

*NATIONAL
LABOR
RELATIONS
BOARD*

SEMIANNUAL REPORT

For the Period

October 1, 1992 through March 31, 1993



Office of Inspector General

Seventh Semiannual Report



United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE INSPECTOR GENERAL

Washington, DC 20570-0001

April 30, 1993

Honorable James M. Stephens, Chairman
National Labor Relations Board
1717 Pennsylvania Avenue, NW
Washington, DC 20570

Honorable Jerry M. Hunter, General Counsel
National Labor Relations Board
1717 Pennsylvania Avenue, NW
Washington, DC 20570

Dear Chairman Stephens and General Counsel Hunter:

I am pleased to provide each of you with two copies of the Semiannual Report on the activities of the Office of Inspector General (OIG) for the period October 1, 1992 through March 31, 1993. This is the seventh Semiannual Report to issue since the creation of the OIG.

During this reporting period, we issued three Audit Reports: (1) "A Review of the National Labor Relations Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act," (2) "A Review of the National Labor Relations Board's Compliance with Section 4 of the the Federal Managers' Financial Integrity Act," and (3) "A Review of the National Labor Relations Board's Management Controls Over Advisory and Assistance Type Contracts." We have also commenced working on three other audits dealing with budget formulation, the Agency's controls over capitalized property and the Agency's program for responding to allegations it receives which could result in criminal or administrative action against Agency employees.

In addition, we have continued to investigate those matters which are brought to our attention, as well as those which are self-initiated. Unfortunately, the lack of adequate staffing, coupled with case filings over which we have little, if any, control, has caused the backlog of investigations to almost quadruple between Fiscal Year 1990 and the mid-point of Fiscal Year 1993. This has had the result of some investigations being commenced, only to be stopped when a matter which we deem to have a higher priority arises.

I have remained active in the Executive Council on Integrity and Efficiency (ECIE), created by Presidential Executive Order. In addition, I have continued to chair the monthly

Chairman Stephens/General Counsel Hunter
April 30, 1993
Page 2

meetings of the Law Enforcement Committee of the ECIE which explores issues law enforcement agencies, such as ours, have in common; and, as chair of the third annual conference of ECIE Inspectors General, have commenced the planning for the conference to be held June 2 through 4, 1993.

This will also serve as a reminder that, pursuant to Section 5 (b) of the Inspector General Act of 1978, as amended, this report "shall be transmitted by (the head of the establishment) to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment"

With your continuing cooperation, my staff and I look forward to contributing, in whatever way we can, to the integrity, efficiency and effectiveness of the Agency's operations and programs.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bernard Levine".

Bernard Levine
Inspector General

SEMIANNUAL REPORT
OF THE
OFFICE OF INSPECTOR GENERAL
NATIONAL LABOR RELATIONS BOARD
FOR THE PERIOD
OCTOBER 1, 1992 THROUGH MARCH 31, 1993

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FOREWORD

This Semiannual Report is the seventh issued by the Office of Inspector General (OIG) since the appointment of the Inspector General (IG).¹

The National Labor Relations Board (Agency or NLRB), which employs about 2,100 employees and, for Fiscal Year 1993, has an annual budget of approximately \$170,000,000, 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). Upon the filing of a petition in a representation matter or an unfair labor practice charge, the provisions of the NLRA are generally applied to all enterprises engaged in, or in 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 peacefully resolve representation and unfair labor practice issues. This function 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.

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, 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.

Prior to the creation of the OIG under the Inspector General Act of 1978, as amended, (the Act), the Agency had a Security and Audit Branch under the Division of Administration. The audit function of that Branch is now contained within the

¹ The initial Semiannual Report issued prior to the advent of the IG.

OIG. The OIG Table of Organization provides for an IG; a Supervisory Auditor; three Auditors; a Staff Assistant; and, a Counsel to the IG who also assists the IG in conducting investigations.

During this reporting period, the OIG continued to perform priority audits contained in its audit universe, and has continued to investigate those complaints which have been brought to its attention, as well as those matters which have been self-initiated.

INSPECTOR GENERAL SUMMARY

During the current reporting period, the OIG issued three audit reports:

- o - "A Review of the National Labor Relation Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act,"
- o - "A Review of the National Labor Relation Board's Compliance with Section 4 of the Federal Managers' Financial Integrity Act," and,
- o - "A Review of the National Labor Relation Board's Management Controls Over Advisory and Assistance Type Contracts."

Included among the audit findings were:

- o - the NLRB needs to more fully integrate its FMFIA process within Agency components outside the Division of Administration;
- o - the Division of Operations-Management assessable unit did not: (1) identify all major functions within the Division of Operations-Management, or (2) provide the Division managers of more than 1400 employees a role in the Federal Managers' Financial Integrity Act (FMFIA) process;
- o - the Division of Enforcement Litigation was identified as constituting one assessable unit even though it has five branches, each with a unique mission;
- o - assessable units were not evaluated or were not evaluated in a timely manner;
- o - most managers with FMFIA responsibilities were not evaluated on their performance in regard to internal control functions under their supervision as required by OMB guidelines;
- o - risk assessments relating to NLRB components/functions were not supported by adequate documentation which reduced the credibility of the achieved results;
- o - managers of assessable units outside the Division of Administration were not required to prepare an assurance letter regarding their systems of internal control;
- o - the Agency's Financial Management Information Accounting System (FMFIAS) interfaces with four other

financial systems as defined by the Agency. There was no adequate documentation setting forth the nature and extent to which FMIAS interfaces with three of the Agency's four sub-systems;

- o - prior to Fiscal Year 1993 the NLRB's financial systems had not been reviewed in detail by the Agency official with FMFIA responsibility for that system;
- o - centralized control over the use of advisory and assistance services had not been established within the NLRB;
- o - a management official at the appropriate level had not been designated to assure compliance with the applicable laws and regulations;
- o - advisory and assistance services were procured and paid for without any evidence that the contractor's performance had been monitored and evaluated by Agency personnel;
- o - services were procured without the required level of approval, and, in some instances, the official authorizing the action had also been the requester of the services;
- o - some services were acquired without a written determination setting forth the Agency's need for advisory and assistance services;
- o - procurements were not correctly identified and therefore not properly reported to the Federal Procurement Data Center which maintains a system to measure and assess the impact of federal purchases; and,
- o - a financial consultant performed operating functions and supervised Agency personnel, both of which are prohibited.

We commenced three other audits during this reporting period, one concerning the budget formulation process, another the Agency's controls over capitalized property, and the third the Agency's program for responding to allegations it receives which could result in criminal or administrative action against Agency employees.

In addition, during the current reporting period, the OIG:

- - referred one matter to a United States Attorney for prosecutive consideration;

- - referred two matters to the Office of Special Counsel for action or guidance;
- - initiated 11 investigations, 9 of which remain pending in the OIG in the investigative stage (the OIG has a total investigative backlog, as of the end of the reporting period, of 31 cases);
- - completed 7 investigations which were referred to the Chairman and/or General Counsel for administrative action, 5 of which are still pending in a referred status;
- - referred no matters to the General Counsel which were purely programmatic in nature;
- - maintained in a pending status the 1 matter referred to the General Counsel's Office of Equal Employment Opportunity during the October 1, 1989 through March 31, 1990 reporting period;
- - maintained in a pending status 3 of the recommendations and/or suggestions made during the reporting period April 1 through September 30, 1991;
- - maintained in a pending status 31 of the recommendations and/or suggestions made during the reporting period April 1, 1992 through September 30, 1992; and,
- - maintained in a pending status 26 of the recommendations and/or suggestions made during the reporting period October 1, 1992 through March 31, 1993.

A summary of the matters pending before the OIG at the end of the reporting period is as follows:

- - 3 audits in progress;
- - 31 investigations in progress; ²
- - 1 matter referred to the General Counsel's Office of Equal Employment Opportunity;
- - 11 matters referred for administrative action, of which:

² The chart on page vii depicts the backlog of investigations in the OIG.

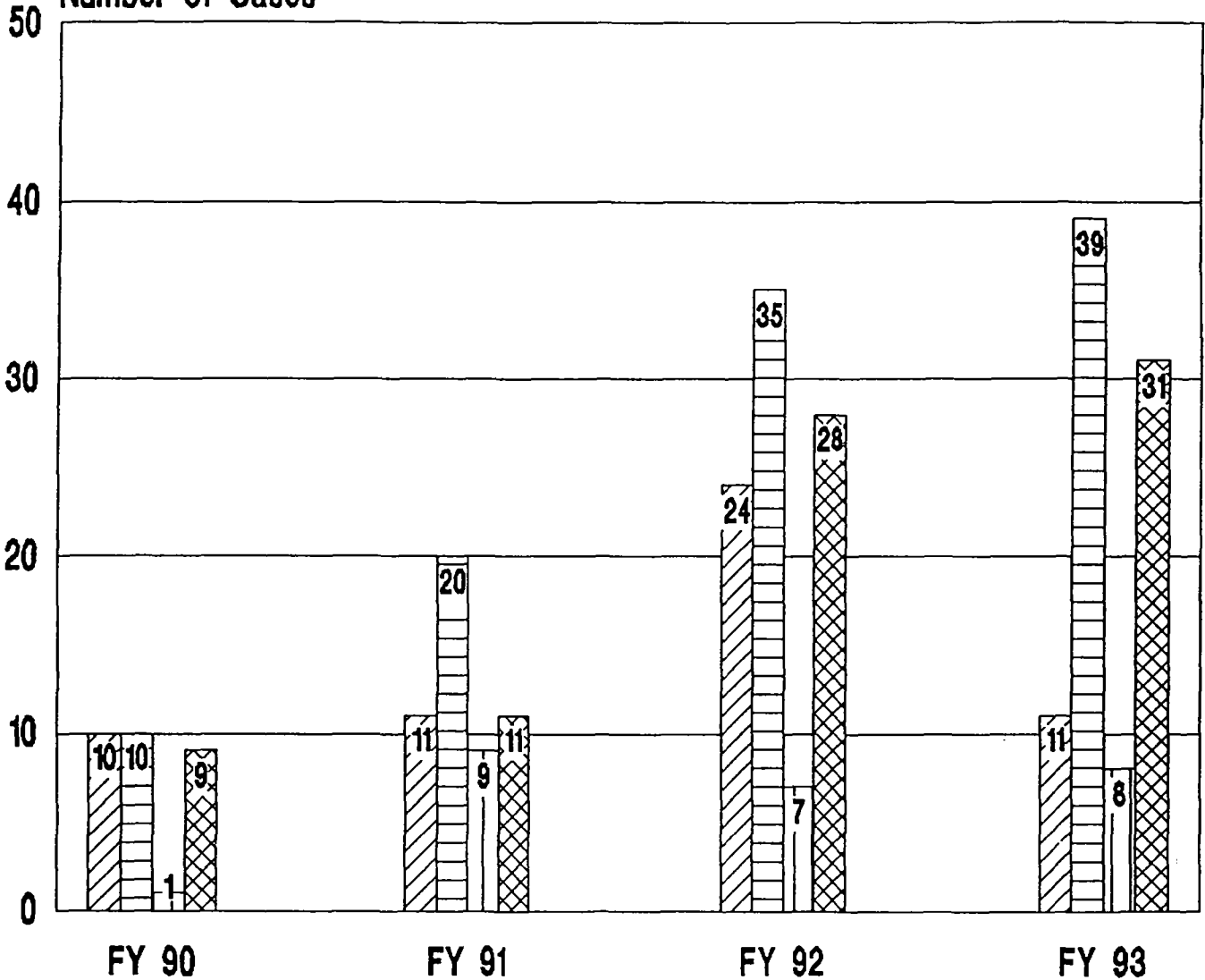
- o - 4 were referred to the General Counsel during this reporting period;
- o - 1 was referred to both the Chairman and General Counsel during this reporting period;
- o - 1 was referred to the Chairman during the April 1, 1992 - September 30, 1992 reporting period;
- o - 3 were referred to the General Counsel during the April 1, 1992 - September 30, 1992 reporting period;
- o - 1 was referred to both the Chairman and General Counsel during the October 1, 1991 - March 31, 1992 reporting period; and,
- o - 1 was referred to the General Counsel during the April 1, 1991 - September 30, 1991 reporting period; and,
- - 58 recommendations and/or suggestions pending action by the Chairman and/or General Counsel, 26 of which were made during the reporting period and 34 of which were made during prior reporting periods.

