National Labor Relations Board

FY 2014

Performance and Accountability Report

How This Report is Organized

This Performance and Accountability Report consists of the following sections:

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 2014. The MD&A also contains a discussion of compliance with legal and regulatory requirements, such as the Federal Managers' Financial Integrity Act.

Performance

The Performance Section compares the NLRB's performance to its strategic goals as set forth in the FY 2014 to FY 2018 Strategic Plan. This Strategic Plan includes the two mission-related goals that appeared in the prior plan and adds two supporting goals to help achieve our mission and vision. The performance measures associated with the mission-related goals are outcome-based, while there are few outcome-based performance measures associated with the two support goals, the majority of them are management strategy driven. Both the performance measures and management strategies are aligned with the mission of the NLRB, and are meaningful to the public the Agency serves. This is the first year that the NLRB is reporting its performance under the new goals.

Financial

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 2013 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 2014 Performance and Accountability Report is available on the NLRB's web site at *www.nlrb.gov*.

The NLRB's Strategic Plan is 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

November 2, 2014

As Chairman of the National Labor Relations Board, it is my pleasure to submit the Performance and Accountability Report for Fiscal Year 2014. This annual report provides insight into the finances and activities of the NLRB, which for the last 79 years has protected the rights of workers in the United States under 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 guaranteed protection from unfair labor practices. Employers and employees alike have an impartial forum for the resolution of disputes.

The Board issued 248 decisions in contested cases during the year. Decisions were issued in 205 unfair labor practice cases and 43 representation cases.

In addition to its casework, the Board this year continued to expand its presence on social media sites such as Facebook and Twitter. We now have more than 12,500 likes on Facebook and nearly 7,000 followers on Twitter. In August 2013, we launched a new mobile app, available free of charge for iPhone and Android users. The app provides employers, employees and unions with information regarding their rights and obligations under the National Labor Relations Act.

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 been downloaded over 13,500 times, we are using 21st Century technology to inform and educate the public about the law and the rights it guarantees.

This year, the Board issued proposed amendments to rules and regulations governing representation-case procedures. The proposals are intended to enable the Board to more effectively administer the National Labor Relations Act. The public was invited to submit written comments on the proposed changes, and the Board held a two-day hearing at which members of the public addressed the proposed

amendments and presented suggestions for improving the Board's representation case procedures.

On June 26, 2014, the U.S. Supreme Court decided *National Labor Relations Board v. Noel Canning,* holding that the President's January 2012 recess appointments of three members of the National Labor Relations Board were unconstitutional. This year, the Board has a full contingent of five Senate-confirmed members committed to fulfilling their responsibility to enforce the National Labor Relations Act. The Agency is committed to resolving all cases affected by the Supreme Court's decision as efficiently as possible.

As Chairman of the NLRB, I certify that the NLRB's internal controls and financial 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 31 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

November 2, 2014

The National Labor Relations Act ensures 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 with or without union representation. The National Labor Relations Board (NLRB or the Agency) administers the Act and has jurisdiction over about 5.7 million private-sector employers. The Agency has two primary functions: (1) to prevent and remedy statutorily defined unfair labor practices by employers and labor organizations, and (2) to conduct secret-ballot elections among employees to determine whether they wish to be represented by a labor organization.

The NLRB's Office of the General Counsel is responsible for investigating and prosecuting unfair labor practice cases and for handling representation case petitions filed in the NLRB's 26 Regional and 25 satellite offices. The Office exercises general supervisory authority over this network of field offices, staffed by approximately 1,100 employees. This fiscal year, Regional case intake was in excess of 23,000 cases. The General Counsel also serves as the Agency's chief administrative officer. In this capacity, the Office of the General Counsel directly oversees seven Headquarters components, which are responsible for various casehandling, administrative, financial and personnel functions. Over the past few years, the Agency analyzed its workload, budgetary constraints, technology advances, and human capital, and engaged in field restructuring in order to more evenly distribute case intake among geographically-disbursed Regions, while still providing prompt and high quality casehandling. Specifically, the Agency consolidated six field offices, thereby reducing the number of Regional Offices from 32 to 26, and, this fiscal year, continued to review field offices with an eye towards further streamlining. As General Counsel, I solicit and value feedback on the restructuring efforts so that I can make appropriate recommendations on these matters to the Board; the feedback received this fiscal year has proven invaluable.

The Agency also reviewed operations in Headquarters, moving staff to a compliance unit that has assisted field offices in achieving more meaningful and timely compliance at all stages of cases. A new Division of Legal Counsel was also created. This new Division has significantly

enhanced our handling of contempt, compliance and special litigation matters, of government and legal ethics issues, and of FOIA cases. Specifically, this past year the Contempt, Compliance and Special Litigation Branch underwent substantial management changes resulting in enhanced coordination and collaboration on collateral case handling matters. The Ethics and Administrative Law Branch revamped our ethics program, providing monthly training segments and job aids, in addition to timely rendering detailed guidance to both Headquarters and field personnel. The Agency also began centralizing the processing of all FOIA cases – both requests and appeals, from Regional offices to Headquarters – by removing those functions from several Regional offices, thereby allowing those offices to focus solely on casehandling matters.

The Agency continues to work on improving case management productivity by standardizing business processes in a single unified case management system (NxGen), consolidating 11 legacy systems into one. By the end of FY 2014, all Regional Offices and almost all Headquarters' offices completely converted to NxGen. The Agency also began to consolidate existing data, voice, video and wireless networks into a future state telephony, and video and network architecture. A unified communications contract was awarded; this contract will enhance communications and take advantage of consolidated networks and mobile services to lower costs and increase services while allowing Agency personnel to communicate with voice, video, and data from all locations including the office, at home and on the road. Combined with our investments in NxGen, Office 365, infrastructure consolidation and the widespread deployment of laptops, this new communications platform will increase productivity and support the Agency's expanded telework program. It will also afford a significant expansion of NxGen functionality, including integrated audio, video, and real-time collaboration across the Agency and with constituents and will reduce paperwork, increase remote access to information, and expedite the issuance of decisions.

Our litigation teams were quite busy this fiscal year. The Appellate and Supreme Court Branch in the Division of Enforcement Litigation quickly responded to the Supreme Court's ruling in the *Noel Canning* case, which invalidated the President's recess appointments of prior Board members, by filing motions in the courts where cases involving that issue had arisen to allow for review of those matters by the current, fully-confirmed Board. We continued to obtain timely and effective remedies for unlawful discharges during organizing campaigns and for successor employers' unlawful refusals to hire their predecessors' employees due to their union activities. In this regard, the Agency secured offers of reinstatement for hundreds of workers and recovered millions of dollars in backpay. Other significant case activity highlights include: submitting briefs to the Board in the *Browning-Ferris* case involving the joint-employer standard, in *Purple Communications* involving employee use of employer email systems to communicate with co-workers, and in *Babcock & Wilcox*

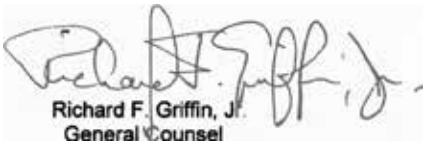
concerning the post-arbitral deferral standard; beginning litigation over WalMart's responses to employees' Black Friday and other workplace protests; successfully obtaining a district court order ending a lockout of 225 employees at a Kellogg's facility in Memphis; and conducting a multiple-day election at a Volkswagen plant in Chattanooga, where severe weather conditions threatened the election's cancellation and Board agents were mobilized from two remote field offices, traveling hundreds of miles to ensure that workers were not disenfranchised.

As General Counsel, I join with Chairman Pearce as a strong proponent of outreach to the public. In FY 2014, the Agency consolidated its Congressional and Intergovernmental Affairs and Public Affairs programs into one office, the Congressional and Public Affairs Office (CPAO). The newly-designated Director, Celine McNicholas, will continue to expand our outreach efforts to promote broader awareness of workers' rights protected under the Act and of the services the Agency provides to workers, employers and unions to guarantee those rights. It is of utmost importance to provide the public with information, guidance and access to resources regarding rights and responsibilities under the Act, and to develop ways to most effectively communicate such information. In FY 2014, the new CPAO began supporting the Board and General Counsel's initiatives by enhancing the public web site, expanding our use of social media, and developing resource materials, news releases and announcements, while, at the same time, ensuring that all congressional and intergovernmental communications were managed efficiently and effectively. This is increasingly important as the Agency continues to look at ways to leverage limited resources to best serve the public.

To this end, the Agency continued to collaborate with other federal agencies and departments, such as the Equal Employment Opportunity Commission and the Department of Labor. For example, we recently entered into a program with the Department of Labor, Occupational Safety and Health Administration (OSHA), whereby OSHA agreed to notify all complainants who file an untimely whistleblower charge of their rights under the NLRA, including how to file a charge with the Agency if they feel those rights have been violated. The NLRB also has continued its efforts to engage with foreign embassies/ministries/consulates to finalize letters of agreement promoting the education of workers and business owners. Capitalizing on our success collaborating with the Ministry of Foreign Affairs of the United Mexican States, the Agency this year signed a similar agreement with the Ministry of Foreign Affairs and Human Mobility of Ecuador.

The Office of the General Counsel, in addition to its other duties, is charged by the Board Members with supervising the Agency's administrative functions, including budgetary, financial and acquisition management. In FY 2014, the Agency reaped the rewards of a fully functioning Office of the Chief Financial Officer with three new Branch Chiefs and of its financial management systems migration by improving internal controls, eliminating redundancies, streamlining financial reporting functions, and enhancing data analysis. Further, we successfully handled the challenges associated with the government shutdown early in the fiscal year by utilizing essential personnel during that time to handle only those matters warranting immediate attention, and thereafter, by quickly resuming quality casehandling in an efficient manner once we were fully operational. During the entire fiscal year, the dedicated employees of the NLRB continued their exemplary work in protecting workplace democracy, promoting workers' rights, enhancing American labor relations, and strengthening the Nation's economy.

As General Counsel, I am committed to the open and transparent operation of my Office. I enjoy and encourage constructive relationships with representatives of both management and labor who appear before the Agency. I look forward to working with all of the Agency's capable employees to fulfill our mission: to protect workplace rights and provide the highest quality service to the public.



Executive Summary

The National Labor Relations Board issued a strategic plan for Fiscal Years 2014-2018. The updated strategic plan includes the NLRB's strategic goals, objectives, initiatives, strategies and associated performance measures for managing operations and assessing the NLRB's achievements. The updated Strategic Plan also includes information on the priorities that the Agency intends to pursue to improve its operations and enhance its performance.

The updated Strategic Plan includes the two mission-related goals that appeared in the prior plan and adds two supporting goals to help achieve the Agency's mission and vision. It addresses the Agency's current challenges as well as outlining goals. Through use of management strategies and performance measures for the supporting goals, as well as the previously established mission-related goals and measures, the NLRB aims to demonstrate transparency and

accountability, along with providing a way to assess its progress. FY 2014 is the first year that the NLRB is reporting on its performance under the new goals.

The National Labor Relations Board continued its tradition of service to the nation's employers and employees in FY 2014 by building on its efforts to increase transparency and communication with the public and streamlining operations. For example, it made continued investments in advanced technology, thereby improving communications, storage and retrieval of electronic documents, the public web site and case docketing pages, and e-filing and e-delivery services.

Also, at Headquarters in Washington DC, the Office of Public Affairs was consolidated with the Agency's congressional and intergovernmental affairs program

to create the Congressional and Public Affairs Office ("CPAO"), in order to promote a broader awareness of workers' rights protected under the NLRA and of the services the Agency provides to workers, employers and unions to guarantee those rights. And, the FOIA Branch in Headquarters began processing FOIA requests received in some Regional Offices, thereby enabling those field offices to focus on casehandling, while providing timely responses to requests by subject matter experts.

In furtherance of the Agency's goal to reach out to diverse communities, in FY 2014, the Agency and the Ministry of Foreign Affairs and Human Mobility of Ecuador signed a Letter of Agreement designed to strengthen their collaborative efforts in providing Ecuadorian workers, their employers, and Ecuadorian business owners in the United States with information, guidance, and access to education regarding their rights and responsibilities under the National Labor Relations Act. Based thereon, Regional Offices are engaging in collaborative efforts around the country.

Management Discussion and Analysis

Protecting Democracy in the Workplace Since 1935

About The NLRB

Mission Statement

Protecting workplace democracy and the rights of employees, unions, and employers under the National Labor Relations Act, in order to promote commerce and strengthen the Nation's economy.

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 and concerted activities to improve terms and conditions in the workplace
- Addresses the rights and obligations of employees, labor unions, and private 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, or other private parties.

In its 79-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, decertification, unit amendment and clarification, and recession of union security agreements 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 support union representation in a workplace where none currently exists or to attempt to improve their wages and 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 activity. Generally, "protected concerted activity" is group activity that seeks to improve wages or working conditions in a particular workplace.
- 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 to engaging in protected concerted activities, or to 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, deciding cases on the basis of formal records in administrative proceedings.

1 Including Subregional and Resident Offices.

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 supervision of the NLRB Regional Offices as well as of the administrative, financial and human capital operations of the Agency. In performing

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.

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 had five Senate-confirmed Members and a Senate-confirmed General Counsel for the first time in a decade throughout almost all of FY 2014.

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*	**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**
Congressional and Public Affairs Office	**Division Of Administration**	John H. Ferguson *Associate General Counsel*
Celine McNicholas *Director*	Caroline Krewson *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*	
Office of Representation Appeals	**Office of The Chief Financial Officer**	**Division of Legal Counsel**
Vacant *Director*	Ronald E. Crupi *Chief Financial Officer*	Margery E. Lieber *Associate General Counsel*
Office of The Solicitor		
William B. Cowen *Solicitor*		
Division of Judges		
Robert A. Giannasi *Chief Administrative Law Judge*		

Casehandling Functions

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.

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.

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, 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 conduct a secret-ballot election, if appropriate, addressing challenges and objections to the election subsequently, and thereafter issuing a certification.

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 challenges and 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. NLRB staff deals with employees whose

rights have been violated to calculate backpay, and works with respondents regarding notice postings, reinstatement of workers, disciplinary record expungement, withdrawal of unlawful rules or policies, and bargaining remedies. Noncompliance or disputes on findings may require additional hearings or actions in the courts.

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 the comprehensive Strategic Plan and the Performance and Accountability Report. The NLRB's Strategic Plan was updated in FY 2014 and covers FY 2014 to FY 2018.

The NLRB's Strategic Plan states the Agency's Strategic Goals, Objectives, Initiatives, Performance Measures, and management strategies. There are two mission-related goals, and two support goals. The majority of the support goals are management strategy based and will be discussed at length in the Performance Section of this report.

Strategic Goal 1 (Mission)

Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act.

Performance Measure

The percentage of meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment within 365 days of the filing of the ULP charge.

Performance Measure

The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order or Court judgment within 120 days of the filing of the charge.

Strategic Goal 2 (Mission)

Promptly and fairly resolve all questions concerning representation of employees.

Performance Measure

The percentage of representation cases resolved within 100 days of filing of the election petition.

Goals one and two of the NLRB's Strategic Plan represent the core functions of the Agency in its enforcement of the NLRA as well as 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 mission-related goals are supported by objectives, initiatives and management strategies that enable the NLRB to meet its 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 the following: the processing, investigation, and remedy of ULP charges; and the resolution of those ULP charges found to have merit, and resolution of all questions concerning representation. The goal is to resolve meritorious ULP cases within 365 days, resolve all ULP cases within 120 days and resolve representation matters within 100 days.

The Performance Measures for Strategic Goal 1 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.

The Performance measure for Strategic Goal 2 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.

Goal 1 Performance Measure: The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment within 365 days of the filing of the ULP charge.

Year	Annual Goal	Actual Performance
FY 2014	82.5%	83.9%
FY 2015	82.5%	
FY 2016	82.6%	
FY 2017	82.7%	
FY 2018	82.8%	

Goal 1 Performance Measure: The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order or Court judgment within 120 days of the filing of the charge.

