

Office of Inspector General

SEMIANNUAL

REPORT

TO THE

CONGRESS



Covering OCTOBER 1, 1997 - MARCH 31, 1998

Seventeenth Semiannual Report

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United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE INSPECTOR GENERAL

Washington, DC 20570-0001

June 5, 1998

Honorable William B. Gould IV, Chairman
National Labor Relations Board
1099 14th Street, NW, Room 11100
Washington, DC 20570

Honorable Frederick L. Feinstein, Acting General Counsel
National Labor Relations Board
1099 14th Street, NW, Room 10100
Washington, DC 20570

Dear Chairman Gould and Acting General Counsel Feinstein:

This is the seventeenth Semiannual Report (SAR) for the Office of Inspector General (OIG). This SAR is prepared in accordance with Section 5 of the Inspector General Act and covers the period October 1, 1997 through March 31, 1998.

This Report should have been submitted April 30, 1998. The material for the Report was under development at the time of my appointment on May 18, 1998, and I have made completion a major priority.

The Report was due to be transmitted to Congress on June 1, 1998. I have been contacted by the Congress and asked when the Report would be transmitted. I informed the caller that I had not yet submitted the Report for your comments but would be doing so shortly.

Very truly yours,

A handwritten signature in cursive script that reads "Aileen Armstrong".

Aileen Armstrong
Inspector General

FOREWORD

The National Labor Relations Board (Agency or NLRB), which employs over 1,900 employees and, for Fiscal Year 1998, has funding of about \$175,000,000, is an independent agency which was established in 1935 to administer the principal labor relations law of the United States - - the National Labor Relations Act. The provisions of the National Labor Relations Act are generally applied to all enterprises engaged in, or to activities affecting, interstate commerce, including the United States Postal Service, but excluding other Governmental entities, as well as the railroad and airline industries. The Agency protects the public interest: (1) by conducting secret ballot elections to determine if a group of employees wishes to be represented for collective bargaining purposes by a labor organization, and (2) by preventing and/or remedying unfair labor practices committed by employers and unions.

The Chairman, four Board Members and a General Counsel are appointed by the President with the advice and consent of the Senate. The Chairman and Board Members have staggered terms of 5 years each and the General Counsel has a 4-year term. The Agency, headquartered in Washington, DC, has 33 Regional Offices, some of which have Subregional and/or Resident Offices. This far-flung organization has handled unfair labor practice cases affecting hundreds of thousands of persons and has conducted representation elections in which millions of employees have decided whether they wished to be represented by a labor organization for collective bargaining purposes.

The mission of the Office of Inspector General (OIG) is to promote integrity, efficiency, and effectiveness by conducting audits and investigations in an independent manner and objectively reporting to the Chairman, the General Counsel and the Congress. The OIG Table of Organization provides for an Inspector General, an Assistant Inspector General for Audits, two Auditors, a Chief Counsel to the Inspector General/Assistant Inspector General for Investigations, a Deputy Assistant Inspector General for Investigations and a Staff Assistant.

REPORTING REQUIREMENTS

ACT CITATION AND REQUIREMENT

		<u>PAGE</u>
Section 4(a)(2)	Review of Legislation and Regulations.	.None
Section 5(a)(1) and (2)	Significant Problems, Abuses and Deficiencies and Recommendations for Corrective Action.	.1
Section 5(a)(3)	Prior Recommendations Not Yet Implemented.	.None
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.	.14
Section 5(a)(5) and 6(b)(2)	Summary of Instances Where Information Was Unreasonably Refused or Not Provided.	.No Instances
Section 5(a)(6)	List of OIG Audit Reports.	.16
Section 5(a)(7)	Summary of Each Significant Report.	.17
Section 5(a)(8)	Statistical Table on Management Decisions on Questioned Costs.	.18
Section 5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use.	.19
Section 5(a)(10)	Summary of Each Audit Over 6 Months Old For Which No Management Decision Has Been Made.	.None
Section 5(a)(11)	Significant Revised Management Decisions.	.None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Disagrees.	.None

INSPECTOR GENERAL SUMMARY

Two audits were initiated during the reporting period.

- ◆ We are evaluating controls over the computation and distribution of backpay. Backpay is the Agency's remedy whenever it determines that a violation of the National Labor Relations Act has resulted in a loss of employment or earnings. Our audit scope is Fiscal Years 1996 and 1997. Over \$73 million was distributed to 17,751 employees during Fiscal Year 1996.
- ◆ We are evaluating procedures utilized by the Division of Judges to expedite the resolution of unfair labor practice cases. These procedures include the use of settlement Judges, Bench Decisions, and time targets. The OIG will assess the impact of these actions and whether the intended results were achieved. Our audit scope is Fiscal Years 1996 and 1997.