**OFFICE OF INSPECTOR GENERAL INVESTIGATIVE BACKLOG 1/
EXCLUSIVE OF PURELY PROGRAMMATIC REFERRALS TO GENERAL COUNSEL**

By Fiscal Year

From November 7, 1989 through March 31, 1993

Number of Cases



OPENED	OPENED PLUS PREVIOUS PENDING
CLOSED	PENDING

1/ Backlog includes investigative matters referred for administrative action, but not yet acted upon.

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

"A Review of the National Labor Relations Board's Management Controls Over Advisory and Assistance Type Contracts"

For a summary statement regarding the results of this Audit Report see Section 7, "Summary of Each Significant Audit Report in Section 6, (Mandated by Section 5 (a) (7) of the Act)" at page 26 of this Semiannual Report.

"A Review of the National Labor Relations Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act"

For a summary statement regarding the results of this Audit Report see Section 7, "Summary of Each Significant Audit Report in Section 6, (Mandated by Section 5 (a) (7) of the Act)" at page 31 of this Semiannual Report.

"A Review of the National Labor Relations Board's Compliance with Section 4 of the Federal Managers' Financial Integrity Act"

For a summary statement regarding the results of this Audit Report see Section 7, "Summary of Each Significant Audit Report in Section 6, (Mandated by Section 5 (a) (7) of the Act)" at page 36 of this Semiannual Report.

INVESTIGATIONS

A. Frequent Flyer Mileage Accumulated
by Means of Official Travel

Governmentwide Rules and Regulations and Internal Agency Regulations

Prior to 1992, Title 12 NLRB Administrative Policies and Procedures Manual (APPM) Section 6130.3, provided, among other things:

. . . Any and all material (coupons, cash, merchandise, etc.) received by personnel while on official travel becomes the property of the U.S. Government Similarly, all such

material received by field personnel on official travel should be turned in to the Office manager for submission to the Finance Branch, Travel Unit.

AB 84-13, dated December 19, 1983, and AB 88-44, dated August 29, 1988, were to the same effect and served as reminders of the provisions of Title 12 APPM.

In 1992, the Agency issued an Administrative Bulletin saying that Title 12 of the APPM would no longer be followed and, instead, the Agency would be guided by the provisions of 41 Code of Federal Regulations (CFR).

The pertinent provisions of 41 CFR provide:

Section 101-25.103-2(a)

All promotional materials . . . received by employees in conjunction with official travel and based on the purchase of . . . other services (e.g. car rental) are properly considered to be due the Government and may not be retained by the employee.

Section 301-1.103(b)

. . . All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, and credits toward future free or reduced costs of services or goods) received by employees in connection with official travel or incident to the purchase of a ticket for official travel, or other services such as car rentals, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official. The government regulations regarding agency disposition of promotional material received by Federal employees are prescribed by the Administrator of General Services in 41 CFR 101-25.103. (See paragraph (f) of this section for redemption of frequent traveler benefits.)

Section 301-1.103(f)

Frequent traveler programs. (1) Frequent traveler benefits earned in connection with official travel, such as mileage credits, points, etc., may be used only for official travel. Employees may not retain and use such benefits for personal travel. Since the Comptroller General has ruled that a frequent traveler

benefit is the property of the Government if any part of it is earned through official travel, employees should maintain separate frequent traveler accounts for official and personal travel. (Emphasis added.)

Comptroller General Opinions

In Matter of John D. McLaurin, B-212236, 63 Comp. Gen. 233 (1984), an employee, through the United Mileage Plus program, received two free first-class round-trip tickets and four free nights at a hotel, bonuses which were awarded as a result of both official and personal travel. It was held that the employee had to reimburse the government for the bonus awards based on the percentage of official travel used to obtain the award, assuming he could produce the necessary evidence to show the portion of the bonus awards earned as a result of personal travel.

Had the employee used the bonus tickets after the issuance of the pertinent GSA regulations and the Comptroller General's decision in the matter under consideration, the employee would be liable for the full value of the promotional gifts used. Thus, an employee who, after the 1984 decision of the Comptroller General, commingles official travel and personal travel bonus miles, cannot receive the benefit of the personal miles earned.

With respect to promotional materials, as described above, earned from car rentals, stays in hotels, or purchase of food (employees who charge such items to personal credit cards may earn frequent flyer miles in an airlines program provided their personal credit card permits), the employee, presumably, should be expected to account to the Government for those also. The only exception appears to be that announced in an unpublished Comptroller General decision, B-236219 (May 4, 1990), which provides that if the employee, in the course of official travel, makes purchases using a personal credit card, entitling the employee to receive a cash or credit rebate, the employee is entitled to keep the entire rebate. The decision distinguishes between cash or credit rebates and promotional materials.

The case of one employee who accumulated frequent flyer mileage in apparent conflict with the above provisions was referred to the General Counsel for appropriate action.

B. Former Staff Assistant to Inspector General

November 17, 1992, the OIG forwarded its Final Investigative Report to the General Counsel concerning an anonymous complaint received by the OIG on October 17, 1991. The complaint inquired into the legality of permitting the then Staff Assistant to the Inspector General to remain on detail

to the Office of the General Counsel for a period which then amounted to about two years.

On April 22, 1993, the General Counsel advised that, as of September 10, 1992, the individual was converted to the position of Confidential Assistant to General Counsel.

C. Space Reduction in a Regional Office

On November 30, 1992, the OIG forwarded a Final Investigative Report to the General Counsel concerning an anonymous complaint received in regard to the facts surrounding space reduction and negotiation of a new lease for a Regional Office.

The Final Investigative Report raised issues concerning whether Regional Office management had bargained in good faith with the collective bargaining representative of the employees involved. The matter remains pending.

D. Alleged Fraudulent Claims for Reimbursement

After a United States Attorney declined prosecution in the matter of an employee who allegedly made fraudulent reimbursement claims for taxi fares for dates when overtime was worked, the OIG, on September 21, 1992, referred the matter to the General Counsel for appropriate action together with recommendations that: (1) taxi reimbursement claims be supported by receipts and such other verifying evidence as may be warranted, and (2) Agency timekeepers be instructed to keep backup worksheets so that a record of actual overtime hours worked on each day may be verified and overtime and leave records audited.

On January 13, 1993, the General Counsel referred this matter to the Director of Administration for action and, on January 28, the Director of Administration advised the OIG that: (1) the employee had been advised that fare receipts should be submitted with claims for reimbursement and they should be more timely filed in accord with recently implemented Agency procedures, (2) with respect to taxi fare receipts, the Agency would not implement more stringent requirements than those contained in Federal Travel Regulations, although it might be wise for employees to do so voluntarily if, for no other reason, than to avoid such allegations arising in the future, and (3) record keeping with respect to Form AD-321 should be improved.

E. Utilization of Invalid Social Security Numbers in Recording Travel Advances

An earlier audit report issued on June 24, 1991 (OIG-AMR-4) regarding Agency accountability and control over travel advances found that 111 of 1,170 open travel advance accounts

had been assigned invalid social security numbers. In that report, it was concluded that 100 of the 111 invalid social security numbers were probably attributable to clerical or keypunch errors. The remaining 11 were the subject of an investigation to determine whether or not they had been fraudulently entered into the Travel Advance General Ledger.

Following an intensive analysis of each of the accounts, a Final Investigative Report was issued which noted that the investigation failed to disclose any fraud; however, the absence of documentation for a number of the accounts made it impossible to rule out the potential of fraud on a definitive basis. It was recommended that the Finance Branch's practice of assigning "dummy" social security numbers to accounts which had not been properly reconciled be discontinued and that accounts instead be reconciled on a timely basis.

The Chairman and General Counsel, on February 16, 1993, noted that steps had been taken to prevent the problems cited in the report from recurring.

F. Alleged Misuse of Diners Club Card

On January 28, 1993, a Final Investigative Report was submitted to both the Chairman and General Counsel, the subject matter of which concerned an anonymous complaint alleging the improper use of Citicorp Diners Club credit cards by two staff members of a Regional Office. The complaint asserted that the two individuals in question were using their cards for personal purchases and that one of the individuals was "slow pay." The preliminary results of the ensuing investigation prompted us to proactively broaden the scope of the investigation to the entire Agency for the most recent period for which Diners Club records were available, i.e., roughly October and November, 1992.

The manual issued by Diners Club, the Citicorp Diners Club Government Travel Management System, at page 4-11, notes:

Cards are to be used for expenses related to official Government business only. Use of the Card for anything other than official Government business is contrary to contractual terms and may lead to disciplinary action.

That same manual, near the bottom of the same page, provides:

The following details Citicorp Diners Club's position regarding delinquency:

The Account will be past due unless Citicorp Diners Club receives the amount shown on the billing statement as the "Total Payment Due" within 25 days of the date of the billing statement. . . . Delinquencies may result in

suspension of Card privileges or, if Citicorp Diners Club obtains permission of the Agency, cancellation of the Card and the Account.

A Diners Club account representative informed the OIG that when an account has been unpaid for 60 days, the account holder, i.e., the employee, is contacted. When the account is unpaid for 75 days, the individual employee is informed that the account could be reviewed for suspension. When it is 120 days in arrears, the employee is informed that the account could be cancelled. The account can be cancelled sooner if the Agency requests that it be cancelled. The Diners Club representative acknowledged that the degree to which it can adhere to this structure is contingent upon the number of outstanding accounts and the size of its own staff to handle the problem. As a result, a large number of accounts that are more than 30 days in arrears appear in the Agency's printouts.

The investigation disclosed:

Home Town Purchases

During the period under consideration, 24 employees made purchases charged to their Diners Club accounts in the same city in which they reside. While it could easily be contended that an employee might be making a purchase for official Government business in the city in which they reside, an examination of the identity of the sellers reveals, among other things:

- a. Three purchases from a retail clothing store;
- b. One purchase from a purveyor of sunglasses;
- c. Three purchases from florists;
- d. Two purchases from a limousine service;
- e. At least 36 purchases from restaurants;
- f. Four stays at hotels in the home town of the Board employee.

Of the two employees who are the subject of the anonymous complaint, one charged items in his or her home town.

Foreign Travel

One board employee used his Diners Club charge card to make two purchases at establishments in Mexico and another used his card to charge a hotel bill in Uruguay. It is not known whether the charges were for food or hotel rooms. In any event, a reasonable question exists as to whether they were

performing official Government business in Mexico and Uruguay.

Apparent Vacation Travel

At least eight Board Agents have incurred restaurant and hotel bills in cities far removed from their Regional Office cities. While it is recognized that Board Agents might be on detail to another Regional Office, the number of such charges made in vacation areas would appear to negate the detail possibility.

Extensive Unexplained Hotel Bills

While it is normal for a Board employee to incur hotel bills within the Regional boundaries, one Board Agent had a hotel bill in a city about 200 miles distant from his Regional Office amounting to almost \$1,500.

Unexplained Charges

There were a handful of charges which appear to be questionable because of the identity of the individual making the charge. They are individuals who are either clerical or professional employees who are not known to the OIG as persons who have the occasion to travel or make official Government purchases. We generally could not ascertain what was purchased as that information is provided only for the billing period being reviewed and the charges in question were for prior billing periods. At least in one case, however, the charge was made by a clerical employee in the city where employed for a hotel bill.

Delinquent Accounts

As noted above, accounts are technically overdue "unless Citicorp Diners Club receives the amount shown on the billing statement as the 'Total Payment Due' within 25 days of the date of the billing statement." Diners Club begins making efforts to collect overdue accounts at the 60 day point and increases the intensity of its efforts at 75 and 120 days, unless the Agency has asked that a given employee's account be cancelled before that time.

There are eight employees who have accounts more than 90 days in arrears, with one of those owing more than \$1,000, a second owing more than \$2,000 and a third owing more than \$3,000.

Another seven employees have accounts more than 120 days in arrears, with only one of them approaching \$1,000.

Only one of the two individuals about whom the anonymous complaint was received has an account that is over 90 days in

arrears for a total exceeding \$1,000. The other person's account is no more than 30 days old.

