

*Office of Inspector General*

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**SEMIANNUAL**

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**REPORT**

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**TO THE**

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**CONGRESS**

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**Covering APRIL 1, 1996 - SEPTEMBER 30, 1996**

*Fourteenth Semiannual Report*

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

Washington, DC 20570-0001

October 29, 1996

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:

This is the fourteenth 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, 1996 through September 30, 1996.

The accomplishments appearing in this report are attributable to the dedicated service of former Acting Inspector General John Higgins and his leadership of the staff, all of whom I have found to be highly competent.

The OIG is presently experiencing a heavy caseload with 28 open investigative cases and 2 audits/reviews underway with 2 more to commence within the new fiscal year; in addition there undoubtedly will be unexpected audits/reviews necessitated by unforeseen events. As with the rest of the Agency, our resources to act in a timely fashion will require special efforts and innovations.

As soon as time permits, I intend to institute a program of IG "preventive medicine." In my opinion, it is a far more effective implementation of the IG Act to prevent, through an active educational/informative program, the commission of offenses rather than to have serious problems develop. Of course, no such program will be a hundred percent effective, but I have confidence that it will be significantly productive. In any event, it is worth the effort.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert E. Allen".

Robert E. Allen  
Acting Inspector General

## FOREWORD

The National Labor Relations Board (Agency or NLRB), which employs over 1,900 employees and, for Fiscal Year 1997, has funding of \$175,000,000, 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. The provisions of the National Labor Relations Act are generally applied to all enterprises engaged in, or to activities affecting, interstate commerce, including the United States Postal Service, but excluding other Governmental entities, as well as the railroad and airline industries. The Agency protects the public interest: (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.	None
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.	3
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.	5
Section 5(a)(7)	Summary of Each Significant Report.	6
Section 5(a)(8)	Statistical Table on Management Decisions on Questioned Costs.	8
Section 5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use.	9
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 this reporting period, the OIG issued two audit reports one of which related to the Agency's Process for Measuring and Reporting on its Performance. The other report pertained to the Employee Appraisal Process at the NLRB. The results of these audits are described at Section 5 of this SAR.*

**We initiated one audit during this reporting period: "Financial Audit of the NLRB's Fiscal Year 1996 Appropriation." The objectives of this audit are to determine if:**

- financial reports and statements were accurate and in accordance with appropriate accounting principles;
- transactions were in conformance with applicable laws and regulations, including those pertaining to procurement, travel, and personnel;
- there is Agency accountability over assets; and
- internal controls, including time and attendance procedures, are effective.

**We also initiated a review of the Agency's computer maintenance contract for Fiscal Year 1996.**

The OIG was provided documentary materials which asserted that the Agency paid a contractor for services which were not performed satisfactorily or were not performed at all. Our review will ascertain whether the National Labor Relations Board received the services specified in the contract and if these services were performed at an acceptable level.

**The audit section of our OIG underwent an external quality control review during this reporting period. This review, which was conducted by an organization not affiliated with the NLRB, determined that our OIG was following the auditing standards prescribed by the General Accounting Office.**

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

- ◆ Eighteen cases were opened and continue under active investigation.
- ◆ Five cases were opened and investigated to closure.
- ◆ Six cases previously opened were investigated to closure during this reporting period.

- ◆ One case was referred to the Public Integrity Section, Criminal Division, Department of Justice for criminal prosecution.
- ◆ Several other cases were referred to various United States Attorneys.
- ◆ Several joint investigations with the FBI and other law enforcement agencies were initiated.
- ◆ A formal demand for payment was made by a U.S. Attorney for over a half-million dollars in an OIG False Claims Act case.
- ◆ Three joint investigations were initiated with state bar agencies.
- ◆ A joint review of Federal Employees' Compensation Act claims continued to be conducted by the Agency and OIG, resulting in improvement in the Agency's administration of the program.
- ◆ A joint review of government vehicles and paid parking spaces continued in a cooperative effort by the OIG and the Agency.
- ◆ Nineteen "HOTLINE" calls were received and screened. A large number of these calls related to Agency operations and appropriate followup and referrals were made.
- ◆ Several investigative subpoenas were issued and successfully enforced by the Inspector General.