Year	Annual Goal	Actual Performance
FY 2014	72.3%	72.3%
FY 2015	72.3%	
FY 2016	72.4%	
FY 2017	72.4%	
FY 2018	72.5%	

Goal 2 Performance Measure: The percentage of representation cases resolved within 100 days of filing the election petition.

Year	Annual Goal	Actual Performance
FY 2014	85.3%	88.1%
FY 2015	85.4%	
FY 2016	85.5%	
FY 2017	85.7%	
FY 2018	85.8%	

We are pleased to report that, for FY 2014, the NLRB met or exceeded its goals for its mission-related performance measures.

Financial Highlights

The Office of the Chief Financial Officer (OCFO), comprised of the Budget, Finance, and Acquisition Management Branches, reports directly to the Chairman and General Counsel. This structure integrates and enhances Agency financial management. Specifically, the OCFO has improved effectiveness and efficiency in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. The OCFO 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 $38 million as of September 30, 2014. The Fund Balance with Treasury, which was $33 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 $5 million and was primarily related to internal use software.

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 $288 million net cost of operations in FY 2014, 12 percent was used for representation case activities and 88 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 2013 to FY 2014, there was a change in net position of $0.7 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 2014, the NLRB had available budgetary resources of $281 million, the majority, $274 million, were derived from new budget authority. Obligations were $276 million for FY 2014 and $265 million for FY 2013, and total outlays for FY 2014 were $263 million, which is a $3 million decrease from FY 2013.

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.

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 31 is required by the Federal Managers' Financial Integrity Act (FMFIA) and OMB Circular A-123, *Management's Responsibility for Internal Control*.

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 2014 provide reasonable assurance that NLRB systems and internal controls comply with the requirements of FMFIA.

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, 2014, in accordance with the FMFIA and OMB Circular A-127, *Financial Management Systems*, Section 7 guidance. The annual statement by the Accounting Officer 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 Overview

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 of record for all financial transactions.
- Federal Payroll and Personnel System (FPPS) – Personnel system of record, which interfaces with the Oracle system.
- E2Solutions – eTravel system provided by Carlson Wagonlit, the NLRB's Travel Management Service, which also interfaces with the Oracle system.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, DC

October 20, 2014

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 over the effectiveness and efficiency of operations 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 over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2014, 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

2014 Year In Review

Agency Operations

Noel Canning

When the Supreme Court decided the *Noel Canning* case in June 2014, there were 98 contested cases pending in the various Courts of Appeals in which an order issued by a Board panel that included recess appointees was under review. In those cases where the Board still retained jurisdiction because the administrative record had not yet been filed, the Board promptly vacated its own orders and then requested the courts to dismiss the proceedings. By the end of the fiscal year, courts dismissed 42 of the 43 cases in which the record had not been filed.

In the remaining court cases, where the administrative record had already been filed and the court therefore had exclusive jurisdiction, court action closing the case was sought to enable the Board to reassert jurisdiction over the proceeding and issue a new decision. The Board promptly filed motions with those courts requesting that the court take appropriate action. By the end of the fiscal year, courts had concluded their proceedings in 44 of the 51 cases in which the Board or another party had filed such a motion.

In four cases, the Board did not file motions for case-specific reasons, two of those cases were dismissed by the end of the fiscal year and two remain pending.

Headquarters Restructuring

The Office of Public Affairs was created in 2009 to ensure that the Agency communicates effectively with the public and a diverse group of stakeholders. In 2014, the Office of Public Affairs was consolidated with the Agency's congressional and intergovernmental affairs program to create the Congressional and Public Affairs Office ("CPAO").

This office promotes broader awareness of workers' rights protected under the NLRA and of the services the Agency provides to workers, employers and unions to guarantee those rights. The NLRB believes it is of utmost importance to provide the public with information, guidance and access to resources regarding rights and responsibilities under the Act.

CPAO also supports the Board and General Counsel's initiatives by developing resource materials, news releases and announcements. In addition, it ensures that all congressional and intergovernmental communications are managed efficiently and effectively. This is increasingly important as the Agency continues to work with other agencies to best serve the public.

CPAO also arranges presentations on the NLRB and U.S. labor laws to more than a dozen foreign delegations each year and has expanded the Agency's initiative to work with academics developing materials and projects that are useful for teaching concepts about the NLRA in schools. Furthermore, Senior Agency officials participate in speaking engagements for a variety of audiences, including at law schools, practitioner symposiums, American Bar Association conferences, Society of Human Resources Management and Chamber of Commerce meetings, and worker advocacy group, sister agency, foreign embassy and consular events.

Regional Office Closure

National Labor Relations Board General Counsel Richard F. Griffin, Jr. announced a proposal which the Board approved, to close the Agency's office in Jacksonville, Florida in connection with the Agency's ongoing efforts to reduce costs by decreasing office space and by taking advantage of new technologies and workplace innovations, which enable employees to work remotely. The effective date for the office closure is December 1, 2014. The Jacksonville office handles cases in Northern Florida and Southern Georgia, and is part of Region 12, which also has offices in Tampa, Miami and San Juan, Puerto Rico.

The sole employee from the Jacksonville office will become a Resident Agent, who will continue to serve this area of the country in a full-time capacity and will continue to be supervised by the Regional Director of Region 12. The Agency currently has Resident Agents in Providence, Rhode Island; Knoxville, Tennessee; Salt Lake City, Utah; Newport News, Virginia; Western Massachusetts; and Spokane, Washington.

International Videoconferencing

In June 2014, for the first time in the Agency's history, a trial examination of a witness was conducted via international video conferencing. NLRB Region 20 in San Francisco worked with employees of the US Embassy in Madrid, Spain, to facilitate the transmission of the testimony. All previous use of video conferencing of NLRB witnesses had occurred domestically.

The case involved an international language school company, in which the NLRB contended that an employee was fired after engaging in protected concerted activity (PCA) by discussing the terms and conditions of her employment with a fellow employee. The witness, a former employee who now resides in Spain, provided corroborating testimony at the U.S. Embassy in Madrid, regarding the employer's policies and discussions with the discharged employee.

Collaborative Efforts

Letters of Agreement

In FY 2014, the Agency and the Ministry of Foreign Affairs and Human Mobility of Ecuador signed a Letter of Agreement (LOA) designed to strengthen their collaborative efforts to provide Ecuadorian workers, their employers, and Ecuadorian business owners in the United States with information, guidance, and access to education regarding their rights and responsibilities under the National Labor Relations Act.

Under this LOA, the NLRB and the Ecuadorian Embassy in Washington, D.C., as well as NLRB Regional Offices and Ecuadorian Consulates nationwide, will cooperate to provide outreach, education, and training, and to develop best practices.

Technology Advances

Next Generation Case Management (NxGen)

The Agency's enterprise case management system, a major part of Strategic Goal 4 achievements, 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 built to replace 11 separate legacy systems and integrate into a single unified solution that leverages multiple technologies. This is the most comprehensive technology project ever undertaken at the NLRB, and its success is essential to the Agency's mission. The NxGen system is presently being used by the:

- General Counsel's fifty-one Field Offices
- General Counsel's Office of Appeals
- General Counsel's Division of Advice
- Appellate Court
- Division of Judges
- Board Offices

Further, it is being used for:

- Integration with the Board's collaborative Judicial Case Management System (JCMS)
- Electronic issuance of Board and Division of Judges Decisions and electronic delivery of case documents to parties
- Processing incoming electronically-filed documents, including hearing transcripts and exhibits, and reporting and analytics
- Presenting case status and data on the public web site

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 Congressional and Public Affairs Office in Headquarters, board agents in the field provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2014, the Agency's 51 Field Offices received 78,730

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 2014, the toll-free telephone service received 36,423 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 events sponsored by law schools, the American Bar Association, the Chamber of Commerce, and various employer, union and worker advocacy 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 foreign consulates. Agency employees also visited schools, community centers, 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 in televised or radio public talk shows, and make presentations in their local communities.

The NLRB continues to reach out to 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. The public web site contains Agency publications about the NLRA and processes translated into Spanish, Chinese, Creole, Korean, Russian, Somali and Vietnamese. The number of electronic document templates available in Spanish continues to increase and the 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 former 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 engaged in interstate commerce. During Fiscal Year 2014, the public filed 21,394 unfair labor practice charges of which 35.2 percent were found to have merit. Also, in FY 2014, the NLRB received 2,652 representation petitions, including 2,507 petitions to conduct secret-ballot elections in which workers in appropriate units 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 seven 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:

Supply Technologies, 18-CA-019587

The Region closed this case this fiscal year after the Employer agreed to pay backpay in the amount of $960,557 to 20 employees, most of whom were Hmong and most spoke little English. The Board found that they were unlawfully terminated for refusing to sign an alternative dispute resolution agreement, whereby the employees were required to waive their rights to file Board charges.

Avis Budget Group, Inc. and Eddisons Facility Services, Ltd., 18-CA-117054 and 18-CA-117061

After complaint issued, but prior to the unfair labor practice hearing, the Region negotiated an informal settlement agreement with the employers whereby they agreed to offer jobs to 161 employees, agreed to recognize Teamsters Local 120 as the employees' collective bargaining agent, and agreed to pay a total of $550,000 in backpay, in order to resolve allegations that the two were joint and successor employers, who refused to hire the predecessors' workforce in order to avoid recognition and bargaining with Local 120. The location of the dispute was the Avis rental car location at the Minneapolis airport where the work group consisted largely of immigrant employees, many from Somalia.

Jersey City Medical Center, 22-RD-123008 and 22-CA-099042, et al.

The Region issued a complaint alleging that the Employer had engaged in direct dealing; implemented its final offer without first reaching impasse; suspended an employee; terminated two additional employees; transferred a fourth employee to a non-unit position; reassigned a fifth employee whom it subsequently discharged; significantly aided in decertification efforts by allowing an employee to use its email system to send out anti-Union messages granting an employee access to its facility

during non-working hours to solicit signatures for a decertification petition; failed to provide requested information to the Union; polled employees; withdrew recognition from the Union and failed and refused to bargain with the Union. After the complaint issued, the Region assisted the parties in reaching a settlement resolving all outstanding charges and placing the bargaining process back on track, including ratification of a new collective bargaining agreement.

Nasaky, Inc. d/b/a Yuba Skilled Nursing Center, 20-CA-068854

An Administrative Law Judge found that the successor employers unlawfully refused to hire many of the predecessor's employees in order to avoid a bargaining obligation with the union. The Board agreed and ordered a comprehensive remedy, requiring the successor employers to offer jobs to the predecessor's employees, to restore terms and conditions of employment that existed before they assumed control of the business, to recognize and bargain with the union, and to pay backpay. The Agency's San Francisco Regional Office commenced an extensive compliance investigation and hearing, which led to the successor employers agreement to pay $1 Million to more than 100 current and former employees.

American Red Cross, 33-CA-015821 et al.

A unit of blood collection specialists was certified in 2010; however the employer refused to bargain and engaged in a series of unilateral changes involving, among other things, suspending employees' merit pay and discontinuing matching contributions to employees' 401(k) plan without bargaining with the new union. The Region obtained an injunction, pursuant to Section 10(j) of the Act, that required the employer to cease and desist from making unilateral changes to its bargaining unit employees' terms and conditions of employment, rescind its unilateral suspension of their merit pay increases and reinstate its merit pay program. The U.S. Court of Appeals ordered respondent to restore all unilaterally changed terms and conditions of employment. Thereafter, the parties agreed to a global settlement resulting in a collective-bargaining agreement of three year's duration, resolution of unilateral changes, and provided for compensation to employees, including payment of $678,000 in lump sum payments, and an increase in wages over the three-year contract all valued by the parties to be in excess of $1 Million.

Goya Foods of Florida, 12-CA-019668 et al.

The Tampa Regional Office approved a Compliance Agreement, which provided for the payment of over $3 million in backpay to reimburse employees of Goya Foods of Florida in two bargaining units for unilateral changes. This resolution came after four unfair labor practice trials were held over a span of 7 years, in which 25 individual charges were litigated. The unilateral changes, which were resolved in September 2014, included changes in medical plans, elimination of the pension plan, changes in the routes of drivers and salesmen, and an increase in the use of employment agency (contractor) drivers. In addition to backpay, the Compliance Agreement includes provisions requiring reinstatement of a defined pension plan and an increase in the number of bargaining unit drivers.

Rotek, 08-CA-098231; 08-CA-099704; 08-CA-105106; 106672; 08-CA-115287;08-CA-122169

Central to this matter was the allegation that the Employer unlawfully refused to provide the Union with requested financial information after claiming an inability to pay and that this refusal foreclosed reaching a lawful impasse, which made the Employer's implementation of its last, best and final offer unlawful and caused the strike to be an unfair labor practice strike. The parties reached a settlement in late July 2014, which includes a return to work agreement, as well as a new four-

year collective-bargaining agreement. On August 3, 2014, the membership ratified the agreement.

Fresh & Easy Neighborhood Market, Inc., 28-CA-064411

The Board found that an employee was engaged in protected concerted activity for the purpose of mutual aid or protection when she copied allegedly sexually offensive material, which was written about her on a whiteboard in the employee break room, and asked other employees to sign the document to attest to the contents of the message in connection with her complaint to management about the message's sexually offensive nature. Several other employees signed the document. The Board explained that to be protected under Section 7 of the NLRA, an employee's conduct must be concerted in nature and it must be undertaken for the purpose of mutual aid or protection. The Board found that by approaching other employees for help in protesting the appearance of sexually degrading material next to her name on the whiteboard, she effectively was invoking federal or state law protections that implicated the rights of other employees, even though the act of sexual harassment was "seemingly directed at her alone."

Three D, LLC d/b/a Triple Play Sports Bar and Grille, 34-CA-012915 and 34-CA-012926

The Board unanimously found that the employer violated Section 8(a)(1) of the Act by unlawfully discharging two employees for their protected, concerted participation in a Facebook discussion in which they complained about perceived errors in the employer's tax withholding calculations. One of the discharged employees was terminated for selecting the "like" option in response to a Facebook posting. The other referred to the company co-owner with an expletive. In finding the unlawful discharges, the Board stated that the test set out in *Atlantic Steel,* by which the Board determines whether an employee loses the Act's protection for opprobrious workplace conduct occurring during otherwise protected activity, is not well-suited to address statements involving employees' off-duty, off-site use of social media to communicate with other employees or with third parties. Rather, the Board assessed the comments under the standard set forth in the *Jefferson Standard* and *Linn* cases and concluded that the statements were neither disloyal nor defamatory under that standard and did not lose the Act's protection. A majority of Board members additionally found the employer "Internet/Blogging" policy unlawful because the handbook rule's prohibition of inappropriate discussions on the internet was vague, and employees would reasonably read it to prohibit discussions relating to their terms and conditions of employment, especially in light of the unlawful discharges.

Pressroom Cleaners, (34-CA-071823)

The Board returned to its earlier policy on how to remedy unilateral changes made by a successor employer that unlawfully refuses to hire the predecessor's union-represented employees. The Board initially found that the employer violated Section 8(a)(1) in making nonunion statements; Section 8(a)(3) and (1) by discriminatorily refusing to hire six employees of the employer's predecessor, because of their union affiliation; and that, as the statutory successor, the employer violated Section 8(a)(5) and (1) by unilaterally imposing new terms and conditions of employment on the employees it hired. The Board then reversed a 2006 ruling that gave the successor the opportunity in compliance to limit its liability by showing that, even absent its unfair labor practices, it would not have agreed to the monetary provisions of the union's contract with the predecessor. The Board returned to its previous approach, holding that the predecessor's terms and conditions of employment should continue until the parties bargained to agreement or impasse. The Board noted that the 2006 ruling allowed an employer to mount a defense through what amounted largely to speculation about bargaining that never occurred.

Kellogg Company – Case 15-CA-115259

Pursuant to a 10(j) injunction request, a district court ordered Kellogg to end a 10-month lockout, returning 225 employees to work, and to bargain in good faith with the Union that represents them. The dispute began when Kellogg and the Bakery, Confectionery, Tobacco Workers and Grain Millers Union Local 252-G were negotiating a new local agreement covering its Memphis employees. Kellogg proposed several provisions aimed at substantially expanding its use of casual employees at the Memphis facility. The Union refused to discuss any proposals aimed at expanding the use of casual employees because those proposals were mid-term modifications that would contravene the provisions guaranteeing the employment of regular employees as codified in the parties' Master agreement.

