UNITED STATES GOVERNMENT

**NATIONAL LABOR RELATIONS BOARD**

Office of Inspector General

# SEMIANNUAL REPORT

OCTOBER 1, 2013 – MARCH 31, 2014

# TABLE OF CONTENTS

Executive Summary ..... 1
Agency Profile ..... 2
Office of Inspector General ..... 4
Audit Program ..... 5
Investigations Program ..... 8
Legislation, Regulations and Policy ..... 10
Liaison Activities ..... 12
Information Required by the Act ..... 13
Audit Reports by Subject Matter ..... 14
Appendix ..... 16

# EXECUTIVE SUMMARY

I hereby submit the Semiannual Report for the period October 1, 2013 – March 31, 2014. This report summarizes the major activities and accomplishments of the Office of Inspector General of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended. Section 5 of the Inspector General Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued two audit reports, conducted the annual review required by the Federal Information Security Management Act, and completed the Improper Payment Information Act report to Congress and the Office of Management and Budget. As a result of our audit work, we found $159,276 in questioned costs. In the investigations program, the Office of Inspector General processed 151 contacts, initiated 3 cases, closed 4 cases, and issued 4 investigative reports. Our investigative efforts resulted in two separations in lieu of disciplinary action, one reprimand, one counseling, and the recovery of $18,765. Two matters were referred for prosecution.

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

David Berry
Inspector General
April 30, 2014

# AGENCY PROFILE

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

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

NLRB authority is divided by law and delegation. The five-member Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices before administrative law judges, whose decisions may be appealed to the Board, and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.

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

Seated left to right: Philip A. Miscimarra, Mark Gaston Pearce, Kent Y. Hirozawa, Standing: Nancy J. Schiffer and Harry I. Johnson, III

During this reporting period, the Board consisted of Chairman Mark Gaston Pearce and Members Philip A. Miscimarra, Kent Y. Hirozawa, Harry I. Johnson, III, and Nancy J. Schiffer. Richard Griffin was confirmed by the Senate to a 4-year term as General Counsel.

For Fiscal Year (FY) 2014, the NLRB's appropriation is $274,224,000.

NLRB Headquarters is located at 1099 14th Street, NW, Washington, DC. In addition to the Headquarters building, employees are located in 54 offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. NLRB maintains 51 field offices with 26 offices designated as Regional Offices.

Additional information about the NLRB can be found at www.NLRB.gov.

# OFFICE OF INSPECTOR GENERAL

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

## Resources

During the reporting period, the OIG received sufficient funds to maintain its programs. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, and three auditors. During the reporting period, one auditor position was vacant. This staffing level is augmented by contract auditors.

# AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued two audit reports, conducted the annual review required by the Federal Information Security Management Act, and completed the Improper Payment Information Act report to Congress and the Office of Management and Budget (OMB). As a result of our audit work, we found $159,276.48 in questioned costs.

## Reports Issued

We issued audit report OIG-AMR-71-14-01, **Division of Administration Pilot Employee Recognition Program,** on January 6, 2014. We initiated the audit after we received complaints from a Division of Administration manager alleging that the awards program was not properly managed, in that awards were made without obtaining the proper approval.

We found that the pilot Performance Management System's awards program lacked the internal controls to detect and prevent waste and abuse. There are no records for the approval of the pilot Performance Management System; the policies and procedures were not fully documented, approved, or followed; award items were misappropriated by staff; there was a lack of segregation of duties; and Office of Personnel Management regulations were not followed. The lack of internal controls resulted in gross mismanagement of the awards process during the pilot program and $159,276.48 in questioned costs.

We also found that, in general, awards were not evenly distributed among the Division of Administration branches in that the employees in the Office of the Director and the Budget and Human Resources Branches received, on average, more cash and time off awards than employees in the other branches. When we analyzed the timing of the cash and time off special act awards, we determined

that the pilot's awards program did not meet its objective to shift the emphasis from annual performance ratings-based awards to what was described as a more fluid process in which achievements are recognized as they occur. In fact, 89 percent of the special act awards occurred within 3 months of the beginning or the end of the performance appraisal cycle.

We made five recommendations to correct issues that were identified during the audit and need to be remedied.

We issued Audit Report OIG-F-18-14-01, **Audit of the NLRB Fiscal Year 2013 Financial Statements,** on January 29, 2014. The audit, performed by an independent public accounting firm, found that the NLRB's FY 2013 Financial Statements were fairly stated. No material weaknesses in controls over financial reporting were identified, and no instances involving noncompliance with laws and regulations were reported.

