

**JUSTIFICATION  
OF  
PERFORMANCE BUDGET  
FOR  
COMMITTEE ON APPROPRIATIONS**



**FISCAL YEAR 2015**

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## **I. INTRODUCTION**

This document combines the 2015 President’s Budget request for the National Labor Relations Board (NLRB) budget estimates and NLRB’s Annual Performance Plan for FY 2015. The Plan sets strategic goals for the fiscal year and describes a number of initiatives that will help the Agency to use resources efficiently and effectively to achieve its annual and long-term performance goals under the Government Performance and Results Modernization Act of 2010 (GPRAMA).

The FY 2015 budget request of \$277.84 million will support 1,610 full-time equivalents (FTE). The Budget request will enable the Agency to process unfair labor practice and representation cases and meet ethics, e-litigation, financial management, and information technology requirements.

The Agency for the first time in a decade has five Senate-confirmed members and a Senate-confirmed General Counsel, and is now better positioned to carry out the NLRB mission.

## **II. 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.

## **III. VISION STATEMENT**

Achieving our mission through a highly motivated, talented and diverse workforce and effective and efficient stewardship of resources.

## **IV. MAJOR GOALS**

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the National Labor Relations Act (NLRA) by individuals, employers or unions. The two mission-related goals of the NLRB focus on timeliness and effectiveness in addressing caseload. The major goals are to:

- Promptly and fairly investigate, prosecute and resolve unfair labor practices under the National Labor Relations Act
- Promptly and fairly resolve all questions concerning representation of employees

## V. AGENCY ROLE AND FUNCTIONS

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the NLRA, the primary federal statute governing labor relations in the private sector.<sup>1</sup> The purpose of the law is to serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees. It seeks to do this by providing orderly processes for protecting and implementing the rights of employees and regulating the relationships between employees, their unions and employers. The Act contains a statement of employee rights that establishes freedom of association for the purpose of participating in collective bargaining. Under the Act, the NLRB has two primary functions: (1) to conduct secret-ballot elections among employees to determine whether they wish to be represented by a union, and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions.<sup>2</sup>

The five members of the National Labor Relations Board (“the Board”), as well as the General Counsel, are appointed by the President, subject to confirmation by the Senate. The Board and the General Counsel maintain a headquarters in Washington, D.C., and the Agency maintains a network of field offices, each headed by a Regional Director, and three satellite offices for Administrative Law Judges (“ALJ’s”)<sup>3</sup>

All NLRB proceedings originate from the filing of charges or petitions by employees, labor unions, or private employers who are engaged in interstate commerce. In FY 2013, 24,046 cases were filed in our Regional, Sub-regional, and Resident Offices. Of those, 21,394 were unfair labor practice (ULP) charges and the remaining 2,652 were representation cases, a majority of which were petitions to conduct secret ballot elections.

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.

Congress created the position of General Counsel in its current form in the Taft-Hartley Amendments of 1947. At that time, it gave the General Counsel sole responsibility -- independent of the Board -- to investigate charges of unfair labor practices and decide whether to issue complaints.<sup>4</sup> The General Counsel’s decision to prosecute or not is unreviewable. Typically, Regional Directors, who are delegated the General Counsel’s complaint authority, find support for the charges in about one-third of the filings and dismiss or approve withdrawal in the remaining two-thirds of the cases.

In the event of a dismissal, the charging party is entitled to an explanation, and if not satisfied, can appeal the decision to the Office of Appeals of the General Counsel’s staff in Washington, DC. The Office of Appeals will review the file to determine whether the investigation was complete and the legal conclusion sound. If the dismissal is upheld, the case is closed; if the appeal is sustained, a complaint is issued if the case does not settle.

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<sup>1</sup>Major amendments to the Act were enacted in 1947 (the Taft-Hartley Amendments), in 1959 (the Landrum-Griffin Amendments) and in 1974 (the Health Care Amendments).

<sup>2</sup>See Exhibit A, which provides detailed descriptions of the types of cases handled by the Agency.

<sup>3</sup>See Exhibit B for an organization chart of the Agency.

<sup>4</sup>See Exhibit C, which is a chart on ULP cases processing.

In those ULP cases where merit is found, (i.e., that are worthy of prosecution) either by a Regional Director or by the Office of Appeals, over the past few years, more than 90 percent were resolved through the Agency's settlement program without formal litigation. It has long been the NLRB's belief that all parties are better served if disputes are settled without the need for time-consuming and costly litigation. A complaint that is not settled or withdrawn is tried before an ALJ, who issues a decision that may be appealed to the Board through the filing of exceptions. The Board acts in such matters as a quasi-judicial body, deciding 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.

In those cases in which the Board determines that a violation of the Act has occurred, the role of the General Counsel is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation.<sup>5</sup> Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. If a party refuses to comply with a Board decision, the Board must petition for court enforcement of its order. In addition, the statute provides that any party aggrieved by a Board decision (other than the General Counsel) may seek review of the Board's decision in the U.S. Courts of Appeals. 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 Section 10(e) and (f) of the Act after the entry of a Board order and pending enforcement or review of proceedings in circuit court.

Further, at times, the financial status of the respondent changes during the time the case is being litigated. These changes may require more sophisticated litigation in bankruptcy and federal district courts pursuant to the Federal Debt Collection Procedures Act of 1990. As the Agency often has been required to engage in this complex litigation, considerable staff resources have been devoted not only to the actual litigation, but also preparing and training staff to represent the Agency in these forums.

The NLRA also authorizes seeking preliminary injunctive relief. Section 10(j) of the Act provides that where the General Counsel has issued a complaint alleging that any type of unfair labor practice has been committed except certain practices specified under Section 10(l), by a union or by an employer, the Board may direct the General Counsel to institute injunction proceedings if it determines that immediate interim relief is necessary to ensure the efficacy of the Board's ultimate order. 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 U.S. District Court to halt the alleged unlawful activity.

The Agency's other major responsibility is conducting secret-ballot elections for employees to choose whether or not to be represented by a union.<sup>6</sup> Representation cases are initiated by the filing of a petition -- by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a majority of the employees in an appropriate bargaining unit wish to have or to continue to have union representation, thereby warranting

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<sup>5</sup>See Exhibit D, which is a chart on NLRB Order Enforcement.

<sup>6</sup>See Exhibit E, which is a chart on representation case processing.

certification or re-certification of that labor organization as the employees' bargaining representative. The role of the Agency in such cases is to investigate the petition and, if necessary, to conduct a hearing to determine whether the petitioned-for unit of employees constitutes an appropriate bargaining unit under the Act. The NLRB must also determine which employees are properly included in the bargaining unit and therefore eligible to vote, conduct 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.

In the processing of representation cases, the General Counsel and the Board 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. As a result, the General Counsel and the Board have historically worked together in developing procedures for the conduct of representation proceedings. Although the Board has ultimate authority to determine such matters as the appropriateness of the bargaining unit and to rule on any objections to the conduct of an election, the Regional Directors have been delegated authority to render initial decisions in representation matters, which are subject to Board review.

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency (other than the Administrative Law Judges, the Solicitor, the Executive Secretary, and the attorneys who serve as counsel to the Board Members and to the Solicitor and Executive Secretary) and over the officers and employees in the Regional Offices. The Board has also delegated to the General Counsel general supervision over the administrative functions of the Agency.

Under the General Counsel, the Division of Operations-Management has responsibility for the administration of the NLRB's field offices. Approximately 70 percent of the Agency's staff is employed in the field, where all ULP charges and representation petitions are initially filed. Currently, the Field offices include 26 Regional Offices, 9 Sub-Regional Offices, and 16 Resident Offices.

## **VI. STRATEGIC INITIATIVES**

### ***Protected Concerted Activity***

In June 2012, the Agency developed a webpage on its public website that describes the rights of employees to act together for their mutual aid and protection, even if they are not in a union. The right to engage in certain types of concerted activity was written into the original 1935 National Labor Relations Act's Section 7, which states that: "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities."

The page, at [www.nlr.gov/concerted-activity](http://www.nlr.gov/concerted-activity), tells the stories of more than a dozen recent cases involving protected concerted activity, which can be viewed by clicking points on a map. Among the cases: a construction crew fired after refusing to work in the rain near exposed electrical wires; a customer service representative who lost her job after discussing her wages with a coworker; and an engineer at a vegetable packing plant fired after reporting safety concerns affecting other employees.

## *Social Media Guidance*

In FY 2012, the Acting General Counsel issued two new reports on social media cases brought to the Agency, continuing a focus that started in 2011 with the issuance of the first report on this new aspect of labor law.

Given the evolving nature of social media cases, by reviewing over 75 cases submitted by field offices, the Acting General Counsel has made a conscious effort to use actual case information to provide guidance to the labor law and human resources community. This comprehensive review was done in the interest of developing a consistent approach to this area of labor law involving technology and forms of expression that did not exist at the time of the passing of the NLRA.

The first report issued in FY 2012 represents the Acting General Counsel's interpretation of the Act as it applies to social media. It notes that these cases are extremely fact-specific and reinforces the main points from the report issued in 2011. The report describes social media cases reviewed by the Acting General Counsel's office, combining with last year's report to provide guidance to practitioners and human resource professionals on questions about employee disciplines and discharges as a result of social media activities.

The second FY 2012 report (third in the series) focuses exclusively on company policies governing the use of social media by employees. It covers seven cases involving such policies and provides specific examples from those cases of policies that were found to be partially or fully lawful. Taken together, the reports provide current information and guidance on all aspects of the evolving intersection of social media and employee rights under the NLRA.

The reports issued thus far underscore two main points:

- Employer policies should not be so sweeping that they prohibit the kinds of activity protected by federal labor law
- An employee's comments on social media are generally not protected if they are mere gripes not made in relation to group activity among employees

## *Deferral Policy*

As part of an effort to help parties resolve their disputes quickly and effectively in order to promote industrial peace, the General Counsel proposed that the Board consider revising its existing policy of deferring charges to arbitration in certain circumstances. When it is anticipated that charges alleging violations of Section 8(a)(1) and (3), including discharges or other forms of discrimination based upon union activities, will not be resolved or arbitrated within a year, the Office of the General Counsel urged the Board to decide such cases on its merits.

The goal, described in a memo sent to the Board, is to ensure a prompt resolution of disputes in those cases where backlogs hold up the process and may perpetuate ill will in the workplace, sometimes for many years. By having Regional staff investigate the possibility of backlogs and refer the case to Headquarters for review instead of deferral, the Agency can identify trends and quickly bring the issue to the Board. The Regions are reviewing all cases in deferral status for over a year to determine whether they should be removed from that



status and processed through investigation and a determination on the merits. They are also considering delays in grievance-arbitration processes in determining whether a charge should be deferred in the first instance. This strengthens the Board's ability to promote and effectuate meaningful compliance with the NLRA.

In addition, the Office of the General Counsel announced a new approach to post-arbitral deferral cases, as well as pre-arbitral grievance settlements involving allegations of Section 8(a)(1) or (3). As to post-arbitral deferral cases, the party urging deferral has the burden of demonstrating that the contract had the statutory right incorporated in it or the parties presented the statutory issue to the arbitrator and the arbitrator correctly enunciated the applicable statutory principles and applied them in deciding the issue. If that showing is made, deferral is appropriate unless the award is clearly repugnant such that it reaches a result that is palpably wrong, i.e., the arbitrator's award is not susceptible to an interpretation consistent with the Act.

As to pre-arbitral deferral cases, the guidance remains that we will not defer to a pre-arbitral award-grievance settlement unless the parties themselves intended the settlement to also resolve the unfair labor practice issues. If so, the Board undertakes a review of the settlement under the standards of *Independent Stave*. The General Counsel continues to review case handling of these matters to determine whether the deferral policy should be further modified.