NLRB v. HH3 Trucking, Inc., 33-CA-014671

In HH3 Trucking, Inc., the United States Court of Appeals for the Seventh Circuit ordered that the company's owners pay approximately $190,000 in backpay owed to four employees, or face being taken into federal custody. In doing so, the court rejected HH3 Trucking's defenses, specifically its efforts to protect funds received from one of the owner's pension funds, and joined the majority of circuit courts of appeals in holding that the Employee Retirement Income Security Act (ERISA) "deals with how pension plans administer the funds in their charge," but makes no provision for what happens to the money after the plan distributes it to beneficiaries.

The case is the culmination of continued efforts by the Contempt, Compliance, and Special Litigation Branch to secure HH3 Trucking's compliance with earlier Seventh Circuit Orders, including one finding it to be in contempt. When the owners failed to comply with the contempt order, the Court issued a writ of body attachment ordering them to be held in custody until they complied or demonstrated their inability to do so.

LB&B Associates, Inc., Dae Sung LLC, and FTSS Joint Venture, 16-CA-113057 and 16-CA-123586

The NLRB's Region 16, Fort Worth office determined that LB&B Associates, Inc., Dae Sung LLC, and FTSS Joint Venture (the employer), who provide flight simulator services at the Naval Air Station Joint Reserve Base in Fort Worth, TX, violated the National Labor Relations Act when, among other things, it unilaterally and discriminatorily eliminated a job position and created new job positions at significantly reduced wage rates thereby causing three employees to resign and a fourth to work in a new position for less pay.

Because of the serious nature of these alleged violations, the NLRB filed for temporary injunctive relief seeking restoration of all contractual terms and reinstatement of the three employees in order to protect the statutory rights of the employees, reverse the erosion of employee support for the Fort Worth Simulator Employees Union caused by the Employer's unlawful acts and safeguard the integrity of the collective bargaining process.

Shortly thereafter, the parties settled the matter whereby the Employer agreed to restore the terms of the collective-bargaining agreement, to return the one employee to her former job position at the higher wage rate, and to pay the three who waived reinstatement backpay totaling about $105,000. The Employer also agreed to post a notice in its workplace and to read the notice to its employees to ensure that they understood their rights under the Act.

Wheeling Corrugated Company, 09-CA-102875

When the Wheeling Corrugated Company (Wheeling), a roofing and siding business in

Louisville, Kentucky, went bankrupt in 2012, World Class Corrugating, LLC (the Company) purchased some of their assets in a bankruptcy proceeding. World Class Corrugating, LLC began similar operations and employed Wheeling's managers and supervisors. However, in order to avoid a bargaining obligation with International Brotherhood of Teamsters (IBT), General Drivers, Warehousemen & Helpers, Local 89 (the Union), which was the collective-bargaining representative of Wheeling's unit employees, it directed a temporary hiring agency to ensure that former employees of Wheeling were not hired in numbers such that they would comprise a majority of the new World Class Corrugating workforce. Further, when the Union sought recognition, the Company refused to recognize or bargain with it and unilaterally changed the employees' terms and conditions of employment, including making changes to their health and retirement benefits.

After the Board authorized seeking Section 10(j) injunctive relief, which, if so ordered by the district court, would have required the Company to stop its alleged unlawful conduct, to hire Wheeling unit employees, and to recognize and bargain with the Union, the parties settled the matter. Based thereon, World Class Corrugating agreed to hire or place on a preferred hiring list 18 employees who had previously worked for Wheeling, to pay nearly $120,000 in backpay, to pay more than $11,000 in reimbursement for expenses incurred by the workers as a result of the company's conduct, and to provide the workers with retroactive pension fund contributions. Notably, successful bargaining between the Company and the Union led to a mutually acceptable collective bargaining agreement that is currently in effect at the workplace.

Statistical Highlights

- The Board issued 248 decisions in contested cases in FY 2014, 205 ULP cases and 43 representation cases.
- 95.7 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 1,216 complaints, setting the cases for hearing.
- A 93.4 percent settlement rate was achieved in the Regional Offices in meritorious ULP cases.
- The Regional Offices won 85 percent of Board and ALJ ULP and Compliance decisions in whole or part in FY 2014.
- [4]A total of $44,653,458 was recovered on behalf of employees as backpay or reimbursement of fees, dues, and fines with 3,240 employees offered reinstatement.
- The Agency received 78,730 inquiries through its Public Information Program in FY 2014.
- The Agency received 36,423 calls through its toll-free number in FY 2014.
- The Division of Judges closed 186 hearings and issued 219 decisions in FY 2014.
- The Division of Judges achieved 512 settlements in cases on its trial docket.

4 Correction to the 2013 reported statistics for the backpay: A total of $110,157,720 was recovered on behalf of employees as backpay or reimbursement of fees, dues and fines with 2,729 offered reinstatement.

Performance

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 mission-related 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. The two support goals further enable the Agency to accomplish its mission.

The 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 one comprehensive Strategic Plan and Performance and Accountability Plan.

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. While creating the updated strategic plan for FY 2014 to FY 2018, the Agency used the goals from the previous strategic plan, two mission-related goals, as the foundation to build upon the traditional performance measurement approach that emphasizes individual segments of case processing to promote timely, efficient, and well-managed casehandling. The Agency then established two support goals that give a broader picture of how the Agency achieves its mission. The strategic goals, performance measures and management strategies attempt to answer the question most important to the public:

How well does the Agency succeed 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 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, noting that the Agency cannot sua sponte investigate actions of an employer or labor union without a charge being filed, the NLRB established two performance measures. 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 performance measures.

The tables and narratives in this section show the proposed annual targets for performance measures and management strategies for the five-year period covered by the current Strategic Plan (2014-2018). The actual results achieved for FYs 2009, 2010, 2011, 2012 and 2013 can be found in Appendix C. This section also documents the performance regarding the management strategies for the support goals.

Strategic Goal 1 (Mission): Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act.

Objectives:

1. Achieve established performance measures for the resolution of unfair labor practice charges.
2. Ensure that all matters before the Agency are handled in a fair and consistent manner.

Initiatives:

1. Achieve established performance measures for the resolution of all meritorious unfair labor practice charges.
2. Achieve established performance measures for the resolution of all unfair labor practice charges.
3. Conduct annual quality reviews of Regional unfair labor practice case files and institute modifications to case processing as appropriate.

Performance Measures:

1. The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment within 365 days of the filing of the ULP charge.
2. The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order or Court judgment within 120 days of the filing of the charge.

Management Strategies:

- Maintain and enhance alternative decision-making procedures to expedite Board and ALJ decisions in unfair labor practice cases.
- Utilize Compliance Unit to identify and coordinate compliance in merit cases.
- Maintain and enhance existing interregional assistance programs to ensure that unfair labor practice cases in offices with backlogs are transferred to offices with available staff.
- Share best practices in unfair labor practice processing to assist regions in resolving unfair labor practice case issues promptly and fairly.

Measure: The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order or Court judgment 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 reinstatement and the payment of backpay, to make whole those injured by the ULP.

Once a Regional Director has determined a ULP charge has merit, a complaint issues and, absent settlement, the case is scheduled for a hearing before an ALJ. Settlement efforts continue throughout the course of the litigation. The vast

majority of 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 or a reviewing court, or in extreme cases, in contempt 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 U.S. Courts of Appeal.

In FY 2014, the NLRB closed 83.9 percent of all prosecutable ULP cases in 365 days from the docketing of the charge, exceeding the FY 2014 goal of 82.5 percent by 1.4 percent.

GOAL NO. 1, TABLE 1
Percentage of ULP Cases Closed on Compliance Within 365 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	82.5%	82.5%	82.6%	82.7%	82.8%
ACTUAL %	83.9%				

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

Measure: The percentage of all unfair labor practice charges resolved by withdrawal, dismissal, settlement or compliance with a Board order or Court judgment within 120 days of the filing of the charge.

This measure focuses on the time taken to resolve any 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. If a charge is found to have no merit, which occurs in about 2/3 of the cases, it is dismissed if the charging party does not withdraw it. A dismissal can be appealed to the General Counsel. If a charge is found to have merit, complaint issues, unless a settlement agreement is approved. If a case is not settled, but fully litigated before an ALJ, the Board will issue an order, which may be enforced or appealed in a U.S. Court of Appeals.

A ULP case is resolved and closed when it has been completely processed, such that the charge allegations are addressed, and, where appropriate, remedied. There is no further action to be taken by the Agency.

In FY 2014, the NLRB closed 72.3 percent of all ULP cases within 120 days of the docketing of the charge, meeting the exact goal FY 2014 goal of 72.3 percent.

GOAL NO. 1, TABLE 2
Percentage of ULP Charges Resolved Within 120 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	72.3%	72.3%	72.4%	72.4%	72.5%
ACTUAL %	72.3%				

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

Management Strategies: In addition to the Quality Review Program of the Division of Operations-Management, which is highlighted in the Program Evaluation section on page 66, the following steps are taken to ensure that all matters before the Agency are handled in a fair and consistent manner:

- Operations-Management and the Division of Enforcement Litigation actively work with the Regions to indentify cases pending before the Board that are suitable for resolution through the Board's Alternative Dispute Resolution (ADR) program.
- The Compliance Unit reviews ALJ decisions, Board decisions and pending Board ADR and court mediation proceedings promptly to ensure that the Region has the resources necessary to deal with difficult or challenging compliance issues. Additionally, the Compliance Unit conducts an on-going review of the compliance inventory, including current and overage cases and plans of action, with Regional offices to determine whether there are new or different options that should be explored or chosen to expedite the calculation of backpay or whether the region may need any assistance or additional resources. The assistance may range from assigning a person to be available for consultation to having another person or team, either in Headquarters or in another Region, perform all of the work or a particular task in the case, after considering the region's interests, needs and resources.
- OM 14-56 Interregional Assistance Program *http://insider.nlrb.gov/welcome-division-operations-management/om-memos*
- GC Memo 14-01 Mandatory Submissions to Advice *http://mynlrb.nlrb.gov/link/document.aspx/09031d45815e44c6*
- ICG 14-04 Litigation Review and Comprehensive Report on Wins and Losses *http://insider.nlrb.gov/sites/default/files/documents/users/user166/icg_14-04_fy_2012_litigation_review_and_comprehensive_report_on_litigation_wins_and_losses.doc*
- Field Manual of Casehandling Memoranda – an index of all the outstanding Operations, ICGs (Internal Casehandling Guidance, and GC memos. *http://insider.nlrb.gov/sites/default/files/documents/users/user129/field_manual_of_casehandling_memoranda.docx*

Strategic Goal No. 2 (Mission): Promptly and fairly resolve all questions concerning representation of employees.

Objectives:

1. Achieve established performance measures for the resolution of all questions concerning representation of employees.
2. Ensure that all matters before the Agency are handled in a fair and consistent manner.

Initiatives:

1. Achieve established performance measures for the resolution of representation cases.
2. Conduct annual quality reviews of Regional representation case files and institute modifications to case processing as appropriate.

Performance Measures:

1. The percentage of representation cases resolved within 100 days of filing the election petition.

Management Strategies:

- Maintain and enhance alternative decision-making procedures to expedite Board decisions in representation cases.
- Maintain and enhance existing interregional assistance programs to ensure that representation cases in offices with backlogs are transferred to offices with available staff.
- Identify and utilize procedures to ensure careful and timely processing of Requests for Review, Special Appeals, and Hearing Officer Reports.
- Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.

Measure: The percentage of representation cases resolved within 100 days of filing the election petition.

This measure 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, employee, 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, as opposed to a Regional Director directing an election, if appropriate. This measure reflects the percentage of representation cases closed within 100 days. A case is closed when 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, such as lack of sufficient support among the bargaining unit.
- The majority of cases are resolved upon issuance of either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election).
- In some cases, there are post-election challenges or objections to the election. The case is not closed until the challenges and/or objections have been resolved.

In 2014, the NLRB exceeded its goal for FY 2014 of 85.3 percent by 2.8 percent to close all representation cases within 100 days from the filing of the petition.

GOAL NO. 2, TABLE 1
Percentage of Representation Cases Resolved Within 100 Days

YEAR	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TARGET	85.3%	85.4%	85.5%	85.7%	85.8%
ACTUAL %	88.1%				

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

Management Strategies: The Quality Review Program of the Division of Operations-Management, as well as the Board Side Office of Representation Appeals and the Office of the Executive Secretary, which is highlighted in the Program Evaluation section on page 66, ensures that all representation matters before the Agency are handled in a fair and consistent manner.

Strategic Goal 3 (Support): Achieve Organizational Excellence

Objectives:

1. Recruit, develop, and retain a highly motivated, talented, and diverse workforce to accomplish our mission.

2. Promote a culture of professionalism, mutual respect, and organizational pride.

Initiatives:

1. Invest in and value all employees through professional development, workplace flexibilities, fair treatment, and recognition.
2. Develop and implement recruitment strategies to ensure a highly qualified and diverse workforce.

1. Improve employee satisfaction and employee engagement.
2. Ensure that employees are aware of the Agency's mission and how they contribute to its accomplishments.
3. Cultivate and promote Agency programs that encourage collaboration, flexibility, diversity and mutual respect to enable individuals to contribute to their full potential.

Management Strategies:

- Maintain a current human capital plan that includes human capital goals, objectives, and strategies and a workforce plan that is consistent with the Human Capital Assessment and Accountability Framework (HCAAF) of the Office of Personnel Management (OPM).
- Ensure that the Agency's performance management system is results-oriented and aligned with the Agency's goals and objectives.
- Demonstrate significant improvement in OPM's assessment of the Agency's performance management system.
- Ensure that managers collaborate with the Agency's employees and unions to implement Agency policies and collective bargaining agreements concerning workplace flexibilities.
- Reduce the number of pending background investigations by 20 percent each year.
- Enhance employee development and learning opportunities through Skillport, Training Tuesdays, and other blended media.
- Identify, through updating the workforce plan, core competencies for managers and actions necessary to close skill gaps as required by OPM.
- Comply with OPM's hiring reform, which tracks time spent to fill vacancies.
- Identify areas in which the Agency can enhance its diversity and talent through annual analysis of MD-715 guidance.
- Attract qualified and diverse applicants, including veterans and persons with disabilities, by following OPM and Equal Employment Opportunity Commission (EEOC) guidance and utilizing best practices of similar agencies.
- Establish working relationships with veterans groups and Department of Veterans Affairs and Department of Labor veterans programs to ensure that outreach efforts to veterans are consistent with OPM, congressional and Presidential directives.
- Improve internal communications, Identify and implement strategies to increase the number of employees who respond to the Federal Employee Viewpoint Survey.
- Identify and implement strategies to increase the percentage of Federal Employee Viewpoint Survey responders who are satisfied or very satisfied.
- Develop a collaborative program to encourage employee creativity and innovation, including the Agency's suggestion program.
- Utilize internal and external recognition programs to acknowledge employee contributions. Review and enhance the employee on boarding program.
- Ensure that each employee is provided with a performance plan and a clear understanding of management's expectations.
- Enhance publicity of significant organizational accomplishments.
- Demonstrate leadership accountability, commitment, and involvement regarding diversity and inclusion.
- Involve employees as participants and responsible agents of diversity, mutual respect and inclusion.
- Encourage participation in special emphasis observances.