As noted, the matter was referred to both the Chairman and General Counsel on January 28 for appropriate action and remains pending.

GENERAL MATTERS

A. Relationship of the OIG with the Agency

In order to achieve its statutory goal of curtailing waste, fraud and abuse within the Agency, the OIG would function most effectively with the cooperation of the General Counsel and other high-level Agency officials. Experiences such as those described below tend to thwart the OIG in the performance of its duties or evidence a mind-set which is antithetical to the requisite degree of cooperation. It is hoped that the reporting of such matters will contribute to their abatement in the future.

The most recent examples of sources of friction between the OIG and the Office of General Counsel are:

1. Failure of the Agency to Acknowledge Facts

The Semiannual Report for the period April 1 - September 30, 1992, at pages 3 and 4, noted that, "[t]he then Chief of the Finance Section (now, the Finance Branch Chief) in March, 1992, learned of the criminal investigation and immediately relayed that information to the Director of Administration." That assertion is supported by affidavit testimony.

In response to the quoted portion of the Semiannual Report, the General Counsel (the Chairman expressed no view with respect to the issue) stated, "First, the Director of Administration had not been advised by the OIG that a criminal investigation was in progress, as opposed to an audit." (Emphasis supplied.) As is readily apparent from the quoted language in the previous Semiannual Report, no assertion had been made that the Director of Administration secured the knowledge from the OIG. It is likewise clear from the General Counsel's response that the Director of Administration does not deny knowledge from the source specified in the Semiannual Report, but nevertheless sought an opinion from the Comptroller General knowing that a criminal investigation was underway by the OIG.

2. A Repeated Questioning of OIG Authority (Even When Articulated by Office of Management and Budget)

The Semiannual Report for the period April 1 - September 30, 1992, at pages 5 - 7, addressed the issue of the Agency's new

accounting system. In doing so, the several recommendations and suggestions which had been made in the system implementation review report issued by the Office of Management and Budget and the OIG to the Agency were set forth. Among the suggestions contained in the system implementation review report were two which were clearly addressed to the OIG by OMB and stated:

- o - review use of the ROBS system and its relationship to FMIAS during OIG field audits and reviews;
- o - include the case-handling system and the performance measurement data it produces in OIG field audits and reviews;

In a memorandum addressed to the then Deputy Associate General Counsel of the Division of Operations-Management, the Division which oversees the entire field operation, the Director of Administration stated, among other things:

"However, two suggestions were made that you should be aware of in order to take appropriate action when undertaking field trips/reviews by your staff. They are:

1. Review of the ROBS system and its relationship to FMIAS during OIG field audits and reviews.
2. Include the case-handling system (CHIPS) and the performance measurement data it produces in OIG field audits and reviews.

"Although the OIG may take exception to our interpretation and in advising you of this situation, we feel strongly that field reviews are your purview. (Emphasis supplied.) You should also be aware of the fact that these suggestions are just that - suggestions, not recommendations or requirements. However, in view of the fact that the OIG will likely take these suggestions as mandates for him to visit field offices to review these areas, we thought you should be aware of them."

Unfortunately, it does not appear that the Director of Administration advised the then Deputy Associate General Counsel that the Inspector General has authority under Section 4 of the Inspector General Act, as amended, to "conduct, supervise, and coordinate audits and investigations relating to the programs and operations of" the Agency. Had she done so, he might have concluded that her advice to him may have been in conflict with, among other things, Section 4. The Inspector General is of the view that "programs and operations" encompass everything the Agency does. Apparently, this is not a universally held view among managers of this Agency. The position of the Director of Administration is not surprising in view of the fact that a

former Acting Deputy General Counsel took the position that the Inspector General had no authority to conduct performance audits and that if the OIG attempted to do so, he would "come back and testify against the Office."

3. Read-only Access to Agency's Electronic Databases

An instance of the OIG being denied access to Agency records is set forth in Section 5, "Summary of Each Report to Establishment Head Concerning Information or Assistance Unreasonably Refused or Not Provided (Mandated by Section 5 (a) (5) of the Act)," at page 20 of this Semiannual Report.

B. New Accounting System

In October 1990, the Agency replaced its accounting system, FEDCOUNT, because Agency managers were not receiving accurate and timely reports. FEDCOUNT was replaced by NTSB, provided by the National Transportation Safety Board, but it quickly became apparent that it too would fail to meet the Agency's needs and, in turn, was replaced, in August 1991, by FMIAS, obtained from the Federal Railroad Administration. As part of the Office of Management and Budget (OMB) giving its approval to the acquisition of a new accounting system, it mandated, among other things, that a joint system review, using personnel from OMB, Department of Treasury's Financial Management Service and the OIG, be conducted six months after implementation of the new accounting system.

That review was completed and a joint OMB/OIG report issued on April 24, 1992. A number of recommendations and suggestions were made in the report and the actions taken by the Agency to comply with them were to be reported to OMB by October 31, 1992, after having provided adequate time to the OIG to verify the validity of the Agency response.

On October 29, the OIG was provided with the Agency status report setting forth its actions taken in response to the joint OMB/OIG report. The OIG reviewed the Agency's status report and its supporting documentation, and interviewed the NLRB employees responsible for developing and implementing the actions set forth in the status report.

The OIG verified that the Agency implemented the actions set forth in its status report and concluded that the actions taken by the Agency substantially addressed the recommendations contained in the joint OMB/OIG report. However, it was noted by the OIG in a November 9, 1992 memorandum to the Director of Administration that improvement was still needed in the Agency's management of travel advances in the following respects. ³

³ Travel advances had been the subject of an earlier OIG audit report.

1. The Agency entered into a memorandum of understanding (MOU) with the National Labor Relations Board Union regarding "Policies and Agreements on Travel Advances and the Submission of Vouchers." The MOU conflicts with the Federal Travel Regulations (FTR) in two respects.

Section 301-10.3 of the FTR states that agencies shall limit the advance of travel funds to those estimated expenses which normally would be paid using cash. Further, the FTR prescribes that advances under open travel authorizations (annual advances) shall be limited to the estimated cash transaction expenses for no more than a 45-day period. Cash transaction expenses are those travel expenses that, as a general rule, cannot be charged and must, therefore, be paid using cash, personal checks, or travelers checks. It is assumed that travelers normally will be able to use a Government contractor-issued charge card to charge major expenses such as common carrier transportation fares, lodging costs, and rental of automobiles and airplanes. No exceptions may be granted in situations where the employee has elected not to use alternate funding resources made available by the Government; i.e., Government contractor-issued charge cards.

In conflict with the FTR, the MOU provides:

- a. that an employee will be able to obtain travel advances to cover anticipated expenses whether or not he or she chooses to obtain or use the Diners Club credit card. Anticipated expenses may include plane tickets and hotel bills; and,
 - b. that employees on annual travel orders may be advanced travel funds in an amount equal to the average for two months' expenses, contrary to the 45 days provided by the FTR.
2. The Finance Branch was not ascertaining whether the issuance of a single trip advance was merited when the employee had an outstanding annual advance.
 3. The Agency's status report to OMB noted, "Employees with annual travel advances were required to repay their advances by the end of Fiscal Year 1992 or were required to prepare a repayment schedule that would liquidate the advance by the end of the calendar year. Individuals with annual advances who failed to repay or establish a repayment schedule were referred to the payroll office for deduction of the travel advance from their payroll check."

As of November 9, 1992, when the OIG sent the Director of Administration a memorandum concerning FMIAS implementation, the Agency was still negotiating with the NLRB Professional Association (the labor organization which represents the headquarters professional employees) to fully accomplish the actions claimed to have already been completed. On that date, there were approximately 100 travel advance accounts of headquarters employees, totalling \$60,000, which were delinquent.

4. The Agency's status report to OMB noted, "We attempted to contact the former employees who showed an outstanding travel advance under the FEDCOUNT system. A letter was sent by the Social Security Administration to inform them of their outstanding travel advance. Approximately \$11,000 of travel advances were written off, most of which were for former employees since we did not have the records to prove that the advance balances were valid since many of the advances were more than 7 years old." (Emphasis supplied.)

On March 31, 1992, the Agency stated the following in response to a recommendation in the OIG Audit Report OIG-AMR-4, "We have identified 89 former employees who have an outstanding travel advance balance amounting to \$31,800.77. They will be contacted after the HQ and field staff have been notified with corrective action taken as necessary." (Emphasis supplied.)

On several occasions, the OIG requested that the Finance Branch provide a reconciliation of the activity in the account to determine what happened to the difference which amounts to almost \$21,000 (\$31,800 less \$11,000). The OIG has never been provided with an adequate reconciliation.

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)

Prior Semiannual Reports described several recommendations and/or suggestions for corrective action, most of which have been acted upon to completion. Those on which action remains to be taken or completed are treated separately below.

RECONCILIATION AND REPAYMENT OF TRAVEL ADVANCES

During the April - September, 1991 reporting period, the OIG issued an Audit Report concerning Travel Advances in Case No. OIG-AMR-4, in which, among other things, it was recommended that: (1) the Agency perform interim and year-end reconciliations of the Travel Advance Subsidiary Ledger to supporting documentation, and (2) a request be made of all former employees with outstanding travel advance balances to repay their advance or submit a liquidating travel voucher. The Agency agreed with the recommendations.

With respect to the first recommendation, the Agency, in a memorandum dated March 31, 1992, noted that the reconciliation form had been submitted to the collective bargaining representative and, if approved, it would be used first with headquarters employees, then field employees and, finally, former employees. A self-imposed target date of September 30, 1992 was set by the Agency.

The Agency, in a memorandum of August 14, 1992, noted that the reconciliation forms had been sent to Headquarters staff in May ⁴ and field staff and former employees in June. The self-imposed target date of September 30, 1992 for full implementation remained the same.

With respect to the second recommendation, the Agency, in a memorandum dated March 31, 1992, noted that 89 former employees with outstanding travel advance balances of \$31,800.77 had been identified and that they were to be contacted as noted above. A self-imposed target date of September 30, 1992 was set by the Agency.

The Agency, in a memorandum of August 14, 1992, noted that 46 former employees with outstanding travel advance balances of \$11,764.30 remained. The self-imposed target date of

⁴ In its June 1, 1992 response to the Semiannual Report for the October 1, 1991 - March 31, 1992 reporting period, the Agency stated at page 7 that this task had been accomplished in April.

September 30, 1992 for full implementation remained the same.

At a meeting attended by representatives of the Office of Management and Budget, the Chief of the Finance Branch stated that when the process was completed, it would be the first time in the history of the Agency that employees will have been required to pay back a travel advance.

In response to the immediately preceding Semiannual Report, management noted, among other things, on December 2, 1992, that, "as of September 30, 1992, there were four elements of the comprehensive recommendations concerning the reconciliation of travel advances that were not fully implemented" and "resolution with the unions on all of the remaining elements is near at hand."

To date, the OIG has not been informed of any further progress.

INVESTIGATION OF INVESTIGATION CONDUCTED BY DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY

In the OIG Semiannual Report for the April - September, 1991 period, reference was made to an investigation conducted by the Director of Equal Employment Opportunity (DEEO) in which it was alleged the DEEO, while conducting an inquiry into legitimate concerns of the Office of Equal Employment Opportunity, had gone beyond those bounds and had inquired into an area unrelated to the mission of the EEO Office, that is, criticism of the General Counsel for delay in case processing.

The Agency response to the April - September, 1991 Semiannual Report noted that, in view of pending litigation before the Federal Labor Relations Authority (FLRA) regarding other aspects of the DEEO investigation, no action had been taken regarding the Final Investigative Report issued by the OIG.

The Agency response to the October 1, 1991 - March 31, 1992 Semiannual Report referred to an FLRA Administrative Law Judge's dismissal of an unfair labor practice complaint, to which exceptions had been filed by the FLRA General Counsel and National Labor Relations Board Professional Association (NLRBPA). On October 19, 1992, shortly after the end of this reporting period, the FLRA issued a decision finding that the NLRB had violated the Federal Service Labor-Management Relations Statute when its DEEO interviewed one particular employee without affording the NLRBPA which represents that employee prior notice of, and an opportunity to be represented at, the interview, even though the NLRBPA had been given prior notice of, and an opportunity to be present at, the interviews of other unit employees.