### ***Special Remedies***

Seeking 10(j) injunctive relief is an effective remedy the Board has used for many years. In 2010, the Acting General Counsel initiated a streamlined process for seeking 10(j) injunctive relief in these types of cases. The intent of the streamlined process was to ensure that these cases were identified and processed in "real time" to provide relief to affected employees without delay. In those cases, discharges are often accompanied by other serious unfair labor practices such as threats, solicitation of grievances, promises or grants of benefits, interrogations, or surveillance. These additional unfair labor practices can also have a serious impact on employee free choice in deciding whether or not to be represented by a labor organization. For additional information on cases, please go to this page, at <http://www.nlr.gov/cases-decisions/appellate-court-briefs-and-motions>. Thus, in appropriate cases, the following remedies are being sought to enhance the effectiveness of Section 10(j) of the Act and ultimate Board relief.

**Public Reading of Board Notices:** In organizing cases, the Board's cease-and-desist and notice posting remedies announce to employees, who have been subjected to interference, restraint, and coercion with respect to their right to select a bargaining representative, that they have a protected right to engage in such activity free from unlawful reprisal. A public reading of a Board notice by a responsible official of the charged entity or by a Board agent (with a responsible official present) not only ensures that the information set forth in the notice is disseminated to all employees, but also allows employees time to consider the remedies, as opposed to hurriedly scanning the posting under the scrutiny of others.

**Electronic Posting of Notices:** The Board has also incorporated the concept of electronic posting of notices in cases where the Respondent uses its electronic systems routinely to communicate with employees. Electronic posting in these cases is in addition to the notice posting.

**Access Remedies:** The full exercise by employees of their Section 7 rights ensures that employees are fully informed of those rights, including the advantages as well as the disadvantages of selecting a particular labor organization, or any labor organization, as their bargaining representative. Where an employer unlawfully

interferes with communications between employees, or between employees and a union, the impact of that interference requires a remedy that will ensure free and open communication. Remedies include: union access to non-work areas on non-work time, to employer bulletin boards and to employee contact information; union notice of, and equal time and facilities for, the union to respond to any address made by the employer regarding union organizing.

These access remedies assure employees that they can learn about unionization and can contact union representatives in an atmosphere free of restraint or coercion and without fear of retaliation.

In addition to the special remedies in organizing campaigns, for the past several years the NLRB has pursued special remedies in first-contract bargaining cases where the new relationship between the labor organization and employees is often the most vulnerable. Regional Offices were instructed to consider remedies beyond the standard bargaining order to effectively address the consequences of bad faith bargaining and other violations during initial contract negotiations. These remedies included: public notice reading, required bargaining on a set or compressed schedule, periodic reports on bargaining status, a minimum six-month extension of the certification year, and reimbursement of bargaining expenses and/or litigation expenses.

The Office of the General Counsel also issued guidelines that provide more effective back pay remedies for illegally discharged employees. These guidelines outline new methods for calculating back pay that includes daily compounded interest and compensates for search-for-work-related expenses and tax penalties on lump sum payments. In FY 2013, the initiative resulted in 245 offers of reinstatement to unlawfully discharged employees and the collection of about \$3.7 million in back pay.

**Reimbursement of Excess Income Taxes Paid/Reporting of Back Pay Allocation to the Social Security Administration:** In *Latino Express, Inc.*, the Board adopted the Acting General Counsel's proposed remedies requiring reimbursement of excess income taxes paid as a result of a discriminatee's receipt of lump-sum back pay and reporting of the back pay allocation to the Social Security Administration (SSA). These new remedies better serve the remedial policies of the National Labor Relations Act by ensuring that discriminatees are truly made whole for the discrimination they have suffered.

### ***Public Affairs and Information Program***

The Office of Public Affairs (OPA) continues its efforts to educate and inform the public about the NLRB's work through its revamped public website, news releases and announcements, social media, outreach materials, and regular contact with the public.

Created in 2009, the Office of Public Affairs supports the Board and General Counsel's initiatives with fact sheets, news releases, and interviews. The office now has more than 15,000 email subscribers, along with 10,000 friends on Facebook and more than 5,000 Twitter followers, who receive updated Agency information on a regular basis. In August of 2013, the Office of Public Affairs launched a new mobile app, available free of charge for iPhone and Android users. The app provides information for employers, employees and unions, with sections describing the rights enforced by the NLRB, along with contact information for Regional offices. It will also continue to work with Outreach Coordinators at headquarters and in the Regional Offices to assist with developing materials, such as Regional newsletters and brochures for outreach presentations and events.

These efforts will benefit from, and build on, a major Information Technology initiative that has centralized the Agency's case processing system, making electronically available case status and a range of documents that were once difficult to access. Specifically, the Agency will continue to enhance its website through a docketing system allowing the public to review the status of cases in real time and providing links to documents.

Statistical data – more reliable and readily available than ever before – is being used to create a robust section of tables and charts that describe Board processes and case intake. Further, increased case information is displayed on our website's PCA map, <http://www.nlr.gov/rights-we-protect/protected-concerted-activity>, and 10(j) map, <http://www.nlr.gov/rights-we-protect/10j-activity>, describing some successful case resolutions around the country. Public schedules of the Agency's top officials, Board Members and the General Counsel, are being made available through posted calendars, another new web function. Further, outreach events and other local information are available on Regional webpages. This increase in available information will benefit researchers and policy makers, as well as the general public.

Further, OPA also arranges presentations about the NLRB and U.S. labor laws to more than a dozen foreign delegations each year and has expanded the Agency's initiative of working with academics developing materials and projects that are useful for teaching concepts about the National Labor Relations Act in schools.

Public outreach is encouraged, and embraced, at all levels of the NLRB. Over the past few years, the Board Members, General Counsel, and Regional management participated in hundreds of speaking engagements at law schools, practitioner symposiums, American Bar Association conferences, SHRM and Chamber of Commerce events, and meetings with employers, unions, and worker advocacy groups.

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

The Agency continues to be a strong proponent of outreach with the general public, including fostering joint educational efforts with other agencies and entities, such as the Equal Employment Opportunity Commission and the Department of Labor. In FY 2013, the Agency signed a letter of agreement with the Ministry of Foreign Affairs of the United Mexican States, which is designed to strengthen collaborative efforts to provide Mexican workers, their employers, and business owners in the U.S. with information regarding their rights and responsibilities, as well as the services our Agency provides. The NLRB also entered into a memorandum of understanding with the Department of Justice Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices formalizing a collaborative relationship that allows both agencies to share information, refer matters to one another, and coordinate investigations, as appropriate.

The public can also contact the NLRB 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 Office in closest geographic proximity. In FY 2013, the toll-free telephone service received 37,970 calls.

## ***Potential Effect of Statutory Changes***

This budget submission is based on an assumption that the statute administered by the Agency will remain essentially unchanged and that the Board's mission and operations will continue as before. As a general matter, of course, changes in the law will affect the Agency's operations and could have an effect on case load.

## **VII. EXTERNAL FACTORS AND AGENCY GOALS**

Various external factors can affect each goal, objective, and performance measure contained in the NLRB's Strategic and Annual Performance Plans. These factors include the following:

### ***Budget***

The FY 2015 request of \$277.84 million represents a one (1) percent increase over the \$274.224 million received for FY 2014. The funding will enable the Agency to support 1,610 FTE, the GSA space rent and FPS security charges, information technology, court reporting, case-related travel, and other activities critical to handling case intake which is expected to increase through FY 2015. The goals, measures and targets detailed in Section XII assume the \$277.84 million set forth in this request.

### ***Case Intake***

Based on a full five-member Board, a Senate-confirmed General Counsel, current Board law, unprecedented challenges and litigation last year on issues related to recess appointments and rulemaking, ongoing agreements with other agencies, and expanded awareness of the Act due to the Agency's outreach activities and grassroots efforts in various industries, such as those currently underway in the retail and fast food industries nationwide, the total unfair labor practice and representation case intake may increase between 5 and 15 percent through FY 2015.

Past reductions in Agency funding combined with an increase in caseload, wages, and other non-discretionary costs such as rent and security, caused programs, initiatives and resources to be deferred or curtailed. This budget request will assist in reinstating those programs to better support the Agency's mission.

### ***Settlements***

The initial processing and disposition of new case filings in the Regional Offices drives the intake for other stages of the case handling pipeline. Over the past few years, more than 90% of those cases in which merit is found are settled without formal litigation.

Regions routinely include default judgment language in all informal settlement agreements and all compliance settlement agreements. This effectively allows Regions to seek default judgments in the event of uncured breaches of informal settlement agreements, so that the Agency is not put in the position of having to expend resources litigating a settled issue.

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.

## **VIII. PROGRAM EVALUATION**

The NLRB uses various techniques and mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. The Board regularly tracks the status of all of its cases to determine performance against yearly targets that support the Agency's overarching measures and strategic goals. A standing committee composed of senior management officials, including, among others, the deputy chief counsels of each of the Board Members, meets at the beginning of each month to review the status of cases, to prioritize cases, and to develop lists of cases that the Board Members will jointly focus on each week 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 case handling management system that captures all case events in a database from which case production reports are generated. The Board Members also regularly meet and communicate with each other to discuss cases.

The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. In FY 2013, there were 40 enforcement and review cases where the United States Courts of Appeals ruled on Board decisions. Of those cases, 70 percent were enforced or affirmed in whole or in part, 60 percent were won in full, 2.5 percent were remanded in part, 10 percent were remanded entirely, and 20 percent were lost in full.

Further, the General Counsel has had an evaluation program in place for many years to assess the performance of its Regional operations. The Quality Review Program of the Division of Operations-Management reviews ULP, representation, and compliance case files annually to ensure that they are processed in accordance with substantive and procedural requirements, and that the General Counsel's policies are implemented appropriately. Those reviews have assessed, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's priorities in the areas of representation cases, Impact Analysis prioritization of cases, and compliance with Agency decisions. Additionally, personnel from the Division of Operations-Management review complaints issued in the Regions to ensure that pleadings are correct and supported. They also conduct site visits during which they evaluate Regional case handling 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 practice and procedure committees of the American Bar Association to obtain feedback on their members' experiences when 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 the Board and before district courts with regard to injunction litigation. In FY 2013, the Injunction Litigation Branch received 161 cases from Regional Offices to consider for discretionary injunctive relief under Section 10(j) of the Act. The Board authorized 41 cases and two others were withdrawn before Board consideration, based on new case developments. Of those authorized by the Board, the Regions obtained settlements or adjustments in 15 cases. Of the 22 petitions filed in district court, 11 were litigated to conclusion by the end of the fiscal year. The Board won eight cases and lost three.

## **IX. FISCAL YEAR 2015 PERFORMANCE BUDGET**

The \$277.84 million requested will fund essential staffing, space requirements, long-term investments in information technology, case handling expenses, employee development needs, and other operational costs needed to achieve the Agency's mission and goals.

### ***Assumptions***

The request is based on the following assumptions:

- Case intake will increase from FY 2013 levels through FY 2015.
- A 1% pay increase.
- The statute administered by the Agency remains unchanged.
- Planned performance goals and measures will be met.

### ***Requirements***

The NLRB's mission relies primarily on skilled and experienced professional employees; accordingly, approximately 80 percent of the \$277.84 million requested supports annual staffing personnel costs, 10 percent is required for rent and security, and the remaining 10 percent is allocated among all other operating costs and activities, including: IT development, acquisition, operation and maintenance; telecommunications, including leased lines and videoconferencing for all Field offices; court reporting; case-related travel; witness fees; interpreters; maintenance of legal research collections; training; and compliance with government-wide statutory and regulatory mandates.