FY 2014 is the first year that the Agency is reporting on this goal. The success of an organization can be measured in how effectively it achieves the goals it has established for itself. Organizational Excellence ensures all organizational systems are aligned and functioning cohesively together. Continuous commitment to organizational excellence provides the tools to aggressively enhance the organization's product/service, which in turn will assist it in building loyal customer relationships. Accomplishments in FY 2014 include:

Management Strategies

Objective 1: Initiative 1

- The Division of Administration (DofA) established a Human Capital Planning Section (HCPS) to administer the Agency's human capital management program. The draft Plan containing human capital goals, objectives, and strategies is expected to be completed in the first quarter of FY 2015.
- Office of Human Resources (OHR) partnered with OPM's Human Resources Solutions to pilot "USA Performance", a newly developed automated web-based performance appraisal system tool. It is designed to streamline the manual performance management process and increase visibility and transparency in performance management process. The use of USA Performance aligns performance plans with strategic goals, and ensures compliance with Federal performance management regulations. The pilot began in June 2014, with performance of senior executives and the next phase will involve GS and prevailing grade employees.
- OHR meets regularly with Headquarters and field managers to assist in collaborative efforts with employees and the unions on a variety of workplace issues such as maxiflex, telework, and performance management programs.
- DofA's Security branch was successful in reducing the reinvestigation backlog to approximately 750 from 1,018. The Agency expects the office to remain on target to complete the 20 percent goal, listed in the management strategies above, next year.
- The DofA's Office of Employee Development (OED) expanded Skillport training software; electronically organized its developmental resources for Field Agents, including instructor modules, videos and narrative resources; developed prototypes and piloted user- friendly online training for board agents; provided teambuilding to consolidated regions; and presented a 12-hour course on the Seven Habits of Highly Effective People to new Regional directors and a 90 minute workshop on "Promoting a Culture of Personal Accountability" that dealt with how to motivate people to take ownership of their work, an important skill for managing teleworkers.

Objective 1: Initiative 2

- OHR began developing a Quality Assurance and Quality Control Unit to assess and improve the accountability process. The following action steps will be taken as a result of OPM's hiring reform:
  - Evaluate current designated examining authority and merit promotion hiring timeframes;
  - Identify the impact of negotiated agreements on hiring timelines;
  - Analyze and recommend methods for measuring improvement in timeliness;
  - Develop a schedule to meet hiring timeliness;
  - Identify actions needed to address barriers;
  - Prioritize occupations within respective divisions;
  - Train OHR staff on all tools available through USA staffing.
- OHR has also begun working with stakeholders to standardize over 1,300 of the Agency's position descriptions.
- The Agency's Office of Equal Employment Opportunity (OEEO) timely submitted the Agency's annual MD-715 report for Fiscal Year 2013 to the EEOC, which provides a demographic analysis of the Agency workforce by gender, race,

national origin, and disability, in all stages of employee life (e.g., hiring, grade level distribution, training, promotions, separations).

- OEEO also provided a State of the Agency report to senior leadership to assist with strategies and enhance the diversity of our workforce.
- OEEO and OHR initiated a collaborative work group to develop a Strategic Recruitment Plan for the Agency. As part of that plan, OEEO posted to its web page recruitment resources for reaching out to diverse student populations of African American, Hispanic, Asian American and Pacific Islander, and Native American populations. It also sent email communications to these resource organizations promoting recruitment through the Agency's Honors Attorneys program. OEEO is also developing the Special Emphasis Program Manager role for each of these populations, as well as for disabled employees and veterans, to enhance the Agency's outreach initiatives to these communities.
- The Agency also hired a Disability Coordinator, who maintains applications for applicants that have contacted the Agency to be considered for employment under the "Schedule A" Hiring Authority, and OHR plans to host a number of training presentations for managers and supervisors on "Schedule A" Hiring, as well as on the Selective Placement Program.

Objective 2: Initiative 1

- DOFA's Security Branch made improvements to its web pages, such that employees can find a host of information on physical security, personnel security, continuity of operations, classes offered by Department of Homeland Security, and policies from the Interagency Security Committee, and OPM Federal Investigative Service. Further, an Administrative Policies and Procedures Manaual (APPM) on Personnel Security was updated and published and one on Physical Security is in draft form.
- DofA's Facilities and Property Branch (FPB) developed an extensive Communication Plan that continues to inform employees about the Headquarters relocation, including managing expectations related to the cultural transition to a reduced-space work environment, and it provided physical tours. The project, which is dubbed "Total Workplace Solutions," also includes a web page devoted to all aspects of the new relocation including timing, neighborhood businesses, furniture, technology and other requirements.
- In addition, FPB established a Headquarters Space Advisory Committee, which includes representatives from all Divisions and both employee Unions, to communicate updates on the new Headquarters Space Initiative and keep employees throughout the workforce informed on the latest project information.
- HCPS launched a Human Capital web page in order to provide a platform to distribute a wealth of information and guidance about NLRB's human capital planning efforts.
- HCPS received and analyzed the 2013 Federal Employee Viewpoint Survey results and provided an executive level briefing to Senior Management and is in the process of doing the same with the recently published FY 14 FEVS results.
- OHR developed the Honorary Awards program, where a number of employees were acknowledged during an awards ceremony, and it implemented a regular schedule for providing service awards.

Objective 2: Initiative 2

- OHR benchmarked other agencies to identify ways to improve the on boarding program, and, along with Senior Managers, revamped the Agency's on-boarding process.
- OHR provided one-on-one and group instructions to managers to assist them in providing guidance in understanding their role in communicating expectations to Agency employees on performance management.
- The former Director of Administration produced a quarterly Significant Happenings Report to report

the work of the employees within the Division to senior management, and planned a Division-wide Recognition Day to celebrate the work of the Division and foster camaraderie, which was attended by the General Counsel, Deputy General Counsel, and Board Members.

Objective 2: Initiative 3

- The following policy statements were released to Board agents in 2014: Equal Employment Opportunity Policy Statement; Policy Statement on the Prevention of Unlawful Harassment, Including Sexual Harassment; Alternative Dispute Resolution (ADR) Policy Statement; and the Diversity and Inclusion Policy Statement.
- The MD-715 was timely submitted electronically in first quarter of 2014 calendar year to the EEOC providing FY 2013 information.
- The NLRB offered Agency-wide diversity training, which was mandatory for managers and supervisors, on Transgender in the Workplace in 2012, made the sessions available on the OED web site, and issued a related Agency-wide memo.
- With encouragement from senior leadership, the OEEO, OHR, and OED have partnered to develop a more robust diversity and inclusion training program. In furtherance of this goal, senior leaders and representatives from various divisions have attended and accessed external programs.
- In 2003, the Agency established a mentoring program on the General Counsel-side for newly-hired and newly-transferred professionals and support staff in order to support the mandate that the Agency have workforce that reflects the diversity of our Nation. In FY 2014, the General Counsel asked that the program be revamped and the Mentoring Committee is working on doing so, including exploring best practices in mentoring at other federal agencies.
- The OEEO relies on the Agency's cadre of collateral duty Special Emphasis Program Coordinators (SEPCs) to assist the Agency in its efforts to build and maintain an inclusive work environment. OEEO conducted four one-hour videoconference training sessions in 2013 and 2014. The training supports the SEPCs in carrying out their responsibilities and duties and also provides a forum to share ideas and best practices.
- OHR has educated and encouraged management to utilize the Local Veterans Employment Representative Program to recruit for various positions. As a result, the Agency has hired at least eight veterans this fiscal year through the program.

Strategic Goal No. 4 (Support): Manage agency resources in a manner that instills public trust

Objectives:	Initiatives:
1. Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the Agency's mission and increase transparency.	1. Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system. 2. Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency. 3. Effective management of fiscal resources.
2. Evaluate and improve the Agency's outreach program.	1. Enhance Agency's outreach program.
3. Conduct all internal and external Agency business in an ethical and timely manner.	1. Promote an ethical culture within the NLRB through leadership, awareness, resources, and oversight. 2. Respond to internal audits in a timely manner. 3. Respond to external audits in a timely manner. 4. Respond to FOIA and other public inquiries in a timely manner.

Performance Measures:

- Complete the deployment of the Next Generation Case Management System (NXGen), replacing 11 separate legacy systems, to all Agency mission offices during FY 2015.
- Increase the rates of electronic service, delivery, and filings, thereby reducing the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations.
- Increase the information shared electronically with the public, making the Agency's case processes more transparent.
- Streamline the Agency transactional processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time.
- Create a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all location including the office, at home and on the road by FY 2016.
- Create a dynamic social collaborative environment for employee engagement.
- Produce financial reports as required by OMB, Treasury, and Congress.
- Conduct annual training of allowance holders.
- Conduct training for new allowance holders within 90 days of on boarding.

- Increase transparency in enterprise financial reporting.
- Increase use of strategic sourcing, purchase card program, and insourcing to minimize waste and abuse.
- Increase number of awards given to minority business enterprises.
- Involve Agency leadership promoting visibility of NLRB Ethics Program.
- Increase employee awareness of ethics responsibilities by maintaining an education program that reaches all NLRB employees at all levels.
- Respond to 85 percent of ethics inquiries within 5 days of receipt.
- Review and certify financial disclosure reports within 60 days of receipt and notify fliers of real or potential conflicts.
- Use technology to improve financial disclosure reporting and review process.
- Prepare response to internal audit reports as required by the auditor, meeting the deadlines specified in the reports.
- Prepare response to external audit reports as required by the auditor, meeting the deadlines specified in the reports.
- Respond to initial FOIA requests within 20 working days.
- Seek a statutory extension for less than 15 percent if requests.
- Respond to statutory appeals within 20 working days.
- Seek a statutory extension for less than 20 percent of appeals.

Management Strategies:

- Focus on most critical business needs first.
- Split projects into smaller, simpler segments with clear deliverables.
- Employ ongoing, transparent project oversight from the NxGen and Administrative Systems Integrated Project Teams.
- Increase information sharing in the Agency through mechanisms that are easy for employees to contribute to and access.
- Employ further non-traditional outreach to immigration and youth populations.
- Engage with organizations to better educate workers and employers such as joint outreach with sister agencies.
- Focus on Protected Concerted Activity vs. Union Activity.

FY 2014 is the first year that the Agency is reporting on this goal. Federal employees are charged with managing programs and Federal funds in an efficient and effective manner. As stewards of these Federal funds, the Agency is making every effort to instill public trust. Accomplishments In FY 2014 include:

Objective 1: Initiative 1

Measure:

- The Agency's enterprise case management system, Next Generation Case Management System (NxGen), was made to replace 11 separate legacy systems and integrate into a single unified solution that leverages multiple technologies.

NxGen presently manages:

Internal users	1,350
Cases	263,355 (+10%*)
Case Actions of the Agency	766,343 (+27%*)
Documents, images, and videos, each linked to its Action and Case	4,678,794 (+47%*)

* All percentages are year-over-year calculations

Measure:

- The Agency soon will complete the consolidation of its separate legacy case tracking systems into an enterprise case management solution, a success that is rare within the Federal government. The last remaining Agency Office, the Contempt, Compliance, and Special Litigation Branch, will be migrated into NxGen beginning in the first quarter of FY 2015.

Measure:

- In FY 2014, the Agency expanded its electronic distribution of case documents with an E-Delivery pilot involving six Regions, one party (USPS) and new 10 document types. The pilot recently has been expanded to two document types for all Regions. To date, 2,101 documents have been sent to the USPS electronically, resulting in notable savings to the NLRB and a great convenience to the USPS.

[10/1/2013-9/30/2014]

Number of E-Filings Received	29,127 (+15%*)
Number of Documents Received	43,031 (+13%*)
Number of Board and ALJ Decisions E-Served	737
Total Number of parties E-Serviced Decisions	55,191 (+3%*)
Number of E-Deliveries of Case Documents	2,101 (new process)

* All percentages are year-over-year calculations

Measure:

- The NLRB is committed to achieving the goals set forth in the President's Open Government Directive. The three principles of transparency, participation, and collaboration inform current and future plans for the Agency's information systems. With the nearly complete implementation of the NxGen, the Agency is able to provide improved information regarding its cases and significantly increase the number and type of case documents made available to the public. In FY 2014, the Agency also made substantial progress towards a new external search interface and public data warehouse that will continue to deliver on the goals of Open Government.

Number of NLRB Document Types Available for Public Access	197
Total Number of Case Documents Available for Public Access	346,109

Please see *http://www.nlrb.gov/open/public-documents* for a list of the document types available to the public.

Objective 1: Initiative 2

Measure:

- In FY 2013, 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 focused on streamlining business processes through forms automation with workflow and routing.
  - As an example of these efforts, and to support the Agency's new Collective Bargaining Agreement, the Administrative Systems team recently completed the development of and is piloting a comprehensive solution to automate the processes for requesting, routing

and approval, and reporting for the following schedules: Telework, Alternate Work (e.g., Gliding Flex, Maxi Flex and 5-4-9), and Leave. Upon approval by a supervisor or manager, the requests are created as items on a shared Outlook calendar for each individual office so that all employees can determine where to contact someone if they are working, but not physically in the office. All approved items are then made available to the individual office's timekeeper for filing, processing and record keeping. Aggregate reports are also available to HR, which will significantly reduce manual data calls that are performed each year in preparation for reports sent to the Office of Personnel Management (OPM).

Measure:

- 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 provides remote access for certain business processes only to Agency laptops, with limited support for mobile and tablet devices.
- The objectives of the Agency's Unified Communication and Collaboration (UCC) effort are 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. The Agency awarded a UCC contract on September 24 and the Agency expects the implementation to take between eight and 12 months. After the initial investments in the UCC build-out 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 anticipates the enhanced services to demonstrably improve administrative efficiencies.

Measure:

- With the increasing requests for collaboration, the Agency embarked upon efforts to implement SharePoint team sites to manage the need for document collaboration, discussion forums, wiki pages, and site mailboxes. Team sites are being created for all departments and divisions so that each office will have a secure place to store documents, create conversations, receive email alerts when changes occur, and collaborate on work products. Additionally, individual team sites are being created to support the various needs of the Agency. For example, to assist with the reduction of printed materials for conferences, team sites were created to review/edit presentations and conference materials and then store all materials to be made available to the participants. Furthermore, the Agency is addressing the need for document collaboration by geographically dispersed employees by providing access to the Office Online applications. This allows multiple employees the ability to simultaneously work on Word, Excel and PowerPoint documents, which provides increased collaboration and avoids confusion with managing multiple versions of documents that then need to be merged together.

Objective 1: Initiative 2

Measure:

- All required reports to external regulatory bodies were prepared in accordance with established time lines.

Measure:

- OCFO has developed a formalized annual training plan for all allowance holders. During FY 2014, finance-related training was held as part of the Office Managers and Field Managers trainings. Topics included Oracle Federal Financial processes, eTravel processes, and Federal Travel Regulations.

Measure:

- The OCFO Budget office has worked closely with the program offices and NLRB Senior Leadership to develop a detailed budget spending plan which serves to inform NLRB management for decision making.

Measure:

- During FY 2015 OCFO Finance Office plans to communicate obligation status reports to program offices through an automated monthly email. The development of the report has been completed within FY 2014 and the automated email generation will begin in FY 2015. This report will help program managers to monitor their budgets at a more detailed level.

Measure:

- The Contracting Officers as well as the purchase card holders utilize the General Services Administration's (GSA), Federal Strategic Sourcing Initiative (FSSI) in the ordering of supplies and services. By doing so, the NLRB has increased its utilization of strategic sourcing from a savings rate of 14.47 percent in FY 2013 to 18 percent. In FY 2014, the NLRB increased its utilization of strategic sourcing higher with a savings rate of 34 percent; yielding a savings of $106,168.

Measure:

- As demonstrated in the chart below, the NLRB increased the percentage of contract awards to small, disadvantaged owned businesses from Fiscal Year 2012 to Fiscal Year 2013 in all categories. During Fiscal Year 2014, the NLRB awarded the Unified Communications contract almost $2M to a large business, which impacted the small business categories. The Acquisition Management Branch will focus on making small businesses the supplier of choice in FY 2015.

Fiscal Year	Total Small Business	Woman Owned	Small Disadvantaged	Veteran Owned
FY 2012	31.3%	7.9%	12.3	3.9%
FY 2013	34.2%	17.9%	7.4%	4.9%
FY 2014	29.2%	12.4%	10.2%	4.4%

Objective 2: Initiative 1

Management Strategies:

- The Agency formed an outreach committee, comprised of board agents from divisions, branches and offices throughout the Agency. The committee continues to explore new modes and methods to educate the public, particularly those, such as youth and immigrant populations, that may be unfamiliar with the Agency and the Act and may be more vulnerable to exploitation due to their lack of knowledge of workplace rights.
- In order to educate more audiences through non-traditional outreach, particularly those prone to exploitation, the Agency is trumpeting successes and recent cases of interest, as well as including human interest stories, so that the public can more easily relate to the information being shared. The CPAO is issuing news releases of recent cases, such as Board and court decisions, settlement agreements, and cases involving injunctive relief or compliance.
- The Agency is invigorating local relationships for joint outreach and local working group forums where there are regular meetings with board agents from other agencies to work on various joint projects/materials. These federal, state and local agencies include, but are not limited to, EEOC, local Human Rights Commissions, Wage and Hour, OSHA, Whistleblower, Unemployment Compensation, and Office of Special Counsel.

