

PERFORMANCE AND ACCOUNTABILITY REPORT  
FY 2005



PROTECTING WORKPLACE DEMOCRACY



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# Message from the Chairman

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Robert J. Battista

I am pleased to present the National Labor Relation Board's Performance and Accountability Report for Fiscal Year (FY) 2005. This publication presents our audited financial statements, and sets forth our performance against the major objectives we set for the Agency.


The National Labor Relations Board is an independent Federal Agency created in 1935 by Congress to administer the National Labor Relations Act, the basic law governing relations between labor unions and business enterprises engaged in interstate commerce. FY 2005 was an eventful year for the NLRB.

In June, we celebrated the 70th Anniversary of the Act, which continues to protect employees in the workplace in the free exercise of their rights to organize and bargain collectively should they so choose. During these past 70 years, the NLRB has processed over 2 million cases, collected \$1.7 billion in backpay, and conducted 415,000 elections involving over 40 million workers.

The accompanying Performance and Accountability Report for FY 2005 shows the NLRB met many of its goals, surpassing its performance last year in many areas. While two vacancies on the Board did delay some decisions, and adversely impact performance, I believe from a productivity standpoint we did well to exceed the 500+ case output level for the third straight year. Moreover, since taking office, the Bush Board has reduced our case inventory from 621 cases in December 2002 to 484 cases at the end of FY 2005.

I certify that the NLRB's management controls and financial systems meet and conform with the requirements of the Federal Managers' Financial Integrity Act. I have made every effort to verify the accuracy and completeness of the financial and performance data presented in this report.

Finally, I am proud of the accomplishments of the NLRB and its talented employees, who have served with integrity and dedication to the principles of the statute that ensures industrial democracy in this great country.

A handwritten signature in black ink that reads "Robert J. Battista". The signature is written in a cursive, flowing style.

Robert J. Battista  
Chairman

# Board Members

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Wilma B. Liebman



Peter C. Schaumber

# Message from the Acting General Counsel

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Arthur F. Rosenfeld

The General Counsel of the National Labor Relations Board is responsible for the investigation and prosecution of the unfair labor practice cases filed in the NLRB's Regional, Subregional, and Resident Offices. As the Acting General Counsel of the NLRB, I exercise general supervisory authority over this network of field offices.

During FY 2005, the Agency faced many challenges. Nearly 25,000 unfair labor practice charges were filed with the NLRB, of which 36.5 percent were determined to have merit. The NLRB was able to settle 97.2 percent of the meritorious charges, thus avoiding the necessity of a hearing before an administrative law judge. Litigation is costly and the NLRB has always aggressively pursued settlement to ensure conservation of resources, obtain timely and effective remedies, and reduce the costs of litigation for all parties involved in a case.

The Agency also celebrated the 70th Anniversary of the National Labor Relations Act in June and I am honored to be the Acting General Counsel and part of a hardworking, professional cadre of NLRB employees who are dedicated to administering and enforcing this Act. We take great pride in the Agency's heritage as one of the nation's foremost adjudicative administrative agencies.

In addition, the NLRB family was also deeply affected by the events of Hurricane Katrina. Our New Orleans Regional office was closed due to flooding and damage. Disaster recovery efforts became one of the Agency's major priorities. The NLRB staff worked tirelessly to assist our New Orleans colleagues, and to muster the resources necessary to meet our obligations to the public served by that Office.



The overwhelming outpouring of good wishes, support and offers of assistance from NLRB staff nationwide towards those affected by the hurricane speaks volumes about the spirit of teamwork and determination within the NLRB. We salute the courage, strength and spirit of our fellow “Gulf-Coast” colleagues.

Similarly, I am proud to report that the Office of the General Counsel achieved all of its Government Performance and Results Act (GPRA) goals. This was not an easy accomplishment. The time goals are stringent and require the best efforts and commitment of staff as well as the cooperation of those who practice before us.