The following table places the FY 2015 performance budget request in the context of resources received or anticipated over the FY 2013 through FY 2015 timeframe:

	<b>FY 2013 Actual Obligations</b>	<b>FY 2014 Enacted Appropriation</b>	<b>FY 2015 Performance Budget</b>
<b>Funding Level (000s)</b>	\$263,748	\$274,224	\$277,840
<b>Agency FTE</b>	1,597	1,610	1,610

The requested funding will enable the Agency to cover compensation and benefits for an estimated 1,610 FTE plus mandatory General Services Administration space and Federal Protective Service security charges, critical case management, financial and human resources systems, telecommunications, court reporting, case-related travel, legal research tools, training, and other activities essential for handling the Agency’s case intake, which may increase through FY2015.

### ***Program Activities***

The following table illustrates obligations by program activity. Administrative support costs and FTE are included in the totals for each activity.

	<b>FY 2013 Actual Obligations</b>		<b>FY 2014 Enacted Appropriation</b>		<b>FY 2015 Performance Budget</b>	
	<b>\$ Millions</b>	<b>FTE</b>	<b>\$ Millions</b>	<b>FTE</b>	<b>\$ Millions</b>	<b>FTE</b>
<b>Field investigation</b>	\$212	1,266	\$221	1,276	\$224	1,276
<b>ALJ hearing</b>	12	97	12	98	13	98
<b>Board adjudication</b>	25	148	27	149	27	149
<b>Securing compliance with Board orders</b>	13	80	13	81	13	81
<b>Internal review</b>	1	6	1	6	1	6
<b>Relocation</b>						
<b>Total</b>	\$263	1,597	\$274	1,610	\$278	1,610

The FY 2015 budget request assumes that case intake will increase from FY 2013 levels of 24,046 cases. The initial processing and disposition of new case filings in the Regional Offices drives the intake for other stages of the case handling pipeline. Historically, approximately one-third of the cases dismissed by the Regional Directors based on a lack of merit are appealed to the Office of Appeals; however, a very small percentage of those appeals are sustained. The meritorious charges, if not settled, go onto the ALJ’s trial calendar, and, after hearing, go to the Board for final review and decision. Some of these cases proceed to the Enforcement Division for contempt or other post-enforcement proceedings. While cases are winnowed out at every stage of the pipeline, the merit, settlement, litigation and appeal rates tend to be constant over time.

The remaining two-thirds of the cases filed with the Agency are found to lack merit. Of those cases that are dismissed due to a finding of lack of merit, a very small percentage of those appeals are sustained. The meritorious charges, if not settled, go onto the administrative law judges' (ALJ) trial calendar, and, after hearing, go to the Board for final review and decision. Once the Board has decided a case, the next step in the process is to secure full compliance with Board decisions and orders. The decisions and orders of the Board require either voluntary compliance or enforcement in the courts. A substantial portion of the Regional Office FTE will be devoted to seeking voluntary compliance, while Headquarters employees from the Division of Enforcement Litigation will continue to seek enforcement of contested cases through the courts. The Agency estimates that the number of cases pending compliance and court litigation will increase between FY 2014 and FY 2015, as the new five-member Board deals with a number of "lead" cases currently pending decisions. When those decisions are released, other cases involving similar or related issues will be released soon thereafter, resulting in a spike in enforcement and compliance work. In addition, the Agency will be handling a substantial number of cases involving recess appointment issues, which will result in an uptick in Supreme Court, Appellate, and District Court work for our staff. Lastly, due to recent downturns in the economy, our Contempt, Compliance and Special Litigation Branch is expected to deal with more bankruptcy matters.

***Budget Oversight***

The NLRB prides itself on being a responsible steward of taxpayer dollars. As such, the Agency has conserved funds and maximized spending flexibility over the years by imposing hiring controls; restructuring and streamlining the workforce to operate more efficiently and effectively; reducing space rent costs; investing in information technology to achieve long-term savings; and monitoring travel and other support costs. These practices have enabled the Agency to cover normal operational requirements, serve constituents at a high level, maintain labor peace, and achieve performance goals.

***Savings Initiatives***

The Agency's Next Generation Case Management (NxGen) program, financial management systems modernization, and infrastructure consolidation efforts are beginning to provide returns on their respective investments, as demonstrated in the below table. These initiatives are discussed in detail in Section XII.

DESCRIPTION	AVG SPEND FY 2010-2012	EST SPEND FY 2015	REDUCTION
Legacy/NxGen Case Management	\$4,215,147.06	\$3,439,203.35	\$775,943.71
Financial Systems Modernization	\$2,069,069.94	\$1,244,655.05	\$824,414.89
Consolidated Infrastructure	\$1,750,701.94	\$1,552,026.18	\$198,675.76
<b>Total</b>			<b>\$1,799,034.35</b>

**Agency expenditures FY 2010-2012  
compared with estimated expenditures for FY 2015**



Additionally, the Agency has launched the following initiatives that will save money, increase efficiency, enhance performance, and enable the NLRB to continue to provide high quality service to the public over time. However, as with all initiatives, start up and development costs are necessary, but will pay dividends in future years. These initiatives include:

**Unified Communications:** In FY 2013, the Agency developed a plan to consolidate its data, voice, video and wireless networks and released a detailed request for information to gather ideas, best practices and/or recommendations to inform the development and implementation of its future state telephony, video and network architecture. In FY 2014, the costs for these segregated services will be in excess of \$3.85 million. After the initial investments in network and end-user voice equipment in FYs 2014 and 2015, the Agency expects total network services costs to be about the same as the current separate allocations for data, voice and video networks. However, the enhanced services will demonstrably improve administrative efficiencies, the gains of which will be realized in future budget years.

**Cloud-based email:** The Agency has migrated its email repositories and services to Microsoft's cloud-based, software as a service solution, Office 365. The Agency presently is repurposing the nearly one million dollar investment in its email infrastructure to extend the lifespan of its NxGen on-premises infrastructure. The prior significant investments in email infrastructure supported 300 megabytes of storage for each Agency employee. The cloud-based service offers over 166 times the storage, and expanded services, for approximately three dollars per user per month.

**Hybrid Cloud Infrastructure:** Having successfully consolidated its infrastructure, the Agency now desires to take full advantage of cloud computing benefits to maximize capacity utilization, improve IT flexibility and responsiveness, and minimize costs. With FYs 2012 and 2013 selective investments in Amazon's Elastic Compute Cloud and Microsoft's Office 365 solutions, the Agency is in a position to replace its near end-of-life storage area network and network backup solutions with smaller hybrid cloud solutions in FY 2014.

**Telework:** The Agency has appreciably increased its telework efforts in FY2014 and by FY 2015 is working with GSA on a plan to significantly reduce space/rent costs going forward. These efforts need to be supported by investments in the NxGen case management system, infrastructure consolidation and cloud investments.

**Electronic Records Management:** The Agency is modernizing its case records management system and made NxGen the official Regional Office case file for all cases filed on or after October 1, 2012. Managing a single, electronic case file provides significant administrative efficiencies for these offices. The Agency estimates to save at least \$17,000 a year solely on reduced paper supplies, shipping, and Federal Records Center service charges.

**E-Filing:** In FY 2013, the Agency received over 38,000 case-related documents through its electronic filing program. Each filing was routed directly into the NxGen system for processing, eliminating the requirements for mail handling and scanning and significantly reducing the need for data entry. In FY 2014, the Agency will execute ambitious plans to offer constituent self-service through the NxGen program and increase the number and types of E-Filing submissions. In FY 2015, the Agency expects to expand this program to enable constituents to E-File charges and petitions, the two initiating documents for the Agency's cases.

**E-Service and E-Delivery:** Also in FY 2013, the Agency electronically served and delivered over 700 decisions to more than 53,000 parties and Agency offices who would have otherwise received printed and mailed copies. The estimated printing and postage savings in FY 2013 is in excess of \$34,000. These savings are expected to increase significantly after the Agency expands E- Issuance/Delivery beyond Board and Division of Judges Decisions in early FY 2014.

**FOIA Centralization:** The Agency expects to develop a centralized processing and tracking system for handling nationwide FOIA requests received each year and enhance transparency through the public website's case docketing system for easy public access to case status and relevant documents.

## **X. OFFICE OF THE INSPECTOR GENERAL**

The amount of \$1,102,345 for the Office of Inspector General (OIG) operations was submitted by the Inspector General and was included in this request without change. That amount includes payroll salaries and benefits, \$9,000 for training of OIG personnel, and \$2,639 for support of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The Inspector General certified to the Chairman that the budget estimate and request would satisfy the training requirements for the Inspector General's office for FY 2015, and any resources necessary to support the CIGIE.

## **XI. MANAGEMENT INITIATIVES**

This section describes the agency's overall management priorities and plan for advancing performance and management outcomes.

### ***Technology Advances***

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

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

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

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

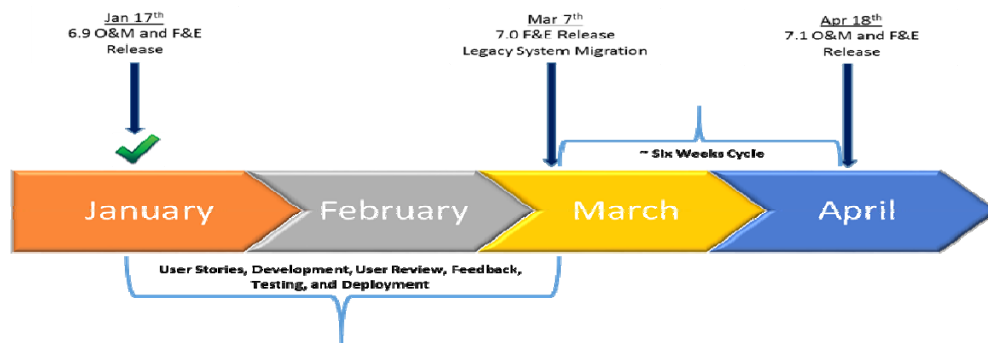
- Next Generation Case Management (NxGen)
- Unified Communications and Mobility
- E-Government
- Administrative Systems Modernization
- Enterprise Support Services
- Infrastructure Consolidation and Cloud First
- FOIA Centralization

### ***Next Generation Case Management (NxGen)***

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

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

- *Split projects into smaller, simpler segments with clear deliverables.* In late 2009, the OCIO and the NxGen Integrated Project Team (IPT) determined that NxGen would be more successful with an increased number of smaller development efforts, commonly known as an agile methodology. The NxGen team now deploys a release every month – as is illustrated below, alternating between Functionality and Enhancement (F&E) releases and those associated with Operations and Maintenance (O&M).



- *Focus on most critical business needs first.* Along with the change in operating method, the OCIO and IPT modified the program’s execution into more manageable segments.

- *Ongoing, transparent project oversight.* The IPT is the true success story of the NxGen program. This governance group has been and continues to be enthusiastic, involved and supportive. OMB suggests that often senior agency managers do not adequately monitor projects on an ongoing basis once they are underway. With NxGen, the Board and General Counsel have been well served in this capacity by a dedicated group of senior managers.