Two Headquarters managers are tasked with facilitating quarterly roundtable discussions with Regional outreach coordinators to ensure sharing of best practices/materials. The Agency is also reviewing MOUs entered into decades ago and re-establishing connections with counterparts.

- As to Letters of Agreement, the (LOA) Agency is continuing efforts to reach out to foreign embassies/ministries/consulates and finalize letters of agreement for education of workers and business owners. In FY 2013, the Agency executed an LOA with the Mexican embassy and selective consulates, and in FY 2014, with the Ministry of Ecuador. Efforts to parlay those national agreements into local agreements between Regions and consulates, and to provide materials to Regions for assistance with education per the LOA are ongoing.
- The Agency is culling and editing current outreach materials so that Board Agents have presentations with a uniform brand for Powerpoints and other formats in a central repository for use nationwide.

Objective 3: Initiative 1

Measure:

- Over the past year, the Chairman and General Counsel have jointly promoted several ethics initiatives to all employees and visibly participated in the values-based training program presented in FY 2014. The training engaged employees in discussions of ethical decision making principles and considered how ethical decisions are made within the context of our own personal core values and those of the Agency. The training also stressed personal responsibility in the ethical decision making process.
- The General Counsel and Chairman also increased the staff of the Ethics Branch to ensure that sufficient resources are devoted to the program to facilitate effective program management and outreach to all employees.
- The NLRB Ethics Staff have met with the Board Members and the General Counsel collectively and separately to discuss a range of government and legal ethics issues.
- The NLRB's Designated Agency Ethics Official has full access to Agency leadership and can approach them for assistance when the need arises.
- In addition, the combining of the NLRB's Legal Ethics Program with the Government Ethics Program has provided NLRB employees with a cohesive, comprehensive program, thus raising the visibility of the program among employees. Employees now know that they have one office where they can go with ethics questions and issues, where their questions will be addressed from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- The ethics staff was proactive in expanding the number of training products available to all NLRB employees. They developed a number of one-page, easy-to-read Job Aids designed to help employees identify potential government ethics issues and provide additional guidance where informational gaps might exist. The Job Aids focused on: conflicts of interest, including both financial conflicts and appearance issues; the acceptance of gifts from outside sources; the acceptance from and the giving of gifts to coworkers; the Hatch Act; outside employment; the outside practice of law; and the government's 14 Principles of Ethical Conduct. The Chairman and General Counsel promoted the usefulness of the Job Aids and identified them as a valuable tool for promoting an ethical culture at the NLRB in a memo to all NLRB employees. Job Aids on legal ethics topics have been prepared well.
- The Ethics web page on the NLRB's Intranet was revamped and rebranded as the "Ethical Highway." Through the web page, ethics guidance materials are readily available to all NLRB employees. Articles on ethics appear monthly in the NLRB's employee newsletter, the *All Aboard,* alternating

between legal ethics topics and subjects involving the government's rules and regulations. Monthly tips on legal ethics ("On the Road with the Ethics Code") are issued to the NLRB's Field Offices, and each Region has an ethics coordinator who assists in promoting them.

- The New Employees Ethics Orientation has been converted to an online module in the Agency's learning management system and is assigned to new employees as part of the on-boarding process. Completion of the module can be tracked within the system. This ensures that all new employees receive an orientation to the government's ethics rules and regulations and provides a brief overview of the screening wall that separates the adjudicatory and prosecutorial sides of the Agency. Forty-seven new employees were trained in FY 2014. The module has also been packaged as a refresher course for incumbent employees, which they can access anytime through the same system.
- The Ethics Staff provided in-person briefings on both government and legal ethics to the Agency's summer student interns, student volunteers, and detailees, and will continue to provide briefings at Agency conferences where they can reach large, diverse audiences. In August 2014, an ethics presentation was provided at the NLRB Regional Management Conference in Washington, DC. During the latter portion of FY 2014, the Ethics Staff introduced two ethics training initiatives. In June, they began a new legal ethics training program for attorneys and field examiners in the NLRB's Field Offices that covers skip counsel issues and attorney-client privilege. During the course, Agency employees complete a "Testing Your Knowledge" quiz to test their knowledge in these areas.
- In September, the Ethics Staff launched a training campaign for all Agency employees on the benefits and pitfalls of using email in the NLRB's casehandling process. This training is being presented in weekly broadcasts and uses a variety of delivery methods, such as webcasts, podcasts, and job aids, to convey information. The Chairman and General Counsel promoted the program to employees prior to the launch of the campaign which helped to raise awareness of the importance of the training. In addition, each weekly segment is posted on the "Ethical Highway" page of the NLRB Insider after its initial broadcast.

Measure:

- As of September 30, 2014, 87 percent of ethics inquiries were resolved within 5 business days. Of the 557 inquiries received from November 14, 2013 through September 30, 2014, 447 required guidance memos that addressed the inquiry from the perspective of the government's ethics rules and, for attorneys, within the parameters of their bar rules.

Measure:

- As of September 30, 2014, 100 percent of the financial disclosure reports received were reviewed and certified within the 60-day regulatory time period. Where a reviewer identified either a potential or actual conflict of interest, a memo was prepared and sent to the filer providing ethics advice and guidance.

Measure:

- The NLRB uses an electronic financial disclosure system, FDOnline, for the filing and review of the Confidential Financial Disclosure Reports which are filed by designated employees within the Agency.
- While FDOnline contains a component for filing Public Financial Disclosure Reports (OGE Form 278), the NLRB's Designated Agency Ethics Official decided to wait to require the electronic filing of public reports until after the Office of Government Ethics unveils the new electronic system it is currently testing. Until such time as that system is made available for use, Public Financial Disclosure Reports are still filed in paper copy, even though filers are encouraged to use the online, fillable

version of the OGE Form 278 developed by the Office of Government Ethics.

Objective 3: Initiative 2

Measure

- Responses to internal auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an Agency response. The OCIO responded completely and timely to internal audits and information requests, including:
  - Audit of the NLRB Fiscal Year Financial Statements
  - Audit of FY 2013 Sequestration – Preparation, Implementation, and Impact
  - Cloud Computing Audit
  - Federal Managers' Financial Integrity Act (FMFIA)

Objective 3: Initiative 3

- Responses to external auditors have been prepared and all deadlines have been successfully coordinated with auditors. There are no outstanding requests that need an Agency response.
- The CFO participated in the GAO's Regulatory Cost Benefit Analysis (GAO 451043).
- The OCIO responded completely and timely to external information requests, including:
  - Questions posed in the Office of Management and Budget Memorandum M-14-04, Fiscal Year 2013 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management
  - The quarterly requirements for FISMA, Trusted Internet Connection (TIC), and Senior Agency Official for Privacy (SAOP) reporting
  - Exhibit 53 and the corresponding Information Technology section for the Congressional Budget Justification
  - NARA's Annual Records Assessment and the OMB Records Directive (M-12-18) Report
- The OCIO responded appropriately to external technology mandates, including:
  - Having successfully consolidated its infrastructure, the Agency is taking full advantage of cloud computing's benefits (Cloud First, *Federal Cloud Computing Strategy*) to maximize capacity utilization, improve IT flexibility and responsiveness, and minimize costs. Current efforts include utilizing:
  - Microsoft's cloud-based, software and platform as services solutions, Office 365 and Azure for:
    - Email repositories and services; the Agency repurposed the nearly one million dollar investment in its email infrastructure to extend the lifespan of its NxGen on-premises infrastructure
    - Replacing its end-of-life collaboration platform with Microsoft's SharePoint solution
    - Supplanting its near end-of-life network attached storage and desktop backup with Microsoft's Office 365 One Drive for Business solution
  - Amazon's Elastic Compute Cloud to:
    - Host 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)
  - The ServiceNow cloud Information Technology Services Management (ITSM) platform, which the OCIO uses to be more transparent, provides Agency staff with multiple ways to get quality support, and is the technology enabler of its internal effectiveness initiatives
  - GovDelivery cloud services to deliver all case participant communications, including for its electronic services initiative
- The Agency was acknowledged for having achieved compliance with OMB's TIC Initiative, version 2.0. As such, it is one of a few small civilian agencies that have complied with this mandate.

Objective 3: Initiative 4

Measure:

- Based on the information in the FOIA Tracking System, the Agency responded to initial FOIA requests on an average of seven days for requests received from October 1, 2013 to September 30, 2014. The Agency received 4,458 requests for this period and responded to 4,093 of those requests in 1-20 days. Thus, 91.81 percent of the FOIA requests were processed within the 20-day statutory time period.

Measure:

- The Agency sought an extension of time to process a request beyond the 20-day period in only 7.08 percent of the FOIA requests received during this time period.

Measure:

- The Agency received 20 FOIA Appeals from October 1, 2013 to September 30, 2014. The average elapsed days to process the appeal was 22 working days. In 9 of the 20 FOIA appeals, a final determination was made within 20 working days. Two of the appeals received during this period were pending as of September 30, 2014.

FOIA centralization is underway and will be expanding in the coming months. Centralization of FOIA processing will ensure greater consistency and efficiencies in FOIA handling. In August, the NLRB's FOIA Branch hired a new Branch Chief, who has provided assistance towards full centralization of the processing of Regional FOIA requests.

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 can include case intake, settlements, board member vacancies, the potential effect of case precedent and statutory changes, nationwide work-related activities by external entities, technological advances, and economic fluctuations.

Case Intake

FY 2014 case intake totals 23,092 and includes 20,415 unfair labor practice (ULP) cases and 2,677 representation cases. Based on projected trends, a full five-member Board composition, a confirmed General Counsel, recent case developments and expanded knowledge of the Act, it is anticipated that case intake will be on the rise. Additional resources and training are needed because of comprehensive and complex matters, which are sometimes attributable to external factors. Among these factors are: ongoing nationwide efforts to improve the wages and working conditions of workers in the retail and fast food industries; the increased prevalence and evolving tools of technology and social media leading to handbook provisions and workplace rules concerning their use; expanded use of mandatory arbitration clauses in employment matters; bankruptcies; and difficult questions concerning single, joint, and successor employer relationships (*e.g.,* franchisor/franchisee), supervisory status, and defining employees covered under the NLRA (*e.g.,* college athletes, graduate students, independent contractors, and undocumented workers). The Agency anticipates these trends will continue through FY 2016.

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 Terms

The staggering of Board member terms and the filling of a vacant seat by an individual who will not be a Board member for a full-term impairs Board productivity as successive Board members often have to get up to speed on the same case matter.

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 corresponding 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.

As noted previously, almost all of the NLRB's mission-related offices have fully integrated to the NxGen system, which allows for real-time review of all case file materials and for consistent data reporting.

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 strategic goals and measures. 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 case priorities and the overall processing of cases.

The NLRB regularly monitors settlement and litigation success rates of ULP cases. In FY 2014, Regional offices settled 93.4 percent of meritorious ULP cases and won 85 percent of ULP and Compliance matters in whole or in part. A total of over $44 million was recovered in backpay, fines, dues and fees and over 3,200 employees were offered reinstatement. The Division of Judges closed 186 hearings, issued 219 decisions and achieved 512 settlements. The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2014, the United States Courts of Appeals ruled on Board decisions in 13 enforcement and review cases. Of those cases, 84.6 percent were enforced or affirmed in whole or in part. As to monitoring representation cases, in FY 2014, 95.7 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 initiatives and priorities, 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 Regional 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 2014, the Injunction Litigation Branch received 144 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act. The Board authorized 38 cases and Regional Offices filed 10(j) petitions in 25 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 96 percent. The Office of the General Counsel continues to focus its attention on "nip-in-the-bud" cases, where a nascent organizing campaign is being unlawfully squelched, and on first contract bargaining and successor cases, where the relationship between the employer and the union is most fragile.

Financial

Protecting Democracy in the Workplace Since 1935

A Message From The Chief Financial Officer

I am pleased to present the National Labor Relations Board (NLRB) consolidated financial statements for the Fiscal Year 2014 Performance and Accountability Report. For the eleventh consecutive year an independent auditor has rendered an unmodified or "clean" opinion on the NLRB financial statements. The auditors identified one material weakness and two significant deficiencies in our internal controls over financial reporting.

The Office of the Chief Financial Officer (OCFO) was established in 2012 to improve efficiency and effectiveness in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. During the past two years, the OCFO's focus has been on addressing compliance-related issues that were identified by the previous auditors. Those audit findings were remediated by the close of Fiscal Year 2014. We must now focus on continued process improvement to mitigate these new findings.

Fiscal Year 2014 was a transitional year for the Office of the Chief Financial Officer (OCFO), one in which there were transitions in leadership in our Finance and Budget offices. Both of these offices are critical to the mission of the OCFO and these new leaders are exceptional managers who are skilled in financial management, accounting, budget formulation, and budget execution and have already made significant progress in ensuring that the Agency's internal control processes, financial reporting, travel management, and budget control processes are maintained within Federal guidelines.

During Fiscal Year 2014 the OCFO led the development and issuance of the Agency's new Strategic Plan and also continued efforts on reviewing and mapping internal financial management processes that will improve controls, reduce costs, and increase efficiency.

This coming year will provide an opportunity to address other management challenges identified by the new financial statement auditors.

I wish to acknowledge and thank the OCFO staff for their dedication to NLRB's mission and their diligent efforts in maintaining an unmodified opinion on our financial statements. Their demonstrated knowledge of the NLRB, its programs, and a constant desire to provide excellent customer service should be commended.

The NLRB continues its commitment to continuous improvement in financial management, internal controls, and in the production of timely, accurate, reliable, and transparent financial information.

Ronald E. Crupi

Ronald E. Crupi
Chief Financial Officer

Independent Auditor's Report

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

November 6, 2014

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 2014 Financial Statements (OIG-F-19-15-01)

This memorandum transmits Castro & Company's audit report on the National Labor Relations Board (NLRB) Fiscal Year (FY) 2014 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 Castro & Company, 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

Castro & Company issued an unmodified opinion on the NLRB FY 2014 financial 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, Castro & Company did not provide an opinion on the effectiveness of NLRB's internal control over financial reporting. Carmichael, Brasher, Tuvell & Company previously issued an unmodified audit opinion on the FY 2013 information included with the consolidated statements.

In the Independent Auditor's Report on Internal Control, Castro & Company stated that it found a material weakness due to inadequate controls over undelivered orders, accounts payable, and expenditures. Castro & Company also found that there were significant deficiencies resulting from: (1) inadequate controls over the recording of financial information regarding internal use software, and (2) insufficient financial resources and/or personnel with appropriate

skills that caused financial reporting discrepancies. The Auditor's Report on Internal Control contained 15 recommendations.

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, Castro & Company 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. Castro & Company's Independent Auditor's Report on Compliance with Laws and Regulations does not note any violations of laws or regulations.

Management Comments on the Report

The Office of the Chief Financial Officer (OCFO) submitted management's comments on Castro & Company's audit report. Those comments were reviewed by Castro & Company and are included as an attachment to the final report.

In general, management agreed to implement the 15 recommendations. The comments noted that the OCFO was established in 2012 to improve efficiency and effectiveness in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. The comments explain that, during the past 2 years, the OCFO focused on addressing compliance-related issues that were identified in prior audits. The comments also stated that the OCFO is recruiting and hiring qualified staff, especially in the Finance Branch, as one-third of the staff positions, including two key supervisory positions, were vacant for part or all of FY 2014 and that it will continue its efforts to develop strong financial management and internal control structure, including changing some longstanding financial management practices within the Agency.