Protection of democracy in the workplace is this Agency’s mission and the achievement of our performance measures for FY 2005 shows that employees of the NLRB are committed to this goal. I am proud that the men and women of this Agency are continuing the longstanding tradition of providing prompt and efficient service to those individuals who seek redress through the protections of the National Labor Relations Act.



Arthur F. Rosenfeld  
Acting General Counsel



# Overview

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The National Labor Relations Board's (NLRB) Performance and Accountability Report for Fiscal Year (FY) 2005 provides performance and financial information to enable Congress, the President, and the public to assess the performance of the NLRB relative to its mission and stewardship of the resources entrusted to it. The report is designed to meet the reporting requirements established by the Office of Management and Budget (OMB). As such, the report consolidates the reporting requirements for the Chief Financial Officers Act of 1990, the Federal Managers' Financial Integrity Act of 1982, the Government Management Reform Act of 1994, the Government Performance and Results Act of 1993, and the Reports Consolidation Act of 2000.

This report describes the NLRB's performance measures, results, and accountability processes for FY 2005. In assessing our performance, we are comparing actual results against targets and goals set out in our FY 2005 budget submission to OMB and Congress. The report's major sections are Management's Discussion and Analysis (MD&A), Performance Information, Financial Information, and Appendices.

The MD&A is a concise overview of the entire Report. It includes a discussion of the NLRB's mission and major goals, an organizational overview, management challenges and external factors that affect our performance, a summary of the most important performance results and challenges for FY 2005, and a brief analysis of financial performance. The MD&A is supported and supplemented by detailed information contained in the Performance Section, Financial Section, and Appendices.

The Performance Section provides details on our performance by strategic goal and individual performance measure in FY 2005. A brief analysis accompanies each measure to explain any variance of performance.

The Financial Section provides the details on our finances for FY 2005, including a letter from the Director of Administration, our audited financial statements and notes, and the reports from our external auditor. In addition, the Inspector General's Summary of Management Challenges is included in this section of the report.

The Appendices include charts explaining the types of NLRB cases, case flow processes, organizational chart, and performance data.

# 70th Anniversary Photo

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In 2005, the NLRB celebrated the 70th Anniversary of the National Labor Relations Act (NLRA). Chairman Robert J. Battista, Board Members Wilma B. Liebman and Peter C. Schaumber, and General Counsel Arthur F. Rosenfeld were joined by former Board Members for a program in recognition of the NLRB's 70th Anniversary. From left to right: Alex Acosta, Marshall Babson, Robert Brame, Peter C. Schaumber, Ronald Meisburg, Charles Cohen, Wilma B. Liebman, Chairman Robert J. Battista, Dennis Walsh, General Counsel Arthur F. Rosenfeld, John Truesdale, and William Cowen.

# I. Management's Discussion and Analysis

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## I. Mission Statement of the NLRB

The mission of the NLRB is to carry out the statutory responsibilities of the National Labor Relations Act (NLRA), the primary Federal statute governing labor relations in the private sector, as efficiently as possible, in a manner that gives full effect to the rights afforded to employees, unions, and employers under the Act.

## II. Vision Statement

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

## III. Major Goals

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the NLRA by individuals, employers or unions. The two major goals of the NLRB focus on the timeliness and effectiveness in addressing its caseload. The major goals are to:

- Resolve all questions concerning representation promptly, and
- Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly.

## IV. Background Information

The NLRB is an independent Federal Agency created by Congress in 1935 to administer and enforce the NLRA, which is 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 respective rights of employees, employers, and unions in their relations with one another. The Act embodies a statement of employee rights, which establishes freedom of association for the purposes of participating in the practice and procedure of collective bargaining. Under the Act, the NLRB has two primary functions: (1) to prevent and remedy statutorily defined unfair labor practices by employers and unions; and (2) to conduct secret-ballot elections among employees to determine whether the employees wish to be represented by a union. The mission of the Agency is to carry out these statutory responsibilities as efficiently as possible, in a manner that gives full effect to the rights afforded to employees, unions, and employers under the Act.