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

- All Regional Offices
- Division of Enforcement-Litigation
- Division of Advice
- Division of Judges
- Board Offices
- Appellate Court Branch
- Integration with the Board's collaborative Judicial Case Management System (JCMS)
- All Offices for processing incoming electronically-filed documents, including hearing transcripts and exhibits
- Electronic issuance of Board and Division of Judges Decisions
- Electronic delivery of Field Office documents to the U.S. Postal Service, part of a pilot to deliver all Field documents electronically

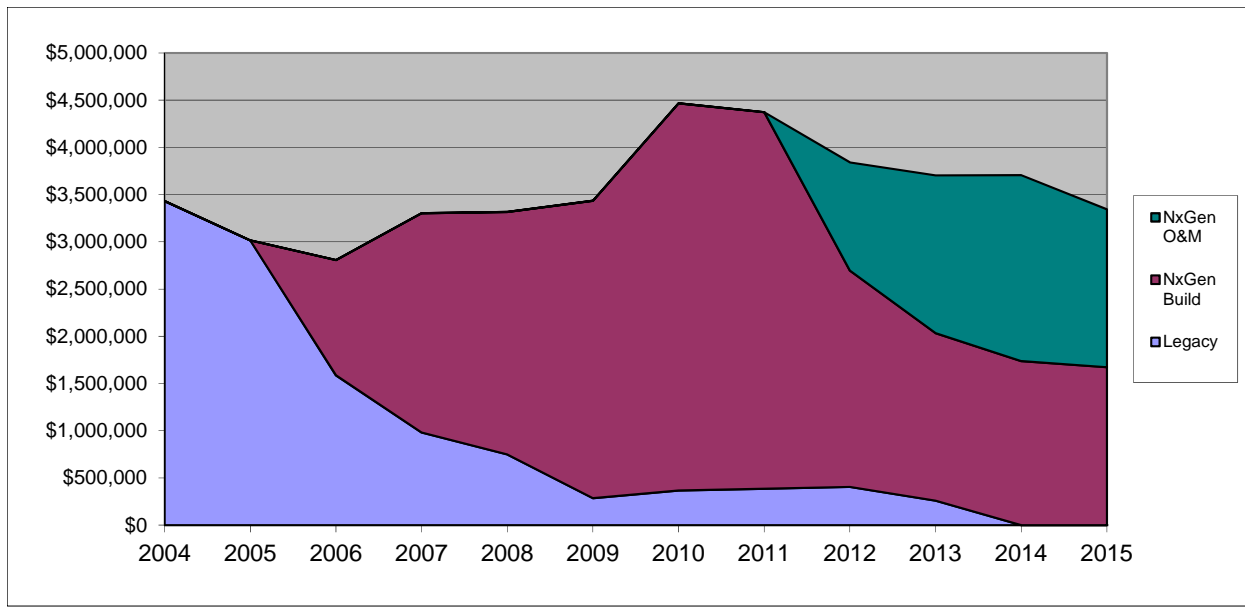
Legacy systems retired as a result of developing the NxGen case management system:

- Case Activity Tracking (CATS)
- Appeals Case Tracking (ACTS)
- Regional Advice and Injunction Litigation (RAILS)
- Case Tracking (TIGER) used by the Division of Judges
- Pending Case List (PCL)
- Litigation Information on the Network (LION)

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

- 247,722 cases;
- 642,323 case actions of the Agency; and
- 3,481,340 documents, images, and videos, each linked to its action and case.

As is illustrated below, the Agency funded the NxGen modernization efforts in significant measure by reducing expenditures on 5 of the 11 remaining legacy systems. The notable spikes in the FY 2010 and FY 2011 expenditures were due to the Agency's successful efforts to complete development and deployment of NxGen to the Field Offices prior to the end of FY 2011. Deployment included a comprehensive training effort to ensure successful adoption of the system in the Field Offices.



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

The Agency’s efforts for FYs 2013 and 2014 were focused on replacing the remaining substantial systems case tracking applications, expanding reporting and electronic issuance of documents to constituents, integrating inter-office workflows, and modernizing its records management system, and centralizing FOIA processing.

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

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

In FY 2015, the Agency will deliver on ambitious plans to implement a modern, adaptable and scalable data warehouse, with multiple data marts providing real-time case management analytics. One of the first of these marts will be a public data mart, comprised of all data within NxGen that is considered FOIA-able without redaction. This effort will revolutionize the way constituents and researchers access Agency data.

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

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

### ***Unified Communications and Mobility***

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

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

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

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

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

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

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

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

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

## ***E-Government***

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

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

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

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

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

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

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

## ***Administrative Systems Modernization***

In FY 2013, the Agency accomplished the migration of the legacy financial management systems for finance, acquisitions and budget to the Department of Interior's Interior Business Center's (IBC) shared instance of Oracle Federal Financials.

The Agency expects Oracle Federal Financials to continue to deliver the following benefits:

- Offer similar functionality to its legacy Momentum system, including integration with the Federal Personnel and Payroll System (FPPS) and E-Travel.
- Leverage a common data model across all its modules, enabling improved business processes and financial data analytics.
- Deliver significantly improved enterprise reporting that increases transparency.
- Provide a web-based interface that will support remote access and telework for staff in finance, acquisitions, budget, and those office managers in the regional offices that perform financial functions.

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

In FY 2013 the Agency began an effort to modernize and replace its E-Travel system. The new system provides for self-service creation of all travel authorizations and vouchers in an easy to use web-based system that is fully integrated with Oracle Federal Financials. This initiative comports with the Agency's desire to invest in systems and services that optimize business processes by providing employees ready access to the tools they require from anywhere, at any time, and it will implement this system in FY 2015.

In FY 2012, the Agency released a new iteration of its intranet, *Insider*, and employed a formal web management structure to give all parts of the NLRB a voice regarding content. To more fully utilize the intranet platform as a transactional one, and to actively assess, develop and re-model the Agency's non-mission critical systems and processes, the Agency formed an Administrative Systems IPT.

By FY 2013, the intranet platform's increasing use as a document library, together with the growing employment of ad hoc forms, shared drives and other on-premise document repositories revealed the requirement for a more comprehensive solution. The Agency conducted market research and alternatives analysis for cloud-based collaborative solutions to better manage data, content, records, and workflows, and to provide near-real time reports and analytics for its administrative systems. The Agency made the decision to expand the capabilities of the Office 365 Suite and utilize the cloud-based SharePoint offering.

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



## *Enterprise Support Services*

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

In FY 2013, the Library cut costs by consolidating subscriptions and eliminating redundant electronic resources in favor of desktop deployed legal research assistance tools. In FY2014, the Library will continue to pivot spending away from print resources and toward electronic resources that can be accessed remotely by employees across all the Regional, Sub-Regional and Resident Offices and Headquarters. This continued transformation of the Library into a more agile institution will help reduce its physical footprint in the anticipated new Headquarters office space in early 2015.

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

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

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

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

- Increase Employee Self-Service use through the development of an online Service Catalog and Self-Help Knowledge led assistance.
- Implement Software License Management for COTS software products.
- Develop processes and procedures to have all Agency configuration items identified and maintained in a configuration management repository by FY 2015.
- Develop dashboards to measure internal and contractor performance metrics and service level agreements by FY 2015.

## ***Infrastructure Consolidation and Cloud First***

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

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

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

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

Through continuing to modernize and consolidate its IT infrastructure, the NLRB is able to provide cost-effective access to the tools, data and documents that employees require from anywhere, at any time, along with the service and support that they require.

## ***Workforce Planning***

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

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

## ***Regional Office Consolidations***

By the end of FY 2013, the Agency had reduced the number of Regional offices from its historical number of 32 down to 26. In July 2013, the Board approved the restructuring of four regional offices, as proposed in March 2013 after evaluating feedback from members of Congress, NLRB staff, and the public. The restructuring changes the status of two Regional Offices to sub regional offices. Specifically, the Milwaukee, WI office (Region 30) became a sub region of the Minneapolis, MN Regional Office (Region 18) and the Puerto Rico office (Region 24) became a sub region of the Tampa, FL Regional Office (Region 12).

The proposal builds on previous efforts initiated in FY 2012, when, in response to evolving patterns of case intake in its nationwide network of Regional Offices, the Agency undertook a pilot program as to the restructuring of some of its field offices. The pilot program was designed to allow the NLRB to take advantage of new technologies and create operational efficiencies while gathering information on internal management and case processing issues that might arise. After evaluating the pilot, including discussions with members of Congress, NLRB staff, and the public, the restructuring was approved by the Board in December 2012.

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

This restructuring adjusts the Agency's presence to the case filing developments that have occurred over the years by more evenly distributing case intake among Regions. The development of the Agency's electronic case management system (NxGen) has greatly facilitated the ability to proceed with these restructuring plans. All of the resulting Regions will be of a size and internal management structure that will optimize efficiency

and economy, while preserving high quality investigations and litigation and resulting in an Agency that is best able to fulfill its mission in the future. This streamlining effort has also saved costs through decreasing the number of senior level managers in these affected Regions and eliminating personnel performing duplicative functions.

### ***Headquarters Restructuring***

Related to this consolidation effort in the field, the NLRB also centralized services in several different branches and divisions within headquarters. This centralization includes moving non-mission related legal and advisory support services to a new and independent Division of Legal Counsel and shifting records, forms and library functions to the Office of the Chief Information Officer, in keeping with advances in electronic processing, storage, and retrieval systems, and moving printing, copying, and mailroom functions to the Facilities and Property Branch. In doing so, the Agency eliminated duplication of functions, improved delivery of services, centralized services and streamlined management functions and operations.

### ***Financial Management***

The Office of the Chief Financial Officer (OCFO), established in late FY 2012 includes the budget, finance and acquisitions functions and provides for enhanced agency financial management. The Chief Financial Officer reports to both the Chairman and General Counsel.

Financial controls were improved in FY 2013 with the conversion to the new financial system which occurred in October 2012. The Agency migrated from the Department of Interior's Interior Business Center's (IBC) Momentum financial system to IBC's Oracle Federal Financials. The new system offers better functionality with improved cost-effectiveness and efficiency. The Agency is also migrating to a new travel management system in early FY 2015, which like the payroll system will be integrated with Oracle.

### ***Training***

In order to ensure that staff members have the skills needed to accomplish the NLRB's mission, the Agency has enhanced training opportunities and materials for both supervisory and non-supervisory staff utilizing more in-house and electronic resources. These efforts will increase staff efficiency, facilitating the Agency's ability to continue achieving its mission in a constrained budget environment. The focus has involved initiatives aimed at developing the following key skill areas:

Technical Training: NLRB is developing instructor guides regarding specifics on how to effectuate provisions of the NLRA. Over thirty-five of these guides are currently being used to provide the introductory and refresher training in the Agency. These are complemented by technical and legal in-house and on-line training.

Supervisory, Managerial, and Executive Training: As part of an Agency-wide management program, managers at all levels annually assess their management skills and training needs. The Agency will offer a variety of ways managers can take training to meet these needs, including: a 360 degree assessment/executive coaching program; training for new supervisors; seminars; and on-line training from Skillsoft and Ninth House.

Support Staff: NLRB is focusing on on-line and videoconference training in business skills and writing. Also, training that includes Agency-specific topics such as proper data transfer techniques for the new automated case management system.

General: Training is being presented to address common needs such as mentoring for new employees, EEO/Diversity/Inclusion, and retirement planning and required training such as: Ethics, Plain Writing, and Purchase Card. Videoconferencing and on-line technology is also being used so training can be delivered nationwide to all employees. Headquarters presentations by special emphasis speakers, experts from academia and short “how to” seminars by internal and external experts can now be shared with Field employees.

### ***Green House Gas and Sustainability***

The NLRB has several ongoing initiatives to address sustainability issues. Over the next few years, the Agency plans to expand the use of telework. Currently, about 20 percent of eligible employees telework, but this will increase due to the mandated-GSA Headquarters relocation and space reduction, as systems and policies are implemented that enable more employees to work from home. We have also coordinated with GSA to reduce space requirements at headquarters in conjunction with the expiration of the lease in June 2013. The plan incorporates GSA’s new flex space design, consistent with the Administration’s effort to reduce the federal government’s footprint nationwide. In addition, the Agency will be analyzing information collected during the Regional Office consolidation pilot program, which could lead to further space reductions. The Agency’s sustainability priorities are fully in line with its initiatives to improve management and internal functions and thereby enhance the Agency’s ability to meet its performance goals and measures.

