

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL 
REPORT



APRIL 1, 2012 – SEPTEMBER 30, 2012

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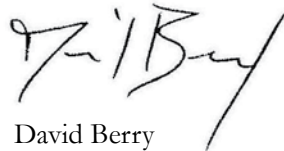
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EXECUTIVE SUMMARY

I hereby submit this Semiannual Report for the period April 1, 2012 – September 30, 2012. 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 one audit report and a Management Implication memorandum. As a result of the audit program, we identified \$296,410.83 in questioned costs. In the investigation program, the Office of Inspector General processed 110 contacts, initiated 10 cases, closed 14 cases, and issued 5 investigative reports. Our investigative efforts resulted in two resignations while the investigation was pending and one suspension. One matter was referred for prosecution.

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



David Berry
Inspector General
October 30, 2012

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.

Seated left to right:
Richard Griffin,
Mark Gaston Pearce,
Brian Hayes, and
Sharon Block



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.

At the beginning of this reporting period, the Board consisted of Chairman Mark Gaston Pearce and Members Sharon Block, Terence Flynn, and Richard Griffin. During the reporting period, Terence Flynn resigned his position as a Board Member. Acting General Counsel Lafe Solomon continued to serve in that position during the reporting period.

The NLRB's Fiscal Year (FY) 2012 appropriation is \$278,833,000 less a 0.189 percent rescission.

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.

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

The OIG received an allocation of \$1,058,700 for FY 2012 operations, of which \$191,800 was for contract services. 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.



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 one audit and one Management Implication memorandum.

Reports Issued

We issued Audit Report OIG-AMR-70-12-02, **End-of-the-Year Spending**, on September 17, 2012. We performed this audit to determine the level of effort required at year-end by the acquisitions staff and to determine if any procurement actions violated the *bona fide* needs rule.

Prior to this audit, the audits of the annual financial statements found a number of *bona fide* need issues in procurement actions that were above \$100,000. Given that the majority of procurement actions at the NLRB are below \$100,000, we determined that it was prudent to test procurement actions that involve amounts below \$100,000 to determine the extent to which violations of the *bona fide* needs rule were occurring in the NLRB's procurement function. We were also aware of comments by the procurement staff that end-of-the-

year procurement actions create significant workload pressures.

To determine the level of year-end procurements, we compared the monthly level of work from June through September 2011. That comparison showed that the work for the Agency's procurement function was four times greater in September than it was in June and that 71.5 percent of the procurement actions in September 2011 occurred in the last 2 weeks. We also found \$6.3 million of the FY 2011 appropriation was spent in September for goods and services that were received predominantly in FY 2012. That amount was approximately 22 percent of the Agency's FY 2011 discretionary spending.

Our review of the individual procurement actions identified \$296,410.83 in questioned costs that resulted from *bona fide* needs rule violations. The violations

involved eight procurements. Three of the *bona fide* needs rule violations occurred not because the goods or services were a need of another year, but because the procurement action itself was not completed before the period of availability of the appropriation that expired at the end of the fiscal year. The remaining five violations were the result of using FY 2011 funds for the needs of another fiscal year.

We also found a lack of internal control over the procurement activity to ensure that it was properly processed in compliance with the Federal Acquisition Regulation. This lack of control was evidenced by both a disregard for the Agency's procurement procedures and mistakes due to what appeared to be a lack of sufficient time to properly complete the procurement actions.

In its response to the draft report, Management agreed with our recommendations and stated that corrective action would be initiated. The response also stated that they have taken steps to improve controls over the financial management of the Agency, including creating an Office of the Chief Financial Officer. During this reporting period, the Agency corrected seven of the eight *bona fide* need violations totaling \$287,265.48.

We issued Management Implication Report 2012-01, **Designated Agency Ethics Official**. The

purpose of the report was to address a concern regarding a conflict of interest issue involving the Designated Agency Ethics Official's performance of duties with regard to the Acting General Counsel.

Audit Follow-up

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

Continuity of Operations, OIG-AMR-55-07-03, was issued on September 18, 2007, and we reached agreement with management on that date. Management implemented the final open recommendation during this reporting period.

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. Management implemented two of the final three recommendations during this reporting period. Because of changes in information security requirements, we determined that the final recommendation should not be implemented.

Official Time for Union Activities, OIG-AMR-62-10-01, was issued on December 11, 2009, and we reached agreement with management on that date. Management implemented one of the four recommendations made in the report.

Case Processing Costs, OIG-AMR-64-11-02, was issued on April



7, 2011, and we reached agreement with management on June 7, 2011. Management has been actively working to implement the one recommendation made in the report.

Purchase Cards, OIG-AMR-65-11-03, was issued on September 30, 2011. Management implemented three of the five recommendations made in this report.

INVESTIGATIONS 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. During this reporting period, we processed 110 contacts, initiated 10 cases, closed 14 cases, and issued 5 investigative reports. Our investigative efforts resulted in two resignations while the investigation was pending and one suspension. One matter was referred for prosecution.