Evaluation of Castro & Company Audit Performance

In connection with the contract, we reviewed Castro & Company'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. Castro & Company is responsible for the attached auditor's report dated November 5, 2014, and the conclusions expressed in the report. However, our review disclosed no instances where Castro & Company did not comply, in all material respects, with generally accepted government auditing standards.

We appreciate the courtesies and cooperation extended to Castro & Company and our staff during the audit.

cc: Board

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Independent Auditor's Report

Inspector General
National Labor Relations Board

We have audited the accompanying balance sheet of the National Labor Relations Board (NLRB) as of September 30, 2014 and the related statements of net cost, changes in net position, and budgetary resources for the fiscal year then ended. The financial statements of NLRB as of September 30, 2013 were audited by other auditors whose report dated November 26, 2013, expressed an unmodified opinion on those statements.

Management's Responsibility for the Financial Statements
Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; 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.

Auditor's Responsibility
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with the auditing standards generally accepted in the United States of America; 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*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from 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, the audit considers internal control relevant to the agency'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 the agency's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant estimates made by management, as well as evaluating the overall financial statements presentation. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Opinion
In our opinion, the fiscal year 2014 financial statements referred to above present fairly, in all material respects, the financial position of the NLRB as of September 30, 2014, and the related statements of net cost, changes in net position, and budgetary resources for the year then ended in accordance with accounting principles generally accepted in the United States of America. The fiscal year 2013 financial statements were audited by other auditors whose report dated November 26, 2013 expressed an unmodified opinion on those statements.

Independent Auditor's Report
Page 2

Required Supplementary and Other Information
U.S. generally accepted accounting principles require that the information in the *Required Supplementary Information*, including *Management's Discussion and Analysis*, be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. The supplementary information is the responsibility of management and was derived from, and relates directly to, the underlying accounting and other records used to prepare the basic financial statements. We have applied certain limited procedures to the required supplementary 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 the 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.

The information presented in the *Other Accompanying Information* and *Appendices* is presented for purposes of additional analysis and is not required as part of the basic financial statements. Such information has not been subjected to auditing procedures applied by us in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by Government Auditing Standards
In accordance with U.S. *Government Auditing Standards* and OMB Bulletin No. 14-02, we have also issued our reports dated November 6, 2014, on our consideration of NLRB's internal control over financial reporting and the results of our tests of its compliance with certain provisions of laws, regulations, and other matters that are required to be reported under *Government Auditing Standards*. The purpose of those reports 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 the internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with U.S. *Government Auditing Standards* and OMB Bulletin 14-02 in considering the NLRB's internal control and compliance, and should be read in conjunction with this report in considering the results of our audit.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, GAO, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 6, 2014
Alexandria, VA

Castro & Company
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Independent Auditor's Report on Internal Control

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB) as of and for the year ended September 30, 2014, and have issued our report thereon dated November 6, 2014. We conducted our audit in accordance with the auditing standards generally accepted in the United States of America; 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*.

In planning and performing our work, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of NLRB's internal control, determining whether controls had been placed in operation, assessing control risk, and performing tests of NLRB's controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not to express an opinion on the effectiveness of NLRB's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of NLRB's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA), such as those controls relevant to ensuring efficient operations.

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 combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the 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 purposes described in the second paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. However, we consider the first deficiency described below to be a material weakness.

We noted less significant matters involving internal control and its operations which we have reported to NLRB management in a separate letter dated November 6, 2014.

Independent Auditor's Report on Internal Control
Page 2

This report is intended solely for the information and use of the management and the NLRB Office of Inspector General, OMB, the Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 6, 2014
Alexandria, VA

MATERIAL WEAKNESS

I. Inadequate Controls over Undelivered Orders, Accounts Payable, and Expenditures

Sufficient documentation was not provided to support the validity of certain Undelivered Orders (UDO) balances, including accruals not being properly recorded. As a result of material misstatements, we were unable to rely on our interim testing as of June 30, 2014 for the UDO, accounts payable (AP), and expenditures balances because of a significant number of testing exceptions, which required us to perform expanded testing related to all UDO's as of September 30, 2014. NLRB did not perform an open obligations review throughout the fiscal year, nor did it recognize and record accruals on a quarterly basis. Rather, management only performed a review of open obligations and recorded estimated accruals at year-end.

During our testing, we noted multiple issues surrounding the accounting for UDO, AP, and expenditures as summarized below.

- For multiple UDOs, the period of performance expired during Fiscal Years (FY) 2010 through 2013, but NLRB had not commenced contract close-out procedures in a timely basis in order to deobligate the UDO balance, even though the contract was completed and all services had been billed and paid.

- Accruals were not recorded on a quarterly basis throughout the fiscal year. NLRB only performed a year-end review of open obligations to provide an amount to accrue for AP, if applicable. However, during our UDO testing, we noted that NLRB did not always have a detailed and documented methodology to accrue expenses for goods/services that were received but not paid. For example:
    - Certain accruals were not supported by proper documentation such as an estimate of services received based on past services received and paid. For certain obligations, NLRB did not include the methodology used for the accruals, even though this information was required. There was no documentation to clearly support Finance Branch's (Finance) review and approval to ensure explanations used by program offices for accrual methodologies used and other needed information were included as required, or that methodologies used for accruals were clearly explained, reasonable, and supported by adequate documentation.
    - Certain accruals recorded by Finance were incorrect, as methodologies used contained accruals for services for which invoices were already paid and recognized in the GL, but for which the accrual was not adjusted, causing overstatements of AP and understatements of the UDO.
    - Certain items that were not properly accrued were related to construction/improvements being performed at various Regional Offices, one of which was 100 percent completed as of June 30, 2014. We noted that NLRB was not properly monitoring those contracts for the potential recognition and recording of leasehold improvements in its financial statements. Additionally, NLRB should be monitoring and recognizing a Construction-In-Progress (CIP) account for any

projects that might eventually be capitalized as a leasehold improvement, including current construction for the new Headquarters building.

- NLRB has a significant number of agreements in place with the General Services Administration (GSA). During our testing, we noted that there were certain older obligations that were based on purchase requisitions and therefore, were not valid contracts. For example, one GSA obligation remained on the books even though the services were never received and should have been deobligated in 2011 and another remained even though it was obligated with FY 2010 funds based on a purchase requisition. Additionally, we were unable to determine with any degree of certainty whether the goods or services ordered were received from GSA based on the limited information reviewed.

Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government* states:

> Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations. It is performed continually and is ingrained in the agency's operations. It includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties.
>
> Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

The Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities* states:

> Accounts payable are amounts owed by a Federal entity for goods and services received from, progress in contract performance made by, and rents due to other entities…When an entity accepts title to goods, whether the goods are delivered or in transit, the entity should recognize a liability for the unpaid amount of the goods. If invoices for those goods are not available when financial statements are prepared, the amounts owed should be estimated.

SFFAS No. 6, *Accounting for Property, Plant, and Equipment*, states:

> In the case of constructed PP&E, the PP&E shall be recorded as construction work in process until it is placed in service, at which time the balance shall be transferred to general PP&E.

By not performing an open obligations review on a routine basis, the financial data used to generate management reports and financial reports required by applicable laws and regulations are not

accurate. As a result, those charged with governance have no reasonable assurance as to whether they have reliable financial information to manage the operations of the Agency.

Because NLRB did not properly recognize accruals when goods and services were received and did not perform the necessary review of open obligations, the statistically projected error related to the UDO testing indicated that the UDO balance was materially overstated as of June 30, 2014 and, therefore, could not be relied upon for financial reporting purposes. As a result of the accrual clean-up done by NLRB during the last quarter of the fiscal year, we were able to determine that the FY 2014 financial statements are fairly presented, but the controls were not in place for the majority of the fiscal year.

Recommendations:

We recommend that NLRB management:

1. Establish, document, and implement policies for performing open obligation reviews on a quarterly basis, including documented quality control procedures and approvals over the reviews.

2. Establish, document, and implement policies to ensure accruals are recorded when goods and/or services are received throughout the fiscal year, at least on a quarterly basis, rather than at only year-end. Accruals recorded should be clearly documented with detailed methodologies to support the amounts recorded. The accrual methodologies should be reviewed and approved by appropriate program office personnel, with quality control review procedures and approvals performed and documented by Finance personnel.

3. Perform a data clean-up for all open obligations and accounts payable general ledger balances to ensure that the balances are properly recorded, with appropriate adjustments posted at the detailed general ledger level.

4. Train responsible program office and Finance personnel on how to monitor obligations and report accruals on an ongoing basis to enhance compliance with the applicable requirements.

5. Perform a reconciliation for each GSA agreement to ensure that the obligations are valid, and documentation exists to clearly support that the goods or services ordered were provided by GSA on a timely basis. Coordination should be performed between Finance, Facilities and Property Branch, and GSA on an ongoing basis.

SIGNIFICANT DEFICIENCIES

II. Inadequate Controls over the Recording and Monitoring of Internal-Use Software and Internal-Use Software in Development

During our testing of the Property, Plant & Equipment (PP&E) balance, we performed a review of the Internal Use Software (IUS) and Internal Use Software in Development (IUS-D) general ledger (GL) accounts. The IUS GL account (GL 1830) is used to recognize the amount of capitalized cost of IUS including purchased off-the-shelf software, contractor-developed software subject to amortization, and internally developed software subject to amortization. The IUS-D GL account (GL 1832) is used to recognize the full cost amount incurred during the software development stage of contractor-developed software, and internally developed software. Upon completion, those costs will be transferred to IUS for capitalization.

Our testing included re-performing a calculation of the current period depreciation for all IUS assets. In addition, we selected a judgmental sample of IUS-D assets with accumulated costs recorded in the IUS-D listing provided by NLRB as of June 30th, which contained significant errors.

During our testing we noted the following:

- NLRB did not recognize depreciation expense for the period of October 1, 2013 through June 30, 2014 for any of the IUS assets recorded in the IUS listing provided. We performed a calculation of the depreciation expense for all software assets listed and as a result noted that NLRB did not recognize depreciation expense in the amount of $2,344,963 as of June 30, 2014. Rather, management intended to record depreciation expense on IUS at year-end. For IUS-D, it has been the practice for the Chief Information Officer to provide Finance with a breakdown of the amount to book as IUS and IUS-D based on his expertise/knowledge. Therefore, IUS-D costs are not being accumulated in accordance with the Statement of Federal Financial Accounting Standards (SFFAS) No. 10, *Accounting for Internal Use Software.* In addition, documentation was not maintained to support the balances recorded for any of the IUS-D accumulated costs.

- NLRB was unable to provide documentation to clearly support any of the IUS-D assets selected for testing. Upon further discussions, it was noted that NLRB was unable to provide documentation to support the IUS-D balance of $6,795,871 recorded on its balance sheet as of June 30th.

GAO, *Standards for Internal Control in the Federal Government,* states,

> Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

SFFAS No. 6, *Accounting for Property, Plant, and Equipment,* states,

> Depreciation expense is calculated through the systematic and rational allocation of the cost of general PP&E, less its estimated salvage/residual value, over the estimated useful life of the general PP&E. Depreciation expense shall be recognized on all general PP&E, except land and land rights of unlimited duration.
>
> Depreciation expense shall be accumulated in a contra asset account-accumulated depreciation. Amortization expense shall be accumulated in a contra asset account-accumulated amortization. General PP&E shall be reported in the basic financial statements: the balance sheet, and the statement of net cost. The acquisition cost of general PP&E shall be recognized as an asset. Subsequently, except for land which is a nondepreciable asset that acquisition cost shall be charged to expense through depreciation. The depreciation expense shall be accumulated in a contra asset account—accumulated depreciation.

SFFAS No. 10, *Accounting for Internal Use Software,* states,

> Internal use software means software that is purchased from commercial vendors "off-the-shelf," internally developed or contractor-developed solely to meet the entity's internal or operational needs…Entities should capitalize the cost of software when such software meets the criteria for general property, plant, and equipment (PP&E).
>
> For internally developed software, capitalized cost should include the full cost (direct and indirect cost) incurred during the software development stage. Such cost should be limited to cost incurred after a. management authorizes and commits to a computer software project and believes that it is more likely than not that the project will be completed and the software will be used to perform the intended function with an estimated service life of 2 years or more and b. the completion of conceptual formulation, design, and testing of possible software project alternatives (the preliminary design stage).
>
> Such costs include those for new software (e.g., salaries of programmers, systems analysts, project managers, and administrative personnel; associated employee benefits; outside consultants' fees; rent; and supplies) and documentation manuals.
>
> For COTS software, capitalized cost should include the amount paid to the vendor for the software. For contractor-developed software, capitalized cost should include the amount paid to a contractor to design, program, install, and implement the software. Material internal cost incurred by the federal entity to implement the COTS or contractor-developed software and otherwise make it ready for use should be capitalized. Costs incurred after final acceptance testing has been successfully completed should be expensed.

Because NLRB did not recognize depreciation expense on IUS assets for the period of October 1, 2013 through June 30, 2014, the PP&E balance presented on the balance sheet as of June 30, 2014, was overstated by $2,344,963. In addition, expenses presented on the Statement of Net Cost were understated by the same amount. For IUS-D, because documentation was not maintained to support the $6,795,871, we were unable to determine whether the balance recorded on IUS-D and presented

on the balance sheet as of June 30 was valid, accurate or fairly stated. We were able to determine that the FY 2014 financial statements are fairly presented because NLRB made the necessary corrections to the final year-end issued financial statements.

Recommendations:

We recommend that NLRB Management:

6. Ensure that all assets are depreciated, at a minimum, on a quarterly basis in order to properly reflect asset, contra-asset and expense balances.

7. Perform a quarterly review of the IUS-D asset account, in order to determine whether accumulated costs are being recorded in accordance with SFFAS No. 10 and software assets which are completed are timely moved to the IUS account for capitalization.

8. Perform a review of documentation used to record IUS assets and IUS-D costs to determine whether adequate supporting documentation exists. Any estimation methodologies used need to be clearly documented and assumptions used properly supported in accordance with SFFAS No. 35, *Estimating the Historical Cost of General Property, Plant, and Equipment.*

9. Update documented policies and procedures to ensure adequate monitoring and review of purchases to allow for proper recording and reporting as required by applicable accounting standards.

10. Train personnel on the policies and procedures surrounding IUS and IUS-D, including the requirements of SFFAS No. 10, to enhance their ability to identify items that should be capitalized rather than expensed.

III. Insufficient Finance Resources and/or Personnel with Appropriate Skill Sets Which Caused Financial Reporting Discrepancies

The Accountability of Tax Dollars Act of 2002 (ATDA) extends to NLRB the requirement to submit to Congress and the Director of Office of Management and Budget (OMB) audited financial statements. OMB Circular No. A-136, *Financial Reporting Requirements*, defines the form and content of financial statements to be prepared by NLRB. To accomplish the objective of complying with the ATDA, NLRB is required to develop a system to prepare a complete set of financial statements on a timely basis in accordance with U.S. generally accepted accounting principles. The statements are to result from an accounting system that is a fundamental part of an integrated financial management system containing sufficient structure, effective internal control and reliable data. Financial reporting also consists of policies and procedures related to the processing and summarizing of accounting entries, and the preparation of financial statements.

During our testing of NLRB's financial statement preparation, we noted that improvement is needed to ensure that NLRB can accurately produce its quarterly financial statements and perform related analyses. The errors we noted related to incorrect accumulation of account balances and incorrect postings to the financial reporting system. These errors occurred because of ineffective management reviews and approvals to ensure that transactions and adjustments were accurate and properly supported. The NLRB made the necessary corrections to the final issued financial statements.

A major objective of internal control is to ensure the integrity of the underlying accounting data supporting the financial statements. A key control is performing reconciliations of significant account balances. An adequate reconciliation provides assurances that transactions are properly processed and recorded in the accounting records in a timely manner.

The Finance Branch did not have sufficient adequate resources and personnel with appropriate skill sets and expertise to perform financial management accounting and reporting. Furthermore, during the course of our audit it was not apparent that the NLRB had a program to cross train personnel in performing day-to-day financial management accounting and financial reporting tasks.