Although the Agency, in its December 2, 1992 response to the immediately preceding Semiannual Report, noted, among other things, that "on November 13, 1992, the Agency notified the Federal Labor Relations Authority that it will comply with its decision, which requires the posting of a Notice to Employees," the Agency has not, to date, notified the OIG of any action regarding the recommendations in the Final Investigative Report as indicated would be done in the Agency response to the April - September, 1991 Semiannual Report.

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, or (3) acted upon by prosecutive authorities during the reporting period with the noted results:

- (1) With respect to Case No. OIG-I-41, following notice to the OIG on June 16, 1992 from Public Integrity Section of the Department of Justice (DOJ) that it was declining to prosecute the allegations concerning the subject of the investigation who allegedly: (1) used Agency clerical staff, while paid by the Agency, to perform services for another entity for whom the subject of the investigation was working; (2) used the Agency Printing Section to print a flyer for personal use; (3) used clerical staff, on Agency time, to stuff envelopes with the flyer printed by the Agency Printing Section; (4) used an Agency personal computer (PC) for personal work, including speeches allegedly written for non-Agency personnel for pay; (5) used an Agency PC to write speeches for persons addressing another entity for which the subject worked; (6) conducted business, on Agency time, for another entity for which the subject worked; and, (7) spent a portion of the work day meeting with visitors who were there to conduct business concerning the other entity for which the subject worked, the matter was referred, on the same date, to the Chairman for whatever administrative action was deemed appropriate.

The OIG was informed on September 30 that the matter has been referred to the immediate supervisor of the individual involved for an independent recommendation of what action should be taken. The matter remains pending.

- (2) As noted in the immediately preceding Semiannual Report, the OIG, in OIG-I-60, referred the matter of the Agency's allegedly violating the antideficiency provisions of 31 U.S.C. 1341 to the Public Integrity Section of DOJ on July 2, 1992. On November 12, 1992, the Public Integrity Section declined prosecution, and following a request for reconsideration by the OIG on November 19, it declined prosecution again on December 9, 1992.

- (3) In OIG-I-57, on July 10, 1992, we referred an alleged act of perjury to the United States Attorney in Ft. Worth, Texas. To date, there has been no response.
- (4) On March 5, 1993, with respect to OIG-I-79, we referred a matter to a United States Attorney alleging potential violations of 18 United States Code Sections 208 and 1001. The case concerns a Regional Office official who allegedly continued to act upon matters involving a Local Union, even though the President of that Local Union, the Regional Office official, and their respective spouses jointly owned real estate.

Other aspects of this matter remain under investigation.

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 1993: none

Investigation Based Restitutions and/or fines - Civil:

FY 1993: none

Investigation Based Restitutions and/or fines - Criminal:

FY 1993: none

SECTION 5

SUMMARY OF EACH REPORT TO ESTABLISHMENT HEAD CONCERNING INFORMATION OR ASSISTANCE UNREASONABLY REFUSED OR NOT PROVIDED (MANDATED BY SECTION 5 (a) (5) OF THE ACT)

Section 5 (a) (5) of the Act requires the OIG to include in a semiannual report a summary of each report made to the head of the establishment under Section 6 (b) (2) during the reporting period. Section 6 (b) (2), in turn, authorizes an IG to report to the head of the establishment whenever information or assistance requested under subsection (a) (1) or (3) is, in the judgement of an IG, unreasonably refused or not provided. The subsections referred to authorize an IG to have access to, in effect, all documentation or other materials available to the establishment which relate to programs and operations with respect to which the IG has responsibilities under the Act, and authorize an IG to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by the Act from any Federal, State, or local governmental agency or unit. Finally, Section 5 (d) of the Act provides that an IG shall report immediately to the head of the establishment involved whenever the IG becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the establishment. The IG's report is then to be transmitted by the head of the establishment to the appropriate committees or subcommittees of Congress within 7 calendar days, together with a report by the head of the establishment containing any appropriate comments.

One instance of access denial found its genesis prior to the reporting period and has continued during and beyond the reporting period. The OIG has not previously reported this situation in the belief that it would be resolved before the Agency moved into its new quarters, a move which, in the first instance, prompted the request for access. However, recent events appear to suggest that a resolution of this issue consistent with statutory authority and IG responsibility is, if not impossible, at least unlikely.

A condensed version of the entire episode appears in the paragraph which follows. For those interested in all of the detail, the complete version follows the next paragraph.

Almost 11 months ago, in the belief that an agency's electronic records are equally subject to the Inspector General Act Section 6 access provisions as any other records, I asked the Chairman and General Counsel if, when we moved into the new Agency headquarters, the OIG could become part of the Local Area Network (LAN) so we could have read-only

access to the Agency's financial data from the OIG. On December 7, 1992, that request was broadened to include the Agency's electronic personnel/payroll records after the General Counsel indicated, in a memorandum to me, that he was willing to give read-only access to those records to the Department of Agriculture, Office of Inspector General (USDA-OIG). If not clear at that point, it should have become clear to the Agency from the several memorandums which followed that the OIG was seeking access, through one of the computers within the OIG, to the Agency's electronic databases, both financial and personnel/payroll. It was not until April 2, 1993 that I received my first response, a memorandum from the Director of Personnel, who proposed a memorandum of understanding (MOU) giving access to only personnel/payroll records (no mention made of financial records), under circumstances which narrowly circumscribed the IG's authority under the Inspector General Act. When I objected to the proposed MOU, the Chairman and General Counsel, on April 26, withdrew it, stated that OIG requests for access to the personnel/payroll records would be honored whenever made (again making no mention of the financial records), but conditioned access on bases inconsistent with the Inspector General Act.⁵ On the same day, I requested a meeting in the hope of resolving the issue prior to the issuance of this Semiannual Report, but, after receiving a written response from the Chairman, who said his schedule made it impractical to meet prior to May 3 (a date after the issuance of this Semiannual Report), the General Counsel and I decided to wait for a meeting until the Chairman returned and all parties had a chance to read the Semiannual Report.

The long version follows.

On July 8, 1992, I wrote to the Chairman and General Counsel regarding the technical and space facilities at the proposed new location for the Agency (a move schedule for June 25 through August 1, 1993 has recently been announced) in the hope that we could remove as many problems as possible beforehand and accomplish the move in an economical and efficient manner. A portion of that memorandum stated:

2. Read-Only Facility of Agency's Financial Data

⁵ One of the conditions was that requests for personnel/payroll records be in writing each time access is needed. In the approximate three and a half years of the OIG's existence, this is the first time that the Agency has required a written request for records of the OIG. The OIG has reduced some of its requests to writing, but not as part of an Agency condition precedent for access.

We have determined that it would be more efficient if we had one computer attached to the Agency's LAN so we could obtain financial data on a read-only basis while remaining in the OIG . . . We would want to have the capability, for security purposes, to disconnect that computer from the Agency LAN and use it as a stand-alone computer. (Emphasis supplied.)

I have already spoken with MISB Chief Sam Markman about these two requests and it was his tentative view that both could be accomplished on a relatively inexpensive basis.

The reference to "read-only" meant that, although we were seeking access to the data so it could be read and, perhaps, copied, we obviously had no desire to be able to delete it, create new data for insertion in the data base, or alter any data already there. ⁶

⁶ There should be no question about the IG's authority, under Section 6(a)(1) and (3) of the Inspector General Act to have access "to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities," or to "request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof." (Emphasis supplied.)

Not only does the the statutory language contain no words of limitation with respect to electronic data bases, but it is inconceivable that the Congress intended that when an agency had an electronic data base that an OIG could not use it, but instead, is relegated to utilizing hard copy to obtain the information necessary for audits and investigations. One of the purposes of the Act was to enhance economy and efficiency, not to make it more difficult for IGs to function.

Likewise, having access to electronic data bases from a computer in the OIG enhances the efficiency of the OIG in another aspect. We can more directly focus on the data sought without having to broaden the scope in order to shield the identity of the complaining party and potentially innocent investigative subjects.

Of equal, but greater, significance is the statement in the July 8 memorandum that we sought to have one of our computers "attached to the Agency's LAN so we could obtain financial data on a read-only basis while remaining in the OIG." (Emphasis supplied.) No one reading that language could have concluded that we were only seeking authority to have other Agency personnel access data for us after we told them specifically what we wanted so that we could view it from computer terminals located outside the OIG.

I received a letter dated August 31, 1992 from the USDA Inspector General enclosing a Memorandum of Understanding (MOU), by which he sought "read-only" access for the sole purpose of conducting scheduled audits involving NLRB payroll data contained in systems operated by the USDA, which provides a payroll service to the Agency. After responding to that letter, I received a telephone call from a member of his staff who asked that I ascertain if they, USDA-OIG, could be granted "read-only" access, consonant with the paragraph numbered 4 in the MOU. On October 2, 1992, I sent the General Counsel a memorandum enclosing the letter and attached MOU from USDA-OIG, and, on behalf of the USDA-OIG, asked that question.

In a memorandum to me of December 7, 1992, the General Counsel responded to my memorandum of October 2 and said, among other things, "[a]fter reviewing the Memorandum of Understanding requested by the Office of the Inspector General at the Department of Agriculture, I see no reason to object to the agreement as proposed."

On the same day, I wrote to the General Counsel and informed him that I would communicate his decision to the USDA-OIG. I also said:

This OIG had earlier requested read-only authority on its own behalf and never received an answer. I take it from your answer that you would have no objection to permitting us the same authority as the OIG of DOA [USDA-OIG] and will make the necessary arrangements not only with Finance Branch Chief Karl Rohrbaugh, but also Management and Information Systems Branch Chief Samuel Markman and/or Procurement and Facilities Branch Chief Donald Probst so the necessary wiring can be done at the new building. (Emphasis supplied.)

Since the USDA-OIG request covered personnel/payroll records and our request also encompassed financial data, on December 8, 1992, in a further effort to accomplish the OIG's stated desires while construction of the new space was still

underway, I sent the Chairman and General Counsel a memorandum stating:

On July 8, 1992, I sent you an identically captioned memorandum (see copy enclosed for your benefit), but have had no response with respect to items 1 and 2 under the heading Technical Facilities Requested, and items 2 a., b., c., and d. under the heading Security Measures. I do not know what stage of construction the interior space is in, but, as suggested in my earlier memorandum, for the sake of economy, now is the time to make the necessary arrangements, rather than wait until after all construction is complete. I would appreciate your advising me of where we stand on these matters. (Underscoring in original.)

On January 12, 1993, I wrote to the Agency's Finance Branch Chief, Management Information Systems Branch Chief, and Procurement and Facilities Branch Chief in furtherance of my memorandum of December 7, 1992 to the General Counsel and stated, among other things:

One of those computers [referring to those in the OIG], which we will have to designate, will be the one to have access to the material for which we are getting read-only authority.

At some point, in discussing this matter with the Chairman, he asked what other agencies did in regard to requests such as mine. Accordingly, I conducted a survey among the Inspectors General who are members of the Executive Council on Integrity and Efficiency. When that survey was completed, I forwarded the results to the Chairman and General Counsel on February 8, 1993, noting:

In support of my earlier requests for read-only access, I conducted a survey among the Inspectors General of statutorily-defined designated entities. Of 27 Inspectors General responding, 16 have access to their agencies' databases. Of the 16, 10 have access to the totality of their agencies' databases - totality being defined as databases regarding payroll, financial, personnel, and programmatic processing. In addition, one of the 10 has access to the inventory management system and marine traffic control data.

Of the 11 who do not have access, 7 have never asked for it, 3 are in the process of getting it and 1 gets access on an ad hoc basis for audits and investigations.

Of those who do not have access to the totality of their agencies' databases, 4 have access to the programmatic processing data, 4 have access to the financial data, 3 have access to the payroll data, 1 to the management information system data, 3 to the personnel data and 1 to LEXIS.

Eleven of them have access through a LAN, 1 has on-line capability, and another is hardwired. I have a list of the software used to grant access and retrieve data.

As your decision may affect wiring in the new office space, I would appreciate an early response.