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

- ◆ 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 cooperative effort with the Director of Administration continues and has already produced additional improvements in Agency case handling, cost tracking and supervisory staff training in the administration of the Federal Employees' Compensation Act.
- ◆ Ten cases previously initiated remain open and under active investigation by the OIG.
- ◆ Eighteen new cases are under active investigation by the OIG.
- ◆ Over 50% of open cases are being investigated on a joint basis with other investigative agencies.

## 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)

#### INVESTIGATIONS

The following investigations were completed during this reporting period:

##### Abuse of Parking Spaces

An OIG Investigation Disclosed That . Regional Office Senior Management officials were utilizing government paid parking spaces.

Action Taken ... After corrective action was taken by the General Counsel, the Inspector General requested that a cooperative review be conducted to determine if additional savings were available in other regions. During the course of this review, the IG received additional complaints on abuse of parking spaces, and corrective action was taken on each by the General Counsel. As a result of the review of parking spaces, a concurrent review began on the utilization of vehicles leased from GSA.

The results of the parking review was a total of \$22,273.00 in federal funds being made available for better uses. The GSA vehicle study resulted in \$101,184.00 being available for better uses.

##### Conflict of Interest

An OIG Investigation Disclosed That . a former employee had not engaged in a conflict of interest or utilized confidential information.

Action Taken . After conducting an investigation, it was determined that there was no evidence to support an allegation that a former NLRB field examiner had utilized confidential information nor committed a conflict of interest violation as a result of activities in the employ of a union, after the employee had left the Agency.

##### Improper Use of Agency Resources

An OIG Investigation Disclosed That . there was no basis upon which to conclude that a senior agency official was misusing Agency resources.



**Action Taken**. Following the receipt of an allegation that a senior agency official was misusing agency resources and mail for personal purposes, an investigation was conducted which found no basis to support the allegation.

#### **Allegation of Criminal Conspiracy by Regional Office**

**An OIG Investigation Disclosed That**. there was no basis upon which to conclude that a Regional Office had been involved in a criminal conspiracy.

**Action Taken**. As a result of the receipt of a complaint of a criminal conspiracy in a case by a Regional Office, an investigation was conducted into the matter, including a full review of Agency files. The essence of the allegations of criminal conspiracy involved provision of false evidence, and conspiracy to defraud. This investigation found no basis for the allegations.

#### **Allegation of Conflict of Interest by Supervisory Field Attorney**

**An OIG Investigation Disclosed That**. there was no basis to conclude that a supervisory field attorney had accepted gifts or been in an improper relationship with an outside attorney.

**Action Taken**. Upon receipt of an allegation that a supervisory field attorney had been involved in a relationship which would constitute a conflict of interest and had accepted gifts and gratuities, an investigation was conducted. The investigation found no basis for the allegations.

#### **Alleged Theft of Government Property**

**An OIG Investigation Disclosed That**. an allegation that Agency employees had engaged in the theft of government equipment was not justified.

**Action Taken**. Upon receiving a complaint that Agency employees had stolen equipment consigned to a GSA disposal sale, an investigation was conducted. The investigation concluded that there was no basis to conclude that Agency employees had engaged in theft. Rather, the property was inadvertently included in a sale of other surplus properties. Recommendation was made to the Director of the Division of Administration to improve internal property controls.

#### **AUDITS**

##### **“Review of the Agency’s Process for Measuring and Reporting on its Performance”**

**Case No. OIG-AMR-16**

##### **“Review of Employee Appraisal Process”**

**Case No. OIG-AMR-19**

See Section 5 of this SAR for a summary statement regarding the results of these audit reports.

## SECTION 2

### 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:

A multiple case referral was made to the Department of Justice on violations of 18 U.S.C. 201, 203 and 209.

A companion case to a matter previously referred to the Department of Justice was developed on violations of 18 U.S.C. 208, 287, 641 and 1001.

A case previously referred to the Inspector General for investigation by a U.S. Attorney was declined for prosecution upon review of the investigation and recommendation of the Inspector General. This case involved allegations against a former Field Examiner for the Agency who, after leaving, had gone to work for a union. It was alleged that the agent had used confidential information and otherwise engaged in a conflict of interest.

**SECTION 3**

**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:**

None

**Investigation Based Restitutions and/or fines - Civil:**

FY 1995: Initial forfeiture order of \$186,000; matter currently on appeal.

