National Labor Relations Board

FY 2013 Performance and Accountability Report

How This Report is Organized

This Performance and Accountability Report consists of:

MANAGEMENT DISCUSSION AND ANALYSIS	The Management Discussion and Analysis (MD&A) Section is an overview of the entire report. The MD&A presents performance and financial highlights as well as the National Labor Relations Board's (NLRB's) operational and casehandling highlights for Fiscal Year 2013. The MD&A also contains a discussion of compliance with legal and regulatory requirements, such as the Federal Managers' Financial Integrity Act.
PERFORMANCE SECTION	The Performance Section compares the NLRB's performance to its annual performance goals as set forth in the 2007-2012 Strategic Plan. The NLRB has three overarching performance measures associated with its two strategic goals. These measures are outcome-based, aligned with the mission of the NLRB, and are meaningful to the public the agency serves. This is the seventh year that the NLRB is reporting its performance under these three overarching measures.
FINANCIAL SECTION	The Financial Section is composed of the NLRB's financial statements and their related footnotes and the Independent Auditors' Report.
OTHER ACCOMPANYING INFORMATION	Other Accompanying Information provides an update on the Board's progress in addressing management and performance challenges identified by the Inspector General in the FY 2012 Performance and Accountability Report as well as any new challenges identified in this Fiscal Year. Also included is the NLRB's summary of audit and management assurances.
APPENDICES	The Appendices contain a glossary of the acronyms and definitions of terms used in the report.

An electronic version of the NLRB FY 2013 Performance and Accountability Report is available on the NLRB's web site at **www.nlrb.gov**.

The NLRB's Strategic Plan and its addendum are also available at this web site along with graphs and data which reflect the NLRB's work.

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Message From The Chairman

December 2, 2013

As Chairman of the National Labor Relations Board, it is my pleasure to submit the Performance and Accountability Report for Fiscal Year 2013. This annual report provides insights into the finances and activities of the NLRB, which for the last 78 years has protected the rights of workers in the United States guaranteed in the National Labor Relations Act.

The Act guarantees the right of private sector workers to organize and bargain collectively with their employers and to participate in concerted activities to improve their pay and working conditions. Employers and employees alike are protected from unfair labor practices. Employers and employees alike have an impartial forum for the resolution of disputes.

The Board issued 342 decisions in contested cases during the year. We continue to make a special effort to reduce the backlog of older cases.

Decisions were issued in 277 unfair labor practice cases and 65 representation cases.

Highlights include findings that:

- A private, nonprofit educational services corporation that employs teachers who are provided under contract to a public charter school is not a political subdivision of the State, and therefore is subject to the Board's jurisdiction
- Union dues checkoff continues after the expiration of a contract
- The Board has jurisdiction over an Indian tribe that operates a casino
- Discretionary discipline is a mandatory subject of bargaining during bargaining for a first contract, and employers may not impose certain types of discipline unilaterally
- Work rules prohibiting employee communications concerning terms and conditions of employment are unlawful

The Board authorized the General Counsel to seek an injunction under Section 10(j) of the Act in 41 cases. Of the 26 cases that concluded by the end of the Fiscal Year, 15 were settled and the Board won eight, a success rate of 88 percent. In addition to its casework, the Board continued to expand its presence on social media sites. We now have nearly 10,000 friends on Facebook and more than 5,000 followers on Twitter. In August 2013, we launched a new mobile app, which is available free of charge for iPhone and Android users.

The promise of the National Labor Relations Act can only be fulfilled when employers and employees understand their rights and obligations. With our app, which has already been downloaded nearly 5,000 times, we are using 21st Century technology to inform and educate the public about the law.

The app provides information for employers, employees and unions, with sections describing the rights enforced by the National Labor Relations Board, along with contact information for NLRB regional offices across the country. The app also details the process the NLRB uses in elections held to determine whether employees wish to be collectively represented.

This year, for the first time since August 2003, the Board has five Senate-confirmed members. Board members Richard F. Griffin, Jr. and Sharon Block, who received recess appointments from President Obama, resigned in late July. On July 30, the Senate confirmed all five of the President's nominees for the Board: myself, Nancy J. Schiffer, Harry I. Johnson, III, Kent Y. Hirozawa and Philip A. Miscimarra.

On June 24, 2013, the U.S. Supreme Court agreed to review a federal appeals court ruling that President Obama's January 2012 recess appointments of three members to the National Labor Relations Board were unconstitutional. A significant number of the Board's decisions are being held in abeyance until the Supreme Court issues a decision in 2014.

As Chairman of the NLRB, I certify that the NLRB's internal controls and financials systems meet and conform to the requirements of the Federal Managers' Financial Integrity Act. (A more detailed discussion of the Agency's internal controls can be found starting on page 22 of this report.) I have also made every effort to verify the accuracy and completeness of the performance data presented in this report.

Mark Gaston Pearce
Chairman

Board Members

From Left to Right: Board Member Philip A. Miscimarra, Board Member Nancy J. Schiffer, Chairman Mark Gaston Pearce, Board Member Harry I. Johnson, III and Board Member Kent Y. Hirozawa

Message From The General Counsel

December 2, 2013

The Office of the General Counsel (OGC) of the National Labor Relations Board is responsible for investigating and prosecuting unfair labor practice cases and for handling representation case petitions filed in the NLRB's 26 Regional, 9 Subregional and 16 Resident Offices. The OGC exercises general supervisory authority over this network of field offices, which is staffed with approximately 1,100 employees. This fiscal year, Regional case intake was in excess of 24,000 cases. The OGC also directly oversees seven Headquarters components, which are responsible for various casehandling, administrative, financial and personnel functions.

This year, after taking a proactive look at our workload, budgetary constraints, technology advances, and human capital, and after successful pilot programs, the Agency streamlined operations in the field by consolidating six offices, reducing the number of Regional Offices from 32 to 26. Further, in Headquarters, the Agency created a compliance unit within the Division of Operations-Management to promote collaboration between HQ branches and Regional Offices, to promptly address training and resource needs, and to develop strategies for achieving more meaningful and timely compliance at all stages of cases. It also centralized services and functions in Headquarters by creating a new Division of Legal Counsel, which consolidated Government-wide and Bar Ethics functions and developed a more robust Ethics program. The Agency also strategically realigned the Agency Records Officer under the Office of Chief Information Officer (OCIO) to better position records management functions to support the Agency's move to a comprehensive electronic recordkeeping infrastructure, migrated its email repositories and services to Microsoft's cloud-based, software solution (Office 365), moved the NLRB Library Branch, which serves as the Agency's research and information center, within the OCIO, and, in the latter part of the fiscal year, placed the Office of Human Resources and the Office of Employee Development within the Division of Administration.

As General Counsel, I have continued my predecessors' practice of soliciting and considering feedback from internal and external stakeholders, and the feedback received this fiscal year has proven to be invaluable while assessing the above-described restructuring, streamlining operations, and initiating pilots for more extensive e-filing.

The Agency has also been focused on improving the productivity of the Agency's case management by standardizing business processes in a single unified case management system (NxGen). In FY 2013, all Regional Offices and many Headquarters offices completely converted to NxGen and the Agency formally adopted the case records within NxGen as the official Regional Office case file. Further, the Agency accomplished an aggressive plan to migrate its financial management systems for finance, acquisitions and budget to the Department of Interior's Interior Business Center's (IBC) shared instance of Oracle Federal Financials, which has enabled us to integrate decentralized functions into a central core system, eliminate redundant data input, streamline financial reporting functions, enhance internal controls, improve segregation of duties, and enhance data analysis.

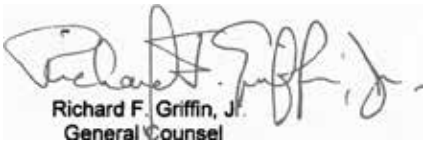
Our litigation branches have been quite busy this year addressing unprecedented challenges to the President's recess appointments of Board members and to the Agency's rule-making authority with regard to a notice posting rule and representation case rule changes. Further, we continued to seek and obtain very effective

injunctive remedies for unlawful discharges during organizing campaigns; cases in which injunctive relief was authorized resulted in securing offers of reinstatement for 245 workers and recovering about $ 3.7 million in backpay. Other significant case handling developments include: providing guidance to the regions and members of the public involving reimbursement for excess income taxes paid as a result of a discriminatee's receipt of lump sum backpay and reports of backpay allocations to the Social Security Administration in light of the Board's decision in *Latino Express;* and modifying existing policies to allow for consistent Agency settlements that include front pay in lieu of reinstatement after negotiations and agreement between the parties.

As General Counsel, I am a strong proponent of outreach to the general public. I will continue to expand our outreach efforts, including through our Regional Office and Protected Concerted Activity webpages, in order to educate those with varying degrees of knowledge about workers' rights. Some of my predecessor's outreach highlights include the Agency's recent letter of agreement with the Ministry of Foreign Affairs of the United Mexican States, which is designed to strengthen collaborative efforts to provide Mexican workers, their employers, and Mexican business owners in the U.S. with information, guidance and access to education regarding their rights and responsibilities under the National Labor Relations Act. This agreement will promote a broader awareness within the Mexican community of the rights and responsibilities of employees and employers, as well as the services our Agency provides. Similarly, the Agency also entered into a memorandum of understanding with the Department of Justice Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices formalizing a collaborative relationship that allows both agencies to share information, refer matters to each other and coordinate investigations involving union, protected concerted activity, citizenship status and national origin discrimination, as appropriate. My intent is to continue to expand and foster joint efforts, such as the above, with other foreign ministries and federal, state and local agencies in the next fiscal year.

The Office of the General Counsel, in addition to its other duties, is charged by the Board Members with supervising the administrative functions of the Agency, including budgetary, financial and acquisition management. This fiscal year was particularly challenging due to the sequestration order reducing our budget, which allows for very little discretionary spending in any given year. In response to sequestration, the Agency engaged in severe cost savings measures, such as extremely limited hiring, deferring technology and other equipment expenditures, suspending benefit programs, reducing spending on supplies, and limiting travel. As a result of these painful measures, we were able to avoid furloughing our employees, and thus avoid the detrimental impact such furloughs would have had on our efficient and effective service to the public.

As General Counsel, I am committed to conducting the business of the Office of the General Counsel in an open and transparent manner. I enjoy and encourage constructive relationships with representatives of both management and labor who appear before us as that enhances the performance of our mission to protect workplace rights and provide better service to the public.



EXECUTIVE SUMMARY

The National Labor Relations Board continued its tradition of service to the nation's employers and employees in Fiscal Year 2013 by building on its efforts to increase transparency and communication with the public and streamlining operations.

Several consolidation efforts occurred in Agency field offices and in Headquarters in Washington, DC. By the end of FY 2013, the Agency had reduced the number of Regional Offices from 32 to 26, in order to adjust the Agency's presence to the case filing developments that have occurred over the years by more evenly distributing case intake among regions. Meanwhile in Headquarters, a new Division of Legal Counsel was created through the consolidation of three branches in order to eliminate duplicative functions, improve the delivery of integrated services, and streamline operations. Further, in Headquarters, the Agency created a compliance unit within the Division of Operations-Management to promote collaboration between Headquarters branches and Regional Offices, to promptly address training and resource needs, and to develop strategies for achieving more meaningful and timely compliance at all stages of the case. The Agency also strategically realigned the Agency Records Officer under the Office of the Chief Information Officer to better position the records management functions to support the Agency's transition to a comprehensive electronic recordkeeping infrastructure and moved the NLRB Library Branch, which serves as the Agency's research and information center, within the Office of the Chief Information Officer.

In FY 2013, the Agency accomplished an aggressive plan to migrate its financial management systems for finance, acquisitions and budget to the Department of Interior's Interior Business Center's (IBC) shared instance of Oracle Financials. This was the Agency's first full year of utilizing the Oracle Federal Financial (OFF) system. A series of financial reports were developed to improve NLRB's financial management, reporting and controls in order to streamline processes within the Office of the Chief Financial Officer (OCFO).

The Next Generation Case Management System (NxGen) transitioned from its development phase to a mixed life cycle of continued development and operations and maintenance. This system was built to replace 11 separate legacy systems and integrate them into a single unified solution that leverages multiple technologies. All Regional Offices and many Headquarters Offices completely converted to NxGen and the Agency formally adopted the case records within NxGen as the official Regional Office case file.

In FY 2013, the migration of email services to Office 365 was completed and the Agency developed a plan to consolidate its data, voice, and wireless networks. It also released a detailed request for information to gather ideas, best practices and/or recommendations to inform the development and implementation of its future state telephony, video and network architecture.

The Agency launched its first app for smartphones, focused on employee and employer rights under the National Labor Relations Act (NLRA). Within two weeks of its launch, the app had been downloaded and installed on more than 3,000 phones. The source code for the app was posted on the NLRB public website as a service to the public and other federal agencies. The Agency is committed to continuing to engage in outreach using different modes, such as the website, social media, and in-person discussions with practitioners, employers, unions and the public at large.

In FY 2013, the NLRB and the Ministry of Foreign Affairs of the United Mexican States signed a letter of agreement designed to strengthen their collaborative efforts to provide outreach, education, and training for Mexican workers, their employers, and Mexican business owners in the United States regarding their rights and responsibilities under the NLRA. It also entered into a Memorandum of Understanding with the Department of Justice Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices formalizing a collaborative relationship that allows both agencies to share information, refer matters to each other and coordinate investigations involving union, protected concerted activity, citizenship status and national origin discrimination, as appropriate. The Agency is committed to continuing the expansion of its outreach efforts.

Management Discussion and Analysis

Protecting Democracy in the Workplace Since 1935

About The NLRB

Mission Statement

The mission of the National Labor Relations Board is to carry out the statutory responsibilities of the National Labor Relations Act, as efficiently as possible, in a manner that gives full effect to the rights afforded to all parties under the Act.

THE NATIONAL LABOR RELATIONS ACT (NLRA)

- Basic law governing relations between labor unions and business enterprises engaging in interstate commerce in the private sector
- Purpose – serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees
- Embodies a bill of rights, which establishes freedom of association for purposes of collective bargaining
- Defines and protects the rights of employees, unions, and employers

THE NATIONAL LABOR RELATIONS BOARD (NLRB)

- Independent federal agency created in 1935 to administer and enforce the NLRA
- Under the Act, the NLRB has two primary functions:
  1) to conduct secret-ballot elections among employees to determine whether or not the employees wish to be represented by a union; and
  2) to prevent and remedy statutorily defined unfair labor practices by employers and unions

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate with the filing of charges or petitions by employees, labor unions, private employers, and other private parties.

In its 78-year history the NLRB has counted millions of votes, investigated hundreds of thousands of charges, and issued thousands of decisions. These numbers tell an important part of the Agency's story. Information regarding the following can be found on NLRB's web site:

- Charges and Complaints – Data related to charges of unfair labor practices received by Regional Offices and their disposition over time, including dismissals, complaints, and settlements
- Petitions and Elections – Data related to petitions for representation and decertification elections received by Regional Offices, elections held, and outcomes
- Decisions – Data related to decisions by the Board and NLRB Administrative Law Judges
- Litigation – Data related to litigation pursued by Board attorneys in federal court, including petitions for temporary injunctions, defending Board decisions in court, and pursuing enforcement and compliance actions
- Remedies – Data related to remedies obtained to resolve unfair labor practices, including backpay and offers of reinstatement

EMPLOYEE RIGHTS UNDER THE NLRA

The National Labor Relations Act extends rights to many private-sector employees, including the right to organize and to bargain collectively with their employer. Employees covered by the Act are protected from certain types of employer and union misconduct and have the right to attempt to form a union where none currently exists or to attempt to improve their working conditions through other group action.

Examples of employee rights under the NLRA are:

- **Forming, or attempting to form, a union among the employees of an employer**
- **Joining a union whether the union is recognized by the employer or not**
- **Assisting a union in organizing employees**
- **Engaging in protected concerted activities. Generally, "protected concerted activity" is group activity that seeks to change wages or working conditions.**
- **Refusing to do any or all of these things. However, the union and employer, in a State where such agreements are permitted, may enter into a lawful union-security clause requiring employees to pay union dues and fees.**

The NLRA forbids employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining or assisting a labor organization for collective bargaining purposes, or engaging in protected concerted activities, or refraining from these activities. Similarly, unions may not restrain or coerce employees in the exercise of these rights.

STATUTORY STRUCTURE

Agency leadership consists of six presidential appointees—five Board Members (including the Chairman) and the General Counsel. Day-to-day management of the Agency is divided by law, delegation, and Agency practice between the Chairman, the Board, and the General Counsel. The Board and the General Counsel maintain a Headquarters in Washington, D.C., and the Agency also maintains a network of Regional[1] ("Field") offices and three satellite Judges' offices. The NLRA assigns separate and independent responsibilities to the Board and the General Counsel: The General Counsel's role is chiefly prosecutorial and the Board's is adjudicative.

The Five-Member Board

The five-member Board primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings. Board Members are appointed by the President with the advice and consent of the Senate, and serve staggered five-year terms.[2] The President designates one of the Board Members as Chairman. Board Member Mark Gaston Pearce was designated Chairman on August 28, 2011, and again on August 2, 2013.

The General Counsel

Congress created the position of General Counsel in its current form in the Taft-Hartley Act of 1947. The General Counsel is appointed by the President to a four-year term, with Senate consent, and is responsible for the investigation and prosecution of unfair labor practice cases and for the general

[1] Including Subregional and Resident Offices.

[2] Even though Board Members have five-year-terms, a new five-year term begins running immediately upon the expiration of the previous Member's term and the seat remains vacant until an individual is nominated and confirmed by the Senate. Therefore, a significant lapse of time could occur between when a term expires and a new Board Member is confirmed, which means that a new Board Member might serve only a portion of a five-year term.

supervision of the NLRB Regional Offices. In performing delegated functions, and in some aspects statutorily assigned functions, the General Counsel acts on behalf of the Board.

However, with respect to the investigation and prosecution of unfair labor practice cases, the General Counsel has sole prosecutorial authority under the statute, independent of the Board. Richard F. Griffin, Jr., was nominated by the President for General Counsel and appointed to a full four-year term on November 1, 2013.

The Agency now has five Senate-confirmed Members and a Senate-confirmed General Counsel for the first time in a decade.

Below is information about the terms of the current Presidential appointees of the NLRB.