Based upon the series of communications set forth above, it should have been readily apparent to any reader that the OIG was seeking read-only access, as defined above, and that it wanted that access through some on-line or LAN basis.⁷ At no time were we seeking read-only access through a terminal away from the OIG. Access away from the OIG would mean divulging to another Agency employee the specific nature of the data sought so that employee could display it on a monitor for reading by us. Since someone else would be accessing the data for us, in order to protect the identities of the complaining party and investigative subjects, we would have to substantially broaden the data requested. Of course, that measure is not a foolproof method of protecting identities as it only reveals to the person providing access that the person(s) being investigated are, for example, among the 20 or 30 persons for whom data was requested.

After an approximate nine-month delay from my first request, which could only have been understood as a request for read-only access through a LAN from a computer within the OIG, I received a memorandum from the Director of Personnel on April 2, 1993, together with a proposed MOU.⁸ The memorandum is

⁷ Read-only access and access on a LAN basis are not mutually exclusive. The former merely indicates what you can do with the data after it has been accessed. The latter denotes how or where one will get access.

⁸ Note should be made of the fact that this memorandum was from the Director of Personnel and the accompanying MOU dealt with personnel/payroll records, despite the fact that the very first memorandum from me to the Chairman

Continued on following page

clear that: (1) we can have access to the personnel/payroll system operated by the United States Department of Agriculture National Finance Center, provided access is granted in conformity with the Privacy Act; (2) access will only be given for specific investigations and audits (that is, no blanket access will be given); and, (3) access will only be given through a terminal located in the Personnel Branch.

In addition to the above provisions, the Proposed MOU: (1) prohibits the OIG from releasing personnel/payroll data to any secondary party unless approved by the Director of Personnel or designee; (2) requires a written request by the IG of the Director of Personnel or designee for each audit or investigation, which request will include an estimate of the time required on the system; (3) provides that the Supervisory Payroll and Personnel Specialist, or other authorized staff member, will arrange for access to a terminal for reviewing the data; (4) provides that the Supervisory Payroll and Personnel Specialist, or designee, will provide any instructions needed to access the data and will set forth any specific access limitations; and, (5) if the MOU is terminated, access to the data base will be restricted in accordance with the system of records applicable to the payroll-finance records.

In response to the proposed MOU, I sent the Chairman and General Counsel a memorandum on April 9, 1993. The pertinent points from that memorandum are:

1. Earlier OIG memorandums concerned not only OIG access to the records, but also the issue of assuring that the proper wiring is included in the OIG in the new building at the construction stage in order to avoid unnecessary costs of adding the capability later so as to provide access from within the OIG.
2. By memorandum of December 7, 1992, General Counsel Hunter said, after reviewing the MOU requested by the USDA-OIG, that he saw no reason to object to the agreement as proposed. After receiving the General Counsel's memorandum of December 7, I reiterated my request for read-only access for this OIG.
3. I was surprised by the contents of the memorandum and MOU of the Director of Personnel, because her memorandum acknowledges the OIG's need for such access pursuant to our audit and investigative authorities, but attempts to limit and control that access through a

Continued from previous page
and General Counsel of July 8, 1992 also dealt with the issue of financial records. To this date, I have not received a response about the latter records.

proposed MOU between the Director of Personnel and the Inspector General which would require OIG personnel to effectuate access only through Personnel Branch staff members. Moreover, the Director of Personnel would maintain for herself/himself authority to determine to whom any personnel or payroll data may be released.

4. These terms are not only totally unacceptable, but are also contrary to the Inspector General Act of 1978, as amended.
5. The Privacy Act of 1974, 5 U.S.C. § 552a (b), provides that no agency shall disclose any record contained in a system of records, such as the NLRB's payroll/finance and time and attendance records, without the prior written consent of the individual to whom the record pertains.
6. The Privacy Act contains twelve exceptions to the "no disclosure without consent" rule, however. The first, contained at Section (b)(1) of that Act, specifies that the above limitation does not apply to disclosure of such records to those officers and employees of the agency which maintains the records who have a need for the record in the performance of their duties. This need-to-know exception authorizes the intra-agency disclosure of a record for necessary, official purposes. The Inspector General has a "need for [these records] in the performance of [his] duties" imposed by the Inspector General Act.⁹

⁹ In fact, although the Agency responses to the OIG request confuse "need-to-know" with "routine use," no such confusion exists in the Legislative History to the Inspector General Act of 1978 where Congress, at pages 12 and 13, sets forth 5 of the exemptions to the Privacy Act, noting that the first applies to "intra-agency disclosure to personnel who have a need for the information in the performance of their duties;" and that the third applies to "disclosure for a 'routine use' which is compatible with the purpose for which it was collected." The Legislative History then goes on to note that "complying with the Privacy Act does not mean that an Inspector and Auditor General will be unable to obtain needed information to perform his responsibilities. It simply means that the information must be obtained in conformity with the exemptions and procedures of the act. Under the Privacy Act, for instance, all information within the agency would be available to the Inspector and Auditor General, based on the 'intra-agency' exemption. Information sought from other agencies could generally be obtained under the 'routine use' or 'law enforcement' exemptions of the act."

7. The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, provides that each Inspector General is authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable agency which relate to programs and operations with respect to which that Inspector General has responsibilities under the Act (Section 6(a)(1)). Inspectors General have the duty and responsibility to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of their agencies (Section 4(a)(1)). Further, the Inspector General is to report only to the head of the agency who, under the Inspector General Act, is not to prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation (Section 8E (d)). Thus, the Inspector General Act of 1978, as amended, creates a statutory need-to-know on the part of the Inspector General with respect to any Agency record relevant to his audit and investigative responsibilities. The OIG needs read-only access to Agency databases in the performance of the duties and responsibilities of the OIG just as the Personnel and Finance Branches and, possibly, the Management and Information Systems Branch, need access to those databases to perform their duties.

8. I find the proposed MOU to impermissibly impinge upon the Inspector General's unfettered access to data clearly provided for by the Inspector General Act. The proposed MOU would require OIG personnel to: (1) request access to data in writing of the Director of Personnel or her designee for each audit or investigation; (2) estimate how much time will be required on the system; (3) specify what data is needed so that Personnel staff may provide instructions on how to access the payroll and personnel system for that data, and (4) specify what data is needed so that Personnel staff may set forth any specific access limitations. All of these provisions are contrary to the Inspector General's need to review agency records without having it known whether such review is pursuant to an audit or investigation, what the nature of any such audit or investigation may be, who may be the subject of an investigation, and to have no limitations upon available access. The Inspector General simply cannot be subject to the whim of the incumbent Director of Personnel with respect to whether or not such access will be granted and under what terms. Moreover, I

should not be required to obtain by MOU that to which I am entitled by statute. ¹⁰

9. Not clear from the proposed MOU is whether the Director of Personnel thinks she needs to be told only that the OIG needs access to records for the purpose of an audit or an investigation, or whether she thinks she needs to be told the nature of the audit or investigation in order to determine whether the OIG has a need-to-know so she can make an informed judgement regarding whether or not she will permit the access. If she believes that she needs only to be informed that the OIG needs access for purposes of an audit or an investigation, then requiring the OIG to go through the exercise of requesting permission for access on a case-by-case basis is an empty gesture merely encumbering the Inspector General in the performance of his duties and keeping the Director of Personnel informed of the nature of the Inspector General's activities. The Inspector General Act has already established that the IG needs access for those purposes. If she believes, on the other hand, that she needs to be informed of what each audit or investigation is about, in order to make an independent determination of whether the OIG needs access for that particular audit or investigation, and to which records, then she compromises the integrity of the entire investigative

¹⁰ It would be interesting to know if each employee in the Personnel Branch and Finance Branch (who have broader authority than the read-only authority sought by the OIG) has to secure permission in writing from the branch head before accessing the electronic data bases available to the Branch. If not, then under the Legislative History set forth above, the employees of the OIG are as much a part of the intra-agency group entitled to access on a need-to-know basis as the employees in those Branches.

OMB Circular A-108, Privacy Act Guidelines, 40 Fed. Reg. at 28954 (1975) notes: "It is recognized that agency personnel require access to records to discharge their duties. In discussing the conditions of disclosure provisions generally, the House Committee said that 'it is not the Committee's intent to impede the orderly conduct of government or delay services performed in the interests of the individual.'" To require OIG personnel, who are entitled to access on a need-to-know basis, to make a written request each time they desire access to the Agency's data would substantially impede the orderly conduct of audits and investigations. When an audit is being conducted, for example, an auditor may require documentation several times a day. Exacting a written request requirement would be counterproductive.

process. Such a position would also contravene the above-noted section of the Inspector General Act providing that the Inspector General reports only to the head of the agency, who is not to prevent or prohibit the Inspector General from carrying out any audit or investigation.

10. Also of great import is the Director of Personnel's proposed MOU requirement that no NLRB personnel or payroll data shall be released to any secondary party unless approved by the Director of Personnel or designee. This provision directly conflicts with the Inspector General's statutory obligation to report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law (See 5 U.S.C. App. 3 § 4(d)). The Inspector General cannot be constrained in carrying out his statutory functions by a requirement that he first get the permission of an agency functionary who may potentially have reasons to withhold such approval.
11. To the extent the Director of Personnel may be concerned about OIG disclosures of Privacy Act records, any such concerns are unwarranted. Records supporting OIG audit findings are not retrieved by individual identifier and, therefore, are not subject to the Privacy Act. Should an audit reveal evidence of possible wrongdoing by an individual, that record would be referred within the OIG for investigation. Records incorporated into OIG investigative files would of course be governed by the Privacy Act and by routine uses published in the Privacy Act System of Records Notice covering OIG Investigative Files. Thus, once a record from the Payroll-Finance Records system of records is obtained by the OIG in an investigation and encompassed in the OIG Investigative Files system of records, it may lawfully be referred to the Attorney General under routine use number 1 of that system, just as the Inspector General Act obviously requires. Surely the Director of Personnel does not contemplate that the Privacy Act would confer upon her the authority to determine which records may be referred for possible criminal prosecution. Yet, that is the effect of her proffered MOU stating that no NLRB personnel or payroll data shall be released to any secondary party without the approval of her or her designee.
12. Moreover, if the OIG has to disclose to persons other than OIG personnel the nature of the records sought so access can be obtained, then, rather than adhering to the strictures of the Privacy Act, the Agency will be disseminating private information to a greater

degree than necessary in order to control OIG access to data. ¹¹

13. I have no intention of engaging in another year-long attempt to negotiate an MOU, as I did with respect to the investigatory authority of the Inspector General, to gain that right which has been given to me by the Inspector General Act. My first request for read-only access was dated July 8, 1992, more than nine months ago, and we are still exchanging memorandums. The Director of Personnel, who denied my request, is not even the system manager designated in the Agency's published Systems of Records Notice for the Payroll-Finance Records system. Although I recognize that the Payroll Unit was transferred from the Financial Management Branch to the Personnel Branch in May 1991, the system manager(s) have never been changed from the Finance Officer and Chief, Management and Information Systems Branch, to the Director of Personnel for Privacy Act purposes through published notification. Accordingly, it would appear that the Director of Personnel may not even have official authority to respond as system manager.
14. Following one of my earlier requests for read-only access, the Chairman asked me to conduct a survey of other similarly-situated IG offices to determine who had such authority. The results of that survey were reported to you on February 8, 1993. They revealed that, of 27 Inspectors General of designated Federal entities responding, 16 have access to their agency's databases. Of the 11 who did not have access, 7 have never requested it, 3 are in the process of getting it, and 1 gets access on an ad hoc basis for audits and investigations. This data apparently carried no weight in the evaluation of my request, if I am to take the Director of Personnel's April 2 memo as constituting your response.
15. Pursuant to Section 6(b)(2) of the Inspector General Act of 1978, as amended, I hereby officially report that my requests for information and assistance to implement read-only access to NLRB electronic databases has been unreasonably refused and not provided through the placing of unacceptable conditions upon such access. I also officially reiterate my previous requests for read-only access to databases in order to effectively and efficiently audit and investigate

¹¹ This is an issue of paramount importance as we are concerned with maintaining the confidentiality of both individuals reporting matters to the OIG as well as employees who may be either rightfully or wrongfully accused.

Agency programs and operations. Please advise me when read-only access to Agency databases will be effectuated.