The Management Letter issued as part of the financial statement audit process contained no substantive findings and no recommendations. The Management Letter did provide information on the status of prior years' recommendations.

We completed the **Federal Information Security Management Act of 2002** annual review of information security programs. The OIG review was accomplished as part of the audit of the FY 2013 financial statements and the completion of the OMB template. On December 2, 2013,

the Chairman submitted reports from the Inspector General and the Chief Information Officer to OMB.

On March 27, 2014, we complied with the provisions of the **Improper Payments Information Act,** as amended by the Improper Payments Elimination and Recovery Act, and reported to Congress and OMB documenting our review of the Agency's improper payment reporting in the Agency's Performance and Accountability Report.

The NLRB stated in its Performance and Accountability Report that it does not make program payments as described in the Improper Payments Information Act and that it has no information to report with respect to erroneous program payments. Our report to Congress and OMB stated that we concurred with that determination.

## Audit Follow-up

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

**Official Time for Union Activities,** OIG-AMR-62-10-01, was issued on December 11, 2009, and we reached agreement with management on that date. During this reporting period, management completed its final action on the recommendations.

**Purchase Cards,** OIG-AMR-65-11-03, was issued on September 30, 2011, and we reached agreement with management on four of the five recommendations on January 4, 2012. Management has implemented four of the five recommendations made in the report.

**Internal Controls in the Office of Equal Employment Opportunity,** OIG-AMR-67-12-01, was issued on January 9, 2012, and we reached agreement with management on March 9, 2012. Management has not completed action on the five recommendations.

**End-of-the-Year Spending,** OIG-AMR-70-12-02, was issued on September 17, 2012, and we reached agreement with management on that date. Management implemented one of the two recommendations made in the report.

**Audit of the NLRB Fiscal Year 2012 Financial Statements,** OIG-F-17-13-01, was issued on December 6, 2012, and we reached agreement with management on that date. Management has implemented two of the three recommendations made in the report.

# INVESTIGATIONS PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. During this reporting period, we processed 151 contacts, initiated 3 cases, closed 4 cases, and issued 4 investigative reports. Our investigative efforts resulted in two separations in lieu of disciplinary action, one reprimand, and one counseling. The investigations also resulted in the recovery of $18,765. Two matters were referred for prosecution.

| Case Workload | | Contacts Processed | |
|---|---|---|---|
| Open (10/1/2013) | 9 | Received | 151 |
| Initiated | 3 | Initiated Investigation | 2 |
| Closed | 4 | Opened Case — Referred to Agency | 0 |
| Open (3/31/2014) | 8 | Non-Investigative Disposition | 149 |

## Investigative Highlights

Investigated an allegation that an employee used the identity of another Agency employee to launder proceeds from the criminal activity of a family member. The results of the investigation were provided to the Agency's Security Branch. Management is considering appropriate disciplinary action. OIG-I-471

Investigated two allegations that were related to a pilot performance management system and awards program. The matters involved in the investigation were addressed through the issuance of an audit report. OIG-I-480 and OIG-I-485

Investigated an allegation that a supervisor was leaving during the workday without requesting or being charged leave. After our investigative report was issued, the supervisor agreed to separate from the Agency and forfeit $11,240 in annual leave. OIG-I-492

Investigated an allegation that a manager of a subordinate employee used Agency time and resources

to engage in outside employment. While the investigation was pending, the manager agreed to separate from the Agency. After we issued an investigative report, the subordinate employee was counseled. OIG-I-493

Investigated an allegation that an employee was absent without requesting or being charged leave. After we issued an investigative report, the employee agreed to forfeit $7,525 in annual leave and was reprimanded. OIG-I-496

## Hotline

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

During this reporting period, the OIG received 151 Hotline contacts, of which 62 were telephone calls or walk-ins and 89 were in writing.

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

# LEGISLATION, REGULATIONS AND POLICY

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

## Legislation

During the current Congress, 20 legislative proposals have been introduced that would amend the National Labor Relations Act or otherwise impact the programs and operations of the Agency:

- H.R. 557, Advice and Consent Restoration Act;
- H.R. 795, Protecting American Jobs Act;
- H.R. 976, To declare that certain Agency actions have no force or effect and prohibits further action by the Board until the matters involving the appointment of the Board Members are resolved;
- H.R. 1120, Preventing Greater Uncertainty in Labor-Management Relations Act;
- H.R. 1815, Union Coercion Prevention Act;
- H.R. 2346, Secret Ballot Protection Act;
- H.R. 2347, Representation Fairness Restoration Act;
- H.R. 2674, Job Creation Act of 2013;
- H.R. 3485, Employee Rights Act;
- H.R. 4304, Jumpstarting Opportunities with Bold Solutions Act;
- H.R. 4320, Workforce Democracy and Fairness Act;
- H.R. 4321, Employee Privacy Protection Act;
- H.R. 4379, To prohibit any appropriation of funds for the NLRB;