	Sworn In	Term to Expire
Mark Gaston Pearce Chairman	4/7/2010	8/27/2018
Philip A. Miscimarra Member	8/7/2013	12/16/2017
Kent Y. Hirozawa Member	8/5/2013	8/27/2016
Harry I Johnson, III Member	8/12/2013	8/27/2015
Nancy J. Schiffer Member	8/2/2013	12/16/2014
Richard F. Griffin, Jr. General Counsel	11/4/2013	10/31/2017

Organization

BOARD		OFFICE OF THE GENERAL COUNSEL
Mark Gaston Pearce *Chairman*		**Richard F. Griffin, Jr.** *General Counsel*
Phillip A. Miscimarra *Board Member*	OFFICE OF THE INSPECTOR GENERAL	**Jennifer A. Abruzzo** *Deputy General Counsel*
Kent Y. Hirozawa *Board Member*	**David P. Berry** *Inspector General*	DIVISION OF OPERATIONS MANAGEMENT
Harry I. Johnson, III *Board Member*	OFFICE OF EQUAL EMPLOYMENT OPPORUTNITY	**Anne G. Purcell** *Associate General Counsel* (REGIONAL OFFICES)
Nancy J. Schiffer *Board Member*	**Brenda Valentine-Harris** *Director*	DIVISION OF ENFORCEMENT LITIGATION
OFFICE OF PUBLIC AFFAIRS	DIVISION OF ADMINISTRATION	**John H. Ferguson** *Associate General Counsel*
Gregory J. King *Director*	**Ventris C. Gibson** *Director*	DIVISION OF ADVICE
OFFICE OF THE EXECUTIVE SECRETARY	OFFICE OF THE CHIEF INFORMATION OFFICER	**Barry J. Kearney** *Associate General Counsel*
Gary W. Shinners *Executive Secretary*	**Bryan C. Burnett** *Chief Information Officer*	DIVISION OF LEGAL COUNSEL
OFFICE OF REPRESENTATION APPEALS	OFFICE OF THE CHIEF FINANCIAL OFFICER	**Margery E. Lieber** *Associate General Counsel*
Lafe E. Solomon *Director (On Detail)*	**Ronald E. Crupi** *Chief Financial Officer*	
OFFICE OF THE SOLICITOR		
William B. Cowen *Solicitor*		
DIVISION OF JUDGES		
Robert A. Giannasi *Chief, ALJ*		

CASEHANDLING FUNCTIONS

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the NLRA by individuals, employers, or unions. In carrying out the NLRA's mandates, the NLRB supports the collective bargaining process and seeks to eliminate certain unfair labor practices on the part of employers and unions so as to promote commerce and strengthen the Nation's economy.

The two major goals of the NLRB are:

- To promptly resolve all questions concerning representation
- To promptly investigate, prosecute, and remedy unfair labor practices by employers or unions

UNFAIR LABOR PRACTICE PROCEEDINGS

The NLRA contains a code of conduct for employers and unions and regulates that conduct in unfair labor practice (ULP) proceedings. Unfair labor practices are remedied through adjudicatory procedures under the NLRA, in which the Board and the General Counsel have independent functions.

The General Counsel has sole responsibility—independent of the Board—to investigate charges of unfair labor practices, and to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding ULP cases.

The General Counsel investigates ULP charges through the Agency's network of Regional, Subregional, and Resident Offices (field offices). If there is reason to believe that a ULP charge has merit, the Regional Director, on behalf of the General Counsel, issues and prosecutes a complaint against the charged party, unless a settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative law judge (ALJ), who issues a decision. The decision may be appealed by any party to the Board through the filing of exceptions. The Board decides cases on the basis of the formal trial record, according to the statute and the body of case law that has been developed by the Board and the federal courts.

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees free choice on union representation and by preventing and remedying statutorily defined unfair labor practices. The NLRB maintains a customer-focused and a results-oriented philosophy to best serve the needs of the American people.

If the Board finds that a violation of the Act has been committed, the role of the General Counsel thereafter is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation. Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. The statute provides that any party may seek review of the Board's decision in a United States Court of Appeals. In addition, if a party refuses to comply with a Board decision, the Board itself must petition for court enforcement of its order. In court proceedings to review or enforce Board decisions, the General Counsel represents the Board and acts as its attorney. Also, the General Counsel acts as the Board's attorney in contempt proceedings and when the Board seeks injunctive relief under Sections 10(e) and (f) of the NLRA after the entry of a Board order and pending enforcement or review of proceedings in circuit court.

Section 10(j) of the NLRA empowers the NLRB to petition a federal district court for an injunction to temporarily prevent unfair labor practices by employers or unions and to restore the status quo, pending full review of the case by the Board. In enacting this provision, Congress was concerned that delays inherent in the administrative processing of ULP charges, in certain instances, would frustrate the Act's remedial objectives. In determining whether the use of Section 10(j) is appropriate in a particular case, the principal question is whether injunctive relief is necessary to preserve the Board's ability to effectively remedy the unfair labor practice alleged, and whether the alleged violator would otherwise reap the benefits of its violation.

Under NLRB procedures, after deciding to issue a ULP complaint, the General Counsel may request authorization from the Board to seek injunctive relief. The Board votes on the General Counsel's

request and, if a majority votes to authorize injunctive proceedings, the General Counsel, through his Regional staff, files for injunctive relief with an appropriate federal district court.

In addition, under Section 10(l) of the Act, when a Region's investigation of a charge yields reasonable cause to believe that a union has committed certain specified unfair labor practices such as a work stoppage or picketing with an unlawful secondary objective, the Regional Director is required, on behalf of the Board, to seek an injunction from a federal district court to halt the alleged unlawful activity.

REPRESENTATION PROCEEDINGS

In contrast to ULP proceedings, representation proceedings conducted pursuant to the Act are not adversarial. Representation cases are initiated by the filing of a petition—by an employee, a group of employees, an individual, or a labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union has the support of a majority of the employees in an appropriate bargaining unit and therefore should be certified or decertified as the employees' bargaining representative. The role of the Agency in such cases is to investigate the petition and, if necessary, to conduct a hearing to determine whether employees constitute an appropriate bargaining unit under the Act. The NLRB must also determine which employees are properly included in the bargaining unit and therefore eligible to vote, conduct a secret-ballot election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election, and, if the election is determined to have been fairly conducted, to certify its results.

In the processing of representation cases, the Board and the General Counsel have shared responsibilities. The Regional Offices, which are under the day-to-day supervision of the General Counsel, process representation petitions and conduct elections on behalf of the Board based on a delegation of authority made in 1961. As a result, the General Counsel and the Board have historically worked together in developing procedures for the conduct of representation proceedings. The Board has ultimate authority to determine such matters as the appropriateness of the bargaining unit and to rule on any objections to the conduct of an election. The Regional Directors have been delegated authority to render initial decisions in representation matters, which are subject to Board review.

COMPLIANCE PROCEEDINGS

In order to obtain compliance with the Board's orders and settlement agreements, the General Counsel's staff must follow up to ensure that the results of the processes discussed above are enforced. Staff must be prepared to work with employees whose rights have been violated to calculate backpay, work with respondents when terminated employees are entitled to reinstatement or having their records expunged in unlawful disciplinary actions, or monitor the bargaining process when the Board has ordered the parties to bargain. Noncompliance or disputes on findings may require additional hearings or actions by the judicial system.

ADMINISTRATIVE FUNCTIONS

Section 3(d) of the Act assigns the General Counsel supervision over all attorneys employed by the Agency, with the exception of the ALJs, the Solicitor, the Executive Secretary and the attorneys who serve as counsel to the Board Members. The Board has also delegated to the General Counsel general supervision over the administrative, financial and personnel functions of the Agency.

PERFORMANCE HIGHLIGHTS

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, the Board and the General Counsel work together in developing a comprehensive Strategic Plan. The NLRB's Strategic Plan was updated in FY 2007 and covers 2007–2012, and an addendum was submitted for FY 2013 and 2014.

The NLRB's Strategic Plan states the Agency's Strategic Goals and Performance Measures.

Strategic Goal No. 1
Resolve all questions concerning representation impartially and promptly.

Performance Measure No. 1
The percentage of representation cases resolved within 100 days of filing of the election petition.

Strategic Goal No. 2
Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions, or both, impartially and promptly.

Performance Measure No. 2
The percentage of unfair labor practice(ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge.

Performance Measure No. 3
The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge.

The two goals of the NLRB's Strategic Plan represent the core functions of the Agency in its enforcement of the NLRA. They reflect both the short- and long-term goals of the Agency. These strategic goals translate the Agency's mission into major policy directions and are focused on the unique characteristics of the organization.

The NLRB's two strategic goals are supported by three overarching performance measures. Rather than focus on the individual segments of the casehandling process, these performance measures focus on the time it takes to process an entire case, from start to finish. They are outcome-based, aligned with the mission of the NLRB, and are meaningful to the public the Agency serves. The NLRB tracks the total time taken to accomplish three outcomes: resolution of all questions concerning representation; the processing, investigation, and remedy of ULP charges; and the resolution of those ULP charges found to have merit. The goal is to resolve representation matters within 100 days, resolve all ULP cases within 120 days, and resolve meritorious ULP cases within 365 days.

Because the Agency either met or exceeded the annual targets set since the institution of these performance measures in 2007, it undertook a review of the annual targets and revised them for FYs 2010, 2011, and 2012.

In FY 2012, in accordance with the Government Performance and Results Modernization Act (GPRAMA), the NLRB issued an addendum to its Strategic Plan (2007 – 2012). While the strategic goals and associated measures remain unchanged, the addendum provided the Agency's performance targets for FY 2013 and 2014, updates on its initiatives, and changes to its structure. A new Strategic Plan will be issued in FY 2014.

Performance Measure No. 1 focuses on the time taken to resolve a representation case, from beginning to end, including time spent on the case on both the General Counsel and Board sides of the Agency. In representation cases, elections result from petitions filed by unions, employees, or employers seeking a secret ballot determination as to whether a majority of employees support union representation. Included in this measure are withdrawals, dismissals, settlements, hearings, and elections, which occur in the field. It also includes requests by aggrieved parties for review of Regional decisions by the Board in Washington, DC.

Performance Measures No. 2 and No. 3 address the timely resolution of ULP cases, including time spent on the case by both the General Counsel and Board sides of the Agency. On a yearly basis, there are more than six times as many ULP cases as representation cases, usually involving more complicated issues for Regions to address.

We are pleased to report that, for FY 2013, the NLRB exceeded its goals for all three of its performance measures.

Measure No. 1: Resolve questions concerning representation in all representation cases within 100 days from the filing of the representation case petition.

Year	Interim Goal	Actual Performance
FY 2009	81.0%	84.4%
FY 2010	85.0%	86.3%
FY 2011	85.0%	84.7%
FY 2012	85.2%	84.5%
FY 2013	85.2%	87.4%
FY 2014	85.3%	

Measure No. 2: Resolve all charges of unfair labor practice cases by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or court judgment within 120 days of the filing of the charge.

Year	Interim Goal	Actual Performance
FY 2009	68.5%	71.0%
FY 2010	71.2%	73.3%
FY 2011	71.2%	72.5%
FY 2012	72.0%	72.7%
FY 2013	72.0%	73.3%
FY 2014	72.3%	

Measure No. 3: Close meritorious (prosecutable) unfair labor practices on compliance within 365 days of the filing of the unfair labor practice charge.

Year	Interim Goal	Actual Performance
FY 2009	75.5%	79.7%
FY 2010	80.0%	84.6%
FY 2011	80.2%	83.2%
FY 2012	80.3%	83.8%
FY 2013	80.0%	82.4%
FY 2014	82.5%	

LINKING BUDGET AND PERFORMANCE

The NLRB's annual Performance Plan is integrated into its budget request to form the basis of its Performance Budget. Budget priorities are linked to Agency goals and measures to maximize performance and efficiency. The NLRB strengthens budget and performance linkages by establishing a direct, vertical relationship between the performance plans of individual executives in its Regional and Headquarters offices and the performance goals for their programs, which are derived from the Agency's broader strategic goals. These goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency.

FINANCIAL HIGHLIGHTS

Towards the end of FY 2012, the NLRB created the Office of the Chief Financial Officer (OCFO), which includes the Budget, Finance, and Acquisition Management Branches. This new structure integrated and enhanced Agency financial management.

Specifically, the establishment of this structure with a Chief Financial Officer (CFO) outside of the Division of Administration, who reports directly to the Chairman and the General Counsel, has improved effectiveness and efficiency in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. The CFO continues to infuse more discipline, structure, and internal control in the financial management lifecycle and throughout the financial management process.

ANALYSIS OF FINANCIAL STATEMENTS

The NLRB prepares annual financial statements in accordance with Generally Accepted Accounting Principles (GAAP) for federal government entities and subjects the statements to an independent audit to ensure their integrity and reliability in assessing performance. The NLRB's financial statements summarize the financial activity and financial position of the Agency. The financial statements, footnotes, and the balance of the required supplementary information appear in the Financial Section of this Performance and Accountability Report (PAR).

Balance Sheet – The NLRB assets were $37 million as of September 30, 2013. The Fund Balance with Treasury, which was $23 million, represents the NLRB's largest asset. The Fund Balance consists of unspent appropriated and unappropriated funds from the past six fiscal years.

The NLRB Property, Plant and Equipment was approximately $14 million and was primarily related to information technology.

Statement of Net Cost – The NLRB's appropriation is used to resolve representation cases or ULP charges filed by employees, employers, unions, and union members. Of the $278 million net cost of operations in FY 2013, 16 percent was used for representation case activities and 84 percent was used to resolve ULP charges.

Statement of Changes in Net Position – The Statement of Changes in Net Position reports the change in net position during the reporting period. Net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. From FY 2012 to FY 2013, there was a change in net position of $1.1 million.

Statement of Budgetary Resources – The Statement of Budgetary Resources shows budgetary resources available and the status at the end of the period. It represents the relationship between budget authority and budget outlays, and reconciles obligations to total outlays. For FY 2013, the NLRB had available budgetary resources of $270 million, the majority of which were derived from new budget authority. This represents a $14 million decrease from FY 2012. For FY 2013 and FY 2012, the status of budgetary resources shows obligations of $270 million and $284 million. Total outlays for FY 2013 were $266 million, which is a $11 million decrease from FY 2012.

LIMITATIONS OF PRINCIPAL FINANCIAL STATEMENTS

The principal financial statements of the NLRB have been prepared to report the financial position and results of operations of the Agency, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the entity in accordance with generally accepted accounting principles for federal entities and the formats prescribed by Office of Management and Budget, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records.

The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

MANAGEMENT ASSURANCES

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The Federal Managers' Financial Integrity Act (FMFIA) requires federal agencies to develop and implement appropriate and cost-effective internal controls for results-oriented management, assess the adequacy of those internal controls, identify needed areas of improvement, take corresponding corrective action, and provide an annual statement of assurance regarding internal controls and financial systems. This annual statement of assurance is provided in the PAR on page 25.

NLRB management is responsible for establishing and maintaining an environment throughout the Agency that is positive and supportive of internal controls and conscientious management. The NLRB is committed to management excellence and recognizes the importance of strong financial systems and an internal control system that promotes integrity, accountability, and reliability.

Internal control systems are expected to provide reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

In assessing whether these objectives are being achieved, the NLRB used the following standards in accordance with OMB Circular A-123, *Management's Responsibility for Internal Control,* dated December 21, 2004.

Control Environment	Creating and maintaining an organizational structure that promotes a high level of integrity and personal and professional standards and sets a positive and supportive attitude toward internal controls through conscientious management
Risk Assessment	Identification and analysis of risks that could impede the achievement of agency goals and objectives
Control Activities	Policies, procedures, techniques, and mechanisms to ensure proper stewardship and accountability for government resources and for achieving effective and efficient program results
Information and Communications	Ensures the agency's control environment, risks, control activities, and performance results are communicated throughout the agency
Monitoring	Assessing quality of performance over time ensuring that internal control processes are appropriate and effective

The NLRB's approach to assessing its internal controls included the identification and assessment of risks by 25 designated managers on an Agency-wide basis. In completing this annual review, the designated managers, in conjunction with subordinate staff as needed, used personal judgment as well as other sources of information. These sources included: knowledge gained from day-to-day operations; Inspector General audits and investigations; program evaluations; reviews of financial systems; annual performance plans; and management reviews for the purpose of assessing internal controls. The designated managers were responsible for conducting reviews of program operations, assisting program offices in identifying risks and conducting internal control reviews, issuing reports of findings, and making recommendations to improve internal controls and risk management.

Based on the internal controls program, reviews, and consideration of other information, senior management's assessment of the NLRB's internal controls is that controls are adequate to provide reasonable assurance in support of effective and efficient operations, reliable financial reporting, and compliance with laws and regulations.

The Statement of Assurance provided on page 25 is required by the Federal Managers' Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management's Responsibility for Internal Control*. The assurance is for internal controls over operational effectiveness (we do the right things to accomplish our mission) and operational efficiency (we do things right).

FMFIA Section 2, Management Control

Section 2 of the FMFIA requires federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place in FY 2013 provide reasonable assurance that NLRB systems and internal controls comply with the requirements of FMFIA and there are no material weaknesses to report relating to Section 2 of the FMFIA. This is based primarily on written assessments by 25 designated managers who responded to an extensive survey.

FMFIA Section 4, Financial Management Systems

Section 4 of the FMFIA requires that agencies' financial management systems controls be evaluated annually. The NLRB evaluated its financial management systems for the year ending September 30, 2013 in accordance with the FMFIA and OMB Circular A-127, *Financial Management Systems*, Section 7 guidance. The annual statement by the Chief, Finance Branch, indicates that the NLRB's financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General, OMB, and the Department of Treasury.

FINANCIAL SYSTEM STRATEGIES

The NLRB obtains the majority of its financial systems and services from the Department of the Interior's Interior Business Center (IBC). IBC provides the following systems:

- Oracle Federal Financials – Integrated system which allows the sharing of data and information between the NLRB's Finance Branch, the Budget Branch, and its Acquisitions Management Branch
- Discoverer Reporting System – A system of various accounting and budgetary reports that are used by staff in the Finance and Budget Branches and by Budget Allowance Holders to monitor the Agency's financial activities. The reports in this system are custom designed for the NLRB's use.
- FPPS – Federal Payroll and Personnel System – Integrated with the Momentum system, providing for more efficient payroll processing
- E2Solutions – eTravel system provided by Carlson Wagonlit, the NLRB's Travel Management Service

The Agency began using the new systems at the start of FY 2013. Oracle Federal Financials has begun meeting expectations in:

- Offering similar but improved functionality to its legacy Momentum system, including integration with the Federal Personnel and Payroll System and E-Travel

- Leveraging a common data model across all its modules, enabling improved business processes and financial data analytics
- Delivering significantly improved enterprise reporting that increases transparency and mitigates the need of account holders to manage budgets outside the system
- Providing a web-based interface that will support remote access thereby providing improved telework options for staff in finance, acquisitions, budget, and those office managers in the regional offices that perform financial functions

This migration offered an attractive return on investment from the support perspective, and the Agency is optimistic that there will be savings attributable to the productivity afforded by a modern financial management system, such as the integration of decentralized functions into a central core system, the elimination of redundant data input, streamlined financial reporting functions, enhanced internal controls, improved segregation of duties, and enhanced data analysis.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC

November 26, 2013

ANNUAL STATEMENT OF ASSURANCE

The NLRB's management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The NLRB conducted its assessment of the effectiveness of internal control systems regarding the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the NLRB can provide reasonable assurance that its internal control systems regarding the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations, as of September 30, 2013, was operating effectively and no material weaknesses were found in the design or implementation of internal controls.

Mark Gaston Pearce
Chairman

Richard F. Griffin, Jr.
General Counsel

2013 YEAR IN REVIEW

WORKFORCE PLANNING

The NLRB has always sought to efficiently manage its human resources. To enhance these efforts, the Agency continues to expand its utilization of automated systems for hiring, recruitment, training, retirement planning, and other human resource programs. The NLRB workforce is spread throughout the country, with about two-thirds of the staff housed in the Regional Offices and about one-third in Headquarters.

