



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
Office of Inspector General



SEMIANNUAL   
**REPORT**



OCTOBER 1, 2010 – MARCH 31, 2011

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# DAILY NEWS

FINAL

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New York, Tuesday, April 13, 1937\*

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# WAGNER ACT HELD VALID



## The Winner!

*In a jubilant mood is New York's Senator Robert Wagner as he stands in his Washington, D. C., office and acknowledges the congratulations that poured in yesterday after the Supreme Court had upheld the constitutionality of the Wagner Labor Relations Act. Ruling on five test cases, the Court decided five times for the New Deal's "Magna Charta for Labor." In all save one, the vote was 5-4, Justice Owen J. Roberts' shift to the liberal block giving the New Deal its victory.*

—Story p. 1; other pics. back page.

In The Center Fold of This Issue:

**4-Page Special Supplement on the Court's 5 Decisions**

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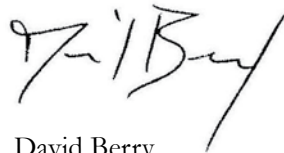
# EXECUTIVE SUMMARY

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I hereby submit this Semiannual Report for the period October 1, 2010 – March 31, 2011. This report summarizes the major activities and accomplishments of the Office of Inspector General of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended. Section 5 of the Inspector General Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of the Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued two audit reports and two inspection reports; completed the annual review required by the Federal Information Security Management Act of 2002; and provided the annual list of the top management and performance challenges to the Chairman. As a result of the audits, we identified \$1,042,603 in questioned costs and recommended that the Agency put \$915,374 to better use. In the investigation program, the Office of Inspector General processed 147 contacts, initiated 3 cases, and closed 3 cases. Our investigative efforts resulted in counseling for four employees and notification to two employees of proposed disciplinary action. Details on these accomplishments can be found in the body of this report.

I appreciate the support of all Agency employees in achieving the accomplishments set forth in this report.



David Berry  
Inspector General  
April 29, 2011

# AGENCY PROFILE

The National Labor Relations Board (NLRB or Agency) is an independent Federal agency established in 1935 to administer the National Labor Relations Act. The National Labor Relations Act is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. NLRB jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within NLRB's jurisdiction).

The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. It does this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The NLRB has two principal functions: (1) to determine and implement, through secret ballot elections, the free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions.

NLRB authority is divided by law and delegation. The five-member Board primarily acts as a quasi-



judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices before administrative law judges, whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.

Left to right:  
Brian Hayes, Craig Becker,  
Chairman Wilma B. Liebman,  
Mark Gaston Pearce.



The Board consists of the Chairman and four Members who are appointed by the President with the advice and consent of the Senate. Board Members serve staggered terms of 5 years each. The General Counsel is also appointed by the President with the advice and consent of the Senate and serves a term of 4 years.

For this reporting period, the Board consisted of Chairman Wilma B. Liebman and Members Craig Becker, Brian Hayes, and Mark Gaston Pearce. On January 5, 2011, the President nominated Lafe Solomon to be the General Counsel. Mr. Solomon continued to serve as Acting General Counsel during the reporting period.

During this reporting period, the NLRB operated under a series

of Continuing Resolutions that provided funding at the Fiscal Year (FY) 2010 appropriation level of \$283,400,000.

NLRB Headquarters is located at 1099 14th Street, NW, Washington, DC. In addition to the Headquarters building, employees are located in 51 field offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. Since October 2, 2000, field offices have included 32 Regional Offices, 16 Resident Offices, and 3 Subregional Offices.

Additional information about the NLRB can be found at [www.NLRB.gov](http://www.NLRB.gov).

# OFFICE OF INSPECTOR GENERAL

NLRB established the Office of Inspector General (OIG) pursuant to the 1988 amendments to the Inspector General Act of 1978 (IG Act).