The Inspector General has continued to place a major emphasis upon joint investigations with other law enforcement agencies. Among the activities of the OIG were:

- ◆ A joint investigation with the Secret Service resulted in an arrest being made.
- ◆ Thirteen cases were opened and continue under active investigation.
- ◆ Seven cases were opened and investigated to closure.
- ◆ Fourteen cases previously opened were investigated to closure during this reporting period.
- ◆ Several joint investigations with other law enforcement agencies continued.
- ◆ Forty-five "HOTLINE" calls were received and screened. A large number of these calls related to Agency operations and appropriate followup and referrals were made.

Criminal Investigator Frank Searle was formally designated as a Special Agent and Deputy Assistant Inspector General for Investigations.

Counsel to Inspector General John D. Zielinski was formally designated as Chief Counsel and Assistant Inspector General for Investigations.

Chief Counsel/AIGI Zielinski served as legal and investigative consultant to the OPM Working Group on Workplace Violence.

The OIG assumed jurisdiction on three cases involving threats to Board Agents and Attorneys.

A summary of the matters pending in the OIG at the end of the reporting period includes:

- ◆ The OIG has continued a self initiated extensive review of potential fraudulent Federal Employees Compensation Act claims against the Agency.
- ◆ Three joint investigations are being conducted by the OIG with Regional Inspectors General of the Department of Labor Inspector General.
- ◆ Twenty-eight cases previously initiated remain open and under active investigation by the OIG.
- ◆ Thirteen new cases are under active investigation by the OIG.
- ◆ Over 35% of open cases are being investigated on a joint basis with other investigative agencies.
- ◆ Several investigations have been forwarded to the General Counsel for administrative action.
- ◆ A joint investigation has been opened with the New York City Police Department
- ◆ A joint investigation with a State Police Task Force remains open.

SECTION 1

DESCRIPTION OF SIGNIFICANT PROBLEMS, ABUSES AND DEFICIENCIES RELATING TO ADMINISTRATION OF PROGRAMS AND OPERATIONS AND DESCRIPTION OF OIG RECOMMENDATIONS FOR CORRECTIVE ACTION (MANDATED BY SECTION 5 (a) (1) AND (2) OF THE ACT)

INVESTIGATIONS

The following investigations were completed and/or referred for action during this reporting period:

Conflict of Interest/Whistleblowing

An OIG Investigation Disclosed That . (1) a mid-management employee, who was acting as the Agency's Contracting Officer's Technical Representative (COTR) on a major contract, did not run afoul of ethical standards because of his alleged "close personal relationship" with the Contractor's Project manager; (2) that the Contractor, as alleged by the COTR, had not met its contractual obligations; and (3) that the whistleblowing complaints by that mid-manager, after an OIG investigation, was referred to the U.S. Office of Special Counsel, along with a whistleblowing complaint by his Branch Chief, who had supported the mid-manager.

This case involved OIG complaints and cross-complaints made by an SES official against a subordinate manager and the manager against the SES official and an Agency contractor. The nature of the complaints required an extensive investigation, including the taking of affidavits from over 30 persons, some of whom were not Agency employees, the review of depositions and documents from a related State Court suit, and the review of thousands of pages of documents supplied by the Agency and subpoenaed from the contractor. This investigation, including the contractor's own documents, revealed very clearly that the contractor had not met its contractual obligations, both on a broad scale of service throughout the Agency and on several specific obligations which were set forth in the contracts and which were the essence of the contractor's successful campaign with Agency officials to obtain the contract.

The COTR on this contract, as well as the Contractor's own project manager, complained early and loudly to the contractor about the contractor's poor performance and of its not providing contractually required personnel and service. Others also complained and practically every Agency employee within the COTR's section,¹ as well as the Branch Chief, testified to the poor performance of the contractor. Moreover, subpoenaed documents from the contractor revealed its own dissatisfaction with its performance, particularly with its subcontractor which provided the bulk of the day-to-day services to the Agency.

¹ The COTR was also the head of a Section and Assistant Branch Chief.

About halfway through the contractual year, the contractor's project manager faxed a memo to officials of the contractor making certain performance demands, as well as an accounting. He was then removed from the NLRB job and later discharged. The COTR was removed from his COTR position, and later denied access to the Agency network, for which his Section was responsible, and still later removed from supervision. His Branch Chief, who had supported him in his efforts to enforce the contract was also removed from his position as Branch Chief.