To ensure maximum efficiency, the Agency has consolidated several Regional Offices in the Field, and restructured several different branches and divisions within Headquarters. In so doing, the Agency will ensure maximum efficiency while also continuing to provide the public with easy access to and direct contact with casehandlers and decision-makers. This is discussed in further detail below.

Regional Office Consolidation

By the end of FY 2013, the Agency had reduced the number of Regional offices from its historical number of 32 down to 26. In FY 2012, in response to evolving patterns of case intake in its nationwide network of Regional Offices, the Agency undertook a pilot program as to the restructuring of some of its field offices. The pilot program was designed to allow the NLRB to take advantage of new technologies and create operational efficiencies while gathering information on internal management and case processing issues that might arise. After evaluating the pilot, including discussions with members of Congress, NLRB staff, and the public, the restructuring was approved by the Board in December 2012.

The restructuring changed the status of four Regional Offices to Subregional offices, and reassigned some Subregional and resident offices to new Regional Offices. Specifically, the Winston-Salem, NC office (Region 11) became a Subregion of the Atlanta Regional Office (Region 10); the Memphis, TN office (Region 26) became a Subregion of the New Orleans, LA Regional Office (Region 15); the Overland Park, KS office (Region 17) became a Subregion of the St. Louis, MO Regional Office (Region 14), and the Hartford, CT office (Region 34) became a Subregion of the Boston, MA Regional Office (Region 1). In addition, the resident office in Nashville, TN was reassigned from Region 26 to Region 10, the resident office in Little Rock, AR was reassigned from Region 26 to Region 15, and the Subregional office in Peoria, IL was reassigned from Region 14 to Indianapolis, IN (Region 25).

Further, in July 2013, the Board approved the restructuring of four regional offices, as proposed in March 2013 after evaluating feedback from members of Congress, NLRB staff, and the public. The restructuring changes the status of two Regional Offices to Subregional offices. Specifically, the Milwaukee, WI office (Region 30) became a Subregion of the Minneapolis, MN Regional Office (Region 18) and the Puerto Rico office (Region 24) became a Subregion of the Tampa, FL Regional Office (Region 12).

This restructuring adjusts the Agency's presence to the case filing developments that have occurred over the years by more evenly distributing case intake among Regions. The development of the Agency's electronic case management system (NxGen) has greatly facilitated the ability to proceed with these restructuring plans. All of the resulting Regions will be of a size and internal management structure that will optimize efficiency and economy, while preserving high quality investigations and litigation and resulting in an Agency that is best able to fulfill its mission in the future. This streamlining effort has also saved costs by decreasing the number of senior level managers in these affected Regions and eliminating personnel performing duplicative functions.

Headquarters Restructuring

Related to this consolidation effort in the field, the NLRB centralized the services of several Headquarters' offices and restructured them into one independent Division of Legal Counsel. This new Division has three branches—(1) Ethics, Employment and Administrative Law, (2) Contempt, Compliance and Special Litigation, and (3) Freedom of Information Act (FOIA) Branch. When dealing with matters on behalf of the five-member Board or the various Board-side offices, the Division of Legal Counsel coordinates through the Office of the Solicitor.

The Ethics, Employment and Administrative Law Branch provide the Agency with legal counsel and advice in the areas of labor relations, employment and personnel law (including claims involving MSPB, FLRA, EEOC, U.S. Office of Special Counsel), government contracting, Federal Tort Claims Act matters, and government and bar ethics. The Contempt, Compliance and Special Litigation Branch provide compliance and contempt advice and litigation involving, among other things, the Bankruptcy Code, the Federal Debt Collection Procedures Act and compliance with outstanding court judgments; conduct litigation and provide the Agency with advice and assistance when programs, statutes or outside proceedings threaten the Agency's ability to carry out its mission; ensure Agency compliance with government regulations that affect its work, such as the Administrative Procedures Act, statutes relating to Agency rulemaking, the Sunshine Act, the Health Insurance Portability and Accountability Act, the Right to Financial Privacy Act; and provide guidance and conduct litigation involving FOIA and Privacy Act issues. The FOIA Branch provide advice on FOIA and some related Privacy Act issues; handle all FOIA requests and appeals for Headquarters and Regional Offices; and prepare FOIA guideline memoranda and annual FOIA reports. Lead Technology Counsel conducts litigation and provides advice and assistance involving e-litigation matters.

These administrative changes are prompted by the Agency's streamlining initiative and is responsive to the requests for "one-stop shopping" for technical expertise from internal customers, to allow them to better focus on their mission-critical functions.

Further, the Agency created a compliance unit within the Division of Operations-Management to promote collaboration between Headquarter branches and Regional Offices, to promptly address training and resource needs, and to develop strategies for achieving more meaningful and timely compliance at all stages of the case. The Agency also strategically realigned the Agency Records Officer under the Office of the Chief Information Officer to better position the records management functions to support the Agency's transition to a comprehensive electronic recordkeeping infrastructure, migrated its email repositories and services to Microsoft's cloud-based, software solution, i.e. Office 365, moved the NLRB Library Services, which serves as the Agency's research and information center, within the Office of the Chief Information Officer, and, in the latter part of the fiscal year, placed the Office of Human Resources and the Office of Employee Development within the Division of Administration.

COLLABORATIVE EFFORTS

In FY 2013, the Agency and the Ministry of Foreign Affairs of the United Mexican States signed a letter of agreement which is designed to strengthen collaborative efforts to provide Mexican workers, their employers, and business owners in the U.S. with information regarding their rights and responsibilities, as well as the services our Agency provides.

Under this framework, the Agency and the Mexican Embassy in Washington, D.C., as well as NLRB Regional Offices and Mexican Consulates nationwide, will cooperate to provide outreach, education, and training, and to develop best practices. The framework has been used by other federal labor agencies, including the Department of Labor and the Equal Employment Opportunity Commission, which have similar agreements with the Mexican Embassy and its consulates.

The NLRB also entered into a Memorandum of Understanding with the Department of Justice Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices formalizing a collaborative relationship that allows both agencies to share information, refer matters to one another, and coordinate investigations, as appropriate.

MODIFICATION OF AGENCY POLICY REGARDING SETTLEMENTS

Upon review of the Agency's policy and practice regarding unfair labor practice settlements, the Office of the General Counsel announced that the Agency would now permit settlements to include front pay. The Agency has revised its case handling manual (§10592.8) to permit front pay in Board settlements.

While the Agency prefers reinstatement of employees to vindicate statutory rights and restore the status quo after unlawful discrimination, parties and discriminatees are free to negotiate a waiver in return for a monetary amount. In practice, they routinely do so and a significant number of settlements approved by Regions in recent years include payments to discriminatees of greater-than-one-hundred-percent backpay. A monetary payment to an employee as compensation in lieu of reinstatement, known as "front pay," is a remedial concept that is well recognized by courts. Although front pay is not a remedy the Board includes in formal remedial orders under existing law, the Agency may approve additional remedies as part of a voluntary settlement agreement. Where parties in Board proceedings negotiate front pay in return for a waiver of reinstatement or instatement, the front pay is not "punitive," it is part of a mutually agreed-upon settlement. It is also remedial, as the discriminatee is waiving rights to something of value that was unlawfully denied.

TECHNOLOGY AND E-GOVERNMENT ADVANCES

The NLRB Office of the Chief Information Officer (OCIO) is executing enterprise-architecture-based technology programs that deliver value and advance the Agency's mission. The current Information Technology (IT) initiatives support the Agency's broader efforts to improve productivity and provide greater transparency.

The Agency's major IT initiatives are results-oriented and are designed to:

- Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system
- Optimize business processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time
- Transform the way the NLRB serves the public, including making its case processes transparent and providing more information to its constituents in a timely matter
- Reduce the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations

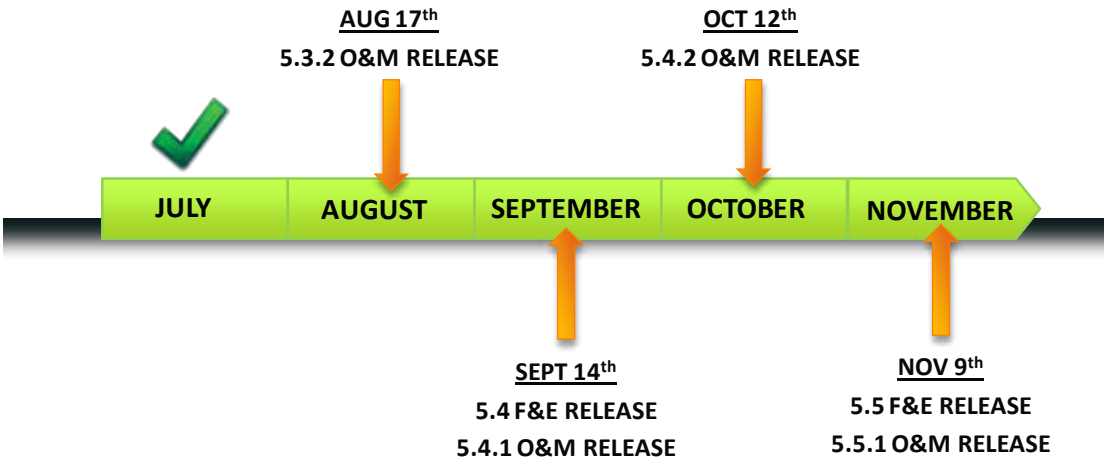
The Agency's present efforts to accomplish these objectives include several major IT initiatives:

- Next Generation Case Management (NxGen)
- Unified Communications and Mobility
- E-Government
- Administrative Systems Modernization
- Enterprise Support Services
- Infrastructure Consolidation and Cloud First
- FOIA Centralization

Next Generation Case Management (NxGen)

The Agency's enterprise case management system has transitioned from its development phase to a mixed life cycle of continued development and operations and maintenance. Known as the Next Generation Case Management System (NxGen), this system was architected to replace 11 separate legacy systems and integrate into a single unified solution that leverages multiple technologies. This is the most comprehensive technology project undertaken at the NLRB, and its success is essential to the Agency's mission.

In 2010, the White House and OMB issued a memorandum to agencies that reforms the way the Federal Government manages IT projects. The memorandum lists "principles and best practices that have been proven to reduce project risk and increase success rates" for IT projects. These principles and best practices, along with the OCIO's implementation actions, are listed below:



- Split projects into smaller, simpler segments with clear deliverables. In late 2009, the OCIO and the NxGen Integrated Project Team (IPT) determined that NxGen would be more successful with an increased number of smaller development efforts, commonly known as an agile methodology. The NxGen team now deploys a release every month – as is illustrated above, alternating between Functionality and Enhancement (F&E) releases and those associated with Operations and Maintenance (O&M).
- Focus on most critical business needs first. Along with the change in operating method, the OCIO and IPT modified the program's focus. Whereas it previously appeared that the team was attempting to "boil the ocean," deeper business involvement and shorter timeframes have focused efforts on that which is achievable and adds value.
- Ongoing, transparent project oversight. The IPT is the true success story of the NxGen program. This governance group has been and continues to be enthusiastic, involved and supportive. OMB suggests that often senior agency managers do not adequately monitor projects on an ongoing basis once they are underway. With NxGen, the Board and General Counsel have been well served in this capacity by a dedicated group of senior managers.

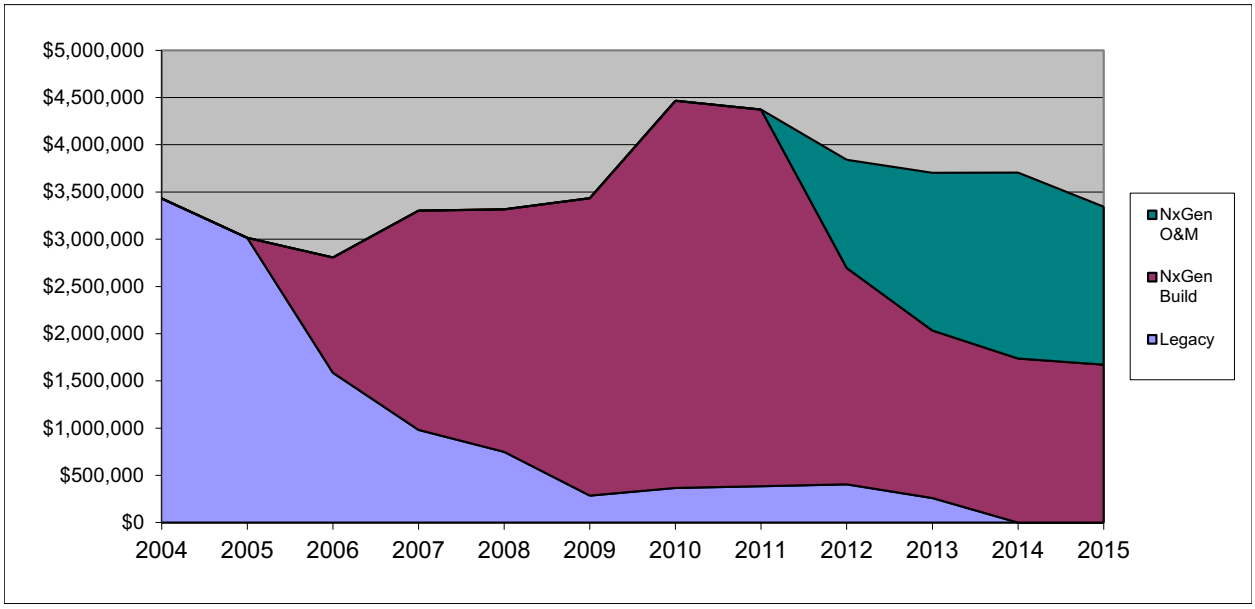
Over 1,400 of the Agency's employees have signed into the NxGen system in the last month and the system presently is in comprehensive use for:

- General Counsel's 51 Field Offices – whose Case Activity Tracking (CATS) legacy system has been retired
- General Counsel's Office of Appeals – whose Appeals Case Tracking (ACTS) legacy system has been retired
- General Counsel's Division of Advice – whose Regional Advice and Injunction Litigation (RAILS) legacy system has been retired
- Division of Judges – whose case tracking (TIGER) legacy system has been retired
- Board Offices – whose Pending Case List (PCL) legacy system has been retired
- Integration with the Board's collaborative Judicial Case Management System (JCMS)
- All Offices for processing incoming electronically-filed documents, including hearing transcripts and exhibits
- Electronic issuance of Board and Division of Judges Decisions

As of the September 21, 2013, the NxGen case management system managed:

- 238,656 cases;
- 605,129 case actions of the Agency; and
- 3,192,932 documents, images, and videos, each linked to its action and case.

As is illustrated below, the Agency funded the NxGen modernization efforts in significant measure by reducing expenditures on the 11 remaining legacy systems. The notable spikes in the FY 2010 and FY 2011 expenditures were due to the Agency's successful efforts to complete development and deployment of NxGen to the Field Offices prior to the end of FY 2011. Deployment included a comprehensive training effort to ensure successful adoption of the system in the Field Offices.



Agency expenditures (in nominal dollars) on case management development and support FY 2004-2015

The Agency's efforts for FY 2014 are focused on replacing the remaining substantial systems case tracking applications, expanding reporting and electronic issuance of documents to constituents, integrating inter-office workflows, and modernizing its records management system.

The Agency made NxGen the official Regional Office case file for all cases filed on or after October 1, 2012. The Agency also strategically realigned the Agency Records Officer under the Office of the Chief Information Officer to better position the records management functions to support the Agency's transition to a comprehensive electronic recordkeeping infrastructure. Recordkeeping requirements are being seamlessly incorporated as part of the design and ongoing development of NxGen and the Agency continues exploring solutions to transform electronic recordkeeping across systems and processes.

The Agency has deployed Oracle Siebel's Open User Interface (Open UI) to its NxGen development environment and plans to implement this technology in production in FY 2014. This significant technology upgrade will move NxGen towards HTML5 compliance, enabling device, operating system, and browser independence.

In FY 2014, the Agency will deliver on ambitious plans to implement a modern, adaptable and scalable data warehouse, with multiple data marts providing real-time case management analytics. One of the first of these marts will be a public data mart, comprised of all data within NxGen that is considered FOIA-able without redaction. This effort will revolutionize the way constituents and researchers access Agency data. Along those lines, the Agency expects to develop a centralized processing and tracking system for Headquarters' handling of nationwide FOIA requests and appeals received each year and enhance transparency through the public website's case docketing system for easy public access to case status and relevant documents.

It is expected that the Agency's requirements to identify trends and conduct ad hoc analysis will continue to multiply. Combined with the rapid growth in managing unstructured data, including documents, communications, and multimedia exhibits, these efforts will become complex to the point that it becomes difficult to process using traditional data applications. As such, by FY 2015, the Agency will engage in a Big Data program to support these efforts and enterprise search.

Also by FY 2015, the NxGen program will undergo considerable change, as its foundation is directly linked to the Agency's efforts to migrate its technical infrastructure to a hybrid cloud environment. Likewise, the unified communications efforts will afford a significant expansion of NxGen functionality, including integrated audio, video, and real-time collaboration across the enterprise and with constituents. This will result in reducing travel, increasing telework and remote access to information, and expediting the issuance of decisions.

Unified Communications and Mobility

In FY 2012, the Agency released a statement of objectives seeking messaging, presence, conferencing, and collaboration services from a "highly integrated, cost-effective Cloud-based provider." The migration of email services to Office 365 in FY 2013 was the first deliverable of this award.

In FY 2013, the Agency developed a plan to consolidate its data, voice, video and wireless networks and released a detailed request for information to gather ideas, best practices and/or recommendations to inform the development and implementation of its future state telephony, video and network architecture.

The objective of this significant effort is to provide enhanced functionality to Agency staff while achieving cost savings through such strategies as consolidating networks and taking advantage of lower cost technical alternatives and contract vehicles. Specifically, the Agency is trying to create a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all locations including the office, at home and on the road. Ultimately, the Agency desires to aggregate these separate components under a single contract wherein a vendor (or multiple vendors) can provide these services in a comprehensive and cost-effective manner.

Currently, the Agency utilizes disparate networks for its data and video conferencing services and manages 52 legacy phone systems from different voice service providers in the Field and Headquarters. The segregation of data, voice, and video services results in an inefficient use of Agency resources and creates communication and collaboration silos within critical business processes. Additionally, the Agency's present communications infrastructure provisions remote access for certain business processes only to Agency laptops, with limited support for mobile and tablet devices.

The Agency envisions unified communications services that increase both productivity and agility through:

- Presence – Being able to find and reach contacts regardless of where they are working
- Communication – Being able to communicate via messaging, voice and video anywhere and at any time
- Collaboration – Being able to work on and share documents and information anywhere and at any time
- Multiple Device Support – Being able to use the "right" device to perform the Agency's work

In FYs 2014 and 2015, the Agency's efforts will focus on implementing the aforementioned services and provisioning consolidated voice services. Based on current research, the Agency expects that voice services will be provided by a combination of Voice over Internet Protocol (VoIP) and mobile services.