## Resources

Because the NLRB operated under a series of Continuing Resolutions for the entire reporting period, the OIG did not receive an allocation of funds for FY 2011 operations. During that time, however, the OIG did receive sufficient funds, as needed, to maintain its programs. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, three auditors, and a staff assistant. At this time, the Counsel/Assistant Inspector General for Investigations position is vacant.



# AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued two audit reports and two inspection reports; completed the annual review required by the Federal Information Security Management Act of 2002; and provided the annual list of the top management and performance challenges to the Chairman. As a result of the audits, we identified \$1,042,603 in questioned costs and recommended that the Agency put \$915,374 to better use.

We issued **Audit Report OIG-F-15-11-01, *Audit of the NLRB Fiscal Year 2010 Financial Statements***, on December 15, 2010. The audit, performed by an independent public accounting firm, found that the NLRB's FY 2010 Financial Statements were fairly stated, and no material weaknesses in controls over financial reporting were identified. Although no material weaknesses were identified, a significant deficiency involving internal controls was found, as evidenced by the combination of deficiencies to be in compliance with laws related to the Antideficiency Act, the *bona fide* needs rule, the recording statute, and the lack of a system to prevent or detect the violations.

A Management Letter, issued as part of the financial statement audit process, also addressed this significant deficiency and detailed the violations that evidenced the significant deficiency. The following instances of noncompliance with laws and regulations were identified:

- The Agency did not adhere to the recording statute and the *bona fide* needs rule when the Office of Employee Development obligated \$39,000 in FY 2010 funds for the costs related to two participants' attendance at training at the Federal Executive Institute in January 2011.
- The Agency did not adhere to the recording statute and the *bona*



*fide* needs rule when it recorded obligations in the amount of \$876,374 for 36 contracts for court reporting services on September 28 and 29, 2010.

- The Agency violated the Antideficiency Act when the Office of Equal Employment Opportunity purchased food as meals for employees.
- The Agency violated the Antideficiency Act when the Acquisitions Management Branch entered into a prohibited personal services contract.

The Management Letter contained recommendations to address the significant deficiency in internal controls and the instances of noncompliance with laws and regulations.

In their comments to the Management Letter, the Chairman and Acting General Counsel stated that they are committed to making changes as are necessary or appropriate to ensure a properly controlled financial environment.

The two matters involving the *bona fide* needs rule were referred to the U.S. Government Accountability Office for a Comptroller General Decision.

We issued **Audit Report OIG-AMR-66-11-01, *Travel Cards***, on March 23, 2011. This audit was conducted to determine whether the NLRB's travel card program

was operated in accordance with applicable laws, regulations, and Agency policies and whether controls are sufficient to prevent or detect waste, fraud, and abuse.

We generally found that the NLRB's travel card program did not meet the requirements of the Office of Management and Budget. This is largely due to the fact in FY 2010 the Finance Branch did not have a travel card management plan. After the audit field work was completed, the Finance Branch submitted a travel card management plan to the Office of Management and Budget.

We also found that the Finance Branch is adequately monitoring employee travel card use and is generally checking creditworthiness when it is setting travel cards limits.

We identified aspects of the travel card program that could be improved, including travel card training, procedures to cancel cards when employees leave the Agency, and ensuring that employees use their travel cards when they are on official travel. We also identified 464 transactions that appear to be improper because the employee was not in a travel status and 41 transactions that appear to be unrelated to official travel that occurred while the employee was in a travel status. We found 29 cash advances that appear to be unrelated to official travel. All of the questionable transactions that



we identified will be reviewed for employee misconduct.

We made eight recommendations that we believe will assist in managing the travel card program and strengthen its internal controls.

We issued **Inspection Report OIG-INS-61-11-01, *NxGen Information Technology Security***, on October 6, 2010. We evaluated whether NxGen is protected against both internal and external threats. We did not make the report available to the general public and limited distribution of the report within the NLRB to those individuals with a need to know the information.

We issued **Inspection Report No. OIG-INS-63-11-02, *Hard Drive Failures***, on March 23, 2011.