Shortly before the removal of the project manager (and thus before the various personnel actions involving the COTR), the COTR and the project manager had met with the SES official and assured the official that performance was improving. Although both the COTR's branch chief and the branch chief for Procurement had been informed of the contractor's deficiencies, the SES official was not aware of the problem. After this meeting, the COTR continued his campaign to obtain contract compliance and better performance. In March, there was a Mid-Year Contract Review meeting with the contractor at which the COTR and others voiced complaints to the contractor.

About six weeks after the above-noted meeting, the COTR, the SES official and others attended a routine meeting with the Assistant General Counsel charged with oversight responsibility of the functions involved. At that meeting, the COTR advised that the contractor was "screamingly out of compliance." After that meeting the COTR and the Branch Chief continued their complaints about and their efforts to obtain contract compliance. The SES official was angered over the COTR statement at the meeting, feeling it was at odds with what the official had been led to believe. The anger grew, the COTR and Branch Chief's dissatisfaction with and complaints about the contractor continued. The SES official refused to give credence to the complaints, did not check the matter out with the staff, but did meet with the contractor.

During this period of time the COTR made a written survey among Regional Office managers as to whether the contractor should be retained for the next fiscal year. The survey asked the office managers to be "honest", to let the COTR know of both "good" or "bad" stories and stated that while the contractor got off to a bad start, the COTR would need front liners to tell him whether there had been improvement. The SES official became very angry over this survey, with both the COTR and the Branch Chief, calling it biased and sent an E-mail message to the latter expressing her displeasure in strong terms. One of the subpoenaed documents from the contractor was a letter to a high contractor official from the contractor's new project manager which stated that the survey "was fair in what it asked." The OIG, in a like manner, could find nothing that even hinted of bias in the survey. In June, the COTR was removed from that position.

After the removal of the project manager from the job, and prior to the COTR's removal, the latter's complaints about the contractor's performance increased. The OIG found that this was caused, in part, because of the loss of the project manager's skills and, in part, because of the COTR's friendship with the project manager.

In the following January, the ex-COTR was removed from supervision allegedly because he had stopped doing his job and was not supervising during the preceding summer and fall after his removal as COTR, played favorites, and used abusive language with contractors. Except for a

few uncomplimentary remarks to and about the contractor, none of these allegations were supported by the evidence (e.g., statements of staffers, the Branch Chief), and in the ex-COTR/supervisor's last five annual appraisals there was no mention of favoritism or any hostility to outside contractors. And in his four appraisals preceding the events in this case he was rated outstanding. There was a dramatic drop in his evaluation which was executed near the end of the contract year under consideration. However, it was the product of a Branch Chief who testified that he rated the ex-COTR down because he felt he had to accommodate the wishes of the SES official and the deputy (also SES) to that official.

The only staffer who had any substantial knowledge of the contractor's performance who stated that it was satisfactory or fair to good was the COTR who replaced the subject COTR. However, in a memo in the tenth month of the contract he stated that the contractor "have gotten regular payment - but they have failed to provide those items which constitute the result of the payments."

After the investigation of the reprisal complaints of the ex-COTR, his case, along with that of his Branch Chief, was referred to the U.S. Office of Special Counsel as that office has primary jurisdiction over whistleblower charges. As of the date of this Report, their cases are pending in that Office.

Several allegations were lodged about the ex-COTR/supervisor by the SES manager.

(1) The COTR had a "close personal relationship" with the contractor's project manager that affected his judgment on the job. The evidence primarily relied upon in making this allegation was that the two took a trip together to Europe during the term of the contract. The OIG investigation disclosed that the two did go to Europe together, that they had only limited contact while there, that each paid his own expenses. The SES official knew and advised the office of the General Counsel that the wife of the project manager also went on this trip, but failed to make this fact known to the OIG, which nevertheless discovered it during the investigation. The evidence further established that while the COTR and the project manager developed a friendship arising out of their working together, this did not adversely affect the COTR's job performance. Rather, it was clear that it enabled them to work together in harmony to attempt to get the contractor to live up to its contractual obligations.

Since this allegation was so central to the complaints lodged by the SES official, the OIG referred it to the Office of Government Ethics. Based on advice of that office, the OIG found this allegation to be without merit.

(2) An anonymous female called the SES official complaining about the contractor and praising the COTR. The SES official alleged that this was a payoff for the COTR having awarded a certain female a small contract. Testimony by everyone involved in that contract established that the COTR had no involvement with it.