The Agency also expects to significantly increase its current telework efforts in FYs 2014 and 2015. These mandated efforts are supported by an investment in unified communications, as well as investments in the NxGen case management system, infrastructure consolidation and the widespread deployment of laptops.

The Agency proposes to reinvest the previously identified reductions from the average FY 2010 through 2012 IT budgets towards unified communications services. Costs for Cloud-based messaging, presence, conferencing, and collaboration

services will be offset initially by deferred investments for servers, storage, hosting and disaster recovery. After the initial investments in network and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice and video networks, and expects the enhanced services to demonstrably improve administrative efficiencies.

E-Government

The NLRB places a high priority on offering timely and relevant information to case participants, citizens, and employees. To that end, the Agency maintains online and mobile resources that provide access to these groups, so that they can obtain, maintain and share information.

The Agency debuted a redesigned public website in February 2011 that included a direct link to the case data and documents in NxGen. This new resource furthered the Agency's commitment to transparency and made it easier for those interested in the Agency's work to find information as efficiently as possible. In 2012, the Agency unveiled revamped case pages that allow users to see all activity in NLRB cases and provides direct links to any available public documents. In FY 2013, the Agency reviewed and significantly increased the number of public documents made available on these case pages.

The Agency developed its public website on an open source content management platform (Drupal), a key technology tenet of the U.S. Digital Government Strategy issued on May 23, 2012. Following the example of leading government websites, the Agency upgraded its site to the latest Drupal version and redesigned the interface to be mobile responsive in late FY 2013.

At the same time, the Agency launched its first app for smartphones, focused on employee and employer rights under the National Labor Relations Act (NLRA). Within two weeks of its launch, the app had been downloaded and installed on more than 3,000 phones. The source code for the app was posted on the NLRB public website as a service to the public and other federal agencies.

The NLRB is developing a Digital Government Strategy that directly aligns with the aforementioned goals of improving the productivity of the Agency's case management procedures, optimizing business processes by providing employees ready access to the tools, data and documents they require from anywhere at any time, transforming the way the NLRB serves the public through increased transparency and information provided to its constituents, and by reducing the paperwork burden on its employees and constituents.

The NLRB recognizes that developing and executing its Digital Government Strategy is not solely a technology issue. Technology and digital services are enablers, but the delivery of services and assistance to constituents is fundamental to NLRB's mission. In the rapidly evolving digital world and mobile environment, NLRB is committed to improving its capabilities and offerings in the areas of public access and digital services.

In FY 2014, the Agency will execute ambitious plans to offer constituent self-service through the NxGen program; expand E-Issuance beyond the Board and Division of Judges; and increase the number and types of E-Filing submissions. These efforts will provide better services and greater transparency to our constituents and more efficient case handling and improved quality internally.

Administrative Systems Modernization

As discussed in the Financial System Strategies Section, in FY 2013, the Agency accomplished an aggressive plan to migrate its financial management systems for finance, acquisitions and budget to the Department of Interior's Interior Business Center's (IBC) shared instance of Oracle Federal Financials.

Further, in FY 2013, the Agency began an effort to modernize and replace its E-Travel system with Concur's Government Edition (CGE). CGE provides self-service creation of all travel authorizations and vouchers in an easy to use web-based system that is fully integrated with Oracle Federal Financials. This initiative comports with the Agency's desire to invest in systems and services that optimize business processes by providing employees ready access to the tools they require from anywhere, at any time.

The Agency released a new intranet, *NLRB Insider,* in FY 2012 and employed a formal web management structure to give all parts of the NLRB a voice regarding content. By FY 2013, the intranet platform's increasing use as a document library, together with the

growing employment of ad hoc forms, shared drives and other on-premise document repositories revealed the requirement for a more comprehensive solution. The Agency requires a more transactional internal system. To more fully utilize the intranet platform, and to actively assess, develop and re-model the Agency's non-mission critical systems and processes, the Agency formed an Administrative Systems IPT. Based thereon, the Agency conducted market research and alternatives analysis for cloud-based collaborative solutions to better manage data, content, records, and workflows, and to provide near-real time reports and analytics for its administrative systems. The Agency made the decision to expand the capabilities of the Office 365 Suite and utilize the cloud-based SharePoint offering.

The Office 365 SharePoint solution provides all of the necessary components of a technology service catalog and complements the existing intranet. In FY 2014, the Agency's governance and development teams are focused on automating business processes through forms automation with workflow and routing, creating team sites for document management and collaboration, offering useful search, modernizing legacy administrative applications and implementing social collaborative features.

Enterprise Support Services

In FY 2013, the OCIO absorbed the NLRB Library Services into its recently reorganized Enterprise Support Services (ESS) section. Library Services serves as the Agency's research and information center, providing research, training, and reference assistance on legal and non-legal subjects and manages access to research databases.

In FY 2013, the Library cut costs by consolidating subscriptions and eliminating redundant electronic resources in favor of desktop deployed legal research assistance tools. In the coming fiscal year, the Library will continue to pivot spending away from print resources and toward electronic resources that can be accessed remotely by employees across the 51 Field Offices and Headquarters. This continued transformation of the Library into a more agile institution will help reduce its physical footprint in the anticipated new Headquarters office space in early 2015.

One of the most significant efforts of FY 2012 was the Agency's deployment of over 1,000 new laptops and upgrade of nearly 800 existing desktops and laptops with the a new Windows 7 image. The Agency's Windows 7 release utilized a single configuration across different models to provide identical applications, configuration and functionality regardless of a computer's make or model. Standardization of the configuration will significantly improve the OCIO's ability to assist users and troubleshoot problems in a timely and efficient manner.

The ESS section followed this success by leading an internal effectiveness initiative in FY 2013 that focused on implementing best practices for the provisioning, management, and support of services and aligning the delivery of services with the needs of the business. ESS streamlined processes in FY 2013 to improve service delivery and accountability, including:

- Contract Management – ESS developed a contract management calendar to track contract renewals and assist with budget forecasting
- Process Automation – the Agency implemented processes and audit controls to manage network accounts as an extension of Human Resources employee separation processing
- Employee Self Service – the Agency's implementation of Office 365 email required the migration of 1,800 users. ESS developed an extensive communication process, knowledge library, and self-service scripts to assist users with migration activities and, as a result, the Agency was able to implement the new email service at an accelerated schedule with minimal contract costs and no user downtime.
- Configuration Management – ESS developed a service management process to ensure the timely and consistent implementation of computer security patches. As a result, the Agency's patch compliance rate significantly improved in FY 2013 – to 94% compliance from a 60% rate in FY 2012.

The OCIO will continue to focus on organizational excellences and leverage these process improvements to:

- Increase Employee Self-Service use through the development of an online Service Catalog and Self-Help Knowledge led assistance
- Implement Software License Management for COTS software products
- Develop processes and procedures to have

all Agency configuration items identified and maintained in a configuration management repository by FY 2015

- Develop dashboards to measure internal and contractor performance metrics and service level agreements by FY 2015

Infrastructure Consolidation and Cloud First

The NLRB previously completed its initial implementation of an ambitious plan to modernize and consolidate its IT infrastructure. These efforts, which significantly strengthened the Agency's continuity of operations plans (COOP), provided greater storage capacity and manageability, and afforded staff improved access to resources, included:

- The Agency consolidated its storage infrastructure from its 51 Field offices to two data centers located in Sterling, VA, and Waltham, MA
- The Agency improved the efficiency and availability of IT resources and applications by fully virtualizing its test and production environments – presently comprised of over 150 virtual servers
- The Agency migrated Internet access for its Headquarters, Field Offices and two data centers to GSA's Managed Trusted Internet Protocol Service (MTIPS), complying with OMB's Trusted Internet Connection (TIC) initiative

- As part of its modernization efforts, the Agency deployed wireless access points in all offices. Through continuing to modernize and consolidate its IT infrastructure, the NLRB is able to provide cost-effective access to the tools, data and documents that employees require from anywhere, at any time, along with the service and support that they require.

Having successfully consolidated its infrastructure, the Agency now desires to take full advantage of cloud computing benefits to maximize capacity utilization, improve IT flexibility and responsiveness, and minimize cost. Current and planned efforts include:

- The Agency was an early adopter of:
  - GovDelivery cloud services to deliver all case participant communications, including for its electronic services initiative.
  - The ServiceNow cloud Information Technology Services Management (ITSM) platform, which the OCIO uses to be more transparent, provide Agency staff with multiple ways to get quality support, and as the technology enabler of its internal effectiveness initiatives.
- In FY 2013, the Agency migrated its email repositories and services to Microsoft's cloud-based, software as a service solution, Office 365. The Agency will repurpose the nearly one million dollar investment in its email infrastructure to extend the lifespan of its NxGen on-premises infrastructure.
- Also in FY 2013, the Agency utilized Amazon's Elastic Compute Cloud to:
  - Reconstitute its NxGen case management development environment
  - Save approximately $500,000 over the next 6 years by hosting its legacy Momentum financial data rather than accepting the proposal of the Department of the Interior's (DOI) Interior Business Center (IBC)
- By FY 2015, the Agency plans to:
  - Migrate its on-premises Drupal-based public website to a secure, elastic cloud service

- Replace its end-of-life collaboration platform with Microsoft's Office 365 SharePoint solution
- Replace its near end-of-life network attached storage with Microsoft's Office 365 SkyDrive Pro solution
- Replace its near end-of-life storage area network with a smaller hybrid cloud solution
- Replace its end-of-life network backup with a smaller hybrid cloud solution

PUBLIC INFORMATION PROGRAM

The Agency's Public Information Program is one of the critical services provided to employers, unions, and employees. Under this program, in addition to the Office of Public Affairs in Headquarters, officers in the field provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2013, the Agency's 51 Field Offices received 86,215 public inquiries regarding workplace issues. In responding to these inquiries, Board agents spend a considerable amount of time explaining the coverage of the NLRA, accepting charges, or referring parties to other federal or state agencies.

The public can also contact the Agency through a toll-free telephone service (1-866-667-NLRB) designed to provide easy and cost-free access to information. Callers will hear messages recorded in English and Spanish that provide a general description of the Agency's mission, connections to other government agencies and contact information regarding the Regional Offices in closest geographic proximity. In FY 2013, the toll-free telephone service received 37,970 calls.

Public outreach is encouraged and has been embraced at all levels of the Agency. Over the past few years, the Board Members, General Counsels[3] and Regional managers participated in numerous speaking engagements at a myriad of events, including law schools, American Bar Association meetings and events, the Chamber of Commerce, and various employer and union groups. Similarly, other Agency representatives participated in outreach events, independently and in partnership with other organizations such as the Equal Employment Opportunity Commission, the Department of Labor, and through the NLRB's Regional Offices. Agency employees visited and spoke at schools, community groups, churches, other federal agencies, business organizations, workers' rights centers, human resources professional groups, labor organizations, and other similar type groups to make information about the NLRB available to individual workers. Agency representatives also reached out to employers, unions, workers, and soon-to-be workers to educate them regarding the role of the NLRB as an impartial enforcement agency. Furthermore, many Regional Offices publish newsletters, participate on radio talk shows, and make presentations in their local communities.

The NLRB continues to reach out to those communities of workers who have limited English proficiency by incorporating an easy to use, bilingual toll-free telephone service for inquiries. In addition, the Agency employs full-time Spanish-speaking language assistants whose sole job is to provide interpretation and translation service to our field offices. Our public web site contains Agency publications about our statute and processes translated into Spanish, Chinese, Creole, Korean, Russian, Somali and Vietnamese. Our electronic document templates available in Spanish continue to increase and our database of translated representation case notices and ballots has expanded to include 31 languages. Also, an Agency film about representation case processing has been recorded for the benefit of the Spanish-speaking community.

[3] Including Acting General Counsel Lafe E. Solomon.

CASEHANDLING HIGHLIGHTS

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate with the filing of charges or petitions by employees, labor unions, or private employers who are engaged in interstate commerce. During fiscal year 2013, the public filed 21,394 unfair labor practice charges of which 35.2 percent were found to have merit. Also, in FY 2013, the NLRB received 2,652 representation petitions, including 2,507 petitions to conduct secret-ballot elections in which workers in appropriate groups select or reject unions to represent them in collective bargaining with their employers, as well as 69 petitions for elections in which workers voted on whether to rescind existing union-security agreements. The NLRB also received six petitions to amend the certification of existing collective bargaining, 63 petitions seeking clarification of an existing bargaining unit and 7 WH cases.

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees free choice on union representation and by preventing and remedying statutorily defined unfair labor practices. The NLRB maintains a citizen-centered and results-oriented philosophy to best serve the needs of the American people.

The following cases highlight this philosophy and reflect the NLRB's mission of protecting democracy in the workplace:

Hispanics United of Buffalo, Case 3-CA-027872

Hispanics United of Buffalo involved the first case litigated under the Act involving the termination of employees for their comments on a social media website (Facebook) about their working conditions. After learning of employees' posts, respondent discharged the five employees who participated, claiming that their comments constituted harassment of the employee originally mentioned in the post. The Board found that the employees' Facebook discussion was protected concerted activity, within the meaning of Section 7 of the Act, because it involved a conversation among coworkers about their terms and conditions of employment, including their job performance and staffing levels.

All American School Bus Corp., et al., Cases 29-CA-100827, et al.

In *All American School Bus Corp, et al*., the Region was successful in litigation before the administrative law judge in establishing that 28 school bus contractors for NYC schools prematurely declared impasse and unlawfully implemented lower wages and benefits without reaching a good faith impasse in bargaining and unlawfully threatened employees with reprisals if they engaged in union activities. The ALJ's decision provides for a recommended order directing the employers to rescind the unilateral changes, restore terms and conditions, make employees whole for the losses they suffered as a result of the unilateral changes and, upon request, bargain in good faith with the Union. The ALJ's Decision and Proposed Order is currently pending before the Board. After obtaining 10(j) authorization in this case, the Region successfully obtained a Section 10(j) order from the District Court, providing for the 28 employers to restore the terms and conditions of employment that existed prior to the implementation of their final offer and continue them in effect until the parties reach agreement or a good faith impasse.

Pressroom Cleaners, Inc., Case 34-CA-071823

Pursuant to a request for Section 10(j) injunctive relief, *Pressroom Cleaners, Inc.* was ordered by the U.S. District Court to offer employment to six employees who Pressroom had refused to hire after it took over the cleaning operations at the Hartford Courant. The offices were previously cleaned by Capitol Cleaning, and Local 32BJ had long represented the Capitol workers under a collective bargaining agreement covering the workers at the Courant site. Before taking over the account, Pressroom held a meeting with the Capitol workers, during which the workers were told that Pressroom does not work with unions and does not want the Union. Although each of the Capitol workers applied, none were hired. Instead, Pressroom began operations with a crew of newly hired workers, many of whom were subsequently replaced by other newly hired workers. In granting the injunction, the Court found that Pressroom unlawfully discriminated against the Capitol workers in order to avoid a bargaining obligation with the Union. The Court ordered Pressroom to reinstate the previous terms and conditions of employment and to rescind any unilateral changes implemented by Pressroom since it assumed

the Courant cleaning operation. Following the Court's decision, Pressroom terminated its contract with the Courant, and was replaced by Capitol. All of the workers were offered reinstatement and the collective bargaining agreement was reinstated.

Healthbridge Management, LLC, Cases 34-CA-070823, et al.

In *Healthbridge Management*, the District Court, pursuant to a request for Section 10(j) injunctive relief, ordered a Connecticut nursing home chain to offer reinstatement to approximately 700 workers, to rescind changes made to employee wages and benefits, and to bargain in good faith with the union that has long represented its employees. The injunction against Healthbridge Management, LLC, and each nursing home followed the issuance of four separate complaints against the employer alleging a series of unlawful actions at six nursing homes over more than two years. After 19 months of bargaining, Healthbridge unilaterally implemented contract proposals affecting wages, hours, benefit eligibility, and retirement and health benefits without first bargaining to a good faith impasse. Employees went on an unfair labor practice strike in protest. When the employees offered to return to work under the terms of the contract that existed prior to the unilateral implementation, Healthbridge refused to bring them back. Although Healthbridge subsequently reinstated all striking workers pursuant to the District Court's Order, a dispute remains as to Healthbridge's obligation to reinstate the terms and conditions of employment that existed prior to its unilateral implementation of its contract proposals due to the issuance of an order by a bankruptcy judge temporarily relieving each individual nursing home from reinstating those terms.

Perdue Farms, Inc., Cases 11-CA-075709, et al.

In *Perdue Farms, Inc*., Cases 11-CA-075709, et al., the United Food and Commercial Workers Union alleged that Perdue Farms had committed numerous violations of the Act at its Rockingham facility. After completing its investigation, the Region issued a complaint alleging, among other things, that Perdue threatened to call the police in response to non-employees engaging in union activity, polled employees about their support for the Union, enforced an otherwise lawful security rule selectively and disparately, threatened employees with suspension for engaging in union activities, and engaged in surveillance of union supporters. In *Perdue Farms, Inc*., Cases 11-CA-075923, et al., the Union alleged that Perdue had also committed numerous violations of the Act at its Lewiston facility. The Region issued a complaint alleging that Perdue unlawfully discouraged employees from talking to or accepting literature from the Union, engaged in surveillance by videotaping employees' union activities, and physically restrained a union official from distributing literature to an employee. The Region also sought and received authorization to institute 10(j) injunctive proceedings. Before filing, the parties entered into a settlement agreement approved by the ALJ for the Lewiston facility and an informal settlement agreement agreed to by the parties approved by the Regional Director for the Rockingham facility. In the Lewiston settlement, Perdue agreed that it would not, among other things, unlawfully interrogate its workers about their union activities, videotape such activities, call the police because a union is handbilling on public property, interfere with the right to handbill, or maintain unlawful work rules in its employee handbook. In the Rockingham settlement, Perdue agreed that it would not, among other things, unlawfully threaten or interrogate its workers about their union activities, engage in unlawful surveillance, threaten to call the police to stop handbilling, or disparately apply its work rules regarding solicitation and distribution of materials.

Raymond F. Kravis Center for the Performing Arts, Cases 6-CA-036484, et al.

In *Raymond F. Kravis Center for the Performing Arts,* the Pittsburgh and Tampa Regional Offices, following issuance of a compliance specification, worked together with the parties and a settlement judge to craft a settlement that provided for the parties entering into a new collective bargaining agreement, cessation of a strike and picketing, and the payment of over $2.5 million in back-pay to 248 discriminatees and the reinstatement of 225 employees. A non-Board settlement also was reached in which the respondent agreed to pay $100,000 to the charging party union to reimburse it for attorneys fees and costs of litigation already paid, and to pay $103,825.00 to the NLRB for distribution at the sole discretion of the Director to individuals using the hiring hall. The union and respondent signed a collective bargaining agreement, and a 12 year old labor dispute was resolved.

First Energy, Cases 6-CA-081203, et al.
In *First Energy*, the parties entered into a bilateral non-Board settlement which provided for backpay totaling $1,250,000 to approximately 150 employees, insured bargaining between the parties, reinstated unilateral changes to health insurance premium costs and other unilateral changes to employees' terms and conditions of employment, provided a 6 percent wage increase to employees (in addition to the backpay), and rectified an overbroad solicitation policy.