The inspection was conducted to calculate the hard drive failure rates for a particular brand of a laptop computer purchased since the end of FY 2009. This inspection was initiated after the Office of the Chief Information Officer noticed an increase in the number of hard drive failures.

We found that 52 of the 495 laptop computers purchased and installed since July 2009 experienced a hard drive failure. Of the 52 laptop computers, 49 had hard drive failures within 1 year of installation, a failure rate of 9.90 percent. That rate is significantly above independent research studies of hard drive failures, which place the annual hard drive failure rate at 2 to 4 percent.



We completed the **Federal Information Security Management Act of 2002** annual review of information security programs. The OIG review was primarily accomplished as part of the audit of the FY 2010 financial statements. On November 15, 2010, the Chairman submitted reports from the Inspector General and the Chief Information Officer to the Office of Management and Budget.

We released **Issue Alert OIG-IA-11-01, *Top Management and Performance Challenges***, on October 7, 2010. The OIG developed a list of what it considers to be the most serious management and performance challenges currently facing the NLRB. The challenges are:

1. Implementation of the Next Generation Case Management System and seize opportunities to create more productive and efficient procedures and organizations;
2. Maintain the Agency's institutional knowledge;
3. Manage the Agency's financial resources;
4. Manage the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation;
5. Strengthen control over employees' use of Agency information technology assets to include Internet access; and
6. Implement audit findings in a timely manner.

## Audit Follow-up

**Agreed upon actions were not completed within 1 year on seven audit reports.**

**Audit of the NLRB Fiscal Year 2006 Financial Statements, OIG-F-11-07-01**, was issued on December 14, 2006, and we reached agreement with management on June 14, 2007. We continue to monitor the Agency's progress towards implementing the final open recommendation.

**Continuity of Operations, OIG-AMR-55-07-03**, was issued on September 18, 2007, and we reached agreement with management on that date. Action has been completed on one of the three recommendations. During this reporting period, the Agency did not inform us of any action taken to implement the two open recommendations.

**Audit of the NLRB Fiscal Year 2007 Financial Statements, OIG-F-12-08-01**, was issued on December 17, 2007, and we reached agreement with management on that date. Action has been completed on two of the three recommendations. The Agency is actively working to implement the final recommendation.

**Office of the Chief Information Officer Procurement Functions, OIG-AMR-57-08-01**, was issued on March 14, 2008, and we reached agreement with management on that date. Action has been completed on

five of the seven recommendations. The Agency reported that action has been completed on a sixth recommendation and they are actively working to implement the final recommendation.

**Laptop Computer Accountability and Security, OIG-AMR-59-09-01**, was issued on February 27, 2009, and we reached agreement with management on that date. The six recommendations made in the report have not been fully implemented. We will continue to monitor management's progress in implementing these recommendations.

**Official Time for Union Activities, OIG-AMR-63**, was issued on December 11, 2009, and we reached agreement with management on that date. We are evaluating information related to the implementation of one of the four recommendations made in the report. We will continue to monitor management's progress in implementing the recommendations.

**Audit of the NLRB Fiscal Year 2009 Financial Statements, OIG-F-14-10-01**, was issued on December 11, 2009. We have not reached agreement with management on a recommendation to deobligate \$250,000 of postage advance from FY 2009 funds and re-obligate the postage advance using FY 2010 funds.

# INVESTIGATION PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. *The investigations resulted in counseling for four employees and notification to two employees of proposed disciplinary action.*

Case Workload		Contacts Processed	
Open (4/1/2010)	11	Received	147
Initiated	3	Initiated Investigation	1
Closed	3	Opened Case — Referred to Agency	0
Open (9/30/2010)	11	Non-Investigative Disposition	146