(3) The SES official alleged that the COTR got the ex-project manager a job with a company by promising that company that he would see that it was awarded a large Agency contract. As

evidence of this, the official averred that she was given this information by an Agency employee who worked with the COTR. That employee denied that he gave any such information to the official, that he could not have because it was not true. Additionally the investigation disclosed that a non-Agency individual obtained the job for the ex-project manager and that the COTR was in no way involved with this hiring.

Cover-Up of a Biased Investigation by a Regional Office

An OIG Investigation Disclosed That there was no evidence to support allegations of bias as to any investigative reports, the Region's extensive consideration of the case, or in the decisions reached by the Region.

Action Taken ... After receiving a complaint that cast aspersions upon the entire decisional process of the Regional Office, the OIG conducted a full review of the Regional Office files, considered the evidence and scrutinized the Region's several reports.

The investigation made it clear that the Region's investigation of the case was not biased and that the decision to issue complaint was fully warranted based on all the evidence. However, the field attorney should have accepted a deposition taken by the employer which if true, showed a plot to fabricate evidence to present to governmental agencies. The employer could have tested its asserted defense in litigation, but chose to settle.

Regional Director Abused Authority by Setting Aside a Settlement Agreement

An OIG Investigation Revealed That There was no evidence to support allegation that Director's decision constituted an abuse of authority.

Action Taken ... An investigation was conducted into the circumstances surrounding the Regional Director's setting aside of the settlement agreement. The investigation revealed that the Regional Director recognized that the decision was a "close call" However, whether or not this was the best decision is not a matter for the OIG to determine because the Director's decision clearly did not constitute an abuse of authority. Moreover, the Employer had the option to litigate this issue which it chose to forego.

Decision to Issue Complaint Was Based on Fabricated Evidence

An OIG Investigation Disclosed That .. In order to remove the cloud surrounding the evidence, the Regional Office should have conducted a further investigation, including interviewing other knowledgeable persons with information about the alleged fabricated evidence, and issued an investigatory subpoena, if necessary, requiring an individual to submit to an interview and provide sworn testimony. However, the failure to more thoroughly investigate the issue of fabricated evidence was attributable to an investigative lapse rather than to bias by the Region.

Action Taken ... The OIG referred this significant investigative lapse to the General Counsel to bring to the attention of the Regional Director for whatever instructions and/or training the General Counsel and the Regional Director deem necessary so as to avoid such lapses in future cases.

Bias Against Employer and Collusion with Employees

An OIG Investigation Disclosed That ... (1) The field investigator should have accepted deposition evidence proffered by the employer since it is clearly admissible evidence of a conspiracy to fabricate evidence to be presented to governmental agencies. (2) There was insufficient evidence that the field attorney refused to accept information while taking affidavits or was biased. (3) there was no evidence to support allegation that the field attorney joined in a conspiracy with an employee and encouraged that employee request the FBI to investigate the Employer's operations. (4) There was no evidence to support the allegation that the field attorney in any way represented himself as an employee's attorney in an attempt to secure an interview. (5) No merit was found to the allegation that that NLRB required the Employer to release an employee from its civil suit against her as a condition of any settlement. (6) No merit was found to the allegation that the field attorney inappropriately solicited information from the employer relating to a possible *alter ego*. The investigation revealed that the field attorney possessed sufficient information of a possible *alter ego* situation to justify a request for information concerning the matter. The fact that an unfair labor practice charge had not been filed at the time of the request did not foreclose inquiry in this situation. Nor was there anything inherently wrong with discussing a possible unfair labor practice charge with a union, employer or employees. In fact, it's part of the job of a Regional Office. (7) With regard to bias on the part of the field attorney in his investigation, although there was no clear or easy answer, a finding of bias could not be made with the available evidence. It was obvious, however, that based on several inappropriate comments by the field attorney, the employer had sufficient reasons to doubt the field attorney's objectivity.

Action Taken ... The IG recommended that the Agency arrange for sensitivity training for the field attorney regarding the appropriate manner in which to conduct an investigation so as to ensure no bias or giving parties a reasonable basis for believing bias exists, and how to relate to the parties and witnesses, particularly in difficult situations.

Prohibited Personnel Practice-Hiring Based on Factors Other Than Merit

An OIG Investigation Disclosed That there was sufficient evidence that the hiring of a field attorney was not handled as any other application would have been and was seriously flawed. An investigation was conducted surrounding the hiring of a field attorney who was a brother of a friend of the General Counsel. The investigation developed evidence that the management person in charge of the hiring process was told by his superior that the General Counsel wanted his friend's brother hired, that they were to accommodate the General Counsel, and that this was also

made clear to the Regional Director. Further, this attorney's prior work record would normally have disqualified him from employment with the NLRB.