STATISTICAL HIGHLIGHTS

- The Board issued 342 decisions in contested cases in FY 2013, 277 ULP cases and 65 representation cases
- 94.3 percent of all initial elections were conducted within 56 days of filing of the petition
- Initial elections in union representation cases were conducted in a median of 38 days from the filing of the petition
- Acting on the results of professional staff investigations, which produced a reasonable cause to believe unfair labor practices had been committed, Regional Offices of the NLRB issued 1,272 complaints, setting the cases for hearing
- A 92.8 percent settlement rate was achieved in the Regional Offices in meritorious ULP cases
- The Regional Offices won 85.7 percent of Board and ALJ ULP and Compliance decisions in whole or part in FY 2013
- A total of $16,245,665 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines with 1,352 employees offered reinstatement
- The Agency received in FY 2013 86,215 inquiries through its Public Information Program
- The Agency received 37,970 calls through its toll-free number in FY 2013
- The Division of Judges closed 256 hearings and issued 238 decisions in FY 2013
- The Division of Judges achieved 469 settlements in cases on its trial docket

II. Performance Section

Protecting Democracy in the Workplace Since 1935

PROGRAM PERFORMANCE

PERFORMANCE GOALS AND OBJECTIVES

This section of the PAR details the NLRB's efforts to meet its strategic and performance goals. The two goals of the NLRB's Strategic Plan represent the core functions of the Agency in enforcing the NLRA, as efficiently as possible, in a manner that gives full effect to the rights afforded to all parties under the Act. These strategic goals, as fully described in this section of the PAR, translate the Agency's mission into major policy directions and are focused on the unique characteristics of the organization.

The Board and the General Counsel share a common goal of ensuring that the NLRA is fully and fairly enforced. Although they have separate statutory functions, the Board and the General Counsel work together in developing a comprehensive Strategic Plan.

STRATEGIC GOAL No. 1

Resolve all questions concerning representation impartially and promptly.

Objectives

The NLRA recognizes and expressly protects the right of employees to freely and democratically determine, through a secret-ballot election, whether they want to be represented for purposes of collective bargaining by a labor organization. The Agency seeks to ensure that the process used to resolve such questions allows employees to express their choice in an open, uncoerced atmosphere. The NLRB strives to give sound and well-supported guidance to all parties and to the public at large with respect to representation issues. Predictable, consistent procedures have been established to better serve our customers and avoid unnecessary delays. The Agency processes representation cases promptly in order to avoid unnecessary disruptions to commerce and to minimize the potential for unlawful or objectionable conduct.

The objectives are to:

A. Encourage voluntary election agreements by conducting an effective stipulation program.

B. Conduct elections promptly.

C. Issue all representation decisions in a timely manner.

D. Afford due process under the law to all parties involved in questions concerning union representation.

Strategies

1. Give priority in timing and resource allocation to the processing of representation cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public. A core objective of the Act is to conduct secret ballot elections among employees to determine whether the employees wish to be represented by a union.
2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
4. Share best practices in representation case processing to assist Regional Offices in resolving representation case issues promptly and fairly.
5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases.
6. Assure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeal and Hearing Officer Reports, and, where appropriate, the records in the cases.

7. Analyze and prioritize the critical skill needs and address these skills needs using a cost effective instructional delivery system that ensures timely access to the needed training in a work environment that encourages employees to effectively utilize their diverse talents in achieving Agency goals.

8. Provide an information technology environment that is mainstream with other federal agencies and the public, and will provide NLRB employees with technology tools and access to research and professional information comparable to that of their private-sector counterparts.

STRATEGIC GOAL No. 2

Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions, or both, impartially and promptly.

Certain conduct by employers and labor organizations leading to workplace conflict has been determined by Congress to burden interstate commerce and has been declared an unfair labor practice under Section 8 of the NLRA. This goal communicates the Agency's resolve to investigate charges of unfair labor practice conduct fairly and expeditiously. Where violations are found, the Agency will provide such remedial relief as would effectuate the policies of the Act, including, but not limited to, ordering reinstatement of employees; ensuring that employees are made whole, with interest; directing bargaining in good faith; and ordering a respondent to cease and desist from unlawful conduct. The Agency will give special priority to resolving disputes with the greatest impact on the public and the core objectives of the Act.

Objectives

A. Conduct thorough ULP investigations and issue all ULP decisions in a timely manner.

B. Give special priority to disputes with the greatest impact on the public and the core objectives of `the Act.

C. Conduct effective settlement programs.

D. Provide prompt and appropriate remedial relief when violations are found.

E. Afford due process under the law to all parties involved in ULP disputes.

Strategies

1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in ULP matters and the rights and obligations of employers, employees, unions, and the Board under the Act.

2. Evaluate the quality of ULP casework regularly in order to provide the best possible service to the public.

3. Utilize impact analysis to provide an analytical framework for classifying ULP cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.

4. Share best practices in the processing of ULP cases to assist Regional Offices in resolving ULP issues promptly and fairly.

5. Emphasize the early identification of remedial and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.

6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.

7. Emphasize and encourage settlements as a means of promptly resolving ULP disputes at all stages of the casehandling process.

8. Identify and utilize alternative decision-making procedures to expedite Board decisions in ULP cases.

9. Analyze and prioritize the critical skill needs and address these skills needs using a cost effective instructional delivery system that ensures timely access to the needed training in a work environment that encourages employees to effectively utilize their diverse talents in achieving Agency goals.

10. Provide an information technology environment that is mainstream with other federal agencies and the public, and will provide NLRB employees with technology tools and access to research and professional information comparable to that of their private-sector counterparts.

MEASURING PERFORMANCE

One of the NLRB's human capital goals is to create a results-oriented performance culture that clearly links employee performance and pay to the attainment of the NLRB's strategic goals. When the Strategic Plan was last updated in FY 2007, the performance measures were modified to make them more robust and customer-focused to better serve the NLRB's constituents. The end result was the establishment of the three overarching measures that support the Agency's two strategic goals and annual targets that support the NLRB's long-term goals.

In accordance with the Government Performance and Results Modernization Act (GPRAMA), the NLRB in FY 2012 issued an addendum to its Strategic Plan (2007 – 2012). While the strategic goals and associated measures remain unchanged, the addendum provided the Agency's performance targets for FY 2013 and 2014, updates on its initiatives, and changes to its structure. As per GPRAMA requirements, a new plan will be issued in February 2014. Any new goals and measures identified as a result of the new plan will be integrated with the budget to ensure that resources are allocated appropriately and effectively.

The NLRB is an agency with a long history of performance measurement that dates back to the inception of the Agency, and before Congress passed GPRA in 1993. Traditionally, the NLRB's performance measurement approach was to emphasize individual segments of case processing to promote timely, efficient, and well-managed casehandling. These measures are still used by the NLRB as internal guides in assessing performance. The three overarching performance measures introduced in FY 2007 emphasize outcomes, and best serve to answer the question most important to the public:

What is the Agency's overall success in bringing effective resolution to labor disputes in a timely manner?

It should be noted that it is difficult for an agency such as the NLRB to measure "outcomes" in the sense intended by the authors of GPRA and GPRAMA. In the representation case area, for instance, the Agency does not control or seek to influence the results of elections, but strives instead to ensure the rights of employees to freely and democratically determine, through a secret ballot election, whether they wish to be represented by a labor organization. If the Agency concludes that all of the necessary requirements for conducting an election have been met, it will either direct an election or approve the parties' agreement to have an election. The performance measure the Agency has established for the conducting of elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees, employers, and unions voluntarily and freely exercising their statutory rights as set out in the NLRA.

The same difficulty is inherent in any attempt to define "outcomes" in the prevention of unfair labor practice conduct. The aim of the Agency is to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. In the absence of a mechanism to accurately gauge "labor peace" or the impact of Agency activities among a range of variables influencing that goal, the NLRB established two performance measures. In particular, the timeliness and quality of case processing, from the filing of an ULP charge to the closing of a case upon compliance with a litigated or agreed-to remedy, are the focus of those performance measures.

The tables in this section show the proposed annual targets for the three overarching measures for the five-year period covered by the current Strategic Plan (2007-2012), and the actual results achieved for FYs 2009, 2010, 2011, 2012 and 2013.

GOAL NO. 1: Resolve all questions concerning representation impartially and promptly.

MEASURE NO. 1: The percentage of representation cases resolved within 100 days of filing of the election petition.

Implemented in FY 2007, this is an overarching, outcome-based performance measure that focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and the Board sides.

An employer, labor organization, or group of employees may file a petition in an NLRB Regional Office requesting an election to determine whether a majority of employees in an appropriate bargaining unit wish to be represented by a labor organization. When a petition is filed, the Agency works with parties toward a goal of reaching a voluntary agreement regarding conducting an election. If a voluntary agreement is not reached, the Director of the Regional Office, after a hearing is conducted, will determine whether to conduct an election and the details of the election. The parties have a right to appeal to the Board the Director's decision. This measure reflects the percentage of representation cases closed within 100 days. When a case has been finally processed with no further rights of appeal or administrative action required, the question as to whether or not a labor organization will represent employees has been finally resolved.

Representation cases are resolved and closed in a number of ways:

- Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early stage in processing may be based on a variety of reasons: For example, the employer does not meet the Agency's jurisdictional standards; the petitioner fails to provide an adequate showing of interest to support the petition; and/or the petition was filed in an untimely manner.
- Cases may also be withdrawn by the petitioner for a variety of reasons including the lack of support among the bargaining unit and/or failure to obtain an adequate showing of interest
- The majority of cases are resolved upon either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election)
- In a small percentage of cases, there are post-election challenges or objections to the election. These cases are not considered resolved and the case is not closed until the challenges and/or objections have been investigated either administratively or by a hearing and a report that has been adopted by the Board.

As reflected in Table 1, the NLRB exceeded its goal for FY 2013 of 85.2 percent by 2.2 percentage points for Measure No.1, which seeks to close all representation cases within 100 days from the filing of the petition.

GOAL NO. 1, TABLE 1
Percentage of Representation Cases Resolved Within 100 Days

Year	TARGET	ACTUAL
FY 2009	81.0%	84.4%
FY 2010	85.0%	86.3%
FY 2011	85.0%	84.7%
FY 2012	85.2%	84.5%
FY 2013	85.2%	87.4%
FY 2014	85.3%	

Counting of days: The 100 days is calculated from the date the petition is formally docketed.

GOAL NO. 2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions or both, impartially and promptly.

MEASURE NO. 2: The percentage of ULP charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge.

Implemented in FY 2007, this is an overarching, outcome-based performance measure that focuses on the time taken to resolve a ULP charge, including time spent on both the General Counsel and the Board sides.

After an individual, employer, or union files a ULP charge, a Regional Director evaluates it for merit and decides whether to issue a complaint. Complaints not settled or withdrawn, or dismissed, are litigated before an ALJ, whose decision may be appealed to the Board.

A ULP case is resolved and closed when it has been finally processed. The issues raised by the charging party's charge have been answered and, where appropriate, remedied. There is no further action to be taken by the Agency.

In FY 2013, the NLRB closed 73.3 percent of all ULP cases within 120 days of the docketing of the charge, exceeding the FY 2013 goal of 72 percent by 1.3 percentage points.

GOAL NO. 2, TABLE 2
Percentage of ULP Charges Resolved Within 120 Days

Year	TARGET	ACTUAL
FY 2009	68.5%	71.0%
FY 2010	71.2%	73.3%
FY 2011	71.2%	72.5%
FY 2012	72.0%	72.7%
FY 2013	72.0%	73.3%
FY 2014	72.3%	

Counting of days: The 120 days is calculated from the date the charge is docketed.

MEASURE NO. 3: The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge.

This measure focuses on meritorious (prosecutable) ULP cases, and the time taken to close them on compliance, including time spent on both the General Counsel and Board sides. Compliance marks the point where an employer or union has ceased engaging in the ULP conduct being prosecuted and has taken appropriate affirmative action, including the payment of backpay, to make whole those injured by the ULP.

Once a Regional Director has determined an ULP charge has merit, it is scheduled for a hearing date before an ALJ. However, efforts to obtain voluntary compliance or appropriate settlements begin immediately and continue throughout the course of any necessary litigation. Most settlements are achieved before trial. Once the ALJ issues a decision, the decision can then be appealed to the Board. The Board, in turn, will consider the case and issue a final order resolving the ULP case. Ordinarily, the Regional Office will attempt to secure compliance in the 30-day period following the Board's order. If compliance cannot be obtained, the Region will refer the case to the Appellate and Supreme Court Litigation Branch of the Division of Enforcement Litigation, which, if it is unable to secure voluntary compliance or a settlement meeting established standards, will proceed to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board's order.

Following final court judgment, any disagreements about what steps are necessary before the case can be closed on compliance are resolved either in compliance proceedings before the Board and reviewing court proceedings, or in extreme cases, in contempt of court proceedings.

ULP cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation of the NLRA are complete. This measure includes all litigated cases including those appealed to the circuit courts of appeals.

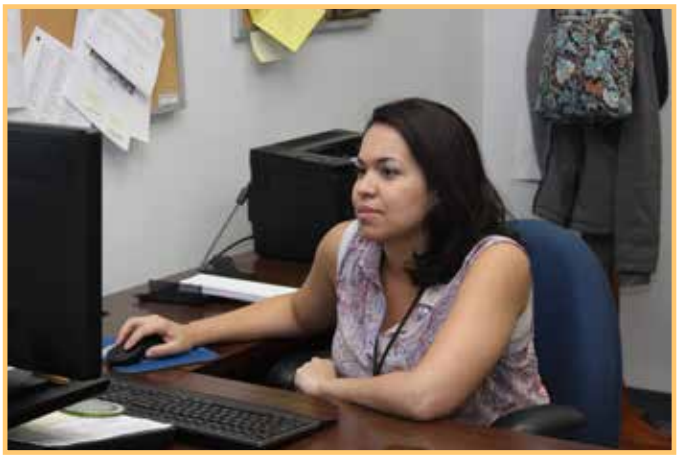
In FY 2013, the NLRB closed 82.4 percent of all prosecutable ULP cases in 365 days from the

docketing of the charge, exceeding the FY 2013 goal of 82 percent by 0.4 percentage points.

GOAL NO. 2, TABLE 3
Percentage of ULP Cases Closed on Compliance Within 365 Days

Year	TARGET	ACTUAL
FY 2009	75.5%	79.7%
FY 2010	80.0%	84.6%
FY 2011	80.2%	83.2%
FY 2012	80.3%	83.8%
FY 2013	82.0%	82.4%
FY 2014	82.5%	

Counting of days: The 365 days is calculated from the date the charge is docketed.



FACTORS AFFECTING AGENCY PERFORMANCE

Various factors can affect each goal, objective, and performance measure contained in the NLRB's strategic and annual performance plans. These factors can also affect Agency performance as a whole. These factors include budget, case intake, settlements, board member vacancies, and the potential effect of statutory changes.

BUDGET

In FY 2013, the NLRB's budget was $263.7 million, approximately $14.3 million below its FY 2012 funding level and $9.4 million below the President's budget request. During FY 2013, the NLRB, like most federal agencies, operated under a continuing resolution until receiving full appropriation in March 2013, six months into the fiscal year, and was severely affected by the sequestration order. In FY 2013, the Agency was required to undertake severe austerity measures in order to avoid furloughing and/or RIFing employees, which would detrimentally impact our services to the public. Specifically, the Agency limited hiring to only those positions deemed critical and curtailed our awards, training, exchange, and detail programs, as well as conferences, administrative and non-reimbursable travel, computer replacements, and software upgrades. We also deferred office renovations, office relocations, and related furniture and equipment purchases, as well as severely restricted supply purchases.

Ninety percent of the Agency's budget is non-discretionary with 80% utilized for compensation and benefits and 10% for rent and security, which leaves only 10% for all other operating costs. With level or reduced funding, it will be significantly challenging for the Agency to cover compensation and benefits for an estimated 1600 FTE, space, security, systems improvements, and other required case-related support and activities. All of these are essential for handling the Agency's case intake. Our budget level has a direct impact on staffing resources, casehandling, and Agency performance.

CASE INTAKE

FY 2013 case intake totals 24,046 and includes 21,394 unfair labor practice (ULP) cases and 2,652 representation cases. Based on projected trends, a full five-member Board composition, a confirmed General Counsel, current Board law, unprecedented challenges and litigation on issues related to recess appointments and rulemaking, and expanded knowledge of the Act, there is a distinct possibility the total ULP and representation case intake will increase between 5 and 15 percent through FY 2015. The reduction in Agency funding combined with an increase in caseload, wages, and other non-discretionary costs, such as rent and security, along with required spending on essential programs, initiatives and resources that have been deferred or curtailed and those that must be renewed, such as our Westlaw subscription, will cause drastic measures to be undertaken, such as RIFs and/or furloughing of employees which will detrimentally affect casehandling, and as a consequence, the public we serve.

Several factors could affect case intake, thereby impacting the Agency's ability to accomplish its strategic goals. The Agency does not control the number of cases filed. Any event or issue that addresses terms and conditions in the workplaces of the over 113 million private sector workers in this country, such as discussions among co-workers on social media, or that affects labor thereby spurring potential union organizing or other action, could result in an increase in caseload. Other such examples include cases resulting from the grassroots efforts affecting large retailers and the fast food industry, recess appointment issues, our agreements with other agencies, immigration reform, and the growth of advocacy organizations. In essence, employment trends, stakeholder strategies, globalization of the economy, industrial economic trends, corporate reorganizations and bankruptcies, the overall health of the nation's economy, and the level of labor-management cooperation efforts, are all factors that have an impact on the NLRB's intake and the complexity of its work.

SETTLEMENTS

The initial processing and disposition of new case filings in the Regional Offices drives the intake for other stages of the casehandling pipeline. Over the past few years, more than 90 percent of those cases in which merit is found are settled without formal litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP and representation cases, the settlement rate is, of course, not entirely subject to the Agency's control. When the process becomes formal and litigation takes over, Agency costs increase. The Agency calculates that every one-percent drop in the settlement rate costs the Agency more than $2 million.

BOARD MEMBER VACANCIES

Another factor outside the control of the Agency that impacts case production is the failure to timely fill vacant Board Member positions. When the Board itself is not fully staffed with five Members, the caseload of the actual Board Members that are on staff naturally increases and causes inherent delays in processing and issuance of decisions.

During most of FY 2013, the Board operated with only three members, two of whom were recess appointments that were subject to court challenge. In FY 2014, the Supreme Court will hear challenges related to the recess appointment issue. In the meantime, however, the challenges have caused a delay in enforcement and review actions of a number of final Board decisions.

POTENTIAL EFFECT OF STATUTORY/RULEMAKING CHANGES

As a general matter, changes in the law affect NLRB operations and could have consequences on the Agency's case load. Rulemaking and statutory changes, for example, could lead to an increase in ULP charges and/or election petitions filed with the Agency, with resulting increases in investigations and proceedings conducted by Agency personnel, especially if the settlement rate declines. Statutory changes may also directly mandate additional litigation by the Agency, e.g., seeking injunctive relief in federal district court. However, the overall impact of any pending labor law amendments is purely speculative.