Case Workload		Contacts Processed	
Open (4/1/2012)	21	Received	110
Initiated	10	Initiated Investigation	4
Closed	14	Opened Case — Referred to Agency	0
Open (9/30/2012)	17	Non-Investigative Disposition	106

Investigative Highlights

Investigated an employee for travel card abuse and issued a report substantiating the misconduct. Management is considering disciplinary action. **OIG-I-459**

Management issued a 5-day suspension to an employee who misused the travel card. The employee was the subject of

an investigative report that was issued in a prior reporting period. **OIG-I-460**

Initiated an investigation of an employee who engaged in political activity in the workplace. The employee resigned after the investigation was initiated. **OIG-I-463**

Investigated an allegation that an employee engaged in travel card abuse. Although we did not substantiate the allegations, we did find mismanagement of the Regional Office’s travel approval process, and we issued a report detailing our findings. **OIG-I-466**

Continued our investigative efforts involving the improper release of the Board’s information and issued a supplemental report. The subject



resigned after the report was issued. OIG-I-468

Investigated an allegation that an employee used official time and resources to engage in harassment of a non-employee. The allegation was not substantiated. OIG-I-474

Investigated a matter and issued a report involving a financial conflict of interest. OIG-I-475

Investigated the loss of two smart telephone devices. We were unable to identify a suspect or recover the smart telephones. We did identify and recommend correction of deficiencies in information technology asset management. OIG-I-478

Investigated the theft of a travel card. We determined that the travel card was likely lost rather than stolen from the employee's office. OIG-I-479.

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 110 Hotline contacts, of which 24 were telephone calls or walk-ins and 86 were in writing.

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 an 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 FY 2012, there were 10 legislative proposals introduced in Congress that would amend the National Labor Relations Act or otherwise impact the programs and operations of the Agency:

- H.R. 3094, Workforce Democracy and Fairness Act;
- H.R. 3487, Job Creation Act of 2011;
- H.R. 3991, Keep Employees E-mails and Phones Secure Act;
- H.J.Res. 103, Congressional disapproval of the representation election rule;
- S. 1666, Employer Free Speech Act;
- S. 1720, Jobs Through Growth Act;

- S. 1843, Representation Fairness Restoration Act;
- S. 2168, Re-empowerment of Skilled and Professional Employee and Construction Tradesworkers Act;
- S. 2173, National Right-to-Work Act; and
- S.J.Res. 36, Congressional disapproval of the representation election rule.

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. The Counsel to the Inspector General participates in the Council of Counsels to Inspectors General.

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.

During this reporting period, we had no activity that involved 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) One case was referred to prosecutorial authorities.

(5) No reports were made to the Board 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 13.

(8), (9) One report issued during this period had questioned costs. *See Table 1.*

(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) (15) A peer review of the audit program was conducted by the National Credit Union Administration OIG. The peer review report was issued on October 31, 2011. 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.

(16) The OIG did not conduct a peer review of any other entities during this reporting period.

REPORTS BY

SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Funds To Be Put To Better Use
General Administration End-of-the-Year Spending OIG-AMR-70-12-02	\$296,410.83	0	0

Table I. Reports With Questioned Costs

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the period	0	0	0
B. Which were issued during the reporting period	1	\$296,410.83	0
Subtotals (A+B)	1	\$296,410.83	0
C. For which a management decision was made during the reporting period	1	\$296,410.83	0
(i) Dollar value of disallowed costs	1	\$296,410.83	0
(ii) Dollar value of 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
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

	Number of Reports	Funds To Be Put To Better Use
A. For which no management decision has been made by the commencement of the period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A+B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) Dollar value of recommendations that were agreed to by management	0	0
(ii) Dollar value of recommendations that were 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
Reports for which no management decision was made within six months of issuance	0	0

APPENDIX



National Credit Union Administration

System Review Report

Office of Inspector General

October 31, 2011

To David 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 (NLRB) in effect for the year ended September 30, 2011. 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 engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The engagements selected represented a reasonable cross-section of the NLRB OIG's audit organization, with emphasis on higher-risk engagements. 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.

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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.

Enclosure 1 to this report identifies the offices of the NLRB OIG 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, 2011, 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.



William A. DeSarno
Inspector General
National Credit Union Administration

Enclosures

SCOPE AND METHODOLOGY

Scope and Methodology

We tested compliance with the NLRB OIG audit organization's system of quality control to the extent we considered appropriate. These tests included a review of two of two audit reports issued during the period October 1, 2010, through September 30, 2011. We also reviewed the internal quality control reviews performed by NLRB OIG.

In addition, we reviewed the NLRB OIG's monitoring of engagements performed by IPAs where the IPA served as the principal auditor during the period October 1, 2010, through September 30, 2011. During the period, the NLRB OIG contracted for the audit of its agency's Fiscal Year 2010 financial statements.

We visited the Washington, DC office of the NLRB OIG.

Reviewed Audit Engagements Performed by the NLRB OIG

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-AMR-66	3/23/11	Travel Cards
OIG-AMR-64	4/7/11	Case Processing Costs

Reviewed Monitoring Files of the NLRB OIG for Contracted Engagements

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-F-15	12/15/10	Audit Report on the NLRB's Financial Statements for Fiscal Year 2010

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