16. Should such access not be expeditiously forthcoming, I see no other recourse but to report the denial in my semiannual report to Congress due on April 30, as the Inspector General Act mandates. I am also considering reporting it as a particularly serious or flagrant problem and abuse relating to the administration of the Agency's programs and operations under Section 5(d) of the Inspector General Act. You would, of course, then have seven calendar days to transmit the report to Congress."

On April 26, 1993, the Chairman and General Counsel responded to my memorandum of April 9. The pertinent points from their memorandum follow in the numbered paragraphs below. The OIG's position on those points appears in the footnotes.

1. The Director of Personnel did not deny my request for read-only access. Instead she denied my request for continuous on-line access from the OIG, reflecting valid Privacy Act concerns. ¹²
2. The request I made on October 2, 1992 on behalf of the USDA-OIG was only in terms of read-only access and the General Counsel's response of December 7, 1992 was only in terms of the MOU requested by the USDA-OIG. The memorandum noted that, for our information, the USDA-OIG request had also been denied. ¹³

¹² Not once in her memorandum or the proposed MOU does the Director of Personnel refer to "continuous on-line" access. The only references are to read-only access in terms of the Privacy Act. This is but another example of the Agency attempting to rewrite history as set forth in Section 1, General Matters, A. Relationship of the OIG with the Agency, page 8.

¹³ It is interesting to note that the General Counsel, in his memorandum to me of December 7, 1992, said that he saw "no reason to object to the agreement proposed" by the USDA-OIG, but the joint memorandum from the Chairman and General Counsel of April 26, 1993 notes the USDA-OIG request "has also been denied." This reversal of position is made without any explanation of what intervening events caused it.

Moreover, at issue here is not whether the USDA-OIG will get read-only access or on-line access (already noted as not being mutually exclusive), but rather whether the NLRB OIG will get read-only/on-line access. Given the several requests made by us, there can be no question that that is precisely what we were requesting.

3. The memorandum notes that each Privacy Act system of records specifies the routine uses and users who may obtain the data in the system, and permits others, with a legitimate "need to know" purpose, also to obtain data. This access is not automatic or mandatory in most circumstances (emphasis supplied), and even routine users must follow certain procedures. ¹⁴ Every system requires that disclosure may be made only after a request is made to the system manager and only if such request contains sufficient specificity for the system manager to conclude that the request is appropriate and consistent with the letter and intent of the Privacy Act. ¹⁵ The Director of Personnel did not suggest at any point that the OIG was not entitled to the payroll records. The OIG's request for access would be honored whenever made. However, this does not relieve the OIG from the requirement to follow the same rules that others follow, whether on a routine use or "need to know basis."
4. The language in the proposed MOU which says, "No NLRB personnel or payroll data shall be released to any secondary party (anyone other than an OIG employee authorized by the Inspector General) unless approved by the Director of Personnel or designee," may be ambiguous and its intent was not to restrict the OIG from providing the data to a third party such as the Department of Justice.
5. The proposed MOU did not intend to delve into the nature of the information sought by the OIG. If disclosure to the Director of Personnel of the mere fact of conducting an investigation would compromise the investigation in any way, the proposed MOU would not prevent the OIG from bringing that concern to a higher level of authority, including the head of the Agency. ¹⁶

¹⁴ The fact that the Agency takes the position that this access is not automatic or mandatory "in most circumstances" means that it must be automatic or mandatory in some circumstances. It is the OIG position that, based on the Inspector General Act, access for the OIG is automatic and mandatory.

¹⁵ A blanket request would cover this requirement. The Agency does not rely on any published regulation or guidance to support its procedural position.

¹⁶ This overlooks the fact that: (1) in the past, the OIG has not necessarily divulged to the head of the Agency that investigations were being conducted (in one notable example, when the General Counsel learned the IG was going to conduct a criminal investigation in a field

Continued on following page

6. In view of the IG's concerns, the MOU is withdrawn, but the Chairman and General Counsel are requiring: (1) that access to the personnel data base be requested in writing and addressed to the Director of Personnel; (2) in the case of searches for audit information, the nature of the audit must be specified; (3) if access is requested for an investigation, only that fact needs to be specified and even that degree of specificity can be avoided under circumstances outlined in the foregoing paragraph. 17

Continued from previous page

office, an Assistant General counsel was sent to the field office to conduct the investigation before the IG could get there and, without authority, granted immunity from criminal prosecution to every member of the staff); and, (2) the head of the Agency may not, under Section 8E(d) of the Inspector General Act, "prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation" If the Director of Personnel does not intend to delve into the nature of the information sought, why should the IG have to go to the Director of Personnel each time information is needed? Why is not a blanket request, such as has been made already in this matter a number of times, sufficient? And would not a blanket request be more in keeping with the intent of the Privacy Act, because it would tend to better protect the identity of not only complaining employees, but also the subjects of investigations?

17 It follows, therefore, if the OIG does not specify that it is conducting an audit, it will have disclosed that it is conducting an investigation. Having made that disclosure, the only way the privacy of a potentially innocent investigative subject can be protected is to specify that we desire to see data for a larger group of individuals than the one(s) under investigation. The only thing this will accomplish is to disclose that the subject of the investigation is one of perhaps 20 individuals rather than the one under investigation. We, therefore, run the risk of besmirching the reputations of 20 people. That cannot be the desired result. If we had access to the data from within the privacy of the OIG, no risks such as those would be encountered. By raising the Privacy Act, is the Agency trying to protect the privacy of individuals or ascertain who is under investigation?

If the procedure contemplated by the Agency is extended to an already existing practice of the OIG, it would constitute a retraction of a procedure followed by the current and former Directors of Personnel with nothing

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SECTION 6

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

Dollar Value (in thousands of \$)

<u>AUDIT</u> <u>BY</u> <u>TYPE</u>	<u>REPORT</u> <u>NUMBER</u>	<u>QUESTIONED</u> <u>COSTS</u>	<u>UNSUPPORTED</u> <u>COSTS</u>	<u>RECOMMENDATIONS THAT</u> <u>FUNDS BE PUT TO</u> <u>BETTER USE</u>	
Management Review	OIG-AMR-13	0	0	\$8.3	18
Management Review	OIG-AMR-14	0	0	0	
Management Review	OIG-AMR-15	0	0	0	

Continued from previous page

more than a blanket request having been made. Members of the OIG staff have been permitted, without divulging anything, to access the Official Personnel Folders in the Personnel Branch, as well as the employment record cards of former employees. The Agency does not predicate its position on the basis that the practice has resulted in demonstrable harm, as none can be shown. Are the electronic records different, in any significant way, from the Official Personnel Folders so a different result obtains?

After waiting 11 months for a response to a request for access to financial data and receiving none, I have concluded that the request for access to that data on a read-only basis via a LAN has been denied.

18 This sum is as a result of the Audit concerning Advisory and Assistance Type Contracts.

SECTION 7

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

"A Review of the National Labor Relations Board's Management Controls Over Advisory and Assistance Type Contracts" Audit Report No. OIG-AMR-13

Audit Basis

In accordance with the requirements of Title 31 U.S.C. Section 1114 (b), which requires the Inspector General of each agency to evaluate the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data Center regarding contracts for consulting services, this audit was included in the Annual Audit Plan of the OIG for Fiscal Year 1992.

Background and Regulatory Requirements

Advisory and assistance services (sometimes referred to as consulting services) may be acquired by personnel appointment or through the procurement process, the latter being the process utilized by the NLRB as the means of obtaining advisory and assistance services during the period covered by this audit.

Our audit scope was October 1, 1990 through March 31, 1992 during which time the NLRB issued over 1800 purchase orders totaling over \$9.8 million. We identified 15 procurements totalling about \$300,000 relating to the acquisition of advisory and assistance services.

Procurement reports, purchase order records, and contract files were examined. There were documentation reviews of work statements, authorizations, evaluations, disbursements, and, when applicable, deliverables prepared by the contractors. Officials in the Procurement and Facilities Branch and other NLRB officials were interviewed to identify Agency policies and procedures. We examined compliance with applicable laws and regulations, including OMB Circular A-120, Federal Acquisition Regulations Parts 13 and 37, and the Federal Procurement Data System Reporting Manual.

Advisory and assistance services are acquired from non-government sources and may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance. All procurement actions for advisory and assistance services are administered by the Procurement and Facilities Branch.

"Sole source" procurement actions must be sent to a level above the Procurement and Facilities Branch to the Director of the Division of Administration to be signed. Requests to use advisory and assistance services are sent to the Chief, Procurement and Facilities Branch who evaluates the request based on OMB Circular A-120 and Subpart 37.2 of the Federal Acquisition Regulations. The office requesting the service usually prepares the specifications for the service being requested and the Procurement and Facilities Branch takes the necessary steps to acquire the services.

All procurement actions, including those for advisory and assistance services, must be reported to the Federal Procurement Data Center to be included in the Federal Procurement Data System (FPDS). Procurement actions over \$25,000 are reported on an Individual Contract Action Report. Procurement actions under \$25,000 are reported to the Federal Procurement Data Center on a Summary Contract Action Report.

Findings

- A. Contrary to Sections 8.C.(7) and 8.C.(8) of OMB Circular A-120 which require, "each agency will assure that . . . advisory and assistance service arrangements . . . are properly administered and monitored to ensure that performance is satisfactory" and "the service is properly evaluated at the conclusion of the arrangement to assess its utility to the agency and the performance of the contractor," the Agency procured and paid for advisory and assistance services without any evidence that the contractor's performance was monitored and evaluated by Agency personnel, with the result that:
- o - of the 15 procurements relating to advisory and assistance services, there was no evidence that the contractor's performance had been monitored for 10 of these procurements;
 - o - the services received as a result of 13 procurements were not evaluated;
 - o - the Contracting Officer's Technical Representatives (COTR) were not instructed to maintain records of monitoring or to prepare evaluations of the contractor's performance after completion of the tasks;
 - o - in contravention of the guidelines for the use of advisory and assistance services, the NLRB used signed receiving reports and vendor's invoices initialed by Agency personnel as evidence that the contractor's performance had been monitored and

evaluated - a procedure which is perhaps adequate for monitoring and evaluating, for example, tangible personal property, but not advisory and assistance services.

- B. The Agency did not have centralized management control over advisory and assistance services. OMB Circular A-120 Section 8.D.(1) requires that: "Each agency head shall designate a single official reporting directly to him or her who shall be responsible and accountable for assuring that the acquisition of advisory and assistance services meets the provisions contained in this circular. The single official shall have minimum responsibility for the procurement of such services." No such Agency official had been designated for the NLRB.
- C. The use of consultants was not properly authorized as required by OMB Circular A-120 Section 8.C.(2) which states: "Each agency will assure that for all advisory and assistance service arrangements: as prescribed by the Federal Acquisition Regulations, written approval of all advisory and assistance services arrangements will be required at a level above the organization sponsoring the activity. Additionally, written approval for all advisory and assistance service arrangements during the fourth fiscal quarter will be required at the second level or higher above the organization sponsoring the activity." These required levels of approval were not obtained for 9 of 15 procurements. Two of these nine procurements were requested and approved by the same official.
- D. There was no formal determination regarding the need for some advisory and assistance services. OMB Circular A-120 Section 8.C.(3) states: "Each agency will assure that for all advisory and assistance services arrangements: every requirement is appropriate and fully justified in writing. Such justification will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services." There was no written request justifying the use of advisory and assistance services for 5 of the 15 procurements. Purchase orders for two of those five procurements did include a statement of need. The Chief, Procurement and Facilities Branch stated that he evaluated the requests, oral and written, for the use of advisory and assistance services and then made the determination whether to use these services based on criteria in OMB Circular A-120 and the Federal Acquisition Regulations.