RELIABILITY OF PERFORMANCE DATA

The NLRB's performance measurement system has been highly regarded for decades and modeled by other agencies to track case processing times. Most of the data collected tracks the time spent at each step of the case processing "pipeline." The Agency does not rely on any outside sources for the data used in its performance management system. Each NLRB office is responsible for collecting and verifying performance measurement data.

From FY 2000 to FY 2010, the agency's field office performance measurement system was incorporated into an electronic database called the Case Activity Tracking System (CATS). CATS provided case activity and status information to all NLRB field offices and supported the functions and work requirements of the NLRB's field attorneys, field examiners, managers, and support staff. In FY 2010, the Agency began transitioning to a new Agency-wide case management system called NxGen. NxGen is designed to
1) transform the way the NLRB does business with the public, making its cases transparent and more available to its customers in a timely manner,
2) optimize internal NLRB case processing so Agency employees can work smarter and faster, and
3) provide Agency-wide electronic case records and case document management to improve internal case flow. NxGen has been deployed to all NLRB field offices, several NLRB Headquarters offices, the Division of Judges, and to the Board, which also continues to maintain its own case management system called Judicial Case Management System (JCMS) to track its internal case processes.

Headquarters offices that have not transitioned to NxGen continue to maintain other automated systems that manage caseload and furnish data for the performance measures of the Headquarters offices. Offices conduct systematic verification through monthly and quarterly management reviews. Data is cross-checked and compared to historical trends to ensure the validity and reliability of the performance data.

PROGRAM EVALUATION

The NLRB uses various techniques and mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. The Board regularly tracks the status of all of its cases to determine performance against yearly targets that support the Agency's overarching measures and strategic goals. A standing committee composed of senior management officials, including, among others, the Deputy Chief Counsels of each of the Board Members and the Executive Secretary, meets periodically to review the status of cases, to prioritize cases, and to develop lists of cases that the Board Members will jointly focus on in order to facilitate the issuance of decisions in those cases. These representatives also report back to the Board Members on performance data and staff workload, among other issues. The Board has an electronic casehandling management system that captures all case events in a database from which case production reports are generated. The Board Members also

regularly meet and communicate with each other to discuss cases.

The NLRB regularly monitors settlement and litigation success rates of ULP cases. In FY 2013, Regional offices settled 92.8 percent of meritorious ULP cases and won 85.7 percent of ULP and Compliance matters in whole or in part. A total of over $16 million was recovered in backpay, fines, dues and fees and over 1350 employees were offered reinstatement. The Division of Judges closed 256 hearings, issued 238 decisions and achieved 469 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2013, the United States Courts of Appeals ruled on Board decisions in 40 enforcement and review cases. Of those cases, 70 percent were enforced or affirmed in whole or in part. As to monitoring representation cases, in FY 2013, 94.3 percent of all initial elections were conducted within 56 days of filing.

Further, the General Counsel has had an evaluation program in place for many years to assess the performance of its Regional operations. The Quality Review Program of the Division of Operations-Management reviews ULP, representation, and compliance case files annually to ensure that they are processed in accordance with substantive and procedural requirements, and that the General Counsel's policies are implemented appropriately. Those reviews have assessed, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's priorities in the areas of representation cases, Impact Analysis prioritization of cases, and compliance with Agency decisions. Additionally, personnel from the Division of Operations-Management review all complaints issued in the Regions to ensure that pleadings are correct and supported. They also conduct site visits during which they evaluate Regional casehandling and administrative procedures. In addition, to assess the quality of litigation a field and Operations-Management Committee reviews all ALJ and Board decisions that constitute a significant loss. Moreover, the Regional Offices' performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities is incorporated into the Regional Directors' annual performance appraisals.

The Division of Operations-Management regularly reviews case decisions to determine the quality of litigation. Other branches and offices, such as the Office of Appeals, Division of Advice, Contempt, Compliance and Special Litigation Branch, and Office of Representation Appeals, provide valuable insight and constructive feedback on the performance and contributions of field offices. Top Agency management also meets regularly with relevant committees of the American Bar Association to obtain feedback on their members' experiences practicing before the NLRB.

In addition to the evaluation of Regional Office activities, the Office of the General Counsel monitors the litigation success rate before district courts with regard to injunction litigation. In FY 2013, the Injunction Litigation Branch received 161 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act. The Board authorized 41 cases and Regional Offices filed 10(j) petitions in 22 cases. The "success rate", i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation was 88 percent.

III. Financial Section

Protecting Democracy in the Workplace Since 1935

LETTER FROM THE CHIEF FINANCIAL OFFICER

I am pleased to present the National Labor Relations Board (NLRB) consolidated financial statements for the Fiscal Year 2013 Performance and Accountability Report. For the tenth consecutive year an independent auditor has rendered an unqualified opinion on the NLRB financial statements and identified no material weaknesses in our financial reporting.

Fiscal Year 2013 was a year in which we continued the transformation of the Office of the Chief Financial Officer which was established during late Fiscal Year 2012. The organization consolidated the budget, finance, and acquisition functions thereby integrating and enhancing the agency's financial management and further strengthening internal controls. Advances in policies, procedures, and protocols in all three Branches of the OCFO were realized during Fiscal Year 2013 and work continues to implement additional efficiencies.

This Fiscal Year was the first year we were operational on a new financial system and much effort was spent in developing useful reports and queries to improve transparency, provide accurate account reconciliation, and support management needs.

This coming year will provide an opportunity to address other financial and management challenges, and to implement a new travel management system for the agency.

I wish to acknowledge all of the OCFO staff for their dedication to NLRB's mission and their outstanding efforts in maintaining an unqualified opinion on our financial statements, especially during a year in which the effects of sequestration made financial management extremely difficult but critical to the Agency's mission.

As financial oversight and fiscal accountability requirements continue to grow more complex and challenging, the NLRB is committed to continuous improvement in financial management and is committed to the production of timely, accurate, reliable, and transparent financial information.

Ronald E. Crupi

Ronald E. Crupi

Chief Financial Officer

National Labor Relations Board

INDEPENDENT AUDITOR'S REPORT

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

November 26, 2013

To: Mark Gaston Pearce
Chairman

Richard F. Griffin, Jr.
General Counsel

From: David P. Berry
Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2013 Financial Statements (OIG-F-18-14-01)

This memorandum transmits Carmichael, Brasher, Tuvell & Company's (CBTC) audit report on the National Labor Relations Board (NLRB) Fiscal Year (FY) 2013 Financial Statements.

The Accountability of Tax Dollars Act of 2002 requires the NLRB to prepare and submit to Congress and the Director of the Office of Management and Budget (OMB) annual audited financial statements. We contracted with CBTC, an independent public accounting firm, to audit the financial statements. The contract required that the audit be done in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States and Bulletin 14-02, *Audit Requirements for Federal Financial Statements*, issued by OMB.

Results of Independent Audit

CBTC issued an unqualified opinion on the NLRB FY 2013 financial statements. CBTC previously issued an unqualified audit opinion on the FY 2012 information included with the consolidated statements. The objective of the audit did not include providing assurances on internal control or on the effectiveness of NLRB's internal control over financial reporting. Consequently, CBTC did not provide an opinion on the effectiveness of NLRB's internal control over financial reporting. In its audit report, CBTC did not identify any significant deficiencies. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, CBTC performed tests of the Agency's compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations. CBTC reported that they did not identify any instances of noncompliance with the laws and regulations tested.

Management Comments on the Report

Management may, but is not required to, submit comments on CBTC's report. If you intend to submit comments, we request that they be provided to the OIG by close of business on Tuesday, December 3, 2013

Evaluation of CBTC's Audit Performance

In connection with the contract, we reviewed CBTC's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on the NLRB's financial statements or internal control or conclusions on compliance with laws and regulations. CBTC is responsible for the attached auditor's report dated November 26, 2013, and the conclusions expressed in the report. However, our review disclosed no instances where CBTC did not comply, in all material respects, with generally accepted government auditing standards.

We appreciate the courtesies and cooperation extended to CBTC and our staff during the audit. If you have any questions, please contact me or Robert Brennan, Assistant Inspector General for Audits.

cc: Board

Carmichael Brasher Tuvell & Company

CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITORS' REPORT

To David P. Berry, Inspector General
National Labor Relations Board

The Accountability of Tax Dollars Act of 2002 made the National Labor Relations Board (NLRB) subject to the annual financial statement reporting requirements of the Chief Financial Officers Act of 1990, which requires agencies to report annually to Congress on their financial status and any other information needed to fairly present the agencies' financial position and results of operations.

The objectives of the audit are to express an opinion on the fair presentation of NLRB's principal financial statements, obtain an understanding of the Agency's internal control, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

Report on the Financial Statements

We have audited the accompanying financial statements of NLRB, which comprise the balance sheets as of September 30, 2013 and 2012, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and related notes to the financial statements.

Management's Responsibility for the Financial Statements

NLRB's management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error. NLRB's management is also responsible for preparing the Management's Discussion and Analysis (MD&A); and complying with laws and regulations.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements of NLRB based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we considered internal control relevant to the NLRB's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting principles used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of NLRB's assets, liabilities, and net position of NLRB, as of September 30, 2013 and 2012; and the net cost, changes in net position, and budgetary resources for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Accompanying Information

Our audit was conducted for the purpose of forming an opinion on the financial statements of NLRB taken as a whole. The accompanying financial information presented for the purposes of additional analysis and is not required part of the financial statements.

The other accompanying information included in the MD&A section of the Performance and Accountability Report is required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. Such other accompanying information is the responsibility of NLRB's management. We have applied certain limited procedures to the other accompanying information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards,* we have also issued our report dated November 26, 2013 on our consideration of NLRB's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering NLRB's internal control over financial reporting and compliance.

This communication is intended solely for the information and use of those charged with governance and management of NLRB, others within the organization, OMB, and the Congress of the United States, and is not intended to be and should not be used by anyone other than these specified parties.

CARMICHAEL, BRASHER, TUVELL & COMPANY, P.C.

Carmichael, Brasher, Tuvell + Co., P.C.

Atlanta, Georgia
November 26, 2013

Carmichael Brasher Tuvell & Company

CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To David P. Berry, Inspector General
National Labor Relations Board

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, the financial statements of NLRB, which comprise the balance sheets as of September 30, 2013 and 2012, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended, and related notes to the financial statements.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered NLRB's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 14-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. Accordingly, we do not express an opinion on the effectiveness of NLRB's internal control.

A ***deficiency in internal control*** exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A ***material weakness*** is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the organization's financial statements will not be prevented, or detected and corrected on a timely basis. A ***significant deficiency*** is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

We also identified other matters in internal control that came to our attention during our audit that we communicated in writing to the management of NLRB and those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether NLRB's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 14-02. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to NLRB. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our test disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB audit guidance.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of NLRB'S internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering NLRB's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purpose.

CARMICHAEL, BRASHER, TUVELL & COMPANY, P.C.

Carmichael, Brasher, Tuvell + Co., P.C.

Atlanta, Georgia
November 26, 2013

NLRB RESPONSE TO AUDIT REPORT

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC

MEMORANDUM

TO: David P. Berry
Inspector General

FROM: Mark Gaston Pearce, Chairman
Richard F. Griffin, Jr., General Counsel

DATE: December 3, 2013

SUBJECT: Response to Audit of the National Labor Relations Board Fiscal Year 2013 Financial Statements (OIG-F-18-14-01)

We have reviewed the Audit Report submitted by Carmichael, Brasher, Tuvell & Company and are pleased that the FY 2013 audit of the NLRB's financial statements has resulted in a unqualified opinion with no findings, recommendations, or corrective actions.

Mark Gaston Pearce
Chairman

Richard F. Griffin, Jr.
General Counsel

PRINCIPAL FINANCIAL STATEMENTS

AUDITOR'S REPORTS AND PRINCIPAL FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

National Labor Relations Board
Balance Sheet
As of September 30, 2013 and 2012
(in dollars)

	FY 2013	FY 2012
Assets:		
Intragovernmental:		
Fund balance with Treasury (Note 2)	$ 23,321,588	$ 26,829,675
Advances (Note 4)	97,196	186,019
Total Intragovernmental	**23,418,784**	**27,015,694**
Accounts and Interest Receivable, Net (Note 5)	60,893	76,961
General property, plant and equipment, net (Notes 6 and 10)	13,685,712	13,527,547
Total Assets	**$ 37,165,389**	**$ 40,620,202**
Liabilities:		
Intragovernmental:		
Accounts payable (Note 7)	$ 1,085,760	$ 3,890,755
Employer contributions and payroll taxes	987,135	827,258
FECA liability (Notes 8 and 10)	719,585	765,165
Custodial Liability	213,501	209,407
Total Intragovernmental	**$ 3,005,981**	**$ 5,692,585**
Accounts payable:	7,629,226	8,876,275
Estimated future FECA liability (Notes 8 and 10)	1,008,521	1,630,611
Accrued payroll and benefits	3,650,218	3,153,276
Accrued annual leave (Notes 8 and 10)	13,644,627	14,163,509
Total Liabilities	**$ 28,938,573**	**$ 33,516,256**
Net position:		
Unexpended appropriations	$ 9,852,964	$ 10,058,724
Cumulative results of operations (Note 10)	(1,626,148)	(2,954,778)
Total Net Position	**8,226,816**	**7,103,946**
Total Liabilities and Net Position	**$ 37,165,389**	**$ 40,620,202**

The accompanying notes are an integral part of these financial statements.

National Labor Relations Board
Statement of Net Cost
For the Periods Ended September 30, 2013 and 2012
(in dollars)

	FY 2013	FY 2012
Program Costs:		
Resolve Representation Cases		
Net Cost	**$ 44,443,321**	**$ 48,024,590**
Resolve Unfair Labor Practices		
Net Cost	**$ 233,327,431**	**$ 244,755,968**
Other:		
Costs	$ **6,124**	$ 10,971
Less: Earned Revenue	**6,124**	10,971
Net Cost	**–**	**–**
Total:		
Costs	$ **277,776,876**	$ 292,791,529
Less: Earned Revenue	**6,124**	10,971
Net Cost of Operations (Note 11)	**$ 277,770,752**	**$ 292,780,558**

The accompanying notes are an integral part of these financial statements.

National Labor Relations Board
Statement of Changes In Net Position
For the Periods Ended September 30, 2013 and 2012
(in dollars)

	Consolidated Total FY 2013	Consolidated Total FY 2012
Cumulative Results of Operations:		
Beginning Balance	$ (2,954,778)	$ (4,249,240)
Budgetary Financing Sources:		
Appropriations-used	263,043,308	277,129,011
Non-exchange revenue	(213,501)	-
Other Financing Sources (Non-Exchange):		
Imputed financing costs (Note 13)	16,056,074	16,946,009
Custodial Liability	$ 213,501	-
Total Financing Sources	**$ 279,099,382**	**$ 294,075,020**
Net Cost of Operations	(277,770,752)	(292,780,558)
Net Change	**$ 1,328,630**	**$ 1,294,462**
Cumulative Results of Operations (Note 10)	**$ (1,626,148)**	**$ (2,954,778)**
Unexpended Appropriations:		
Beginning Balance	$ 10,058,724	$ 9,487,574
Budgetary Financing Sources:		
Appropriations-received	278,306,006	278,833,000
Appropriations-used	(263,043,308)	(277,129,011)
Recissions & cancelled appropriations	(15,468,458)	(1,132,839)
Total Budgetary Financing Sources	**$ (205,760)**	**$ 571,150**
Total Unexpended Appropriations	**$ 9,852,964**	**$ 10,058,724**
Net Position	**$ 8,226,816**	**$ 7,103,946**

The accompanying notes are an integral part of these financial statements.

National Labor Relations Board
Statement of Budgetary Resources
For the Periods Ended September 30, 2013 and 2012
(in dollars)

	FY 2013	FY 2012
Budgetary Resources:		
Unobligated balance brought forward, October 1	$ 5,779,205	$ 4,295,300
Recoveries of prior year unpaid obligations	1,162,637	1,616,889
Other changes in unobligated balance (+ or -)	(911,385)	(605,845)
Unobligated balance from prior year budget authority, net	6,030,457	5,306,344
Appropriations (discretionary)	263,748,933	278,306,006
Spending authority from offsetting collections (discretionary)	37,479	97,564
Total Budgetary Resources	**$ 269,816,869**	**$ 283,709,914**
Status of Budgetary Resources:		
Obligations incurred	$ 264,828,625	$ 277,930,709
Unobligated balance, end of year (gross):		
Apportioned	725,834	801,263
Unapportioned	4,262,410	4,977,942
Total unobligated balance, end of year	4,988,244	5,779,205
Total Budgetary Resources	**$ 269,816,869**	**$ 283,709,914**
Change in Obligated Balance:		
Unpaid obligations, brought forward, October 1 (gross)	$ 20,841,062	$ 22,105,868
Obligations incurred	264,828,625	277,930,709
Outlays (gross)	(266,283,298)	(277,578,626)
Recoveries of prior year unpaid obligations (-)	(1,162,637)	(1,616,889)
Unpaid obligations, end of year (gross)	18,223,752	20,841,062
Memorandum (non-add) entries		
Obligated balance, start of year (+ or -)	20,841,062	22,105,868
Obligated balance, end of year (net)	**$ 18,223,752**	**$ 20,841,062**
Budget Authority and Outlays, Net:		
Budget authority, gross (discretionary)	$ 263,786,412	$ 278,403,570
Actual offsetting collections (discretionary) (-)	(37,479)	(97,564)
Budget authority, net (discretionary)	**$ 263,748,933**	**$ 278,306,006**
Outlays, gross (discretionary)	266,283,298	277,578,626
Actual offsetting collections (discretionary) (-)	(37,479)	(97,564)
Outlays, net (discretionary)	266,245,819	277,481,062
Agency outlays, net (discretionary)	**$ 266,245,819**	**$ 277,481,062**

The accompanying notes are an integral part of these financial statements.

NOTES TO PRINCIPAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA 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. The NLRB's jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within the NLRB's jurisdiction). The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. The NLRB 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, 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 (ULPs), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP charges 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.

B. Basis of Accounting and Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position, and budgetary resources of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the books and records of the NLRB in accordance with accounting principles generally accepted in the United States of America (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements, revised as of October 21, 2013.* GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the federal government. While the statements have been prepared from the books and records of the NLRB in accordance with GAAP for federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. These financial statements present proprietary and budgetary information.

The Balance Sheet presents Agency assets and liabilities, and the difference between the two, which is the Agency's net position. Agency assets include both entity assets —those which are available for use by the Agency—and non-entity assets —those which are managed by the Agency but not available for use in its operations. Agency liabilities include both those covered by budgetary resources (funded) and those not covered by budgetary resources (unfunded). The investments made for backpay funds are not recognized on the balance sheet of any federal entity. A note disclosure is required to provide information about its fiduciary activities. See Note 1F, Fiduciary Activities, for additional information.

The Statement of Net Cost presents the gross costs of programs less earned revenue to arrive at the net cost of operations for both programs and for the Agency as a whole.

The Statement of Changes in Net Position reports beginning balances, budgetary and other financing sources, and net cost of operations, to arrive at ending balances.