## Investigative Highlights

- Investigated the Agency’s use of internet advertisements for its Web site. The matter was referred to the OIG by the Chairman. We found that although the advertisements were not properly procured, there was no Antideficiency Act violation. OIG-I-453
- Investigated a matter involving a gift from subordinates to a supervisor. We found that the

allegation was not substantiated. OIG-I-447

- Investigated and substantiated an allegation that an employee improperly released nonpublic information. A report of misconduct was forwarded to Agency management. OIG-I-443
- Investigated and substantiated an allegation that an employee used official resources to engage in an outside business activity. Because of a lack of candor issue during the investigation, in a prior reporting period the matter was referred to the local U.S. Attorney’s Office. Prosecution was declined. A report of misconduct was forwarded to Agency management. OIG-I-441

## Hotline

Employees and members of the public with information on fraud,



waste, and abuse are encouraged to contact the OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, e-mail, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts. Hotline contacts are analyzed to determine if further inquiry or action is warranted.

During this reporting period, the OIG received 147 Hotline contacts, of which 31 were telephone calls

or walk-ins and 116 were in writing. One contact resulted in the initiation of an OIG investigation.

Most Hotline contacts are from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction. As appropriate, the OIG refers those Hotline contacts to a NLRB Regional Office; local, state, or Federal agencies; or private resources to provide assistance.

# LEGISLATION, REGULATIONS AND POLICY

The responsibilities and duties of an OIG include reviewing existing and proposed legislation and regulations relating to the programs and operations of its agency and making recommendations in the semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the agency or the prevention and detection of fraud and abuse in such programs and operations.

## Legislation

During this reporting period, there were four legislative proposals introduced that would amend the National Labor Relations Act and impact the programs and operations of the Agency:

H.R. 129, Labor Relations First Contract Negotiations Act of 2011;

H.R. 972, Secret Ballot Protection Act;

H.R. 1047, State Right to Vote Act; and

S. 217, Secret Ballot Protection Act.

The impact of these proposals on the NLRB and its programs has been the subject of extensive debate.

## Regulations

The Counsel to the Inspector General is an advisory member of the Agency's Rules Revision Committee that develops changes to the Agency's procedural regulations.

# LIAISON

# ACTIVITIES

The Inspector General is to recommend policies for, and is to conduct, supervise, or coordinate relationships between the Agency and other Federal agencies, state and local governmental agencies, and non-governmental entities. The Inspector General is to give particular regard to the activities of the Comptroller General of the United States. Similarly, we encourage OIG staff members to participate in Agency programs and activities.

## Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency. This organization consists of Inspectors General at the Federal Government's departments and agencies.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executive Council, Financial Statement Audit Network, and the Interagency Fraud and Risk Data Mining Group.

## Government Accountability Office

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the Government Accountability Office, with a view toward avoiding duplication and ensuring effective coordination and cooperation. We had no activity during this reporting period that required coordination with the Government Accountability Office.



# INFORMATION

## REQUIRED BY THE ACT

Certain information and statistics based on the activities accomplished during this period are required by section 5(a) of the IG Act to be included in the semiannual reports. These are set forth below:

### Section 5(a)

(1), (2), (7) OIG did not identify significant problems, abuses or deficiencies relating to the administration of programs. For the purpose of this section, we used the definition of significant as set forth in the Federal Managers' Financial Integrity Act.

(3) Corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.

(4) No cases were referred to prosecutorial authorities.

(5) No reports were made to the Chairman that information or assistance requested by the Inspector General was unreasonably refused or not provided.

(6) A listing by subject matter is located on page 15.

(8), (9) One audit report issued during this period had questioned costs and recommendations that

funds could be put to better use. *See Tables 1 and 2.*

(10) There are no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

(11) No significant revised management decisions were made during the reporting period.

(12) There are no significant management decisions with which I am in disagreement.

(13) There is no information to report under the requirements of section 05(b) of the Federal Financial Management Improvement Act of 1996.

(14) A peer review was not conducted during this reporting period. A peer review of the OIG's audit program was last conducted in February 2009 by the Federal Trade Commission's OIG. A copy of the peer review report is at the appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

(15) The OIG did not conduct a peer review during this reporting period.