E. Advisory and Assistance type procurements were not identified and reported as such. Other type procurements were erroneously identified and reported as advisory and assistance services. Section 9.A. and 9.B. of OMB Circular A-120 state: "Contracted advisory and assistance services shall be reported to the Federal Procurement Data System (FPDS) in accordance with the instructions in the FPDS Reporting Manual. Contract actions of \$25,000 or less reported on the Summary Contract Action Report are not covered by this reporting requirement." The FPDS is maintained to measure and assess the impact of federal procurements. This failure resulted in:

- o - three of the 15 procurements relating to advisory and assistance services exceeded \$25,000. Two of these procurements, totalling over \$111,000, were not identified and reported to the Federal Procurement Data Center as advisory and assistance type procurements;
- o - two other procurements, totalling \$690,000, were improperly identified and, as a result, erroneously reported to the Federal Procurement Data Center as advisory and assistance type arrangements. The FPDS Reporting Manual stipulates that agencies use Individual Contract Action Reports (ICAR) to collect and remit procurement information to the Federal Procurement Data Center. Box fourteen on the ICAR, which is used to indicate if the procurement was for advisory and assistance services, was not properly marked by the Procurement and Facilities Branch. There was no documentation in the procurement files which provided responsible personnel with a basis for marking box 14 of the ICAR.

F. A financial consultant performed operating functions and supervised Agency personnel, both of which are prohibited. Section 7.B.(1) of OMB Circular A-120 states: "Advisory and assistance services shall not be used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials." The Federal Personnel Manual, Chapter 304, states that "Consultant means a person who serves primarily as an adviser to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. A consultant provides views or opinions on problems or questions presented by the agency, but neither performs nor supervises performance of operating functions."

Some tasks inappropriately performed by the consultant included: reviewing applications and interviewing candidates for positions with the NLRB; instructing accounting staff to deobligate funds; contacting vendors to determine if balances due were overstated and deobligating any surplus amounts; and, preparing Agency reports for submission to the Department of Treasury and the Office of Management and Budget. The statement of work on the purchase orders indicated tasks which were consistent with the role of a consultant.

- G. We noted that each of the three purchase orders issued to the consultant, totaling over \$28,000, were "sole source". Part 13.105 section c (2) of the Federal Acquisition Regulations states: "If only one source is solicited, an additional notation shall be made to explain the absence of competition, except for acquisition of utility services available only from one source or of educational services from nonprofit institutions." The procurement records did not address the absence of competition regarding these purchases.
- H. We identified seven procurements relating to advisory and assistance services for which the vendor's final invoice had been received and the contractors paid. There remained about \$8,300 in unliquidated obligations applicable to these procurements. We identified the specific transactions involved and the Chief of the Finance Branch deobligated the funds. Financial procedures have been revised and no recommendations are necessary.

Ten recommendations were made in this audit report, including actions which would require that:

- o - records be maintained evidencing the Agency's monitoring of contractors during the performance of advisory and assistance services;
- o - advisory and assistance services be evaluated at the conclusion of the period of performance;
- o - the General Counsel designate the Deputy General Counsel as the responsible official prescribed by Section 8.D.(1) of Circular A-120. The Deputy General Counsel, if so designated, would meet the requirement of reporting directly to the head of the Agency and has minimum procurement responsibility;
- o - the use of advisory and assistance services be approved by an official at a level above the organization sponsoring the activity;

- o - the Deputy General Counsel approve any requests from the Director of the Division of Administration and Associate General Counsels;
- o - the approval for the use of advisory and assistance services be in writing and maintained in the procurement file;
- o - the use of advisory and assistance services be justified in a written request which also includes a certification that such services do not unnecessarily duplicate any previously performed work or services;
- o - purchase orders, where appropriate, include a statement that the procurement is for advisory and assistance services;
- o - Agency personnel involved in the procurement and utilization of advisory and assistance services be instructed that consultants shall not be used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of Agency officials; and,
- o - the procurement file be noted with an explanation when only one source is solicited.

"A Review of the National Labor Relations Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act"

Audit Report No. OIG-AMR-14

Audit Basis

An audit of NLRB's conformance with the Federal Managers' Financial Integrity Act (FMFIA) of 1982, Public Law 97-255, was conducted as set forth in the OIG Annual Audit Plan for Fiscal Year 1992. Section 2 of the FMFIA requires that: (1) agencies evaluate their systems of internal accounting and administrative control in accordance with guidelines established by the Office of Management and Budget (OMB) and, on the basis of the evaluation, annually report to the President and the Congress on the status of their systems of internal control.

The intent of the FMFIA is to provide agency managers with a framework for self-analysis of internal controls, and to report the results of this analysis to the agency heads, who in turn report to the President and the Congress. If administered effectively, the FMFIA program provides comprehensive coverage of the agency when identifying

assessable units. An assessable unit is a program, activity, organization or function within an agency.

Background, Statutory and Regulatory Requirements

The Agency has a FMFIA Review Committee that administers the requirements of the FMFIA plan and provides technical guidance to the managers of assessable units. Presently, the NLRB has 52 assessable units identified in the Agency's Management Control Plan (MCP). An MCP identifies assessable units and their risk rating, and provides a schedule of actions to be taken regarding the assessable units.

The purpose of the audit was to ascertain whether the NLRB was in conformance with Section 2 of the FMFIA which requires agencies to evaluate and report on their systems of internal control. The audit scope was Fiscal Years 1990 and 1991. Specifically the audit determined if:

- o - adequate inventory of assessable units had been compiled;
- o - adequate and sufficient information was available to personnel with FMFIA responsibilities;
- o - Agency managers had accountability for the performance of their FMFIA responsibilities; and,
- o - the Agency met the internal and external reporting requirements of the FMFIA.

During the audit we evaluated NLRB's inventory of assessable units against criteria established by OMB and ascertained the authenticity of information set forth in the Agency's MCP. Position descriptions, performance plans and evaluations were reviewed to determine if NLRB was using FMFIA performance as a factor when establishing employee responsibilities and judging the performance of Agency managers. Several NLRB officials with FMFIA responsibilities were interviewed to identify Agency policies and procedures. There were documentation reviews of operating manuals, risk assessments and internal control reviews. We examined compliance with applicable laws and regulations, including OMB Circular A-123.

Findings

- A. The NLRB's inventory of assessable units does not provide comprehensive coverage of the Agency as required by the criteria provided in the Office of Management and Budget Internal Control Guidelines, published in December 1982, with the result that:

- o - there were 52 assessable units identified within the NLRB of which 42 units were within the Division of Administration.

- o - the Division of Operations-Management, including all field offices and headquarters functions, was identified as constituting one assessable unit, comprising about 65 percent of the NLRB employee complement. The Division of Operations-Management assessable unit did not: (1) identify all major functions within Operations-Management or (2) provide the Division managers of more than 1400 employees a role in the FMFIA process. The inventory of assessable units relating to the Division of Operations-Management did not provide full coverage of its functions. The Management Control Plan (MCP) maintained by the FMFIA Review Committee did not agree with documents provided by the Division of Operations-Management regarding identification of the assessable unit. The MCP identified the assessable unit as Regional Casehandling while the risk assessment performed by the Division of Operations-Management identified it as Regional Office Operations. Neither identification provides full coverage of the functions performed. Regional Casehandling or Regional Office Operations: (1) did not identify all major functions done in the Division of Operations-Management, (2) did not provide for participation in the process by the field offices or the Districts, and (3) was too general in that this one (of 52) assessable units comprises about 65 percent of the NLRB. The headquarters unit performs functions inherently different from those performed by the field offices and should be considered separately;

- o - the inventory of assessable units relating to the Division of Enforcement Litigation did not provide full coverage of its program functions. The Division of Enforcement Litigation was identified as one assessable unit even though it has five branches, each with a unique mission:
 - Supreme Court Branch;
 - Special Litigation Branch;
 - Appellate Court Branch;
 - Contempt Branch; and,
 - Office of Appeals;

- o - the inventory of assessable units relating to the Division of Advice does not provide comprehensive coverage of its program functions. The Division of Advice was identified as one assessable unit

even though it is comprised of two branches: Regional Advice Branch and Legal Research and Policy Planning Branch, each with a different mission; and,

- o - the Office of Inspector General (OIG) was not identified as an assessable unit in the Agency's Management Control Plan, even though it operates with a great deal of independence and its mission is different from any other at the Agency. Subsequent to the completion of our audit fieldwork the Agency implemented our suggestion to include the OIG in the MCP.
- B. Assessable units were not evaluated or were not evaluated in a timely manner which limited the basis on which the NLRB relied when the Agency annually reported on its systems of internal control. The FMFIA and OMB Circular A-123 require the heads of agencies to annually report to the President and to Congress whether: (1) the evaluations of internal controls in an agency were conducted in accordance with OMB Circular A-123, and (2) an agency's systems of internal control comply with the standards prescribed by GAO and OMB. OMB Circular A-123 also requires that managers of individual components within agencies report to their agency head annually whether the internal control systems in their component comply with the requirements of FMFIA and OMB Circular A-123. Risk Assessments (RA) and Internal Control Reviews (ICR) were not scheduled as set forth by statute and Agency directive, with the result that:
- o - six of the 41 assessable units in the Division of Administration had not performed an ICR by Fiscal Year 1991 as required. These ICRs were performed for Fiscal Year 1992;
 - o - no assessable units outside the Division of Administration have performed an ICR, and no ICRs are scheduled for these units until Fiscal Year 1994; and,
 - o - four of nine assessable units outside the Division of Administration had not conducted an RA for Fiscal Years 1991 and prior. All assessable units, identified as such, conducted an RA for Fiscal Year 1992.
- C. Most managers with FMFIA responsibilities were not evaluated on their performance in regard to internal control functions under their supervision as required by OMB Internal Control Guidelines. One exception was the Procurement and Facilities Branch where the

requirements of FMFIA were integrated into the position descriptions, performance plans and evaluations of the managers. As a result:

- o - 82% of managers in assessable units did not have a reference to their FMFIA or internal control responsibilities in their position descriptions;
 - o - no managers of components other than the Division of Administration have performance plans or evaluations which reference their performance in regard to meeting FMFIA or internal control requirements;
 - o - in the Division of Administration, 38% of the managers' evaluations did not reference their FMFIA or internal control performance; and,
 - o - at the end of Fiscal Year 1990, there were three identified material weaknesses covering six specific items. Of the six items, only two were addressed in the performance evaluation of the responsible manager.
- D. Despite the fact that OMB Circular A-123 prescribes that policies and procedures relating to internal controls apply to program and administrative activities of an agency, managers of assessable units outside the Division of Administration were not required to prepare an assurance letter regarding their systems of internal control, resulting in the managers of nine assessable units not providing the requisite assurance letter.
- E. The Agency had no documentation in support of risk assessments in contravention of OMB Internal Control Guidelines which specify that, "adequate written documentation should be maintained. In particular, documentation should be maintained for activities conducted in connection with vulnerability assessments, internal control reviews and follow-up actions to provide a permanent record of the methods used, the personnel involved and their roles, the key factors considered and the conclusions reached. This information will be useful for reviewing the validity of the conclusions reached, evaluating the performance of individuals involved in the assessments and reviews, and performing subsequent assessments and reviews." RAs for eight assessable units were reviewed and none of the units maintained adequate supporting documentation. The value and credibility of RAs is reduced when documentation is not maintained to corroborate the results of the assessment.

We also noted that one assessable unit, Budget Formulation and Budget Execution, did not have a current desk manual. The manual presented for review was developed in 1979. A manual is essential to the documentation of a system of internal control. It should provide the detailed steps that must be followed by employees carrying out their responsibilities in performing their part of an event cycle. In addition, the manual provides the basis for determining if an internal control review addressed all transaction cycles and control techniques.

These findings necessitated recommendations that the Agency:

- o - amend the inventory of assessable units to more fully integrate the FMFIA process within components outside the Division of Administration;
- o - establish compliance with statutory requirements by either assessing or reviewing each NLRB unit annually;
- o - perform reviews during Fiscal Year 1993 for all assessable units which are overdue for review;
- o - incorporate the FMFIA responsibilities of managers into their performance plans and evaluations;
- o - require assessable units to maintain documentation supporting RAs;
- o - require the Budget Formulation and Budget Execution assessable units to update their desk manuals; and,
- o - require managers outside the Division of Administration to submit an annual assurance letter regarding the adequacy of internal controls under their supervision.

"A Review of the National Labor Relations Board's Compliance with Section 4 of the Federal Managers' Financial Integrity Act"

Audit Report No. OIG-AMR-15

Basis for Audit

Section 4 of the Federal Managers' Financial Integrity Act (FMFIA) of 1982, Public Law 97-255, requires that the head of each agency report to the President and the Congress on whether the agency's accounting system conforms to appropriate accounting principles and standards. The intent of FMFIA Section 4 is to provide agency managers with a

framework for self-analysis of financial systems and sub-systems and to report the results of this analysis to the agency heads, who in turn report to the President and the Congress.