During our review of NLRB's financial statement preparation process, we identified certain issues, as summarized below that impact NLRB's ability to effectively accumulate, assemble, and analyze information presented in its financial statements in accordance with applicable guidance:

- During our interim testing procedures, we requested and reviewed the third quarter financial statements prepared by NLRB and submitted to OMB. During our review, we noted the following:

    - NLRB did not submit an analysis of significant variances, including explanations for any significant variances, as part of its quarterly financial statement submission to OMB.

- NLRB did not submit to OMB the required unaudited notes to the financial statements within the 45 calendar days after the end of the third quarter interim reporting period (June 30, 2014). Additionally, NLRB did not provide a justification, based on data availability, to: (1) request alternate deadlines; or (2) provide preliminary, placeholder (e.g. prior year), or pro forma information, in lieu of such notes.
- The financial statement package did not contain evidence of final review and approval by NLRB management.

- As part of our testing of Journal Vouchers (JVs), we reviewed JVs prepared and posted to Oracle by NLRB for the period of October 1, 2013 through June 30, 2014. NLRB prepared a total of twenty-eight (28) JVs for the period of October 1, 2013 through June 30, 2014. As a result of our testing, we noted the following:

  - For 11 of the 28 JVs prepared, NLRB was unable to provide the JV and related supporting documentation.
  - For the 17 JVs we obtained and reviewed, eight (8) JVs did not contain sufficient detail to document and support the purpose for the manual JV, and four (4) JVs did not contain evidence of management's review and approval.

- Additionally, NLRB did not have sufficient quality control procedures in place and continued to make errors in the draft year-end financial statements that were not corrected until brought to their attention by the auditors. For example, NLRB did not report an updated amount for the Estimated Future Federal Employees Compensation Act (FECA) liability for FY 2014 on the year-end draft financial statements. Rather, NLRB erroneously reported the same amount from the prior fiscal year. In addition, certain balances did not tie within the financial statements or footnotes. NLRB made the necessary correction to the final issued year-end financial statements.

NLRB does not have sufficient adequate resources to implement financial statement reporting requirements and sufficient controls in place to ensure that the financial statements are thoroughly prepared, reviewed and presented in accordance with applicable OMB circulars and Federal financial accounting standards. Additionally, NLRB places heavy reliance on the Department of Interior (DOI), Interior Business Center (IBC), which provides financial management support services to NLRB including the preparation of NLRB's financial statements. The NLRB, however, is responsible for the review and submission of its financial statement package to OMB. NLRB does not have a Financial/Accounting Manual in place, and is currently working on documenting/establishing one. In addition, NLRB does not have written policies and procedures in place specific to the processing and recording of JVs.

GAO's *Standards for Internal Control in the Federal Government* states:

> People are what make internal control work. The responsibility for good internal controls rests with all managers. Management sets the objectives, puts the control

mechanisms and activities in place, and monitors and evaluates the control. However, all personnel in the organization play important roles in making it happen. All personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. Management needs to identify appropriate knowledge and skills needed for various jobs and provide needed training, as well as candid and constructive counseling, and performance appraisals.

Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

Control activities are an integral part of an entity's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results…They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, and the creation and maintenance of related records which provide evidence of execution of the activities as well as appropriate documentation.

Office of Management and Budget (OMB) Circular A-136, Revised, *Financial Reporting Requirements,* states,

IV.3 Statements and Variances Required To Be Submitted Quarterly

Agencies are required to submit an analysis of significant variances along with the quarter's three financial statements.

IV.4 Third Quarter Unaudited Interim Financial Notes

Agencies must submit unaudited notes (and other required supplemental disclosure information as deemed relevant and useful-e.g., RSI, RSSI, and OI) along with unaudited interim financial statements. Agencies should complete key notes, such as those notes that present a greater risk of failing to meet the prescribed disclosure requirements. The purpose of these submission is to: (1) allow agencies to receive comments from OMB in advance of the year-end deadline, so that they will have sufficient time to improve the accuracy and conformity of these notes for the year-end submission of PARs or AFRs, and (2) enable Treasury's Bureau of the Fiscal Service to conduct preliminary analysis on agency data to facilitate preparation of the Financial Report of the U.S. Government (FR).

Agencies will submit their unaudited notes and supplemental information through the OMB MAX system. Consult the Treasury Financial Manual (TFM) for the applicable due date. In some cases, interim data may not be available, or it may not be cost-efficient to obtain the interim data. Based on data availability, agencies may: (1)

request alternate deadlines; or (2) provide preliminary, placeholder (e.g. prior year), or pro forma information. In addition, the Fiscal Service will contact selected agencies directly to assist in the drafting of key FR notes and supplemental information.

Without the adequate staffing levels and the proper skill sets, the Finance Branch will continue to encounter challenges in its accounting and financial reporting processes. By not adequately performing management functions specific to monitoring, analysis, oversight, and reconciliations, discrepancies may exist but go undetected and uncorrected; thereby causing the financial information to be misstated. Effective management oversight greatly increases NLRBs ability to proactively identify and resolve issues that could result in misstatements in financial accounting and reporting records.

If NLRB does not perform a detailed management review to ensure quarterly financial statement submissions to OMB are in compliance with the requirements of OMB Circular A-136, NLRB increases its risk that financial statements can present inaccurate, misleading and/or inconsistent information.

In addition, by not having controls and written policies and procedures in place, NLRB increases the risk that transactions will be processed in a manner that is inconsistent with applicable accounting standards; thereby causing the financial records and statements to be misstated.

Recommendations:

We recommend that NLRB management:

11. Perform an assessment of its organizational structure to ensure the CFO's Office is adequately staffed with individuals that possess adequate experience in compiling Federal financial statements, including Federal accounting and financial reporting knowledge and experience to enhance NLRB's ability to comply with accounting and financial reporting standards. Once the assessment is completed, corrective action needs to be taken for any deficiencies identified in current staffing competencies or additional staffing needs.

12. Develop and provide on-going training to NLRB staff on federal accounting and reporting requirements to enhance NLRB's ability to compile financial statements and the Performance and Accountability Report in accordance with applicable standards.

13. Establish and document the policies and procedures over the financial statement preparation process, including management's documented quality control review and approval of all quarterly financial statements.

14. Ensure variance analysis and explanations of significant variances are prepared, reviewed and submitted as part of NLRB's quarterly financial statement submission to OMB.

15. Finalize the Financial Manual documenting the procedures needed to ensure NLRB complies with applicable accounting, financial management and reporting standards and regulations. The manual should include specific procedures required to process JVs, including: (1) Verifying the accuracy of data on the JVs, (2) Ascertaining that the JVs and supporting documentation are properly authorized, and (3) Determination that the transactions are legal.

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Independent Auditor's Report on
Compliance with Laws and Regulations

Inspector General
National Labor Relations Board

We have audited the financial statements of the National Labor Relations Board (NLRB) as of and for the year ended September 30, 2014, and have issued our report thereon dated November 6, 2014. We conducted our audits in accordance with the auditing standards generally accepted in the United States of America; 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 management of NLRB is responsible for complying with laws and regulations applicable to NLRB. 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 the Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements,* including the requirements referred to in the Federal Managers' Financial Integrity Act of 1982 (FMFIA). We limited our tests of compliance to these provisions, and we did not test compliance with all laws and regulations applicable to NLRB.

The results of our tests of compliance with applicable laws and regulations, and government-wide policies, described in the preceding paragraph identified no instances of noncompliance that are required to be reported under *Government Auditing Standards* or OMB guidance.

Providing an opinion on compliance with certain provisions of laws and regulations and government-wide policies was not an objective of our audit, and accordingly, we do not express such an opinion.

This report is intended solely for the information and use of management and the NLRB Office of Inspector General, OMB, GAO, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 6, 2014
Alexandria, VA

NLRB Response To Audit Report

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of the Chief Financial Officer
Memorandum

November 3, 2014

TO: David P. Berry, Inspector General

FROM: Ronald E. Crupi, Chief Financial Officer

SUBJECT: Response to the Audit of the National Labor Relations Board Fiscal Year 2014 Financial Statements

We have reviewed the subject report and concur with the factual findings and recommendations. We would like to note that many of the specific deficiencies identified in the report were from June 2014, and appreciate the auditor's unmodified opinion and determination that our financial statements present fairly, in all material respects, the financial position of the National Labor Relations Board as of September 30, 2014.

The Office of the Chief Financial Officer (OCFO) was established in 2012 to improve efficiency and effectiveness in financial operations, reliability of financial reporting, transparency of financial data, and compliance with applicable laws and regulations. During the past two years, the OCFO's focus has necessarily been on the latter component, i.e., addressing compliance-related issues that were identified by the previous auditors. Those audit findings were remediated by the close of Fiscal Year 2014.

We continue to recruit and hire qualified staff within the OCFO and especially in the Finance Branch, as one-third of the staff positions, including two key supervisory positions, were vacant for part or all of Fiscal Year 2014. Our standard operating procedure is to use existing and new resources to continue the development of a strong financial management and internal control structure within the Agency, which also requires changing some longstanding financial management practices within the Agency. The OCFO continues to infuse more discipline, structure, and internal control in the financial management lifecycle and throughout the financial management process.

Prior to your audit, we established a Management Internal Control (MIC) program within OCFO, wherein we began documenting processes and recommending strategies to measure risk, manage risk, and improve internal controls to mitigate risk. The OCFO plans to continue an ongoing assessment of our processes on a regular basis, always seeking methods to improve the way we do business.

Below is our response to the auditor's specific recommendations. Due to similarities in the recommendations, we have grouped the responses where appropriate. A management action plan will be developed to track the progress on these recommendations.

Recommendations numbered 1, 2, 6, 7, 8, 9, 13, 14: The OCFO will build on existing procedures and continue to document and implement policies and procedures for the review of obligations, accruals, property (including software, depreciation, and related documentation), and financial reporting (including data analysis and reconciliations), as well as documented quality control and management approvals.

Recommendations numbered 3, 5: The OCFO has begun and will continue to perform a data clean up of existing obligations, accounts payable, and other general ledger accounts, ensuring validity and coordinating with all appropriate stakeholders, inside and outside the Agency.

Recommendations numbered 4, 10, 12: The OCFO will develop a comprehensive training program for OCFO staff, and other applicable NLRB stakeholders, on obligation reviews, accruals, property capitalization standards, and other federal accounting and reporting requirements.

Recommendation numbered 11: The OFCO will assess our organizational structure and staffing levels to ensure that roles and responsibilities are properly assigned, that existing staff are properly trained and cross-trained, and that appropriate staffing requirements are met.

Recommendation numbered 15: The OCFO will continue its development of a Financial Management Manual (FMM) and will make it readily available to all appropriate staff, to ensure compliance with applicable accounting, financial management, and reporting standards. The FMM will cover all processes noted above in the recommendations, as well as specific procedures for manual Journal Vouchers and related documentation.

Ronald E. Crupi
Chief Financial Officer

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Principal Financial Statements

Auditor's Reports And Principal Financial Statements

Principal Statements

National Labor Relations Board
BALANCE SHEET
As of September 30, 2014 and 2013 *(in dollars)*

	FY 2014	FY 2013
Assets:		
Intragovernmental:		
Fund balance with Treasury (Note 2)	$ 32,894,527	$ 23,321,588
Advances (Note 4)	97,195	97,196
Total Intragovernmental	**32,991,722**	**23,418,784**
Accounts and Interest Receivable, Net	56,171	60,893
General property, plant and equipment, net (Note 6 and 10)	5,065,456	13,685,712
Total Assets	**$ 38,113,349**	**$ 37,165,389**
Liabilities:		
Intragovernmental:		
Accounts payable (Note 7)	$ 4,414,162	$ 1,085,760
Employer contributions and payroll taxes	1,190,012	987,135
FECA liability (Note 8 and 10)	444,171	719,585
Custodial Liability	-	213,501
Total Intragovernmental	**6,048,345**	**3,005,981**
Accounts payable	3,843,641	7,629,226
Estimated future FECA liability	916,494	1,008,521
Other		
Accrued payroll and benefits	4,296,251	3,650,218
Accrued annual leave	14,129,842	13,644,627
Total Liabilities	**$ 29,234,573**	**$ 28,938,573**
Net position:		
Unexpended appropriations	19,217,677	9,852,964
Cumulative results of operations (Note 10)	(10,338,901)	(1,626,148)
Total Net Position	8,878,776	8,226,816
Total Liabilities and Net Position	**$ 38,113,349**	**$ 37,165,389**

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

National Labor Relations Board
STATEMENT OF NET COST
For the Years Ended September 30, 2014 and 2013 *(in dollars)*

	FY 2014	FY 2013
Program Costs:		
Resolve Representation Cases		
Net Cost	**$ 34,567,665**	**$ 44,443,321**
Resolve Unfair Labor Practices		
Net Cost	**$ 253,496,211**	**$ 233,327,431**
Other		
Costs	-	6,124
Less: Earned Revenue	-	6,124
Net Cost	**-**	**-**
Total		
Costs	$ 288,063,876	$ 277,776,876
Less: Earned Revenue	-	6,124
Net Cost of Operations (Note 11)	**$ 288,063,876**	**$ 277,770,752**

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

National Labor Relations Board

STATEMENT OF CHANGES IN NET POSITION

For the Years Ended September 30, 2014 and 2013 *(in dollars)*

	Consolidated Total FY 2014	Consolidated Total FY 2013
Cumulative Results of Operations:		
Beginning Balance	$ (1,626,148)	$ (2,954,778)
Beginning balance, as adjusted	(1,626,148)	(2,954,778)
Budgetary Financing Sources:		
Appropriations-used	263,749,337	263,043,308
Non-exchange revenue	(160,231)	(213,501)
Other Financing Sources (Non-Exchange):		
Imputed financing costs (Note 13)	15,762,017	16,056,074
Other		213,501
Total Financing Sources	**279,351,123**	**279,099,382**
Net Cost of Operations	(288,063,876)	(277,770,752)
Net Change	**(8,712,753)**	**1,328,630**
Cumulative Results of Operations (Note 10)	**(10,338,901)**	**(1,626,148)**
Unexpended Appropriations:		
Beginning Balance	9,852,964	10,058,724
Beginning balance, as adjusted	9,852,964	10,058,724
Budgetary Financing Sources:		
Appropriations received	274,224,000	278,306,006
Appropriations used	(263,749,337)	(263,043,308)
Rescissions & cancelled appropriations	(1,109,950)	(15,468,458)
Total Budgetary Financing Sources	**9,364,713**	**(205,760)**
Total Unexpended Appropriations	**19,217,677**	**9,852,964**
Net Position	**$ 8,878,776**	**$ 8,226,816**

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

National Labor Relations Board

STATEMENT OF BUDGETARY RESOURCES

For the Years Ended September 30, 2014 and 2013 *(in dollars)*

		FY 2014		FY 2013
Budgetary Resources:				
Unobligated balance, brought forward, October 1:	$	4,988,244	$	5,779,205
Unobligated balance brought forward, October 1, as adjusted	$	4,988,244	$	5,779,205
Recoveries of prior year unpaid obligations		2,450,471		1,162,637
Other changes in unobligated balance (+ or -)		(1,110,159)		(911,385)
Unobligated balance from prior year budget authority, net		6,328,556		6,030,457
Appropriations (discretionary)		274,224,000		263,748,933
Spending authority from offsetting collections (discretionary)		158,656		37,479
Total Budgetary Resources	**$**	**280,711,212**	**$**	**269,816,869**
Status of Budgetary Resources:				
Obligations incurred (Note 10)	$	276,282,401	$	264,828,625
Unobligated balance, end of year				
Apportioned		333,058		725,834
Unapportioned		4,095,753		4,262,410
Total unobligated balance, end of year		4,428,811		4,988,244
Total Budgetary Resources	**$**	**280,711,212**	**$**	**269,816,869**
Change in Obligated Balance:				
Unpaid Obligations				
Unpaid obligations, brought forward, October 1 (gross)	$	18,223,752	$	20,841,062
Obligations incurred		276,282,401		264,828,625
Outlays (gross)		(263,589,967)		(266,283,298)
Recoveries of prior year unpaid obligations (-)		(2,450,471)		(1,162,637)
Unpaid obligations, end of year (gross)		28,465,715		18,223,752
Obligated balance, start of year (+ or -)	$	18,223,752		20,841,062
Obligated balance, end of year (net)	**$**	**28,465,715**	**$**	**18,223,752**
Budget Authority and Outlays, Net:				
Budget authority, gross (discretionary)	$	274,382,656	$	263,786,412
Actual offsetting collections (discretionary)(-)		(158,656)		(37,479)
Budget Authority, net (discretionary)	**$**	**274,224,000**	**$**	**263,748,933**
Outlays, gross (discretionary)	$	263,589,967		266,283,298
Actual offsetting collections (discretionary)(-)		(158,656)		(37,479)
Outlays, net (discretionary)		263,431,311		266,245,819
Agency Outlays, net (discretionary)	**$**	**263,431,311**	**$**	**266,245,819**

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 (ULP), 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 September 18, 2014*. 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). If investments are made for backpay, these 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 25, 2014*.

