Develop a high level of exposure within the Agency, the labor relations and Inspector General communities," both to develop confidence in among our "customers" the Inspector General's ability to recognize and respond to problems, and to assure a positive environment to implement recommendations.

⇒ **STANDARD:** *Level of Involvement*

⇒ **PERFORMANCE:** *Counsel maintains membership in the labor relations area of the Federal and American Bar Associations. Continuing association in activities of the Council of Counsels to Inspectors General, the PCIE/ECIE, the Federal Investigators Association, the Liaison Officers Association, the Association of Certified Fraud Investigators. Extensive outreach is made to all areas of the Agency. The counsel attended the National Ethic's Conference with the Designated Agency Ethics Officer, and worked on joint activities with Regions and several branches of the headquarters. The Acting Inspector General is active within the American Bar Association as a neutral co-chairman of one of the labor section committees and within the Association of Labor Relation Agencies as Vice President for Professional Development.*

- ◆ **OBJECTIVE:** **Protection of Whistleblowers and cooperating witnesses.**
- ⇒ **STANDARD:** *Level of Complaints and Positive Adjudication.*
- ⇒ **PERFORMANCE:** *No complaints were brought to the attention of the Inspector General during the reporting period.*

- ◆ **OBJECTIVE:** **Maximize the dollar return to the Agency aspect of OIG Operations.**
- ⇒ **STANDARD:** *Recovery of restitution and costs in all possible cases.*
- ⇒ **PERFORMANCE:** *The largest single recovery by the NLRB OIG, \$13,506.00, was made during the reporting period in an embezzlement case. The first recovery of investigative expenses by the OIG of \$3,000. was made in the same case. An initial forfeiture order by the Department of Labor of \$186,000. against an employee was made as a result of an investigation by the OIG.*

- ◆ **OBJECTIVE:** **Utilize OIG Program Review, Evaluation and Feedback to enhance existing operations.**
- ⇒ **STANDARD:** *Review and Update Investigative Strategic Plan.*
- ⇒ **PERFORMANCE:** *As a result of a continuing review of investigative operations and the strategic plan for investigations, this plan was fully re-worked, introducing strong performance measures and new objectives, during the past year.*

IMPLEMENTATION

Implementation of this Plan began a year ago. The Acting Inspector General required a thorough analysis of current assets and OIG obligations. To better coordinate the investigative and legal efforts, the open investigative caseload was assigned to Counsel to the Inspector General.

All open (and some closed) cases were analyzed to provide a substantial base to identify both potential challenges and means of enhancing available assets. A review was conducted of each open case to determine additional work required to complete, what cases could be "moved" in a manner similar to that of litigation - multiple cases in "flow" on a simultaneous basis, rather than categorized primarily by priority. As a result the investigative backlog was eliminated, and the caseload reduced from fifty at the start of the strategic planning process to a dozen at this time.

Enhanced communications were developed both with the Chairman, the General Counsel and with the Designated Agency Ethics Official. As a direct result of the case review and the enhanced communications, the OIG was able to update quickly a number of files that were open because

they awaited input from the Agency. An additional number of cases were reviewed and it was determined that the allegations made, even if proven, were either not within the purview of the Inspector General or were so de minimis as not to warrant expenditure of assets. This further reduced the existing caseload.

The Agency and staff continue to be the source of information to open new investigations and provide cooperation in successfully completing other investigations. On cases referred to the OIG by the Agency for possible criminal action, thorough review by the OIG and the Department of Justice were accomplished with a one week turn-around, thus enabling the Agency to move forward expeditiously where, in the absence of DOJ action, there is a critical need for administrative action.

Consistent with the National Performance Review and this plan, the OIG provided technical assistance on Agency conducted investigation, and is working jointly on the review of another area with the Agency, developed from an OIG investigation. Two joint investigations are being conducted with the Inspector General, of the Department of Labor.

In analyzing potential risk areas, the Acting Inspector General identified the Federal Worker's Compensation Act Program (with an Agency chargeback of \$500,000 per fiscal year) as a potentially high risk area. Consistent with the strategic plan, a joint operating relationship has been developed with the Agency and the OIG of the Department of Labor. All current claims against the Agency are being reviewed and cases selected for further follow-up where the review indicates that investigation is warranted. Based upon recommendations of the OIG, the Agency is updating its operations in the area.

The Acting Inspector General has placed emphasis upon staff training opportunities beyond those previously available, and focused upon actual increases in economy and efficiency as the result of investigations, as well as modifications to this plan where appropriate

MAJOR BENCHMARKS

- ◇ An enhanced investigative model has been employed so that the all investigations open are operating in a "flow" towards completion and any new investigations can be initiated immediately.
- ◇ As a result of the ongoing fiscal status in the federal government, the OIG has re-directed its efforts in the recovery of funds for the Agency as a major priority in appropriate cases.
- ◇ As a result of our continuing review of operations and the strategic plan, the OIG has updated the plan to include both direct performance standards and results during the reporting period.

HELP ELIMINATE

WASTE

FRAUD

ABUSE

AT THE NATIONAL LABOR RELATIONS BOARD



PLEASE NOTIFY THE OFFICE OF INSPECTOR GENERAL (OIG) IF YOU ARE AWARE OF OR SUSPECT ANY SUCH ACTIVITY. YOU MAY CONTACT THE OIG IN ONE OF SEVERAL WAYS: (1) IN WRITING OR IN PERSON - OFFICE OF INSPECTOR GENERAL, 1099 14th Street, NW, ROOM 9820, WASHINGTON, DC 20570; (2) BY TELEPHONE - DURING NORMAL BUSINESS HOURS, CALL (202) 273 1960; 24 HOURS A DAY, USE THE NATIONAL TOLL FREE HOTLINE AT 1 800 736 2983 (SEE IG MEMORANDUM DATED MAY 15, 1992). THE HOTLINE IS A SECURE LINE AND CAN ONLY BE ACCESSED BY THE OIG STAFF FROM INSIDE THE OIG OFFICE. THE DEVICE WHICH WOULD PERMIT ANYONE, INCLUDING THE OIG STAFF, TO ACCESS THE HOTLINE FROM OUTSIDE THE OIG HAS BEEN DEACTIVATED SO IT CAN ONLY BE ACCESSED BY MEMBERS OF THE OIG STAFF FROM INSIDE THE OFFICE.

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