Background and Regulatory Requirements

The NLRB has a FMFIA Review Committee that administers the requirements of the FMFIA plan and provides technical guidance to the managers of systems.

The purpose of this audit was to ascertain whether the NLRB was in conformance with Section 4 of the FMFIA which requires agencies to develop, operate, evaluate and report on financial systems. Our audit scope was Fiscal Years 1990 and 1991. Specifically, the audit was conducted to determine if the Agency met the requirements of establishing and maintaining an inventory of financial systems. During the audit, the Agency's inventory of assessable units was evaluated against criteria established by the Office of Management and Budget (OMB). We examined compliance with applicable laws and regulations including OMB Circular A-127.

Findings

The audit concluded that the Agency was in conformance with Section 4 of the FMFIA.

The Agency has taken, or was implementing, actions which rectify the two findings noted in the Audit Report as follows:

- A. The Agency's Financial Management Information Accounting System (FMIAS) interfaces with four other financial systems as defined by the Agency. There was no adequate documentation setting forth the nature and extent that FMIAS interfaces with three of the Agency's four sub-systems.

FMIAS documentation is being developed by personnel in the Division of Administration, with June 30, 1993 as their estimated completion date. The OIG was informed that the documentation will provide the nature and extent of the interface between FMIAS and the other financial systems.

- B. Prior to Fiscal Year 1993 the NLRB's financial systems had not been reviewed in detail by the Agency official with FMFIA responsibility for that system. Documentary evidence should identify the personnel involved and their roles, the review methods used, testing and related results, and the conclusions reached.

FMIAS and three of the Agency's other four financial systems were reviewed by the appropriate managers in detail during early Fiscal Year 1993. The one system which was not subject to a detailed review is scheduled for modification during Fiscal Year 1993.

SECTION 8

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) ¹⁹

	<u>Number</u>	<u>Dollar Value (thousands of \$)</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. Findings in 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	0		
(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

¹⁹ The several definitions applicable to Sections 8 and 9 of this Semiannual Report may be found in Appendix A.

SECTION 9

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 (thousands of \$)</u> <u>Recommendations That Funds Be</u> <u>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. Findings in reports issued during the reporting period	1	\$8.3 ²⁰
Subtotal (A + B)	1	\$8.3
C. For which a management decision was made during the reporting period	1	\$8.3
(i) Recommendations agreed to by management	1	\$8.3
(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

²⁰ This amount is attributable to the Audit concerning Advisory and Assistance Services.

SECTION 10

SUMMARY OF EACH AUDIT REPORT ISSUED
BEFORE REPORTING PERIOD FOR WHICH NO MANAGEMENT DECISION
MADE BY END OF REPORTING PERIOD
(MANDATED BY SECTION 5 (a) (10) OF THE ACT)

Not applicable.

SECTION 11

DESCRIPTION AND EXPLANATION OF REASONS FOR ANY
SIGNIFICANT REVISED MANAGEMENT DECISION
MADE DURING THE REPORTING PERIOD
(MANDATED BY SECTION 5 (a) (11) OF THE ACT)

During the reporting period, no significant revised management decisions were made.

SECTION 12

INFORMATION CONCERNING ANY SIGNIFICANT MANAGEMENT DECISIONS
WITH WHICH INSPECTOR GENERAL IS IN DISAGREEMENT
(MANDATED BY SECTION 5 (a) (12) OF THE ACT

Not applicable.

SECTION 13

REVIEW OF EXISTING AND PROPOSED LEGISLATION AND REGULATIONS RELATING TO PROGRAMS AND OPERATIONS AND RECOMMENDATIONS CONCERNING THEIR IMPACT ON ECONOMY AND EFFICIENCY IN THE ADMINISTRATION OF PROGRAMS AND OPERATIONS ADMINISTERED OR FINANCED BY DESIGNATED ENTITY OR THE PREVENTION AND DETECTION OF FRAUD AND ABUSE (MANDATED BY SECTION 4 (a) (2) OF THE ACT)

Section 4 (a) of the Act requires the IG to review existing or proposed legislation and regulations and to make recommendations in the semiannual report concerning their impact on the economy and efficiency of the administration of the Agency's programs and operations and on the prevention and detection of fraud and abuse. Among those items reviewed during this reporting period were the following which fall within the mandate of the above-cited section of the Act.

PROPOSED LEGISLATION AND REGULATIONS

Legislation

As in previous reporting periods, a number of bills which would extend the jurisdiction of the Agency, thereby increasing its work, were introduced during the period covered by this semiannual report. The following bills or resolutions would apply the NLRA to Congress: H.R. 107; H.R. 137; H.R. 204; H.R. 246; H.R. 349; H.R. 788; H.R. 1545; H.Res. 36; H.Res. 54; H.Res. 125; S. 29; S. 103; and, S. 579. Another bill, H.R. 95, would amend the NLRA to require the Agency to assert jurisdiction in a labor dispute which occurs on Johnston Atoll. Finally, H.R. 1517 would extend the coverage of the NLRA to foreign documented vessels. As noted in previous semiannual reports, any measure extending the Agency's jurisdiction would have an impact on the economy and efficiency of the Agency by requiring either additional funding, more efficient use of resources, or the reallocation of resources from other areas. In terms of the OIG, these bills would not affect its ability to detect and prevent waste, fraud and abuse, unless the OIG lost resources in order to accommodate another program or operation.

Two bills introduced would affect the Agency's administration of the Act by imposing time limitations upon its actions in certain situations. H.R. 689, introduced on January 27, 1993, would, among other things, specify time limits within which the Agency must investigate representation petitions and direct elections. It would also require the Board to engage in rulemaking with respect to certain representation issues. S. 598, introduced on March 17, 1993, would require hearing and decision on

certain unfair labor practice complaints within specified time limits after a complaint is issued. The time limitations would apply in cases where a collective-bargaining agreement has expired, any party to a labor contract alleges that the other party has failed to engage in good faith bargaining, and an employer has hired permanent replacements.

The time limitations imposed by both of these proposed bills would require the Agency to either hire additional personnel in order to meet those deadlines, or else possibly delay the processing of all other types of proceedings. In the case of H.R. 689, giving priority to representation cases might mean a delay in unfair labor practice proceedings should funds not be made available for additional personnel. In the case of S. 598, giving priority to the type of unfair labor practice complaints covered would mean a delay of all other types of unfair labor practice cases or representation cases, none of which have statutorily-set time limits (although there are statutorily-set priorities for casehandling), were additional personnel not available. 21

Like the potential extension of Board jurisdiction, these time deadlines would have an impact on the economy and efficiency of the Agency by requiring either additional funding, more efficient use of resources, or the reallocation of resources. Were the statute to provide for the expedited adjudication of matters involving alleged unfair labor practice strikes resulting from the failure to bargain in good faith, it is reasonable to predict that more such charges would be filed. This kind of case is commonly fairly lengthy and fact specific in terms of resolution, so that meeting the deadlines might require additional resources. In terms of the OIG, again, these bills would affect its ability to detect and prevent waste, fraud and abuse only if the OIG lost resources in order for the Agency to meet the requisite deadlines, but given the extremely limited personnel resources available to the OIG (a total staff of seven), it is unlikely that tapping them would permit the Agency to meet its newly-imposed deadlines.

The OIG has also been tracking the progress of S. 20, a bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government. This bill, which would create pilot projects in program performance measurement and reporting and in managerial accountability and flexibility, as well as for performance budgeting, would contribute to the

21 Should H.R. 5 or S. 55, proposed legislation which would prohibit the permanent replacement of economic strikers, become law, it would appear that S. 598 would become moot.

efficiency of the Government by requiring individual agencies to focus on what their goals and objectives are and self-examine their success in the achievement of those goals. Such feedback should be beneficial in future planning and in the management of agency programs. While NLRB already employs program performance measurement and reporting in the management of certain of its components, other components of the Agency might well benefit from such an exercise. Those Agency components already utilizing performance measurement programs would no doubt also profit from knowledge gained through the Government pilot projects.

Rules and Regulations

During this reporting period the OIG responded to an OMB request for comments on a proposed revision to Circular A-127, which prescribes policies and procedures for developing, operating, evaluating, and reporting on financial management systems. The revision proposed does eliminate much undesired overlap between Circular A-127 and Circulars A-123 (Internal Control Systems) and A-130 (Management of Federal Information Resources), and does clarify policies relating to financial management systems. We noted that it was less clear in one area, however. Whereas Circular A-127 states very specifically the responsibilities of the key agency officials--including the agency head, the designated senior official, managers of the financial systems, and the Inspector General--the revision proposed lists responsibilities only at the agency level. This proposed change decreases both the clarity of the document and, potentially, the accountability of specified agency officials.

SUGGESTED LEGISLATION

The OIG recently encountered a situation in which a Regional Office official allegedly continued to act upon matters involving a Local Union, even though the President of that Local Union, the Regional Office official, and their respective spouses jointly owned real estate.

Because the actions of the Regional Office official did not directly bear upon the jointly-owned real estate interest, nor upon any other potentially direct financial interests of the Local Union President,²² the actions of the Regional

²² Such as they might have if: (1) the Local Union President were personally charged with an unfair labor practice giving rise to a financial liability on his part, or (2) if he were named as a discriminatee in a matter giving rise to a potential financial benefit for him.

Office official did not appear to fall within the proscriptions of 18 U.S.C. Section 208, or any other criminal conflict-of-interest statute. Although this conduct is addressed by Governmental regulations dealing with standards of ethical conduct, the IG is of the view that it should also be a crime and urges that legislation making it so be enacted.

One cannot hope to have a law-abiding citizenry without citizens who accept responsibility for their own conduct and who credibly perceive that law enforcement officials do not have conflicts of interest or even the appearance of a conflict of interest. Without law enforcement officials of that calibre and law enforcement agencies who hold their employees to that standard of conduct, citizens will be less likely to accept responsibility for their own conduct.

One way of assuring adherence to that standard of conduct is to make it subject to the criminal provisions of the United States Code rather than a mere violation of a standard of conduct. In addition, since violations of standards of conduct are addressed by agency heads, when there is a potential conflict of interest of the kind noted, it might be best if it were addressed by a person independent from the agency, such as the Attorney General.

APPENDIX A

Definitions Used in Sections 8 and 9

As used in this Semiannual Report, the following phrases have the indicated definitions:

"Questioned cost" is synonymous with the definition of that phrase at Section 5(f)(1) of the Inspector General Act where it is defined to mean a cost that is questioned by the OIG because of: (A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

"Unsupported cost" is synonymous with the definition of that phrase at Section 5(f)(2) of the Inspector General Act where it is defined to mean a cost that is questioned by the OIG because the OIG found, at the time of the audit, such cost is not supported by adequate documentation.

"Management decision" is synonymous with the definition of that phrase at Section 5(f)(5) of the Inspector General Act where it is defined to mean the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary.

"Final action" is synonymous with the definition of that phrase at Section 5(f)(6) of the Inspector General Act where it is defined to mean; (A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and (B) in the event that the management of an establishment concluded no action is necessary, final action occurs when a management decision has been made.

"Disallowed cost" is synonymous with the definition of that phrase at Section 5(f)(3) of the Inspector General Act where it is defined to mean a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government.

"Recommendation that funds be put to better use" is synonymous with the definition of that phrase at Section 5(f)(4) of the Inspector General Act where it is defined to mean a recommendation by the OIG that funds could be used

more efficiently if management of an establishment took actions to implement and complete the recommendation, including: (A) reductions in outlays; (B) deobligation of funds from programs or operations; (C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; (D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee; (E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or (F) any other savings which are specifically identified.

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, 1717 PENNSYLVANIA AVENUE, NW, ROOM 232, WASHINGTON, DC 20570; (2) BY TELEPHONE - DURING NORMAL BUSINESS HOURS, CALL (202) 254 4880; 24 HOURS A DAY, USE THE HOTLINE AT (202) 254 4885; FTS 8 (202) 254 4885; OR TOLL FREE 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**