Action Taken ... The IG recommended that the General Counsel instruct the Operations-Management staff that hiring is to be based on merit only and that no other inferences are to be drawn because he or the other officials in his immediate office refer an applicant to them and/or converse with them about an applicant.

Conflict of Interest

After an OIG Investigation. A Board Attorney, was charged by the Public Integrity Section, Criminal Division, of the United States Department of Justice, in the United States District Court, with a criminal violation of Title 18, United States Code, Sections 298(a) and 216(a)(1). The information filed with the Court charged that the employee of the NLRB, participated personally and substantially in a particular matter in which the employee's spouse had a financial interest. The charge asserted that the employee submitted a claim for reimbursement for rent paid on a property owned by the employee's mother-in-law, and in which the spouse had a property interest and that the employee knew at the time the claim was prepared and submitted that the employee's spouse had a financial interest in the property.

On April 16, 1998, the employee appeared in the U.S. District Court and pleaded guilty to the violation. As part of the plea, the employee agreed to make restitution to the NLRB in the amount of \$6,375.00 for the cost of the claim.

As part of the plea agreement filed with the Court, the Public Integrity Section, Criminal Division, USDOJ, agreed to close its investigation of the matter, and to not seek additional prosecution of any individuals associated with the facts stipulated in the agreement.

Sentencing was scheduled for May 27, 1998.

Providing Gratuities to Federal Employees

An OIG Investigation Disclosed That ... a private corporation was providing gratuities and supplementing federal salaries for several NLRB Regional Office employees. The OIG was advised by the General Counsel that a Regional Director believed that one of his staff was being paid by a legal reporting service for furnishing information from the office. The OIG declined initial involvement in favor of a management inquiry into the matter. This investigation was opened as a result of information developed by the Regional Director in his initial inquiry.

It was learned that an employee of the Region had been employed by Labor Relations Institute, Inc. (LRI), of Broken Arrow, Oklahoma. It was also learned that the employee had been advised that several other NLRB employees in other regions were being paid as "coordinators" by LRI.

Investigation in the primary case identified LRI as one of several affiliated entities operated out of Broken Arrow, Oklahoma. LRI and its affiliated entities are in the business of producing and providing training videos and other antiunion materials to companies seeking to counter organizing efforts in the representation proceedings pending with the NLRB. LRI operates an "on-line" data base which is accessible to its customers, which according to LRI officials, rivals BNA in its complete database of NLRB decisions and information on NLRB cases and labor unions. Information developed during the course of the investigation indicates that the client base for LRI is approximately 4,000.

In the late 1980's, agents of LRI visited most, if not all, buildings in the country which housed Regional Offices of the NLRB. While LRI officials maintain that they did not specifically target NLRB employees, they acknowledge posting recruiting notices in the buildings which housed the Regional Offices, and in the vicinity of the Regional Office. Evidence developed during the course of the investigation indicates that at least in subsequent years LRI has made "cold calls" to NLRB offices seeking to recruit NLRB employees. LRI was able to recruit coordinators from the NLRB.

In essence, the coordinators were to obtain information from, or copies of, Representation Petitions from the NLRB offices on a daily basis. Coordinators were provided with 800 telephone numbers to transmit information via a facsimile machine at LRI headquarters at Broken Arrow, Oklahoma.

According to information developed during the investigation, coordinators were initially paid a monthly fee of between \$40.00 and \$60.00, and a fee of \$100.00 in recent months. Additionally, if petitions were provided by the coordinator to LRI within two days of filing, they received a bonus, usually \$1.00 per petition. Additionally, if a sale was made by LRI to the employer, the coordinator would also receive a bonus, generally of \$25.00. Coordinators also received movie and meal tickets, and other bonuses and gifts from LRI. Non-NLRB coordinators also received various tickets to provide to NLRB employees who were assisting them, but not being paid directly by LRI.

Investigation disclosed that upon receipt of the RC petition information at LRI, the coordinator would be credited with the petition, and a copy of the information forwarded to a senior sales official. That official would then make a solicitation call to the employer involved. LRI would mail a binder to the employer, containing a sample video and further solicitation.

At the end of the month, based upon the number of petitions that had been furnished, and sales made as a result of petitions being furnished, the coordinator would receive a check from LRI representing the base pay and bonuses. Evidence indicates that LRI and coordinators frequently arranged for payments to be split into several names, or made out to a friend or relative of the coordinator, to conceal the payments, to avoid the issuance of a 1099, and allow the coordinator to evade federal and state income taxes.