The Statement of Budgetary Resources provides information about how budgetary resources were made available, as well as their status at the end of the period. Recognition and measurement of budgetary information reported on this statement is based on budget terminology, definitions, and guidance in OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget, dated July 26, 2013.*

The Agency is required to be in substantial compliance with all applicable accounting principles and standards established, issued, and implemented by the FASAB, which is recognized by the American Institute of Certified Public Accountants (AICPA) as the entity to establish GAAP for the federal government. The Federal Financial Management Integrity Act (FFMIA) of 1996 requires the Agency to comply substantially with (1) federal financial management systems requirements, (2) applicable federal accounting standards, and (3) the U.S. Government Standard General Ledger at the transaction level.

The FY 2015 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2013 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in February 2014 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2012 that have been reported in the FY 2014 Budget of the United States and the actual numbers that appear in the FY 2012 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2013 require the presentation of comparative financial statements for all of the principal financial statements. The NLRB is presenting comparative FY 2013 financial statements for the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources, and these statements have been prepared in accordance with generally accepted accounting principles.

The financial statements should be read with the realization that they are for a component of the United States Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources and legal authority to do so.

The accounting structure of federal agencies is designed to reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

The budgetary accounting principles, on the other hand, are designed to recognize the obligation of funds according to legal requirements, which in many cases is prior to the occurrence of an accrual based transaction. The recognition of budgetary accounting transactions is essential for compliance with legal constraints and controls over the use of federal funds.

The information as presented on the Statement of Net Cost is based on the programs below:

Representation Cases are initiated by the filing of a petition by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents, or in some cases continues to represent, a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency is to investigate the petition and, if necessary, conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the NLRA. The NLRB must also determine which employees are properly included in the bargaining unit, conduct the election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election and, if the election is determined to have been fairly conducted, to certify its results.

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. If the NLRB Regional Office believes that a charge has merit, it issues and prosecutes a complaint against the charged party, unless settlement is reached. A complaint that is not settled or withdrawn is tried before an administrative law judge (ALJ), who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial body, deciding cases on the basis of the formal trial record according to the law and the body of case

law that has been developed by the Board and the federal courts.

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the U.S. Treasury (Treasury) to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year, all amounts not expended are canceled. All revenue received from other sources must be returned to the Treasury.

Budgetary accounting measures appropriation and consumption of budget/spending authority or other budgetary resources and facilitates compliance with legal constraints and controls over the use of federal funds. Under budgetary reporting principles, budgetary resources are consumed at the time of purchase. Assets and liabilities, which do not consume current budgetary resources, are not reported, and only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

Transactions are recorded on an accrual accounting basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

D. Financing Sources

The NLRB receives funds to support its programs through annual appropriations. These funds may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual service costs).

For accounting purposes, appropriations are recognized as financing sources (appropriations used) at the time expenses are accrued. Appropriations expended for general property, plant and equipment are recognized as expenses when the asset is consumed in operations (depreciation and amortization).

E. Fund Balance with the Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by the Treasury. The Agency's records are reconciled with those of Treasury. The fund balances with the Treasury are primarily appropriated funds that are available to pay current liabilities and to finance authorized purchases. Funds with the Treasury represent the NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with the Treasury also include escrow funds that are not appropriated but are backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. Cash received and investments made for backpay funds are not recognized on the balance sheet. A note disclosure is required to provide information about its fiduciary activities. See Note 1F, Fiduciary Activities, for further explanation.

See Note 2 for additional information on Fund Balance with Treasury.

F. Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and investment, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. Fiduciary cash and other assets are not assets of the Federal Government. Fiduciary activities are not recognized on the proprietary financial statements, but are reported on schedules in the notes to the financial statements. (See SFFAS No. 31, Accounting for Fiduciary Activities).

The fiduciary funds collected by NLRB and held in escrow accounts with the Treasury are funds that are not appropriated but are backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. The NLRB invests funds in federal government securities for backpay that are held in the escrow account at Treasury. Effective for the period beginning after September 30, 2008, the cash received and the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 3, Fiduciary Activities.

The federal government securities include Treasury market-based securities issued by the Federal Investment Branch of the Bureau of the Public Debt. Market-based securities are Treasury securities that

are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms.

It is expected that Investments will be held until maturity; therefore they are valued at cost and adjusted for amortization of discounts, if applicable. The discounts are recognized as adjustments to interest income, utilizing the straight-line method of amortization for short-term securities (i.e., bills). Investments, redemptions, and reinvestments are controlled and processed by the Department of the Treasury.

There exists a signed Memorandum of Understanding (MOU) between the NLRB and the Treasury establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

See Note 3 for additional information on Fiduciary Activities.

G. Advances

Advances consist of amounts advanced by the NLRB for the transit subsidy program. See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of health benefit premiums due the NLRB from Agency employees. Accounts receivable are stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year-end.

See Note 5 for additional information on Accounts Receivable.

I. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, computer hardware and software. The Agency has no real property.[4]

General property, plant and equipment with a cost of $15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. Other property items are expensed when purchased. Expenditures for repairs and maintenance are charged to operating expenses as incurred. The useful life for this category is five to twelve years. There are no restrictions on the use or convertibility of general property, plant and equipment.

Internal Use Software. Internal use software (IUS) includes purchased commercial off-the-shelf software (COTS), contractor-developed software, and software that was internally developed by Agency employees. IUS is capitalized at cost if the acquisition cost is $100,000 or more. For COTS software, the capitalized costs include the amount paid to the vendor for the software; for contractor-developed software it includes the amount paid to a contractor to design, program, install, and implement the software. Capitalized costs for internally developed software include the full cost (direct and indirect) incurred during the software development stage. The estimated useful life is two to five years for calculating amortization of software using the straight-line method.

Internal Use Software in Development. Internal use software in development is software that is being developed, but not yet put into production. At the time the software is moved into production the costs will be moved into the IUS account described above. The NLRB is currently completing a major software development project called the Next Generation Case Management System (NXGen) that has replaced a number of case tracking systems with one enterprise-wide system. NXGen will support the President's Management Agenda, such as for e-Gov, E-Filing,

[4] Please see subsequent reference to remainder interest in Florida real estate obtained as a remedy in a ULP case.

e-FOIA, and public web-based access to NLRB data. This project has been a multiple year undertaking.

See Note 6 for additional information on General Property, Plant and Equipment, Net.

J. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets.

See Note 9 for additional information on Non-Entity Assets.

K. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by the NLRB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriation will be enacted. Also, liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

L. Liabilities Not Covered by Budgetary Resources

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity.

Intragovernmental

The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of the NLRB which had not been billed or paid by the NLRB as of September 30, 2013 and 2012, respectively.

See Notes 8 and 10 for additional information on intragovernmental liabilities not covered by budgetary resources.

Federal Employees Workers' Compensation Program.

The Federal Employees Workers' Compensation Program (FECA) provides income and medical cost protection to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by DOL, which pays valid claims and subsequently seeks reimbursement from the NLRB for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by DOL but not yet reimbursed by the NLRB. The NLRB reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a two- to three-year time period between payment by DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by DOL and to be reimbursed by the NLRB.

The second component is the estimated liability for future benefit payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. The NLRB determines this component annually, as of September 30, using a method that considers historical benefit payment patterns.

The NLRB uses the methodology of reviewing the ages of the claimant on a case-by-case basis (because of the small number of claimants) to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 80 and 84 years for male and female, respectively.

See Notes 8 and 10 for additional information on the FECA liability.

Accrued Annual Leave

Accrued annual leave represents the amount of annual leave earned by the NLRB employees but not yet taken.

See Notes 8 and 10 for additional information on Accrued Annual Leave.

M. Contingencies

The criteria for recognizing contingencies for claims are:

1) a past event or exchange transaction has occurred as of the date of the statements;
2) a future outflow or other sacrifice of resources is probable; and
3) the future outflow or sacrifice of resources is measurable (reasonably estimated).

The NLRB recognizes material contingent liabilities in the form of claims, legal action, administrative proceedings and suits that have been brought to the attention of legal counsel, some of which will be paid by the Treasury Judgment Fund. It is the opinion of management and legal counsel that the ultimate resolution of these proceedings, actions and claims, will not materially affect the financial position or results of operations.

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported; where no cost is more likely than any other, the lowest possible cost in the range is reported. This item will normally be paid from appropriated funds.

See Note 16 for additional information on Contingencies.

N. Unexpended Appropriations

Unexpended appropriations represent the amount of the NLRB's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated or is unobligated and has not lapsed, been rescinded, or withdrawn.

O. Annual, Sick, and Other Leave

Annual and Sick Leave Program.

Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Annual leave earned but not taken, within established limits, is funded from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

See Note 10 for additional information on Annual Leave.

P. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program.

Most NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain "basic life" term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met. The Office of Personnel Management (OPM) administers this program and is responsible for the reporting of liabilities. For each fiscal year, OPM calculates the U.S. Government's service cost for the post-retirement portion of the basic life coverage. Because the NLRB's contributions to the basic life coverage are fully allocated by OPM to the pre-retirement portion of coverage, the NLRB has recognized the entire service cost of the post-retirement portion of basic life coverage as an imputed cost and imputed financing source.

Retirement Programs.

The NLRB employees participate in one of two retirement programs, either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees Retirement System (FERS), a defined benefit and contribution plan. On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most of the NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS. The NLRB

contributes a matching contribution equal to 7 percent of pay for CSRS employees.

FERS consists of Social Security, a basic annuity plan, and the Thrift Savings Plan. The Agency and the employee contribute to Social Security and the basic annuity plan at rates prescribed by law. In addition, the Agency is required to contribute to the Thrift Savings Plan a minimum of 1 percent per year of the basic pay of employees covered by this system and to match voluntary employee contributions up to 3 percent of the employee's basic pay, and one-half of contributions between 3 percent and 5 percent of basic pay. For FERS employees, the Agency also contributes the employer's share of Medicare. The maximum amount of base pay that an employee participating in FERS may contribute is $17,500 in calendar year (CY) 2014 to this plan. Employees belonging to CSRS may also contribute up to $17,500 of their salary in CY 2014 and receive no matching contribution from the NLRB. For CY 2014, the regular and catch-up contributions may not exceed $22,500. The sum of the employees' and the NLRB's contributions are transferred to the Federal Retirement Thrift Investment Board.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employees government-wide, including the NLRB employees. The NLRB has recognized an imputed cost and imputed financing source for the difference between the estimated service cost and the contributions made by the NLRB and covered CSRS employees.

The NLRB does not report on its financial statements FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. Reporting such amounts is the responsibility of OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the Federal Government, included in the NLRB's financial statements as an imputed financing source.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS No. 5, Accounting for Liabilities of the Federal Government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future, and provide these factors to the agency for current period expense reporting. Information was also provided by OPM regarding the full cost of health and life insurance benefits.

In FY 2013, the NLRB, utilizing OPM provided cost factors, recognized $7,613,342 of pension expenses, $8,415,585 of post-retirement health benefits expenses, and $27,146 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $16,056,073 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM. In comparison, in FY 2012, the NLRB, recognized $7,135,213 of pension expenses, $9,782,740 of post-retirement health benefits expenses, and $28,056 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $16,946,009 as an imputed financing source from OPM.

See Note 13 for additional information.

Q. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (GSA). Regarding NLRB's building lease, the GSA entered into a lease agreement for the NLRB's rental of building space. The NLRB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, so it does not record GSA-owned properties. The real property leases are for NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars.

See Note 12 for additional information on Operating Leases.

R. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the NLRB's operations since inception.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

T. Tax Status

The NLRB, as an independent Board of the Executive Branch, a federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

U. Comparative Data

Comparative data for the prior year have been presented for the principal financial statements and their related notes.

V. Subsequent Events

Subsequent events and transactions occurring after September 30, 2013 through the date of the auditor's opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors' opinion also represents the date that the financial statements were available to be issued.

Note 2. Fund Balance with Treasury

Treasury performs cash management activities for all federal agencies. The net activity represents Fund Balance with Treasury. The Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of

September 30, 2013 and September 30, 2012 consists of the following:

Fund Balance with Treasury by Fund Type:

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior fiscal years, which are not available to fund new obligations.

(in thousands)	General Funds	Escrow Funds	Total Fund Balance with Treasury
FY 2013 Entity Assets	$ 23,108		$ 23,108
Non-Entity Assets		214	214
Total	**$ 23,108**	**$ 214**	**$ 23,322**
FY 2012 Entity Assets	$ 26,620		$ 26,620
Non-Entity Assets		210	210
Total	**$ 26,620**	**$ 210**	**$ 26,830**

The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received but for which payment has not yet been made.

Obligated and unobligated balances reported for the status of Fund Balance with Treasury do not agree

with obligated and unobligated balances reported on the Statement of Budgetary Resources because the Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts.

Status of Fund Balance with Treasury as of September 30, 2013 and September 30, 2012 consists of the following:

Fund Balance with Treasury by Availability:

(in thousands)	FY 2013	FY 2012
Unobligated Balance		
Available	$ 726	$ 801
Unavailable	4,262	4,978
Obligated balance not yet disbursed	18,120	20,841
Non-budgetary fund balance with Treasury	214	210
Totals	**$ 23,322**	**$ 26,830**

Note 3. Fiduciary Activities

Effective for the period beginning after September 30, 2008, the cash received and the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities.

See Note 1F, Fiduciary Activities, for further explanation.

Backpay funds are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. NLRB holds these funds in an escrow account with Treasury or invests the funds that are authorized by the Regional Compliance Officers and other management officials in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of Public Debt.

There exists a signed MOU between the NLRB and the U.S. Treasury (Treasury) establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

Schedule of Fiduciary Activity As of September 30, 2013 and 2012

(in thousands)	FY 2013	FY 2012
Fiduciary net assets, beginning of the year	$ 5,203	$ 3,356
Fiduciary revenues	5,145	7,572
Investment earnings	0	0
Disbursements to and on the behalf of beneficiaries	(7,761)	(5,725)
Increase (Decrease) in fiduciary net assets	$ (2,616)	$ 1,847
Fiduciary net assets, end of year	**$ 2,587**	**$ 5,203**

Fiduciary Net Assets As of September 30, 2013 and 2012

(in thousands)	FY 2013	FY 2012
Fiduciary Assets		
Cash and cash equivalents	$ 2,587	$ 5,203
Investments	0	0
Fiduciary Liabilities		
Less: Liabilities	0	0
Total Fiduciary net assets	**$ 2,587**	**$ 5,203**

Note 4. Advances

Intragovernmental

Intragovernmental Advances to the United States Postal Service (USPS) for September 30, 2013 were $10,605 and $7,983 for September 30, 2012. The remainder of the balance for FY 2013 and FY 2012 was with the Department of Transportation for the transit subsidy.

Note 5. Accounts Receivable, Net of Allowances for Doubtful Accounts

The FY 2013 intragovernmental accounts receivable is zero and the FY 2012 amount was also zero:

(in thousands)	FY 2013	FY 2012
With the public		
Accounts receivable	$ 75	$ 80
Allowance doubtful accounts	(14)	(3)
Accounts receivable-net	**$ 61**	**$ 77**

Note 6. General Property, Plant and Equipment, Net

General property, plant and equipment consist of that property which is used in operations and consumed over time. The table below summarizes the cost and accumulated depreciation for general property, plant and equipment.

Depreciation expense for the years ended September 30, 2013 and September 30, 2012 was $3,851,380 and $3,921,165 (in dollars), respectively.

(in thousands) FY 2013	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	$ 2,713	$ 2,495	$ 218
Internal Use Software	23,735	17,063	6,672
Internal Use Software in Development	6,796	0	6,796
Totals	**$ 33,244**	**$ 19,558**	**$ 13,686**

(in thousands) FY 2012	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	$ 2,667	$ 2,384	$ 283
Internal Use Software	21,859	13,323	8,536
Internal Use Software in Development	4,709	–	4,709
Totals	**$ 29,235**	**$ 15,707**	**$ 13,528**

Note 7. Intragovernmental Accounts Payable

These accounts payables are with our federal trading partners of whom the largest amounts are with the General Services Administration (GSA).

Note 8. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents amounts collected from the public for court costs, freedom of information requests and other miscellaneous amounts that must be transferred to the Treasury.

The composition of liabilities not covered by budgetary resources as of September 30, 2013 and September 30, 2012, is as follows:

(in thousands)	FY 2013	FY 2012
Intragovernmental:		
FECA-Unfunded	$ 720	$ 765
Total Intragovernmental	720	765
Estimated Future – FECA	1,009	1,631
Accrued Annual Leave	13,645	14,164
Total Liabilities not covered by budgetary resources	15,374	16,560
Total Liabilities covered by budgetary resources	13,565	16,957
Total Liabilities	**$ 28,939**	**$ 33,517**

Note 9. Non-Entity Assets

Non-Entity assets, restricted by nature, consist of miscellaneous receipt accounts. These amounts represent cash collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court costs and freedom of information requests that must be transferred to the Treasury.

The composition of non-entity assets as of September 30, 2013 and September 30, 2012, is as follows:

(in thousands)	FY 2013	FY 2012
Non-entity assets		
Fund Balance with Treasury	$ 214	$ 210
Entity assets	$ 39,539	$ 40,410
Total Assets	**$ 39,753**	**$ 40,620**

Additionally, NLRB received a remainder interest in real property valued at approximately $46,000 as part of a settlement. This asset is not included in the table above.

Note 10. Cumulative Results of Operations

(in thousands)	FY 2013	FY 2012
FECA paid by DOL	$ (206)	$ (262)
FECA – Unfunded	(720)	(765)
Estimated Future FECA	(1,009)	(1,631)
Accrued Annual Leave	(13,645)	(14,164)
General Property, Plant & Equipment, Net	13,686	13,528
Other	268	339
Cumulative Results of Operations	**$ (1,626)**	**$ (2,955)**

Note 11. Intragovernmental Costs and Exchange Revenue

For the intragovernmental costs, the buyer and seller are both federal entities. The earned revenue is the reimbursable costs from other federal entities. The NLRB provided administrative law judges' services to other federal entities. There is no exchange revenue with the public.

(in thousands)	FY 2013	FY 2012
Resolve Representation Cases		
Intragovernmental Costs	$ 8,444	$ 9,285
Costs with the Public	35,999	38,740
Total Net Cost - Resolve Representation Cases	**$ 44,443**	**$ 48,025**
Resolve Unfair Labor Practices		
Intragovernmental Costs	$ 44,332	$ 46,973
Costs with the Public	188,996	197,783
Total Net Cost - Resolve Unfair Labor Practices	**$ 233,328**	**$ 244,756**
Other		
Intragovernmental Costs	$ 6	$ 11
Less: Intragovernmental Earned Revenue	6	11
Total Net Cost - Other	**$ 0**	**$ 0**
Net Cost of Operations	**$ 277,771**	**$ 292,781**

Note 12. Operating Leases

GSA Real Property. Most of NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of NLRB's occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA or another federal agency or rented by GSA from the private sector. The NLRB has OAs with GSA, which sets forth terms and conditions for the space the Agency will occupy for an extended period of time. Included within the OAs are 120 to 180 day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, federally-owned leases are included in years FY 2014 through FY 2018. The Agency expects to incur relocation costs starting in FY 2014 as a consequence of a GSA-mandated space initiative.