### ***Records Management***

The Agency has a robust records management program and is very proactive in enhancing electronic recordkeeping, identifying and transferring important documents to the National Archives and Records Administration, and eliminating paper. In accordance with an Administration initiative, the Agency will be developing plans to transition to managing all permanent electronic records in an electronic format, including digitizing permanent records created in hard-copy or other analog formats. Also, efforts to evaluate how best to manage all email records in an electronic format are ongoing, and the Agency looks forward to reporting the status of this initiative next year.

The NLRB has always strived to manage its records effectively and in compliance with all Federal statutes, regulations and professional standards. To enhance these efforts, the Agency has designated a Senior Agency Official (SAO) to oversee a review of the records management program. The SAO will ensure compliance with all pertinent records management statutes, verify that the Agency Records Officer has the appropriate credentials, and make certain that all staff are aware of records management responsibilities and receive suitable training.

## **XII. STRATEGIC PLAN GOALS AND THEIR RELATIONSHIP TO THE PERFORMANCE BUDGET**

In accordance with the Government Performance and Results Modernization Act (GPRAMA), the NLRB issued a new strategic plan in February 2014. The NLRB's Fiscal Year 2014-2018 Strategic Plan includes these two mission-related goals that appeared in the prior plan: 1) Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act; 2) Promptly and fairly resolve all questions concerning representation of employees, and adds the following two new supporting goals: 3) Achieve Organizational Excellence; 4) Manage Agency resources in a manner that instills public trust. These four goals address the Agency's current challenges as well as outline what we hope to accomplish.

The NLRB's two mission-related strategic goals are supported by three overarching 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 charge; 2) The percentage of all unfair labor charges resolved by withdrawal, dismissal, settlement or compliance with a Board Order or Court judgment within 120 days of the filing of the charge; 3) The percentage of representation cases resolved within 100 days of filing of the election petition. Rather than focus on the individual segments of the case handling 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 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 NLRB strengthens budget and performance linkages by establishing a direct, vertical relationship between the performance plans of individual executives in its Regional and Headquarters offices and the performance goals for their programs, goals which are derived from the Agency's broader strategic goals. These goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency. In revising the Strategic Plan, the Agency continued these linkages between budget and performance, and performance plans will be revised as necessary to incorporate any new goals/measures.

Below are the Agency’s two mission-related strategic goals in chart form:

**Goal 1—Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act**

	FY 2013 Actual		FY 2014 Enacted Appropriation		FY 2015 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure: The percentage of all meritorious unfair labor practice charges resolved by settlement or compliance with a Board Order of Court judgment within 365 days of the filing of the charge	442	\$72.9	446	\$76.0	446	\$77.1
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	886	\$146.5	893	\$152.0	893	\$153.8
<b>Subtotal, Goal 1</b>	1,328	\$219.4	1,339	\$228.0	1,339	\$230.9

**Goal 2—Promptly and fairly resolve all questions concerning representation of employees**

	FY 2013 Actual		FY 2014 Enacted Appropriation		FY 2015 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure: The percentage of representation cases resolved within 100 days of filing the election petition	269	\$44.3	271	\$46.2	271	\$46.9
<b>Subtotal, Goal 2</b>	269	\$44.3	271	\$46.2	271	\$46.9
Total, Goals 1 & 2	1,597	\$263.7	1,610	\$274.2	1,610	\$277.8

Listed below are the Agency’s four strategic goals described in detail, along with associated objectives, strategies and performance measures.

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

**Objective 1: Achieve established performance measures for the resolution of unfair labor practice charges.**

**Initiative 1: Achieve established performance measures for the resolution of all meritorious unfair**

labor practice charges.

**Measure 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 charge.

**Initiative 2:** Achieve established performance measures for the resolution of all unfair labor practice charges.

**Measure 1:** 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.

**Objective 2: Ensure that all matters before the Agency are handled in a fair and consistent manner.**

**Initiative 1:** Conduct annual quality reviews of Regional unfair labor practice case files and institute modifications to case processing as appropriate.

**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.

***Goal 2: Promptly and fairly resolve all questions concerning representation of employees***

**Objective 1: Achieve established performance measures for the resolution of all questions concerning representation of employees.**

**Initiative 1:** Achieve established performance measures for the resolution of representation cases.

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

**Objective 2: Ensure that all matters before the Agency are handled in a fair and consistent manner.**

**Initiative 1:** Conduct annual quality reviews of Regional representation case files and institute modifications to case processing as appropriate.

**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.

### ***Goal 3: Achieve organizational excellence***

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

**Initiative 1:** Invest in and value all employees through professional development, workplace flexibilities, fair treatment, and recognition.

##### **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% 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.

**Initiative 2:** Develop and implement recruitment strategies to ensure a highly qualified and diverse workforce.

##### **Management Strategies:**

- 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 Veterans Administration and

Department of Labor veterans programs to ensure that outreach efforts to veterans are consistent with OPM, congressional and Presidential directives.

**Objective # 2: Promote a culture of professionalism, mutual respect, and organizational pride.**

**Initiative 1:** Improve employee satisfaction and employee engagement.

**Management Strategies:**

- 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 (for example: Honorary Awards).

**Initiative 2:** Ensure that employees are aware of the Agency's mission and how they contribute to its accomplishments.

**Management Strategies:**

- 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.

**Initiative 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:**

- Demonstrate leadership accountability, commitment, and involvement regarding diversity and inclusion.
  - Fully and timely comply with all federal laws, regulations, executive orders, management directives and policies related to promoting diversity and inclusion in the workplace.
  - Provide on-going diversity and inclusion training for senior leadership.
  - Evaluate all levels of management on their proactivity in maintaining an inclusive work environment.
- Involve employees as participants and responsible agents of diversity, mutual respect and inclusion.
  - Reassess Agency mentoring programs to ensure they are used as tools to maintain a diverse workforce by affording a consistency of opportunity throughout all

- organizational units.
  - Explore the use of employee affinity groups at headquarters and in regional offices for recruitment, retention and developmental activities.
- Encourage participation in special emphasis observances.

## ***Goal 4: Manage agency resources in a manner that instills public trust***

### **Objective # 1: Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the agency's mission and increase transparency.**

**Initiative 1:** Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system.

**Measure 1:** Complete the deployment of the Next Generation Case Management System (NxGen), replacing 11 separate legacy systems, to all Agency mission offices during FY 2015.

**Measure 2:** 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.

**Measure 3:** Increase the information shared electronically with the public, making the Agency's case processes more transparent.

#### **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 Integrated Project Team.

**Initiative 2:** Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency.

**Measure 1:** Streamline the Agency transactional processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time.

**Measure 2:** 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 by FY 2016.

**Measure 3:** Create a dynamic social collaborative environment for employee engagement.

#### **Management Strategies:**

- Focus on most critical business needs first.
- Split projects into smaller, simpler segments with clear deliverables.
- Increase information sharing within the Agency through mechanisms that are easy for employees to contribute to and access.
- Employ ongoing, transparent project oversight from the Administrative Systems Integrated Project Team.

**Initiative 3:** Effective management of fiscal resources.

**Measure 1:** Produce financial reports as required by OMB, Treasury, and Congress.

**Measure 2:** Conduct annual training of allowance holders.

**Measure 3:** Conduct training for new allowance holders within 90 days of on boarding.

**Measure 4:** Increase transparency in enterprise financial reporting.

**Measure 5:** Increase use of strategic sourcing, purchase card program, and in sourcing to minimize waste and abuse.

**Measure 6:** Increase number of awards given to minority business enterprises.

## **Objective #2: Evaluate and improve the Agency's Outreach Program**

**Initiative 1:** Enhance Agency's Outreach Program.

### **Management Strategies:**

- Employ further non-traditional outreach to the following populations:
  - Immigration Population
  - Youth
- Engage with organizations, such as those listed below, to better educate workers and employers:
  - Letters of Agreement (LOA) with embassies
  - Joint outreach with sister agencies
  - Memorandums of Understanding (MOU) with other agencies related to co-extensive investigations
- Focus on Protected Concerted Activity vs. Union Activity:
  - Expanded usage of the NLRB's social network
  - Additional information on NLRB public website
  - Broader use of NLRB Smartphone app and other technology
  - Use of Internet technology, such as YouTube
  - Development and internal posting of more informational materials for use by board agents at recruitment and outreach events

## **Objective # 3: Conduct all internal and external Agency business in an ethical and timely manner.**

**Initiative 1:** Promote an ethical culture within the NLRB through leadership, awareness, resources, and oversight.

**Measure 1:** Involve Agency leadership promoting visibility of NLRB Ethics Program.

**Measure 2:** Increase employee awareness of ethics responsibilities by maintaining an education program that reaches all NLRB employees at all levels.

**Measure 3:** Respond to 85% of ethics inquiries within 5 days of receipt.

**Measure 4:** Review and certify financial disclosure reports within 60 days of receipt and notify filers of real or potential conflicts.

**Measure 5:** Use technology to improve financial disclosure reporting and review process.

**Initiative 2:** Respond to internal audits in a timely manner.

**Measure 1:** Prepare responses to internal audit reports as required by the auditor, meeting the deadlines specified in the reports.

**Initiative 3:** Respond to external audits in a timely manner.

**Measure 1:** Prepare responses to external audit reports as required by the auditor, meeting the deadlines specified in the reports.

**Initiative 4:** Respond to FOIA and other public inquiries in a timely manner.

**Measure 1:** Respond to initial FOIA requests within 20 working days.

**Measure 2:** Seek a statutory extension for less than 15% of requests.

**Measure 3:** Respond to statutory appeals within 20 working days.

**Measure 4:** Seek a statutory extension for less than 20% of appeals.

### **XIII. AGENCY PERFORMANCE**

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 the Government Performance and Results Act. 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 the conduct of 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 conduct of elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees, employers and unions voluntarily and freely exercising their statutory rights as set out in the NLRA.

The same difficulty is inherent in any attempt to define “outcomes” in the prevention of unfair labor practice conduct. The aim of the Agency is to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. In the absence of a mechanism to accurately gauge “labor peace” or the impact of Agency activities among a range of variables influencing that goal, the NLRB has established the two performance measures noted above. In particular, the timeliness and quality of case processing, from the filing of an unfair labor practice charge to the closing of a case upon compliance with a litigated or agreed-to remedy, are the focus of the performance measures. In FY 2013, the NLRB exceeded the targets for all three performance measures.

#### ***Explanation of Performance Measures***

The NLRB tracks the total time taken to accomplish the outcomes of its two mission-related goals: Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act and promptly and fairly resolve all questions concerning representation of employees. 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.

**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 charge**

**Background:**

This is outcome-based performance measure first implemented in FY 2007. The measure focuses on meritorious (prosecutable) ULP cases and the time taken to close them on compliance, including time spent by both the General Counsel and the Board. Compliance marks the point where an employer or union has ceased engaging in the ULP conduct being prosecuted and has taken appropriate affirmative action, including the payment of back pay, to make whole those injured by the ULP.

Once a Regional Director has determined an unfair labor practice charge has merit, it is scheduled for a hearing date before an administrative law judge. However, efforts to obtain voluntary compliance or appropriate settlements begin immediately and continue throughout the course of any necessary litigation. Most settlements are achieved before trial. Once the administrative law judge 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 Court Branch of the Division of Enforcement Litigation, which, if it is unable to secure voluntary compliance or a settlement meeting established standards, will proceed to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board's order.