Employees of the NLRB used their government positions, time, and/or offices to obtain information that they then submitted, for consideration, to a company that both potentially and

actually, acted as agents of parties with matters then pending before the Board, and, specifically, their own Regional Office. If the targeted company purchased services from LRI, the employee received a payment from LRI directly attributable to a party with a matter then pending before the Regional Office in which they were employed.

When initial subpoena of long distance call detail billings records and bank records of LRI (obtained by OIG subpoena) indicated substantial involvement of employees of the NLRB and other government agencies, the investigation was joined by the FBI. The investigation was eventually carried out by agents of the FBI, the Inspector General of the Department of Transportation, and this office. Agents of the Inspections Branch of the Internal Revenue Service, the Office of Inspections of the Secret Service, the Defense Criminal Investigative Service, and other federal law enforcement organizations also participated.

Action Taken ... The case was referred to the United States Attorney's Office in Tulsa, Oklahoma, which participated in the coordination of the investigation. The United States Attorney declined to prosecute the LRI.

The OIG investigation remains open in conjunction with a review of several organizations believed to be involved in such activities.

Accepting Gratuities by Federal Employees

As a result of the investigation of Labor Relations Institute, the OIG developed information implicating several NLRB employees who served as coordinators:

- A Regional Office secretary was found to have worked as a coordinator, and when interviewed by the OIG understated her involvement.
- A Regional Office clerical worker worked as a coordinator for approximately a year, and when interviewed denied having worked for the company.
- A Regional Office Compliance Assistant confirmed to the OIG that she worked sporadically for LRI, having been recruited by another Regional Office employee.
- A Regional Office clerical employee was determined not to have worked for LRI, but had accepted checks in her name for another Regional Office clerical employee.
- A Regional Office secretary was found to have worked for LRI for approximately one year.
- A Regional Office clerical employee was determined to have been employed by LRI.
- A Regional Office clerical employee was found to have served as a coordinator, and understated her involvement with LRI when interviewed by the OIG.

- A Regional Office Elections Clerk was initially found by management to be working for LRI. She was warned to cease involvement. The OIG determined that she had continued to work for LRI, and refused to cooperate in the OIG investigation.
- A Regional Office receptionist was found to have worked for LRI for several years.
- A Regional Office clerical employee was found to have worked for LRI for several years, and had checks made payable to a third party. The employee refused to cooperate in the OIG investigation.

These cases were not referred for criminal prosecution but were referred to the General Counsel for administrative action under application of the provisions of 18 USC 201, 209, 371 and 1001, as well as 5 CFR 2635.701, et seq., and 29 CFR 100.123.

Administrative action has been commenced by the General Counsel.

Accepting Gratuities by Federal Employee

An OIG Investigation Disclosed That ... an Elections Clerk in a Regional Office has provided information to PTI Labor Research, Inc., accepting gratuities and supplementation of her federal salary.

Action Taken ... The OIG was advised by the Division of Operations Management of the Office of the General Counsel, that three separate Regions had been approached by an individual representing PTI Labor Research, Inc., soliciting Agency employees to provide either information from the Region, or to assist in recruiting “couriers” for the purpose.

Investigation disclosed that PTI Labor Research, Inc., was a Houston, Texas based organization engaged in research and consulting in the area of labor law. As a result of the investigation conducted, a Regional Office employee was interviewed by the OIG, and acknowledged having been recruited and working for PTI. She stated that she had ceased working for them, but had subsequently been told by PTI that she could no longer work for them as they had determined that it was a conflict of interest.

Officials of PTI advised the OIG that they had never knowingly employed any federal employees. PTI advised the OIG that they were aware of the LRI investigation. The OIG case on PTI Labor Research, Inc. remains open.

This case regarding the Agency employee was not referred to DOJ for criminal prosecution. The matter was referred to the General Counsel for administrative action for violation of 18 USC 201 and 209, 5 CFR 2635.701, et seq., and engaging in outside employment without permission.

Conflict of Interest

An OIG Investigation Disclosed That .. there was no evidence to support an anonymous allegation that a Resident Officer had misused government property by engaging in unauthorized outside employment.

Action Taken ... A detailed investigation, including the participation of another federal law enforcement agency and an interview with the subject employee revealed that the employee was engaged in the operation of a part time business/hobby from his residence, which at no time involved the use of government time or property.

Additionally, the employee was advised that although no intentional violation of the Agency regulation requiring permission to engage in outside employment was developed, that the operation of any business is within the sphere of coverage of such a regulation.