- S. 180, NLRB Freeze Act of 2013;
- S. 188, Advice and Consent Restoration Act;
- S. 190, Restoring the Constitutional Balance of Power Act of 2013;
- S. 850, Preventing Greater Uncertainty in Labor-Management Relations Act;
- S. 1166, Representation Fairness Restoration Act;
- S. 1712, Employee Rights Act; and
- S. 2178, Workforce Democracy and Fairness Act.

## Regulations

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

# LIAISON ACTIVITIES

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

## Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). This organization consists of Inspectors General at the Federal Government's departments and agencies. The Inspector General sits as a member of the CIGIE Audit Committee and the CIGIE Information Technology Committee. The Inspector General is also the CIGIE representative to the Chief Financial Officers Council.

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

## Government Accountability Office

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the Government Accountability Office with a view toward avoiding duplication and ensuring effective coordination and cooperation.

# INFORMATION REQUIRED BY THE ACT

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

## Section 5(a)

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

(3) Except as noted on page 7, corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.

(4) Two cases were referred to prosecutorial authorities.

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

(6) A listing by subject matter is located on page 14.

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

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

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

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

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

(14) (15) A peer review of the audit program was conducted by the National Credit Union Administration OIG. The peer review report was issued on October 31, 2011. A copy of the peer review report is at the appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

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

# AUDIT REPORTS BY SUBJECT MATTER

| Subject Matter and Title | Questioned Costs | Unsupported Costs | Funds To Be Put To Better Use |
|---|---|---|---|
| General Administration<br>Division of Administration<br>Pilot Employee Recognition Program<br>OIG-AMR-71-14-01 | $159,276.48 | 0 | 0 |
| General Administration<br>NLRB Fiscal Year 2013 Financial Statements<br>OIG-F-18-14-01 | 0 | 0 | 0 |

## Table 1. Reports With Questioned Costs

| | Number of Reports | Dollar Value | |
|---|---|---|---|
| | | Questioned Costs | Unsupported Costs |
| **A.** For which no management decision has been made by the commencement of the period | 0 | 0 | 0 |
| **B.** Which were issued during the reporting period | 1 | $159,276.48 | 0 |
| Subtotals (A+B) | 1 | $159,276.48 | 0 |
| **C.** For which a management decision was made during the reporting period | 1 | $159,276.48 | 0 |
| **(i)** Dollar value of disallowed costs | 0 | 0 | 0 |
| **(ii)** Dollar value of costs not disallowed | 1 | $159,276.48 | 0 |
| **D.** For which no management decision has been made by the end of the reporting period | 0 | 0 | 0 |
| Reports for which no management decision was made within six months of issuance | 0 | 0 | 0 |

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

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

# APPENDIX

National Credit Union Administration

Office of Inspector General

**System Review Report**

October 31, 2011

To David Berry, Inspector General
National Labor Relations Board

We have reviewed the system of quality control for the audit organization of the National Labor Relations Board (NLRB) in effect for the year ended September 30, 2011. A system of quality control encompasses the NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in *Government Auditing Standards*. The NLRB OIG is responsible for designing a system of quality control and complying with it to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the NLRB OIG's compliance therewith based on our review.

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

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

1775 Duke Street • Alexandria, Virginia 22314-3428 • 703-518-6350 • 703-518-6349 FAX • oigmail@ncua.gov

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

Enclosure 1 to this report identifies the offices of the NLRB OIG that we visited and the engagements that we reviewed.

In our opinion, the system of quality control for the audit organization of the NLRB OIG in effect for the year ended September 30, 2011, has been suitably designed and complied with to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. The NLRB OIG has received a peer review rating of *pass*.

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

William A. DeSarno
Inspector General
National Credit Union Administration

Enclosures

2

# SCOPE AND METHODOLOGY

## Scope and Methodology

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

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

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

## Reviewed Audit Engagements Performed by the NLRB OIG

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

## Reviewed Monitoring Files of the NLRB OIG for Contracted Engagements

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

**Office of Inspector General**
**National Labor Relations Board**
1099 14th Street, NW, Suite 9820
Washington, DC 20570

(202) 273-1960
(800) 736-2983
OIGHOTLINE@nlrb.gov
Fax (202) 273-2344

1099 14th Street, N.W.
Washington, D.C. 20570