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

**Definitions:**

*Resolve* -- Cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation are complete.

*Counting of Days* -- The 365 days is calculated from the date the charge is docketed.

**Performance -- Goal 1/Initiative 1/Measure 1:** In FY 2013, the NLRB closed 82.4 percent of all prosecutable ULP cases in 365 days from the docketing of the charge, exceeding the target by 0.4 percentage points.

**Table 1: Goal 1/Initiative 1/Measure 1**

<b>Assumes Continuation of Current Labor Law</b>			
<b>Goal : Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act</b>			
<b>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 charge</b>			
<b>Baseline: 73.6%</b>			
<b>Fiscal Year</b>		<b>Targets*</b>	<b>Actual</b>
<b>FY 2007</b>		<b>74.0%</b>	<b>73.5%</b>
<b>FY 2008</b>		<b>75.0%</b>	<b>76.0%</b>
<b>FY 2009</b>		<b>75.5%</b>	<b>79.7%</b>
<b>FY 2010</b>		<b>80.0%</b>	<b>84.6%</b>
<b>FY 2011</b>		<b>80.2%</b>	<b>83.2%</b>
<b>FY 2012</b>		<b>80.3%</b>	<b>83.8%</b>
<b>FY 2013</b>		<b>82.0%</b>	<b>82.4%</b>
<b>FY 2014</b>		<b>82.5%</b>	
<b>FY 2015</b>		<b>82.5%</b>	

**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.**

**Background:**

This is an outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a ULP charge, including time spent on both the General Counsel and Board sides.

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

**Definitions:**

*Resolve* -- The ULP case has been finally processed. The issues raised by the charging party have been answered and, where appropriate, remedied. There is no further Agency action to be taken.

*Counting of Days* -- The 120 days is calculated from the date that the charge is docketed.

**Performance -- Goal 1/Initiative 2/Measure 1:** In FY 2013, the NLRB closed 73.2 percent of all ULP cases within 120 days of the docketing of the charge, exceeding the target by 1.2 percentage points.

**Table 2: Goal 1/Initiative 2/Measure 1**

<b>Assumes Continuation of Current Labor Law</b>		
<b>Goal: Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act</b>		
<b>Measure 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.</b>		
<b>Baseline: 66.7%</b>		
<b>Fiscal Year</b>	<b>Targets</b>	<b>Actual</b>
<b>FY 2007</b>	<b>67.5%</b>	<b>66.0%</b>
<b>FY 2008</b>	<b>68.0%</b>	<b>68.0%</b>
<b>FY 2009</b>	<b>68.5%</b>	<b>71.0%</b>
<b>FY 2010</b>	<b>71.2%</b>	<b>73.3%</b>
<b>FY 2011</b>	<b>71.2%</b>	<b>72.5%</b>
<b>FY 2012</b>	<b>72.0%</b>	<b>72.7%</b>
<b>FY 2013</b>	<b>72.0%</b>	<b>73.2%</b>
<b>FY 2014</b>	<b>72.3%</b>	
<b>FY 2015</b>	<b>72.3%</b>	

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

**Background:**

This is an outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and Board sides.

An employer, labor organization, or a 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 the parties toward a goal of reaching a voluntary agreement regarding the conduct of an election. If a voluntary agreement is not possible, the parties present their positions and evidence at a formal hearing. The NLRB Regional Director issues a decision after review of the transcript of the hearing and the parties’ legal argument, either dismissing the case or directing an election. If the parties in the case disagree with the Regional Director’s decision, they may appeal that decision to the Board for review. Prompt elections are desirable because an expeditious determination affords employers, employees, and unions a more stable environment and promotes the resolution of industrial disputes.

**Definitions:**

*Resolve* -- When a case has been finally processed with no further rights of appeal or administrative action required, the question as to whether or not the labor organization will represent the employees has been finally resolved. Representation cases are resolved in a number of ways:

Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early stage in the processing may be based on a variety of reasons, for example, the employer not meeting jurisdictional



requirements, the petitioner’s failure to provide an adequate showing of interest to support the petition, and/or the petition being filed in an untimely manner.

Cases may also be withdrawn by the petitioner for a variety of reasons including lack of support among the bargaining unit and/or failure to provide an adequate showing of interest.

The majority of cases are resolved upon either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election).

In a small percentage of cases, there are post-election challenges or objections to the election. These cases are not considered resolved until the challenges and/or objections have been investigated and a report has been adopted by the Board.

*Counting of Days* -- The 100 days is calculated from the date that the petition is formally docketed.

**Performance -- Goal 2/Measure 1:** As reflected in Table 1, in FY 2013, the Agency closed 87.4 percent of representation cases within 100 days of filing – 2.2 percentage points above the stated target.

In order to meet its FY 2013 target, the Agency conducted NxGen training, much of which focused on the processing of representation cases, and filled necessary executive and managerial positions left vacant by retiring senior leadership, and it is expected that improved efficiencies will result.

**Table 1: Goal 2/Initiative 1/Measure 1**

<b>Assumes Continuation of Current Labor Law</b>		
<b>Goal: Promptly and fairly resolve all questions concerning representation of employees</b>		
<b>Measure: The percentage of representation cases resolved within 100 days of filing the election petition</b>		
<b>Baseline: 78.0%</b>		
<b>Fiscal Year</b>	<b>Targets</b>	<b>Actual</b>
<b>FY 2007</b>	<b>79.0%</b>	<b>79.0%</b>
<b>FY 2008</b>	<b>80.0%</b>	<b>83.5%</b>
<b>FY 2009</b>	<b>81.0%</b>	<b>84.4%</b>
<b>FY 2010</b>	<b>85.0%</b>	<b>86.3%</b>
<b>FY 2011</b>	<b>85.0%</b>	<b>84.7%</b>
<b>FY 2012</b>	<b>85.2%</b>	<b>84.5%</b>
<b>FY 2013</b>	<b>85.2%</b>	<b>87.4%</b>
<b>FY 2014</b>	<b>85.3%</b>	
<b>FY 2015</b>	<b>85.4%</b>	

The following chart summarizes the Annual Performance Plan for the NLRB mission-related goals from FY 2011 to FY 2015:

***FY 2015 ANNUAL PERFORMANCE PLAN  
ASSUMING CONTINUATION OF CURRENT LABOR LAW***

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Goal 1: Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act					
Measure: <b>The percentage of meritorious unfair labor practice charges resolved by compliance with a Board Order or Court judgment within 365 days of the filing of the charge</b>	<b>Target 80.2%</b>  <b>Actual 83.2%</b>	<b>Target 80.3%</b>  <b>Actual 83.8%</b>	<b>Target 82.0%</b>  <b>Actual 82.4%</b>	<b>Target 82.5%</b>	<b>Target 82.5%</b>
Goal 1: Promptly and fairly investigate, prosecute, and resolve unfair labor practices under the National Labor Relations Act					
Measure: <b>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</b>	<b>Target 71.2%</b>  <b>Actual 72.5%</b>	<b>Target 72.0%</b>  <b>Actual 72.7%</b>	<b>Target 72.0%</b>  <b>Actual 73.2%</b>	<b>Target 72.3%</b>	<b>Target 72.3%</b>
Goal: Promptly and fairly resolve all questions concerning representation of employees					
Measure: <b>The percentage of representation cases resolved within 100 days of filing the election petition</b>	<b>Target 85.0%</b>  <b>Actual 84.7%</b>	<b>Target 85.2%</b>  <b>Actual 84.5%</b>	<b>Target 85.2%</b>  <b>Actual 87.4%</b>	<b>Target 85.3%</b>	<b>Target 85.4%</b>

The NLRB support goals, new to the FY 14- FY 18 Agency’s strategic plan, have no prior data at this time and will be reviewed annually beginning with FY 2015 for performance and conformance with the NLRB Strategic Plan.

## **XIV. BOARD MEMBERS AND GENERAL COUNSEL**

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

	<b><u>Sworn In</u></b>	<b><u>Term to Expire</u></b>
Mark Gaston Pearce <sup>7</sup> 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

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<sup>7</sup>Mark Gaston Pearce was appointed Board Member on April 7, 2010 and appointed Chairman on August 28, 2011. He was reappointed to a second term on July 30, 2013.

## **XV. BUDGET MATERIALS**

Attachment 1: Appropriation Language

Attachment 2: Amounts Available for Obligation

Attachment 3: Budget Authority by Object Class

Attachment 4: Detail of FTE Employment

Attachment 5: Appropriations History

Attachment 6: Staffing History

Attachment 7: Major Workload and Output Data

**FY 2015**  
**Proposed Changes in Appropriation Language**

**NATIONAL LABOR RELATIONS BOARD**

**SALARIES AND EXPENSES**

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, and other laws, [~~\$274,224,000~~] *\$277,840,000*: Provided, that no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935, and as amended by the Labor-Management Relations Act, 1947, and as defined in section 3(f) of the Act of June 25, 1938, and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

Amounts Available for Obligation  
(Dollars in Thousands)

	<b>FY 2013 ACTUAL</b>	<b>FY 2014 ESTIMATE</b>	<b>FY 2015 ESTIMATE</b>
Appropriation	\$263,748	\$274,224	\$277,840
Spending authority from offsetting collections 1/	6	5	0
Lapsed Balance in Prior Year			
<b>Total Estimated Obligations</b>	<b><u>\$263,754</u></b>	<b><u>\$274,229</u></b>	<b><u>\$277,840</u></b>

1/ Offsetting collections for FY 2013 - \$6,123.84

Budget Authority by Object Class  
(Dollars in Millions)

	<b>2013 ACTUAL</b>	<b>2014 ESTIMATE</b>	<b>2015 ESTIMATE</b>
Personnel Compensation:			
Full-time Permanent	161	164	166
Other Than Full-time Permanent	2	2	2
Other Personnel Compensation			
<b>Subtotal Personnel Compensation</b>	<b>163</b>	<b>166</b>	<b>168</b>
Civilian Personnel Benefits	45	46	47
Travel and Transportation of Persons	2	2	2
Rental Payments to GSA and Security Payments to DHS	26	30	29
Rent, Communications, and Utilities	5	5	5
Other Services	20	23	25
Supplies and Materials	1	1	1
Furniture and Equipment	1	1	1
<b>Subtotal, Direct Budget Authority</b>	<b>263</b>	<b>274</b>	<b>278</b>
Reimbursables	0	0	0
<b>Total Budget Authority</b>	<b>263</b>	<b>274</b>	<b>278</b>

### Detail of Full-Time Equivalent Employment

	<b>FY 2013 <u>ACTUAL</u></b>	<b>FY 2014 <u>ESTIMATE</u></b>	<b>FY 2015 <u>ESTIMATE</u></b>
Executive Level I	0	0	0
Executive Level II	0	0	0
Executive Level III	1	1	1
Executive Level IV	4	5	5
Executive Level V	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>5</u>	<u>6</u>	<u>6</u>
ES	<u>57</u>	<u>60</u>	<u>62</u>
Subtotal	<u>57</u>	<u>60</u>	<u>62</u>
AL-1	1	1	1
AL-2	4	4	4
AL-3	32	32	32
Subtotal	<u>37</u>	<u>37</u>	<u>37</u>
GS/GM-15	208	195	198
GS/GM-14	464	460	459
GS/GM-13	268	270	270
GS-12	78	70	70
GS-11	89	100	99
GS-10	1	1	1
GS-9	53	55	57
GS-8	48	45	46
GS-7	155	184	180
GS-6	69	53	53
GS-5	56	65	65
GS-4	8	3	3
GS-3	3	6	5
GS-2	1	1	0
GS-1	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>1,499</u>	<u>1,507</u>	<u>1,505</u>
Full-time Equivalent Usage	<u>1,597</u>	<u>1,610</u>	<u>1,610</u>
Average ES Salary	\$164,992	\$167,000	\$167,000
Average AL Salary	\$165,295	\$165,300	\$165,300
Average GS/GM Salary	\$97,979	\$98,745	\$99,394