False Statement

An OIG Investigation Disclosed That ... there was no evidence to support an allegation by a consulting group representing an employer that an attorney representing a union had knowingly filed a fraudulent unfair labor practice charge with the NLRB.

Action Taken ... Investigation determined that a consulting group, on behalf of one of its clients, alleged in a letter sent to both a Regional Director and the Attorney General of the United States, that a legal counsel representing a union had made a false statement in violation of 18 USC 1001, by the filing of a fraudulent unfair labor practice charge against their client.

The Department of Justice, in a letter to the charging party, notified them that they were declining to investigate, adding that they were referring the matter to the OIG - NLRB who had the authority to investigate this allegation, including obstruction of Board proceedings.

Upon completion of an investigation by both the Region and the OIG, it was determined that no willful violation of Title 18, USC had been committed and the investigation was concluded.

Conflict of Interest

Unauthorized Outside Employment

Misuse of Government Property

T & A Fraud

An OIG Investigation Disclosed That ... There was no evidence to support anonymous allegations made against three Regional employees that:

- a) The joint ownership of property between two supervisory employees allowed them opportunities to manipulate their work schedule leading to T & A fraud.
- b) One of the employees was involved in the performance rating of the other leading to favored treatment.
- c) The above allegations resulted in a cover-up known to and tolerated by the Regional Director.
- d) The Regional Director expropriated government space for his own personal use.
- e) A supervisory employee was engaged in outside employment in violation of Agency regulations.
- f) A supervisory employee regularly misused government computers and other property in preparing material for a second job.

Action Taken ... Investigation determined that during a period covering several months, anonymous allegations were received by the OIG charging that certain Regional supervisory personnel were engaged in the systematic abuse of T & A regulations, as well as the other allegations listed above.

OIG investigation into these charges, including personal observations, records checks, interviews of the subjects and other appropriate Regional personnel, led to the conclusion that no unethical or illegal conduct or activities were engaged in by any of the accused employees.

Additionally, information was developed which provided that some of the allegations were outright fabrications and were obviously made by a person or persons who did not have full knowledge of the individual facts.

Harassment

An OIG Investigation Disclosed That An Agency employee complained to the OIG that he/she had been the victim of "hate-mail" by a fellow employee.

During the investigation, and prior to its completion, the complainant recontacted the OIG and requested that the investigation be stopped, as he/she no longer wished to pursue the matter and was dropping the complaint.

Action Taken .. At the request of the complainant, the investigation was discontinued.

Threats to Board Agent

An OIG Investigation Disclosed That ... A Regional Field Attorney reported that he had been threatened during a hearing by a Respondent. Subsequent investigation determined that the facts brought to light supported the conclusion that the Respondent did make the threat.

Additionally, when provided the opportunity to refute the allegation, the Respondent's attorney refused to allow his client to cooperate.

Action Taken ... The evidence developed during the investigation was turned over to the U.S. Marshal Service who have enforcement jurisdiction for any offense committed in the U.S. Courts. Additionally, similar information was provided to the Office of the U.S. Attorney in that Region.

Impersonating a Federal Agent

An OIG Investigation Disclosed That An attorney representing an employer contacted one of our Regional Attorneys advising that he had information that a local union member had misrepresented his identity and/or his credentials while attempting to serve documents relative to an upcoming NLRB hearing.

OIG investigation into this allegation determined that no independent evidence could be developed to prove that the union member had identified himself as an agent of the U.S. Government.

Information was developed however which indicated that a language difficulty existed between the parties involved which probably resulted in a misinterpretation of exactly what was said.

Action Taken ... After sworn affidavits were taken, the case was closed.

Conflict of Interest **Fraud**

An OIG Investigation Disclosed That ... A memorandum was received from the U.S. Postal Service IG requesting that an investigation be conducted into the allegation that a former local branch president of the American Postal Workers Union was guilty of conflict of interest and fraud, as well as violations of the 5th Amendment (Due Process), for failure to process grievances.

The original letter of complaint was sent to the Chairman of the House Subcommittee on the Postal Service, who referred it to the Postal Service IG.

No OIG investigation was conducted into this allegation.

Action Taken ... The complainant was instructed to bring his allegations to the attention of the Denver Regional Office by filing an unfair labor practice charge, which would be investigated by them.

Forgery

False Statements

False Claim

An OIG Investigation Disclosed That ... A self-employed union contractor may have filed a false claim and made false statements regarding the non-receipt of a U.S. Treasury check issued to him by means of NLRB funds.