# AUDIT REPORTS BY SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Ineligible Costs	Funds To Be Put To Better Use
General Administration NLRB Fiscal Year 2010 Financial Statements OIG-F-15-11-01	\$1,042,603	0	0	\$915,374
General Administration Travel Cards OIG-AMR-66-11-01	0	0	0	0
Information Technology NxGen Information Technology Security OIG-INS-61-11-01	0	0	0	0
Information Technology Hard Drive Failures OIG-INS-63-11-02	0	0	0	0

**Table I. Reports With Questioned Costs**

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
<b>A.</b> For which no management decision has been made by the commencement of the period	0	0	0
<b>B.</b> Which were issued during the reporting period	1	\$1,042,603	0
Subtotals (A+B)	1	\$1,042,603	0
<b>C.</b> For which a management decision was made during the reporting period	1	\$127,229	0
<b>(i)</b> Dollar value of disallowed costs	1	\$127,229	0
<b>(ii)</b> Dollar value of costs not disallowed	0	0	0
<b>D.</b> For which no management decision has been made by the end of the reporting period	1	\$915,374	0
Reports for which no management decision was made within six months of issuance	0	0	0

**Table 2. Reports with Recommendations that Funds be Put to Better Use**

	<b>Number of Reports</b>	<b>Funds To Be Put To Better Use</b>
<b>A.</b> For which no management decision has been made by the commencement of the period	0	0
<b>B.</b> Which were issued during the reporting period	1	\$915,374
Subtotals (A+B)	1	\$915,374
<b>C.</b> For which a management decision was made during the reporting period	0	0
<b>(i)</b> Dollar value of recommendations that were agreed to by management	0	0
<b>(ii)</b> Dollar value of recommendations that were not agreed to by management	0	0
<b>D.</b> For which no management decision has been made by the end of the reporting period	1	\$915,374
Reports for which no management decision was made within six months of issuance	0	0

# APPENDIX



Office of Inspector General

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

## System Review Report

February 6, 2009

David P. Berry  
Inspector General  
National Labor Relations Board

We have reviewed the system of quality control for the audit organization of the National Labor Relations Board Office of Inspector General (NLRB OIG) in effect for the year ended September 30, 2008. A system of quality control encompasses the NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in *Government Auditing Standards*. The NLRB OIG is responsible for designing a system of quality control and complying with it to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the NLRB OIG's compliance therewith based on our review.

Our review was conducted in accordance with *Government Auditing Standards* and guidelines established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). During our review, we interviewed NLRB OIG personnel and obtained an understanding of the nature of the NLRB OIG audit organization, and the design of the NLRB OIG's system of quality control sufficient to assess the risks implicit in its audit function. Based on our assessments, we selected audit engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The audit engagements selected included all audits performed during Fiscal Year 2008. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with NLRB OIG management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG's audit organization. In addition, we tested compliance with the NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the NLRB OIG's policies and procedures on selected engagements. Our review was based on selected tests; therefore, it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it.

There are inherent limitations in the effectiveness of any system of quality control, and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

This report identifies the NLRB OIG office that we visited and the engagements that we reviewed.

In our opinion, the system of quality control for the audit organization of the NLRB OIG in effect for the year ended September 30, 2009, has been suitably designed and complied with to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. The NLRB OIG has received a peer review rating of *pass*.

In addition to reviewing its system of quality control to ensure adherence with *Government Auditing Standards*, we applied certain limited procedures in accordance with guidance established by the CIGIE related to the NLRB OIG's monitoring of engagements performed by Independent Public Accountants (IPA) under contract where the IPA served as the principal auditor. It should be noted that monitoring of engagements performed by IPAs is not an audit and therefore is not subject to the requirements of *Government Auditing Standards*. The purpose of our limited procedures was to determine whether the NLRB OIG had controls to ensure IPAs performed contracted work in accordance with professional standards. However, our objective was not to express an opinion and accordingly, we do not express an opinion, on the NLRB OIG's monitoring of work performed by IPAs.



John M. Seeba  
Inspector General

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