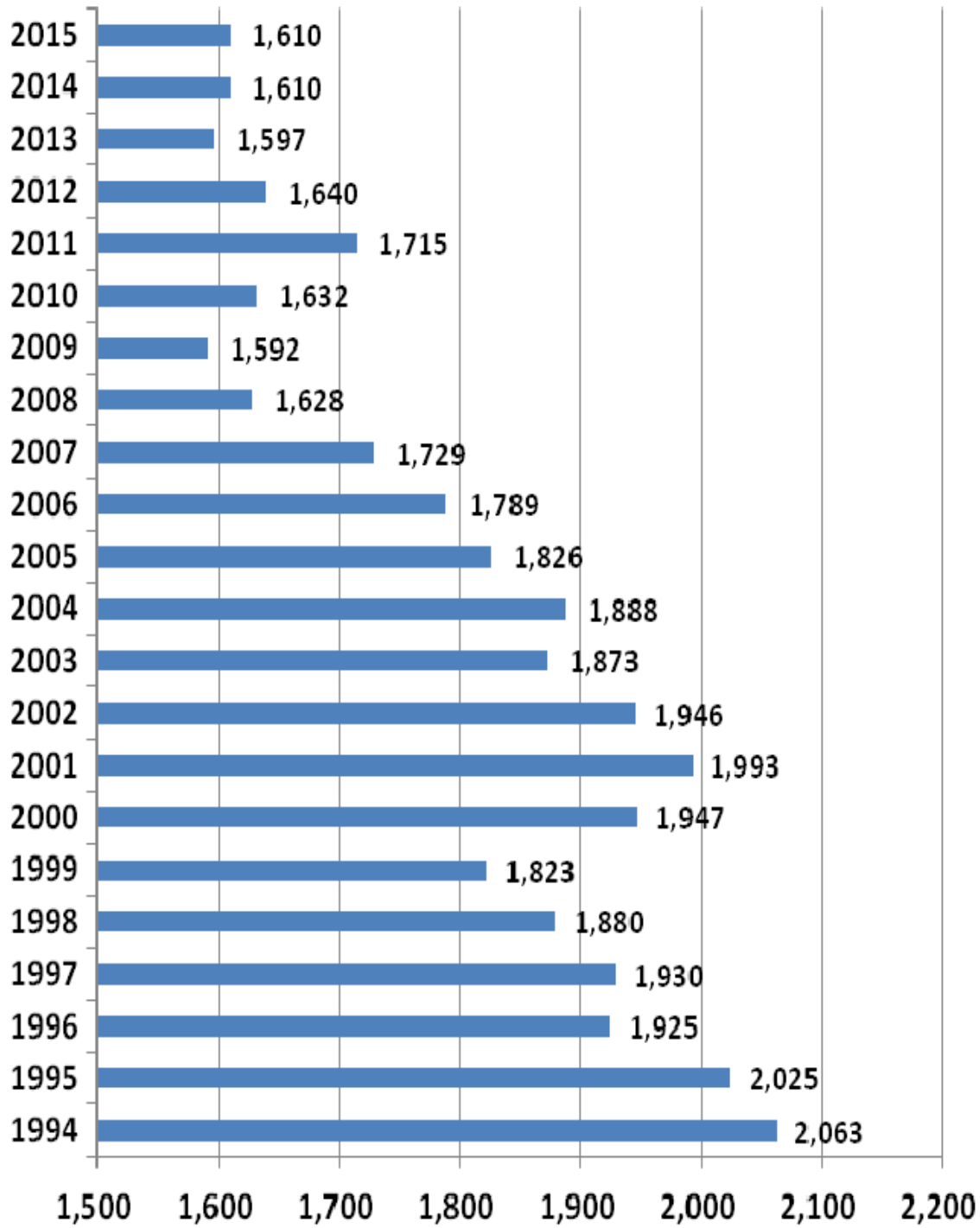
## Appropriations History

Year	Estimate to Congress	House Allowance	Senate Allowance	Appropriation or Continuing Resolution	
1990	\$140,111,000	\$140,111,000	\$140,111,000	\$140,111,000	
1991	\$151,103,000	\$151,103,000	\$151,103,000	\$147,461,000	1/
1992	\$162,000,000	\$162,000,000	\$162,000,000	\$162,000,000	
1993	\$172,905,000	\$171,176,000	\$171,176,000	\$169,807,000	2/
1994	\$171,274,000	\$171,274,000	\$171,274,000	\$171,274,000	
1995	\$174,700,000	\$173,388,000	\$176,047,000	\$175,721,000	3/
1996	\$181,134,000	\$123,233,000		\$170,266,000	4/ 5/
1997	\$181,134,000	\$144,692,000		\$174,661,000	6/ 7/
1998	\$186,434,000	\$174,661,000	\$174,661,000	\$174,661,000	
1999	\$184,451,000	\$174,661,000	\$184,451,000	\$184,230,000	8/
2000	\$210,193,000		\$205,717,000	\$205,717,000	9/ 10/
2001	\$216,438,000	\$205,717,000	\$216,438,000	\$216,438,000	
2002	\$221,438,000	\$221,438,000	\$226,438,000	\$226,450,000	11/
2003	\$233,223,000		\$231,314,533	\$237,428,592	12/
2004	\$243,073,000	\$239,429,000	\$246,073,000	\$242,632,969	13/
2005	\$248,785,000	\$248,785,000	\$250,000,000	\$249,860,000	14/
2006	\$252,268,000	\$252,268,000	\$252,268,000	\$249,745,000	15/
2007	\$249,789,000	\$249,789,000	\$249,789,000	\$251,507,470	16/
2008	\$256,238,000	\$256,988,000	\$256,988,000	\$251,761,522	17/
2009	\$262,595,207	\$262,595,000	\$262,595,000	\$262,595,000	
2010	\$283,400,000	\$283,400,000	\$283,400,000	\$283,400,000	
2011	\$287,100,000			\$282,833,200	18/
2012	\$287,699,000			\$278,306,006	19/
2013	\$292,800,000			\$263,748,933	20/
2014	\$284,991,000			\$274,224,000	21/
2015	\$277,840,000				

## Appropriations History -- Footnotes

- 1/ Reflects reduction of 2.41% applied to all discretionary programs, per P.L. 101-517.
- 2/ Reflects .8 percent across-the-board reduction applied during conference.
- 3/ Reflects government-wide rescission of \$326,000, per P.L. 104-19.
- 4/ The Senate Appropriations Committee recommended \$176,047,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 5/ Reflects reduction of \$477,000 per two rescissions in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 6/ The Senate Appropriations Committee recommended \$170,266,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Appropriations Act of 1997, (P.L. 104-208).
- 7/ Reflects reduction of \$339,000 due to across-the-board reductions in conference per Section 519, P.L. 104-208.
- 8/ Reflects reduction of \$221,000, per government-wide rescission (P.L. 106-5).
- 9/ The House Appropriations Committee recommended \$174,661,000. However, the full House never voted on the Labor/HHS Appropriations bill. Funding was provided through the Consolidated Appropriations Act for 2000 (P.L.106-113)
- 10/ Reflects reduction of \$783,000 due to across-the-board reductions in conference, per P.L. 106-113.
- 11/ This total includes a one-time transfer of \$180,000 from the Emergency Response Fund and reflects a rescission amount of \$168,000 as provided under P.L.s 107-117 and 107-206, respectively.
- 12/ The Senate bill initially provided for \$238,223,000 and two amendments reduced all discretionary programs by 2.9%.
- 13/ This total includes a rescission amount of \$1,440,031 as provided under P.L. 108-199.
- 14/ Reflects a .8 percent across-the-board rescission, per P.L. 108-477.
- 15/ Reflects a 1 percent across-the-board rescission, per P.L. 109-148.
- 16/ Reflects an additional \$1,762,150 to cover 50% of the pay increase, as per P.L. 110-5.
- 17/ The Labor/HHS bill was passed by Congress but vetoed by the President. The total reflects the President's Request less a 1.747% rescission, per H.R 2764.
- 18/ Reflects a .2% across-the-board rescission, per P.L. 112-10.
- 19/ Includes a .189% across-the-board rescission, per P.L. 112-74.
- 20/ Reflects a.2% across-the-board rescission and a \$14,000,461 Sequestration Cut, per P.L. 113-6.
- 21/ The Labor/HHS bill was passed by Congress and the President, as per P.L. 113-76

# STAFFING HISTORY



Attachment 6

## Major Workload and Output Data

	FY 2013 ACTUAL	FY 2014 ESTIMATE	FY 2015 ESTIMATE
<b>1) Regional Offices:</b>			
Unfair Labor Practice (ULP) Cases			
Situations Pending Preliminary			
Investigation at Start of Year	4,826	4,452	4,500
Case Intake During Year	21,394	22,365	23,480
Consolidation of Dispositions	28,207	29,000	29,000
Situations Pending Preliminary			
Investigation at End of Year	4,452	4,500	4,800
Representation Cases			
Case Intake During Year	2,652	2,835	2,975
Dispositions	3,946	4,000	4,000
Regional Directors Decisions	319	300	300
<b>2) Administrative Law Judges:</b>			
Hearings Pending at Start of Year	307	281	263
Hearings Closed	254	260	266
Hearings Pending at End of Year	281	263	264
Decisions Pending at Start of Year	60	68	61
Decisions Issued	238	243	245
Decisions Pending at End of Year	68	61	62
<b>3) Board Adjudication:</b>			
Contested Board ULP Decisions Issued	162	170	175
Contested Representation Election Decisions Issued	68	84	85
<b>4) General Counsel - Washington:</b>			
Advice Pending at Start of Year	85	87	82
Advice Cases Received During Year	628	625	630
Advice Disposed	626	630	630
Advice Pending at End of Year	87	82	82
Appeals Pending at Start of Year	196	217	214
Appeals Received During Year	1,732	1,757	1,760
Appeals Disposed	1,711	1,760	1,765
Appeals Pending at End of Year	217	214	209
Enforcement Cases Received During Year	170	192	193
Enforcement Briefs Filed	40	63	63
Enforcement Cases Dropped or Settled	29	42	42
Enforcement Consent/Summary	70	90	91