Subsequent investigation by the OIG with the assistance of the U.S. Secret Service revealed that the check was never received by the payee, but instead was stolen, forged, and negotiated by a relative of the subject, with the assistance of another individual.

Action Taken ... The payee's relative was arrested and charged with forgery under Iowa state law. Suspect is currently awaiting trial.

SECTION 2

**SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES AND
RESULTANT PROSECUTIONS AND CONVICTIONS
(MANDATED BY SECTION 5 (a) (4) OF THE ACT)**

The following matters were: (1) referred for prosecution during earlier reporting periods and remain pending, (2) referred for prosecution during this reporting period, (3) acted upon by prosecutive authorities during the reporting period with the noted results, and/or (4) had administrative action taken after a declination of prosecution:

Two cases previously referred to the Department of Justice for violations of 18 U.S.C. 208, 287, 641 and 1001, are pending.

SECTION 3

**SUMMARY OF RESTITUTION MADE OR FINES PAID
AS A RESULT OF CIVIL OR CRIMINAL INVESTIGATIONS
AND/OR AUDITS
(NOT MANDATED BY THE ACT)**

Although not mandated by any provision of the Act, this section serves as a statistical summary of all amounts repaid or fines paid to the government as a result of investigations, both criminal and civil, or audits.

AMOUNTS OF RESTITUTION MADE DURING REPORTING PERIOD

None

SECTION 4

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

Dollar Value (in thousands of \$)

<u>REPORT TITLE AND NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>	<u>RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE</u>
None	- 0 -	- 0 -	- 0 -

SECTION 5

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

None

SECTION 6

**STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND TOTAL DOLLAR VALUE OF QUESTIONED AND UNSUPPORTED COSTS
(MANDATED BY SECTION 5 (a) (8) OF THE ACT)**

		<u>Dollar Value</u>	
	<u>NUMBER</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	- 0 -	- 0 -
C. Reports for which a management decision was made during the reporting period:			
(i) Disallowed costs	- 0 -	- 0 -	- 0 -
(ii) Costs not disallowed	- 0 -	- 0 -	- 0 -
D. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -	- 0 -

SECTION 7

STATISTICAL TABLES SHOWING TOTAL NUMBER OF AUDIT REPORTS
AND DOLLAR VALUE OF RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE
(MANDATED BY SECTION 5 (a) (9) OF THE ACT)

	<u>NUMBER</u>	<u>Dollar Value</u> <u>RECOMMENDATIONS THAT</u> <u>FUNDS BE PUT TO BETTER USE</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	- 0 -	- 0 -
B. Reports issued during the reporting period	- 0 -	- 0 -
Subtotal (A + B)	- 0 -	- 0 -
C. Reports for which a management decision was made during the reporting period:		
(i) Recommendations agreed to by management	- 0 -	- 0 -
(ii) Recommendations not agreed to by management	- 0 -	- 0 -
D. Reports for which no management decision has been made by the end of the reporting period	- 0 -	- 0 -

HELP ELIMINATE

WASTE

FRAUD

ABUSE

AT THE NATIONAL LABOR RELATIONS BOARD



PLEASE NOTIFY THE OFFICE OF INSPECTOR GENERAL (OIG) IF YOU ARE AWARE OF OR SUSPECT ANY SUCH ACTIVITY. YOU MAY CONTACT THE OIG IN ONE OF SEVERAL WAYS: (1) IN WRITING OR IN PERSON - OFFICE OF INSPECTOR GENERAL, 1099 14th Street, NW, ROOM 9820, WASHINGTON, DC 20570; (2) BY TELEPHONE - DURING NORMAL BUSINESS HOURS, CALL (202) 273 1960; 24 HOURS A DAY, USE THE NATIONAL TOLL FREE HOTLINE AT 1 800 736 2983 (SEE IG MEMORANDUM DATED MAY 15, 1992). THE HOTLINE IS A SECURE LINE AND CAN ONLY BE ACCESSED BY THE OIG STAFF FROM INSIDE THE OIG OFFICE. THE DEVICE WHICH WOULD PERMIT ANYONE, INCLUDING THE OIG STAFF, TO ACCESS THE HOTLINE FROM OUTSIDE THE OIG HAS BEEN DEACTIVATED SO IT CAN ONLY BE ACCESSED BY MEMBERS OF THE OIG STAFF FROM INSIDE THE OFFICE.

REMEMBER - THE OIG HOTLINE IS OPEN 24 HOURS A DAY, 7 DAYS A WEEK.

YOUR CALL OR LETTER MAY BE MADE ANONYMOUSLY

IF YOU WISH