FY 1996: In the same case, a formal demand for payment of \$542,000 was made by a United States Attorney under the False Claims Act.

**SECTION 4**

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

Dollar Value (in thousands of \$)

<b><u>REPORT TITLE AND NUMBER</u></b>	<b><u>QUESTIONED COSTS</u></b>	<b><u>UNSUPPORTED COSTS</u></b>	<b><u>RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE</u></b>
Review of the Agency's Process for Measuring and Reporting on its Performance (OIG-AMR-16)	- 0 -	- 0 -	- 0 -
Review of the Employee Appraisal Process (OIG-AMR-19)	- 0 -	- 0 -	- 0 -

## SECTION 5

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

#### “REVIEW OF THE AGENCY’S PROCESS FOR MEASURING AND REPORTING ON ITS PERFORMANCE”

CASE NO. OIG-AMR-16

This audit assessed the Agency’s collection and processing of casehandling data that is used for measuring and reporting on the performance of the NLRB. Casehandling data relates directly to the NLRB’s mission which is to (1) prevent and remedy unfair labor practices by employers or unions and (2) conduct elections to determine whether or not employees wish to be represented by a union. Our audit scope was Fiscal Years 1990 through 1994. The audit also reviewed the Agency’s progress in implementing the Government Performance and Results Act (GPRA) which requires, beginning with Fiscal Year 1999, that each agency submit to the President and to the Congress a report on program performance for the most recent fiscal year. The GPRA requires that agencies establish performance goals as well as the indicators which will be used to assess “relevant outputs, service levels, and outcomes of each program activity.”

The NLRB has a 36 year history of using performance data to manage workload, to evaluate employees, and to report on Agency operations. Time objectives usually in the form of medians have been established for various stages of casehandling and performance is measured by the amount of time it takes an office or the Agency to complete particular stages. The objectives are based on the time it is expected to process the particular function in a typical or average case. Some of the time factors include complaint processing and issuing election decisions. In addition to time measurement, the Agency also measures certain program activities such as the percentage of cases settled and litigation success. Performance information appears in the NLRB Annual Report, the General Counsel’s Summary of Operations, and in budget documents sent to the Office of Management and Budget and to the Congress. NLRB’s performance data is based on outputs e.g., number of cases closed, service levels e.g., time to process cases at various stages, and on outcomes e.g., number of employees offered reinstatement or the amount of backpay awarded discriminatees.

The OIG assessed manual and electronic systems used to collect and compile performance data. Our audit ascertained that effective controls were in place and functioning as management intended. We tested the casehandling database and determined that the Agency was accurately reporting on its performance. 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. The OIG had five observations regarding performance management at the NLRB. These observations relate to issues which the Agency may want to consider during the implementation

of the GPRA including the adoption of a unified approach which would meet the annual reporting requirements of the GPRA, budget formulation and the National Labor Relations Act.

**“REVIEW OF EMPLOYEE APPRAISAL PROCESS”**  
**CASE NO. OIG-AMR-19**

Forty managerial positions at the NLRB were randomly selected for review using a system that assured a broad representation in the audit sample. We interviewed these employees and examined their performance plans, position descriptions, mission statements, and appraisals.

This review determined that individual performance plans: accurately stated the tasks being performed by Agency employees; and, set forth specific duties and responsibilities which reflected the mission of employees' offices. Appraisal systems covering positions at the NLRB had been established and employees were being evaluated against the criteria set forth in their individual performance plans. Incentive and performance awards paid to employees were administered in accordance with applicable regulations. The Agency's Performance Management Plans/Systems included the appropriate elements as set forth in Title 5 U.S.C. Procedures were in place to ensure that performance plans were developed for employees when they entered on duty, received temporary or permanent promotions, or were reassigned or detailed to another position. This report included two recommendations which management has implemented.

SECTION 6

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 -
<b>Subtotal (A + B)</b>	- 0 -	- 0 -	- 0 -
C. Reports 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. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -	- 0 -

SECTION 7

**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 -
<b>Subtotal (A + B)</b>	- 0 -	- 0 -
C. Reports 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. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -



***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.**

**REMEMBER - THE OIG HOTLINE IS OPEN 24 HOURS A DAY, 7 DAYS A WEEK.**

***YOUR CALL OR LETTER MAY BE MADE ANONYMOUSLY***

***IF YOU WISH***