Rental expenses for operating leases for the year ended September 30, 2013 were $26,151,885 for

Agency lease space and $2,960,531 for Agency building security. For FY 2012 the operating lease costs were $25,608,420 and the Agency building security portion was $2,545,861.

Fiscal Year (in thousands)	**GSA Real Property**
2014	$ 26,806
2015	27,476
2016	28,163
2017	28,867
2018	29,588
Total Future Lease Costs	**$ 140,900**

Note 13. Imputed Financing Costs

OPM pays pension and other future retirement benefits on behalf of federal agencies for federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other federal agencies at September 30, 2013 and 2012 consisted of:

(in thousands)	**FY 2013**	**FY 2012**
Office of Personnel Management:		
Pension expenses	$ 7,613	$ 7,135
Federal employees health benefits	8,416	9,783
Federal employees group life insurance program	27	28
Total Imputed Financing	**$ 16,056**	**$ 16,946**

Note 14. Appropriations Received

The NLRB received $278,306,006 and $278,833,000 in warrants for the fiscal years ended September 30, 2013 and 2012, respectively. The amount shown on the Statement of Budgetary Resources under caption "Permanently not available" for FY 2013 was the cancelled appropriation for FY 2008 for the amount of $911,385 the rescission amount of $556,612, and the sequestration cut of $14,000,461 for FY 2013. For FY 2012, the total amount was $605,845 for the cancelled appropriation for FY 2007 and rescission amount was $526,994 for FY 2012.

Note 15. Statement of Budgetary Resources

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into GAAP for the Federal Government. The total Budgetary Resources of $269,816,869 as of September 30, 2013 and $283,709,914 as of September 30, 2012, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. The NLRB's unobligated balance available at September 30, 2013 was $725,834 and at September 30, 2012 was $801,263.

Apportionment Categories of Obligations Incurred. NLRB's obligations incurred as of September 30, 2013 and September 30, 2012 by apportionment Category A and B is shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects or a combination of these categories. Beginning in FY 2010, OMB agreed that it was not necessary for NLRB to separate its information technology funding and therefore all obligations incurred were from one funding category.

(in thousands)	Apportioned		Not Subject to Apportionment	Total
FY 2013	**Category A**	**Category B**		
Obligations Incurred:				
Direct	$ 264,823	–	–	$ 264,823
Reimbursable	6	–	–	6
Total Obligations Incurred	**$ 264,829**	**–**	**–**	**$ 264,829**

(in thousands)	Apportioned		Not Subject to Apportionment	Total
FY 2012	**Category A**	**Category B**		
Obligations Incurred:				
Direct	$ 277,920	–	–	$ 277,920
Reimbursable	11	–	–	11
Total Obligations Incurred	**$ 277,931**	**–**	**–**	**$ 277,931**

Note 16. Contingencies

The NLRB is involved in various lawsuits incidental to its operations. There is one case involving NLRB employees, that has a reasonable possibility of an unfavorable outcome and costs may be in excess of $100,000. While the ultimate outcome of these matters is not presently determinable, it is the opinion of management that the resolution of outstanding claims will not have a materially adverse effect on the financial position of NLRB.

Note 17. Reconciliation of Net Cost of Operations to Budget

For the Month Ended September 30, 2013 and 2012

(in thousands)	FY 2013	FY 2012
Resources Used to Finance Activities		
Current Year Gross Obligations	**$ 264,829**	**$ 277,931**
Budgetary Resources from Offsetting Collections:		
Spending Authority from Offsetting Collections		
Earned		
Collected	(37)	(98)
Recoveries of Prior Year Unpaid Obligations	(1,162)	(1,617)
Other Financing Resources:		
Imputed Financing Sources	16,056	16,946
Other	0	0
Total Resources Used to Finance Activity	$ 279,686	$ 293,162
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources not in the Net Cost of Operations:		
Change in Undelivered Orders	(585)	913
Current Year Capitalized Purchases	(4,009)	(4,745)
Components of the Net Cost of Operations which do not Generate or Use Resources in the Reporting Period Revenues without Current Year Budgetary Effect:		
Other Financing Sources Not in the Budget	(16,056)	(16,946)
Costs without Current Year Budgetary Effect:		
Depreciation and Amortization	3,851	3,921
Disposition of Assets	0	0
Future Funded Expenses	(564)	(800)
Imputed costs	16,056	16,946
Bad Debt Expense	14	8
Other Expenses Not Requiring Budgetary Resources	(622)	322
Net Cost of Operations	**$ 277,771**	**$ 292,781**

IV. Other Accompanying Information

Protecting Democracy in the Workplace Since 1935

INSPECTOR GENERAL'S TOP MANAGEMENT & PERFORMANCE CHALLENGES

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

September 30, 2013

To: Mark Gaston Pearce
Chairman

Lafe Solomon
Acting General Counsel

From: David Berry
Inspector General

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General (OIG) is required by section 3516 of title 31 to summarize what the Inspector General considers to be the most serious management and performance challenges facing the Agency and briefly assess its progress in addressing those challenges. The purpose of this memorandum is to fulfill that requirement. The information provided in this report is based upon our reviews and investigations, as well as our general knowledge of the National Labor Relations Board's (NLRB or Agency) operations.

For the purpose of this report, an item can be noted as a management or performance challenge even though it is not a deficiency or within the control of the Agency. In our prior year's memorandum, we identified nine management and performance challenges. Our overall assessment is that during the past fiscal year, we generally observed significant efforts to meet the performance and management challenges and improve the management and performance of the Agency. A more detailed statement for each challenge is provided below.

CHALLENGES

Mission Centered

Manage in the current political environment.

Without commenting on the merits of the issues, it is appropriate to highlight the politically charged debate regarding labor relations and the NLRB, as well as the Government-wide issues related to Federal spending. Functioning in this environment is a challenge for both the political appointees who govern and the career personnel who manage. The obvious challenge is that there is a diversion of resources and attention away from the Agency's mission to defend its actions and decisions or to respond to repeated demands for information both for oversight and litigation discovery. There was also a level of uncertainty that was created by the recess appointments of Board Members and operating for an extended period of time with an Acting General Counsel. Although the Board is now fully staffed with five Members, there remains lingering issues regarding the recess appointments, repeated threats of Government shutdowns and furloughs, and the potential for additional spending cuts from sequestration. Over time, these factors combine to create anxiety in the Agency's workforce and divert attention and resources away from mission-related functions.

Resource Management

Reorganize and consolidate operations.

In Fiscal Year 2011, the Acting General Counsel initiated working groups to study the case processing of Regional Offices and certain Headquarters operations. In April 2011, we issued an audit report that compared case processing activity with the associated expenses of Regional Office operations and made recommendations to consider the consolidation of certain Regional Offices that have a low caseload. At about the same time, the Chairman and Acting General Counsel began to reorganize the financial management of the Agency and other Headquarters operations.

During the past 12 months, the Board and Acting General Counsel consolidated 12 Regional Offices into 6 Regions resulting in a reduction of the number of Regions from 32 to 26. Additional consolidation efforts were undertaken to reorganize the General Counsel's legal and ethics staff at the Headquarters and create the Division of Legal Counsel; create the Office of the Chief Financial Officer; restructure the Division of Administration; and add additional functions to the Office of the Chief Information Officer. These efforts at consolidation and reorganization resulted in a substantial amount of change. The challenge now is to manage this change to ensure success and capture the potential for improved productivity, efficiency, and control.

Implement the Next Generation Case Management System and seize opportunities to create more productive and efficient procedures and organizations.

The Agency built an enterprise-wide electronic case management and processing system. The system replaced 13 separate legacy systems by integrating them into a single unified system using multiple technologies, including 5 distinct software solutions for customer relationship management, document management, collaboration, business analytics, and Web-based services for external constituents. This was the most comprehensive information technology project undertaken by the Agency. This system has now been fully implemented across the Agency's field operations for just under a year. The challenge that remains is to leverage this system to realize the potential for improved casehandling, productivity, and quality control.

Manage the Agency's financial resources.

Both the FY 2010 and FY 2011 audits of the financial statements contained a finding by the independent auditing firm that there was a significant deficiency in internal control. Although the findings were largely related to problems in the procurement process, our audit of end-of-the-year spending demonstrated that there was a lack of sound budgeting and planning processes that are essential to proper fiscal management.

In July 2012, the Board created the Office of the Chief Financial Officer, implementing the final recommendation of the FY 2010 audit of the financial statements. That office now oversees the budget, procurement, and payment processes. In FY 2013, the Office of the Chief Financial Officer set about creating a new system of controls to effectively manage the Agency appropriation. This was a herculean task of not only creating the structure and procedures for a new office, but also changing the culture of the Agency so that the managers will accept and understand fundamental changes in the fiscal management of the Agency. After our audits of the FY 2013 financial statements and the actions to implement the FY 2013 sequestration, we will have the information needed to provide an assessment of this challenge and, if necessary, make recommendations for further improvement.

Manage the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation.

In prior years, the OIG conducted audits involving the Agency's procurement function. These audits found numerous problems that could generally be attributed to some breakdown in the internal control process. Additional issues have been found during the course of the annual audits of the financial statements.

Adequate staffing, competence, and communication are critical to maintaining a well-managed procurement process. The prior years' convergence of budgetary issues and a shortage of competent candidates to fill vacant positions in a highly competitive field resulted in an understaffed procurement office. That lack of staffing created delays in processing procurement actions and greatly increased the opportunity for mistakes.

Last year, we reported that we were encouraged that the new Office of the Chief Financial Officer took immediate steps to remedy the procurement issues, but that the daunting task of building a well-controlled procurement process remained. Since that time, the Office of the Chief Financial Officer has added three members to the procurement staff, including a new Branch Chief. The new Branch Chief implemented standard procurement procedures and met with Agency's senior managers to educate them on the new procurement processes. As with the prior challenge, it is too soon to provide an assessment of these efforts, but our observation is that the new procedures add a substantial amount of internal control that was previously lacking.

Manage the NLRB's human capital.

The need to maintain a stable and productive workforce is key to the NLRB's ability to fulfill its statutory mission. Factors outside the NLRB's control that may directly affect its ability to maintain a stable and productive workforce include the prospect of Government-wide hiring restrictions, reduced or flat appropriations, and the loss of key personnel through retirements. Coupled with those issues are matters directly within the control of management, including a healthy and productive relationship with the two employee unions; a fair and equitable means to address allegations of discrimination and grievances; and maintaining an environment throughout the NLRB that fosters collaboration along with effective and efficient processes.

The uncertainty of the current fiscal environment, along with the loss of key personnel to retirements and transfers, places a significant stress and burden upon the Agency's workforce. The threat of furloughs, the curtailment of meaningful training opportunities, and loss of monetary awards and cost-of-living pay increase tend to negatively affect the overall workforce morale. Combined, these factors degrade the Agency's ability to properly address its human capital needs, impede its ability to maintain a stable workforce through retention and recruitment, and could ultimately have a negative impact on its ability to meet the statutory mission.

Maintain the Agency's institutional knowledge.

The many changes in technology, laws and regulations, and management systems have altered the manner in which employees perform their official duties. As these changes occur, the policies and procedures are not always updated on a timely basis. Over time, individual offices come to rely upon the collective institutional knowledge of the staff. While this may be a short-term solution, it puts far too much reliance on the skills of individual employees while lacking the safeguards of well-documented processes. This problem is compounded by the fact that at an Agency of this size, specialized tasks are often performed by a limited number of employees.

As additional "key" personnel reach the point of retirement, the challenge of succession planning and capturing the knowledge and procedures for the Agency's processes by formalizing institutional knowledge with policies and procedures becomes even greater. In addition to the loss of personnel, the consolidation and reorganization efforts create additional opportunities for the loss of the Agency's institutional knowledge.

Manage the Agency's information technology resources in a manner that achieves efficiency and security.

Each year the Agency continues to devote significant resources to improving and upgrading information technology equipment and capability. The OIG also devotes its resources to auditing, inspecting, and investigating information technology control and security issues. Despite these efforts, the Agency's information technology infrastructure and the information contained in it remain at risk because of the rapid evolution of information technology threats. Given this environment, ensuring the security of the Agency's information in its information technology systems remains a long-term challenge.

Implement audit recommendations in a timely manner.

We added this challenge in FY 2008 because we observed that the Agency was not implementing audit recommendations in a timely manner, there was a recurrence of audit findings, and the Agency managers failed to state an adequate basis when disagreeing with an audit recommendation – including recommendations that would have resulted in cost savings. Also, since 2007, we have received yearly requests from the Committee on Oversight and Government Reform for detailed information on audit recommendations. This year, we reported that as of June 2013, we had 15 unimplemented recommendations. After we reported that figure, we added 12 new recommendations and closed two.

SUMMARY OF AUDIT AND MANAGEMENT ASSURANCES

I. SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion			Unqualified		
Restatement			No		
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
	0	0	0	0	0
TOTAL	0	0	0	0	0

II. SUMMARY OF MANAGEMENT ASSURANCES

EFFECTIVENESS OF INTERNAL CONTROL OVER OPERATIONS (FMFIA §2)

Statement of Assurance				Unqualified		
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

COMPLIANCE WITH FINANCIAL SYSTEMS REQUIREMENTS (FMFIA §4)

Statement of Assurance				Systems conform with financial management systems requirements		
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Improper Payments Information Act

The Improper Payments Information Act (IPIA) (as amended by the Improper Payments and Elimination Recovery Act of 2010) defined requirements to reduce improper/erroneous payments made by the federal government. OMB has also established specific reporting requirements for agencies with programs that possess a significant risk of erroneous payments and for reporting on results of recovery auditing activities. A significant erroneous payment is an annual erroneous payment in a program that exceeds both 2.5 percent of the program outlays and $10 million or $100,000,000.

As such, the NLRB does not make program payments as described in the IPIA and has no information to report with respect to erroneous program payments.

In April 2012, OMB directed agencies (M-12-11) to develop plans for using a network of data bases known collectively as the "Do Not Pay List" (DNP) before determining eligibility for a benefit, the award of a grant or contract, or other federal funding. The NLRB uses the DNP solution that its shared service provider, IBC, hosts to confirm that the right recipient is receiving the right payment for the right reason at the right time.

V. APPENDICES

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APPENDIX A

ACRONYMS

ALJ	Administrative Law Judge
CATS	Case Activity Tracking System
CFO	Chief Financial Officer
CR	Continuing Resolution
DNP	"Do Not Pay" List
FASAB	Federal Accounting Standards Advisory Board
FMFIA	Federal Managers' Financial Integrity Act
FPPS	Federal Payroll and Personnel System
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GPRA	Government Performance and Results Act
GPRAMA	Government Performance and Results Modernization Act
IUS	Internal Use Software
IPIA	Improper Payments Information Act
MDA	Management Discussion and Analysis
NBC	National Business Center
NxGen	Next Generation Case Management System
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAR	Performance and Accountability Report
ULP	Unfair Labor Practice

APPENDIX B

DEFINITIONS

Case: The general term used in referring to a charge or petition filed with the Board. Each case is numbered and carries a letter designation indicating the type of case.

Charge: A document filed by an employee, an employer, a union, or an individual alleging that a ULP has been committed by a union or employer.

Collective Bargaining: Negotiation between organized workers and their employer or employers to determine wages, hours, rules, and working conditions.

Complaint: A document that initiates "formal" proceedings in a ULP case. It is issued by the Regional Director when he or she concludes on the basis of a completed investigation that any of the allegations contained in the charge have merit and the parties have not achieved settlement. The complaint sets forth all allegations and information necessary to bring a case to hearing before an administrative law judge pursuant to due process of law. The complaint contains a notice of hearing, specifying the time and place of the hearing.

Compliance: The carrying out of remedial action as agreed upon by the parties in writing; as recommended by the administrative law judge in the decision; as ordered by the Board in its decision and order; or as decreed by the court.

Dismissed Cases: Cases may be dismissed at any stage. For example, following an investigation, the Regional Director may dismiss a case when he or she concludes that there has been no violation of the law, that there is insufficient evidence to support further action, or for other legitimate reasons. Before the charge is dismissed, the charging party is given the opportunity to withdraw the charge by the Regional Director. A dismissal may be appealed to the Office of the General Counsel.

Formal Action: Formal actions may be documents issued or proceedings conducted when the voluntary agreement of all parties regarding the disposition of all issues in a case cannot be obtained, and where dismissal of the charge or petition is not warranted. Formal actions are those in which the Board exercises its decision-making authority in order to dispose of a case or issues raised in a case. "Formal action" also describes a Board decision and consent order issued pursuant to a stipulation, even though a stipulation constitutes a voluntary agreement.

***Gissel* Bargaining Order:** *Gissel* bargaining orders are orders to bargain with a union that may no longer have majority support because of serious employer ULPs that have poisoned the possibility of a fair election.

Impact Analysis: Provides an analytical framework for classifying cases so as to differentiate among them in deciding both the resources and urgency to be assigned each case. All cases are assessed in terms of their impact on the public and their significance to the achievement of the Agency's mission. The cases of highest priority, those that impact the greatest number of people, are placed in Category III. Depending on their relative priority, other cases are placed in Category II or I.

Interstate Commerce: In the U.S., any commercial transaction or traffic that crosses state boundaries or that involves more than one state. Government regulation of interstate commerce is founded on the commerce clause of the Constitution (Article I, section 8), which authorizes Congress "To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes."

"Nip-in-the Bud" Cases: Cases arising from alegations of unfair labor practices committed during union organizing campaigns.

Overage Case: To facilitate or simplify Impact Analysis, case processing time goals—from the date a charge is filed through the Regional determination—are set for each of the three categories of cases, based on priority. A case is reported "overage" when it is still pending disposition on the last day of the month in which its time target was exceeded. Cases that

cannot be processed within the timelines established under the Impact Analysis program for reasons that are outside the control of the Regional Office are not considered to be overage.

Petition: A petition is the official NLRB form filed by a labor organization, employee, or employer. Petitions are filed primarily for the purpose of having the Board conduct an election among certain employees of an employer to determine whether they wish to be represented by a particular labor organization for the purposes of collective bargaining with the employer concerning wages, hours, and other terms and conditions of employment.

Protected Concerted Activity: The National Labor Relations Act (NLRA) protects employees' rights to engage in protected concerted activities with or without a union, which are usually group activities (two or more employees acting together) attempting to improve working conditions, such as wages and benefits.

Social Media: Various online technology tools that enable people to communicate easily via the Internet to share information and resources. These tools can encompass text, audio, video, images, podcasts, and other multimedia communications.

Test of Certification: A "test of certification" presents the issue of whether an employer has unlawfully refused to bargain with a newly-certified union. Because the Act does not permit direct judicial review of representation case decisions, the only way to challenge a certification is a refusal to bargain followed by a Board finding. However, because all relevant legal issues were or should have been litigated in the Representation case, the related ULP case is a no-issue proceeding that can be resolved without a hearing or extensive consideration by the Board.

Unfair Labor Practice (ULP): An unfair labor practice is illegal conduct by either a labor organization or an employer that violates the National Labor Relations Act.

National Labor Relations Board
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