## **XVI. PROGRAM MATERIALS**

Exhibit A: Types of NLRB Cases

Exhibit B: Organization Chart

Exhibit C: Basic Procedures in Cases Involving Charges of Unfair Labor Practices

Exhibit D: NLRB Order Enforcement

Exhibit E: Outline of Representation Procedures Under Section 9c

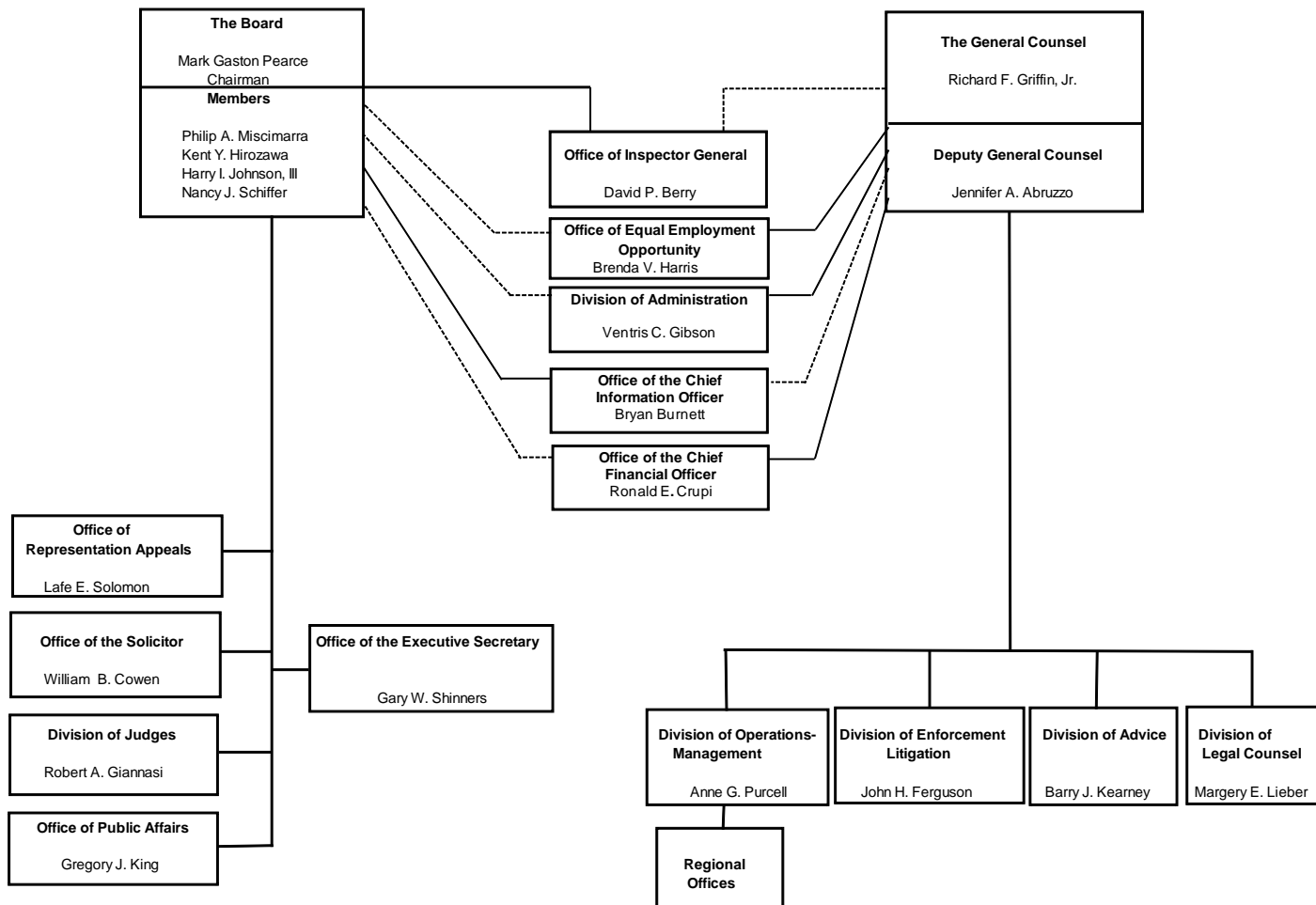
## TYPES OF NLRB CASES

1. CHARGES OF UNFAIR LABOR PRACTICES (C CASES) Charges Against Labor Organization						Charge Against Labor Organization and Employer	
Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act
<p><b>CA</b></p> <p>8(a)(1) To interfere with, restrain, or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).</p> <p>8(a)(2) To dominate or interfere with the formation or administration of a labor organization or contribute financial or other support to it.</p> <p>8(a)(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.</p> <p>8(a)(4) To discharge or otherwise discriminate against employees because they have given testimony under the Act.</p> <p>8(a)(5) To refuse to bargain collectively with representatives of its employees.</p>	<p><b>CB</b></p> <p>8(b)(1)(A) To restrain or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).</p> <p>8(b)(1)(B) To restrain or coerce an employer in the selection of its representatives for collective bargaining or adjustment of grievances.</p> <p>8(b)(2) To cause or attempt to cause an employer to discriminate against an employee.</p> <p>8(b)(3) To refuse to bargain collectively with employer.</p> <p>8(b)(5) To require of employees the payment of excessive or discriminatory fees for membership.</p> <p>8(b)(6) To cause or attempt to cause an employer to pay or agree to pay money or other things of value for services which are not performed or not to be performed.</p>	<p><b>CC</b></p> <p>8(b)(4)(i) To engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or boycott, or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object is:</p> <p>(A) To force or require any employer or self-employed person to join any labor organization or to enter into any agreement prohibited by Section 8 (e).</p> <p>(B) To force or require any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or force or require any other employer to recognize or bargain with a labor organization as the representative of its employees unless such labor organization has been certified.</p>	<p><b>CD</b></p> <p>8(b)(4)(ii) To engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or boycott, or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object is:</p> <p>(C) To force or require any employer to recognize or bargain with a particular labor organization as the representative of its employees if another labor organization has been certified as the representative.</p> <p>(D) To force or require any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another trade, craft, or class, unless such employer is failing to conform to an appropriate Board order or certification.</p>	<p><b>CG</b></p> <p>8(g) To strike, picket, or otherwise concealingly refuse to work at any health care institution without notifying the institution and the Federal Mediation and Conciliation Service in writing 10 days prior to such action.</p>	<p><b>CP</b></p> <p>8(b)(7) To picket, cause, or threaten the picketing of any employer where an object is to force or require an employer to recognize or bargain with a labor organization as the representative of its employees, or to force or require the employees of an employer to select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees:</p> <p>(A) where the employer has lawfully recognized any other labor organization and a question concerning representation may not appropriately be raised under Section 9(c).</p> <p>(B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or</p> <p>(C) where picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing; except where the picketing is for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, and it does not have an effect of interference with deliveries or services.</p>	<p><b>CE</b></p> <p>8(e) To enter into any contract or agreement (any labor organization and any employer) whereby such employer ceases or refrains or agrees to cease or refrain from handling or dealing in any product of any other employer, or to cease doing business with any other person.</p>	
2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)						3. OTHER PETITIONS	
By or in Behalf of Employees			By an Employer			By or in Behalf of Employees	
Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act
<p><b>RC</b></p> <p>9(c)(1)(A)(i) Alleging that a substantial number of employees wish to be represented for collective bargaining and their employer declines to recognize their representative.*</p>	<p><b>RD</b></p> <p>9(c)(1)(A)(ii) Alleging that a substantial number of employees assent that the certified or currently recognized bargaining representative is no longer their representative.*</p>	<p><b>RM</b></p> <p>9(c)(1)(B) Alleging that one or more claims for recognition as exclusive bargaining representative have been rescinded by the employer.*</p>	<p><b>UD</b></p> <p>9(e)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.</p>	<p><b>UC</b></p> <p>Subpart C Seeking clarification of an existing bargaining unit.</p>	<p><b>UC</b></p> <p>Subpart C Seeking amendment of an outstanding certification of bargaining representative.</p>	<p><b>AC</b></p> <p>Subpart C Seeking amendment of an outstanding certification of bargaining representative.</p>	<p><b>AC</b></p> <p>Subpart C Seeking amendment of an outstanding certification of bargaining representative.</p>

\* If an 8(b)(1) charge has been filed involving the same employer, these statements in RC, RD, and RM petitions are not required. Charges filed with the National Labor Relations Board are letter-coded and numbered. Unfair labor practice charges are classified as "C" cases and petitions for certification or decertification of representatives as "R" cases. This chart indicates the letter codes used for "C" cases and "R" cases, and also presents a summary of each section involved.

# NATIONAL LABOR RELATIONS BOARD

## ORGANIZATION CHART

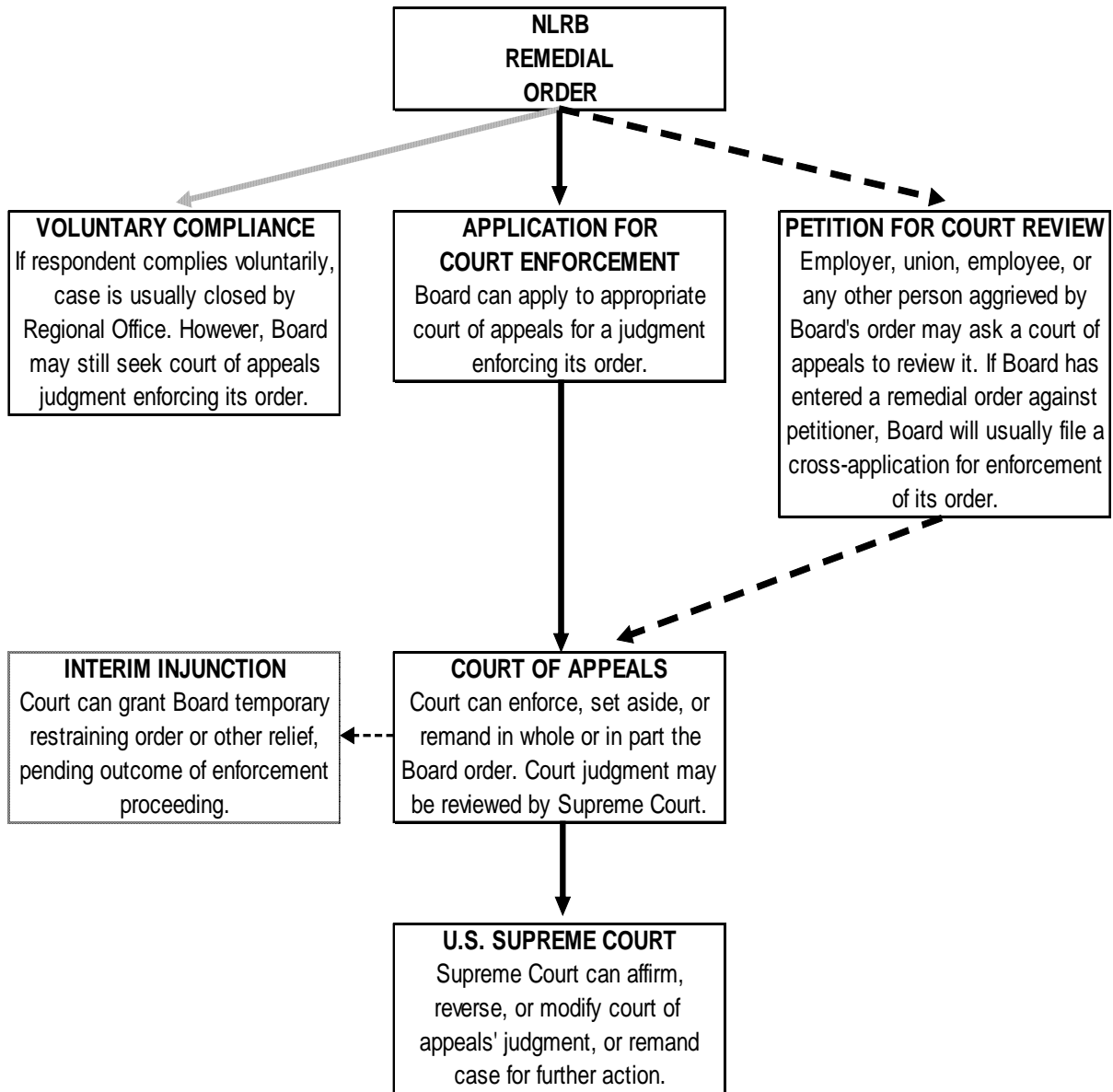






# NLRB ORDER ENFORCEMENT CHART

# EXHIBIT D



# Outline of Representation Procedures Under Section 9(c) EXHIBIT E