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 2016 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2014 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in February 2015 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2013 that have been reported in the FY 2015 Budget of the United States and the actual numbers that appear in the FY 2013 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2014 require the presentation of comparative financial statements for all of the principal financial statements. The NLRB is presenting comparative FY 2014 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, a 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 may invest funds in Federal government securities for backpay that are held in the escrow account at Treasury. Any cash received for 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 Fiscal Service. 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 to other government agencies. See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of amounts 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. Please see subsequent reference to remainder interest in Florida real estate obtained as a remedy in a ULP case.

General property, plant and equipment, with the exception of software, costing $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 three 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. During FY 2014, the Agency performed an evaluation of the Internal Use Software capitalization policy and changed the standard useful life to three years, in order to more accurately match expenses with the time period in which the benefits were received from the software. We continue to use the conventional 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 and amortized accordingly, as described above. The NLRB continues to enhance a major software development project called the Next Generation Case Management System (NXGen) that replaced a number of case tracking systems with one enterprise-wide system. NXGen supports the President's Management Agenda, such as for e-Gov, E-Filing, e-FOIA, and public web-based access to NLRB data. This project has been a multiple year undertaking in which a large portion of the system was rolled out in FY 2011.

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, 2014 and 2013, 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) 2015 to this plan. Employees belonging to CSRS may also contribute up to $17,500 of their salary in CY 2015 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2015 is $5,500. For CY 2015, the regular and catch-up contributions may not exceed $23,000. 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 2014, the NLRB, utilizing OPM provided cost factors, recognized $7,744,311 of pension expenses, $7,991,274 of post-retirement health benefits expenses, and $26,486 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $15,762,071 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM. In comparison, in FY 2013, the NLRB, 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 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) and commercial copier leases. 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 as assets. The real property leases are for NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars and copiers.

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, 2014 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, 2014 and September 30, 2013 consists of the following:

(in thousands)	General Funds	Escrow Funds	Total Fund Balance with Treasury
FY 2014 Entity Assets	$ 32,735		$ 32,735
Non-Entity Assets		$ 160	$ 160
Total	$ 32,735	$ 160	$ 32,895
FY 2013 Entity Assets	$ 23,108		$ 23,108
Non-Entity Assets		$ 214	$ 214
Total	$ 23,108	$ 214	$ 23,322

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.

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, 2014 and September 30, 2013 consists of the following:

Fund Balance with Treasury by Availability:

(in thousands)	FY 2014	FY 2013
Unobligated Balance		
Available	$ 333	$ 726
Unavailable	4,096	4,262
Obligated balance not yet disbursed	28,306	18,120
Non-budgetary fund balance with Treasury	160	214
Totals	$ 32,895	$ 23,322

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 Fiscal Service.

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, 2014 and 2013

(in thousands)	FY 2014	FY 2013
Fiduciary net assets, beginning of the year	$ 2,587	$ 5,203
Fiduciary revenues	8,953	5,145
Investment earnings	0	0
Disbursements to and on the behalf of beneficiaries	(4,991)	(7,761)
Increase (Decrease) in fiduciary net assets	$ 3,962	$ (2,616)
Fiduciary net assets, end of year	$ 6,549	$ 2,587

Fiduciary Net Assets As of September 30, 2014 and 2013

(in thousands)	FY 2014	FY 2013
Fiduciary Assets		
Cash and cash equivalents	$ 6,549	$ 2,587
Investments	0	0
Fiduciary Liabilities		
Less: Liabilities	0	0
Total Fiduciary net assets	$ 6,549	$ 2,587

Note 4. Advances

Intragovernmental

Intragovernmental Advances were paid to the United States Postal Service for postage meter funding, and to the Department of Transportation for the employee transit subsidy program.

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

The FY 2014 intragovernmental accounts receivable is zero and the FY 2013 amount was zero:

(in thousands)	FY 2014	FY 2013
With the public		
Accounts receivable	$ 74	$ 75
Allowance doubtful accounts	(18)	(14)
Accounts receivable-net	$ 56	$ 61

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, 2014 and September 30, 2013 was $6,748,970 and $3,851,380 (in dollars), respectively.

(in thousands) FY 2014	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	$ 3,383	$ 2,641	$ 742
Internal Use Software	27,785	23,666	4,119
Internal Use Software in Development	204	0	204
Totals	$ 31,372	$ 26,307	$ 5,065

(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

Note 7. Intragovernmental Accounts Payable

These accounts payables are with our federal trading partners, of which 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, 2014 and September 30, 2013, is as follows:

(in thousands)	FY 2014	FY 2013
Intragovernmental:		
FECA-Unfunded	$ 444	$ 720
Total Intragovernmental	444	720
Estimated Future FECA	917	1,009
Accrued Annual Leave	14,130	13,645
Total Liabilities not covered by budgetary resources	15,491	15,374
Total Liabilities covered by budgetary resources	13,744	13,565
Total Liabilities	$ 29,235	$ 28,939

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, 2014 and September 30, 2013, is as follows:

(in thousands)	FY 2014	FY 2013
Non-entity assets		
Fund Balance with Treasury	160	214
Entity assets	40,541	39,539
Total Assets	40,701	39,753

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 2014	FY 2013
FECA paid by DOL	$ (173)	$ (206)
FECA – Unfunded	(444)	(720)
Estimated Future FECA	(917)	(1,009)
Accrued Annual Leave	(14,130)	(13,645)
General Property, Plant & Equipment, Net	5,065	13,686
Other	260	268
Cumulative Results of Operations	$ (10,339)	$ (1,626)

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 has the authority to provide administrative law judges' services to other federal entities. There is no exchange revenue with the public.

(in thousands)	FY 2014	FY 2013
Resolve Representation Cases		
Intragovernmental Costs	$ 10,547	$ 8,444
Costs with the Public	24,021	35,999
Total Net Cost – Resolve Representation Cases	$ 34,568	$ 44,443
Resolve Unfair Labor Practices		
Intragovernmental Costs	$ 77,342	$ 44,332
Costs with the Public	176,154	188,996
Total Net Cost – Resolve Unfair Labor Practices	$ 253,496	$ 233,328
Other		
Intragovernmental Costs	$ 0	$ 6
Less: Intragovernmental Earned Revenue	0	6
Total Net Cost – Other	$ 0	$ 0
Net Cost of Operations	$ 288,064	$ 277,771

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 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 2015 through FY 2019.

Rental expenses for operating leases for the year ended September 30, 2014 were $26,732,911 for Agency lease space and $3,287,279 for Agency building security. For FY 2013 the operating lease costs were $26,151,885 and the Agency building security portion was $2,960,531. NLRB Headquarters will be moving to a new location in late FY 2015, resulting in a reduction in rent costs. The rent credits realized in 2016 will be used to offset furniture and equipment costs.

(in thousands) Fiscal Year	GSA Real Property
2015	26,200
2016	17,680
2017	22,100
2018	22,800
2019	23,500
Total Future Lease Costs	$ 112,280

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, 2014 and 2013 consisted of:

(in thousands)	FY 2014	FY 2013
Office of Personnel Management:		
Pension expenses	$ 7,744	$ 7,613
Federal employees health benefits	7,991	8,416
Federal employees group life insurance program	27	27
Total Imputed Financing	$ 15,762	$ 16,056

Note 14. Appropriations Received

The NLRB received $274,224,000 and $278,306,006 in warrants for the fiscal years ended September 30, 2014 and 2013, respectively. The amount shown on the Statement of Budgetary Resources under caption "Permanently not available" for FY 2014 was the FY 2009 cancelled appropriation for the amount of $1,110,159, and the rescission amount of zero. For FY 2013, the total amount was $911,385 for the FY 2008 cancelled appropriation and a rescission amount of $556,612. It should also be noted that the Agency had a sequestration reduction of $14,000,461 in FY 2013.

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 $280,711,212 as of September 30, 2014 and $269,816,869 as of September 30, 2013, 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 amount of budgetary resources obligated for undelivered orders was $28,465,715 for FY 2014 and $18,223,752 for FY 2013. The NLRB's unobligated balance available at September 30, 2014 was $333,058 and at September 30, 2013 was $725,834.

Apportionment Categories of Obligations Incurred. NLRB's obligations incurred as of September 30, 2014 and September 30, 2013 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. OMB does not require the Agency to separate its funding and therefore all obligations incurred were from one funding category.

(in thousands) FY 2014	Apportioned Category A	Not Subject to Apportioned	Total
Obligations Incurred:			
Direct	$ 276,282	-	$ 276,282
Reimbursable	0	-	0
Total Obligations Incurred	$ 276,282	-	$ 276,282

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

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 fees may be in excess of $100,000 but not more than $200,000. 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, 2014 and 2013

(in thousands)	FY 2014	FY 2013
Resources Used to Finance Activities		
Current Year Gross Obligations	$ 276,282	$ 264,829
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Earned		
Collected	(159)	(37)
Recoveries of Prior Year Unpaid Obligations	(2,450)	(1,162)
Other Financing Resources		
Imputed Financing Sources	15,762	16,056
Other	0	0
Total Resources Used to Finance Activity	$ 289,435	$ 279,686
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	(4,893)	(585)
Current Year Capitalized Purchases	(2,929)	(4,009)
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	(15,762)	(16,056)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	6,749	3,851
Disposition of Assets	0	0
Future Funded Expenses	(210)	(564)
Imputed costs	15,762	16,056
Bad Debt Expense	7	14
Other Expenses Not Requiring Budgetary Resources	(95)	(622)
Net Cost of Operations	$ 288,064	$ 277,771

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

October 10, 2014

To: Mark Gaston Pearce
Chairman

Richard F. Griffin, Jr.
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. This memorandum fulfills 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. This year we are retiring two challenges and adding a challenge for a total of eight management or 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

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. Functioning in this environment is a challenge for both the political appointees who govern and the career personnel who manage. Although the confirmation of the five-Member Board and the General Counsel have been a stabilizing force, the mission-related functions of the Agency continue to attract active Congressional oversight and the prospect of litigation.

Reorganize and consolidate operations.

Starting in Fiscal Year 2011, the Office of the General Counsel initiated working groups to study the case processing of Regional Offices and certain Headquarters operations. At about the same time, the Board and the Office of the General Counsel began to reorganize the financial management of the Agency and other Headquarters operations.

Through these efforts 12 Regional Offices were consolidated into 6 Regions, resulting in a reduction of the number of Regions from 32 to 26. Additional consolidations are currently under consideration. Consolidation efforts were also undertaken at Headquarters that resulted in the creation of the Division of Legal Counsel and the Office of the Chief Financial Officer; restructuring of the Division of Administration; and adding functions to the Office of the Chief Information Officer. While these efforts may be nearing the end of the process of reorganizing and consolidating, the challenge remains for the NLRB management to leverage these efforts to improve productivity, efficiency, and internal control.

Relocate Headquarters.

The relocation of Headquarters is a significant challenge. Employees have a certain amount of productivity in a workday. The preparation for the move will challenge Headquarters managers to meet the mission-related work, while attending to a number of administrative matters associated with the move. Additionally, the financial, facilities, and information technology staffs have had a significant increase in work without a corresponding increase in workforce capacity. With a vacancy in the Director of Administration position, the Deputy General Counsel and Chief of Staff, in addition to all of their normal duties, must shoulder greater responsibility for the higher level management of the relocation efforts. Although we can quantify and allocate the fiscal costs of the relocation, the expenditure of the human capital is far more difficult to capture and quantify. As such, it is appropriate to highlight the Headquarters relocation as a significant management challenge.

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. At the end of FY 2013 and during FY 2014, three senior financial managers departed the Agency and left behind very few records of processes or procedures. Although the Board and Office of the General Counsel laid the foundation for a sound financial management system and the Chief Financial Officer has worked to remedy the deficiencies noted in past reviews, that work must continue to ensure that the necessary internal controls are firmly established.

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, but are not limited to, the prospect of hiring restrictions, reduced or flat appropriations, and the loss of key personnel through retirements.

The past uncertainty of the 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, curtailment of meaningful training opportunities, and loss of monetary awards and cost-of-living pay increases negatively affected the overall workforce morale. Combined, these factors degraded the Agency's ability to properly address its human capital needs and impeded its ability to maintain a stable workforce through retention and recruitment.

Although the fiscal environment is now more stable, the effects of the reduction of the Agency's workforce through attrition to meet the fiscal restraints are not eliminated. As of January 2014, the Agency had a reduction in its workforce of almost 10 percent from the FY 2011 workforce level, with over half of the reduction occurring in FY 2013. While the Agency was able to mitigate some of the effects of the reduction with targeted hiring for key positions, overall the loss of personnel and the administrative burdens of the hiring process created significant managerial challenges that are not necessarily evenly distributed across the Agency or mission functions.

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. The fact that at an Agency of this size, specialized tasks are often performed by a limited number of employees compounds this problem.

With the loss of key employees because of retirement and other separations, 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. Meeting that challenge is even more difficult when the NLRB is not able to hire or promote a successor prior to a key employee's departure. The loss of personnel and the consolidation and reorganization efforts also 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 and the move to "Cloud" service providers, 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, from 2007 through 2013, we received yearly requests from the Committee on Oversight and Government Reform for detailed information on audit recommendations. In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 25 unimplemented audit recommendations. Since that time, we closed 19 recommendations and added 9, for a total of 15 unimplemented recommendations at the time of the issuance of this memorandum. The oldest of the unimplemented recommendations is

Retiring Challenges

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

The system has been in place for almost 2 years, and the case processing appears to have adequately adapted. While there will always be room for improvement, the opportunities for achieving greater productivity and efficiency with the system are likely dwindling at this point. The focus now has appropriately shifted to the improvements and modifications to the system, rather than adapting the Agency's case processing to an entirely new system, and the challenge is more routine in nature.

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

The procurement function at any agency is always going to be a challenge. At the NLRB, we have observed substantial improvement over the last 2 years in staffing, competence, and procedures. At this time, we believe that it is no longer necessary to highlight this challenge for Congress.

Summary of Audit And Management Assurances

I. Summary of Financial Statement Audit

Audit Opinion			Unmodified		
Restatement			No		
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
	0	1	0	0	1
TOTAL	0	1	0	0	1

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

Summary of Management Assurances (Cont'd.)

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.

October 2013 - June 2014						
	Number (#) of payments reviewed for improper payments	Dollars ($) of payments reviewed for improper payments	Number (#) of payments stopped	Dollars ($) of payments stopped	Number (#) of improper payments reviewed and not stopped	Dollars ($) of improper payments reviewed and not stopped
Reviews with DMF Public	7,475	$ 18,117,691	N/A	N/A	0	$ 0
Reviews with SAM Exclusions Public	7,476	$ 18,246,063	N/A	N/A	0	$ 0

- Payments reviewed for improper payments includes the total number of payments disbursed by the Agency through the PACER payment system minus any payments that were excluded from matching due to (1) a missing or unmatchable TIN (DMF only) or (2) a missing name.

- Payments stopped is currently not applicable since the Do Not Pay matching and adjudication process is based on post payment results.

- Improper payments reviewed and not stopped includes the total number of matches identified by the Do Not Pay Initiative that were adjudicated as improper to the Agency.

Appendices

Protecting Democracy in the Workplace Since 1935

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 hear¬ing 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.

APPENDIX C

Historical Performance Measures

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	82.0%	82.4%

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%

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%

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