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate from the filing of charges or petitions by employees, labor unions, and private employers who are engaged in interstate commerce. Almost 30,000 cases are received by the Board through its Regional, Subregional, and Resident Offices each year. Of those, approximately 25,000 are ULP cases and the remaining

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

5,000 are representation cases, which involve petitions to conduct secret-ballot elections. Under the Act's procedures, the General Counsel staff investigates the ULP cases, which results in a finding of no merit—no probable cause to support the charge—in about two-thirds of the cases. These decisions are made by the Regional Directors, who have been delegated substantive decision-making authority over these cases. Of those cases in which merit is found, approximately 95 percent (97.2 percent in FY 2005) are settled 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 formal litigation.

The Agency's Public Information Program continued to provide assistance to members of the public by referring inquiries not covered by the NLRA to appropriate agencies or organizations while preventing a large number of non-meritorious charges from being filed with the Agency.

The Agency's 51 Field Offices received 216,723 public inquiries in FY 2005, a 5.8 percent increase over the 204,855 received during FY 2004. In addition, on December 15, 2003, the Agency launched a toll-free telephone service designed to provide easy and cost-free access to information about the Agency to the public. Callers to the toll-free number may listen to messages recorded in English and Spanish that provide a general description of the Agency's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. In FY 2005, the toll-free telephone service received 63,209 calls, of which 24,199 were connected to Regional Offices for further assistance. From December 15, 2003, to September 30, 2004, 26,136 calls were received through the toll-free service, 11,449 of which were connected to the Regional Offices.

To extend its public services efforts across the internet, the Agency added a public information "Questions" page to its website, [www.nlr.gov](http://www.nlr.gov),

designed to provide answers to frequently asked questions involving the NLRA and NLRB procedures. Since its inception on February 28, 2005, this new feature has received 518,325 visits, 181,109 of which involved inquiries that could be satisfied by answers provided through the site's electronic search system. In addition, Agency personnel provided 4,652 direct email responses to specific inquiries from the public. In total, Agency staff provided 441,494 responses to inquiries from the public.

The rate of charge acceptance (percent of inquiries from the public in which the contact results in a charge) was approximately 4.1 percent in FY 2005, which is slightly higher than the 3.8 percent rate experienced in FY 2004. Prior to the inception of the Public Information Program in 1978, the Agency's charge acceptance rate was 9.2 percent.

In addition to ULP cases, the NLRB conducted 2,716 elections in FY 2005 from the 5,151 representation cases in which a petition was filed. In 91 percent of elections conducted, up from 89 percent in FY 2004, the NLRB was able to negotiate agreements between the parties as to when, where, and who should be involved in the election, thus conserving resources that would otherwise be spent on a hearing. Hearings were required to resolve such issues in the remaining 9 percent of the cases.

## V. The Statutory Structure of the Agency: Role of the Board and the General Counsel

The NLRB's authority is divided by law and by delegation between the five-member National Labor Relations Board ("the Board") and the General Counsel, all of whom are appointed by the President subject to confirmation by the Senate.<sup>2</sup>

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<sup>2</sup> As of September 2005, there are two permanent Members, one recess appointee, and two vacancies on the Board. There is an Acting General Counsel, pending confirmation of the President's nominee for the position.



At a symbolic press conference with L.A. Mayor Villaraigosa and other city leaders, UNITE HERE Local 11 President Maria Elena Durazo thanks NLRB Region 21 (Los Angeles) staff for their efforts in resolving a labor dispute that affected 2,000 workers and hotels city wide. Region 21 successfully managed the large volume of evidence and issues presented by both sides and resolved the many difficult charges with a comprehensive unfair labor practice settlement.

To carry out their respective functions, described below, the Board and the General Counsel maintain a headquarters in Washington, D.C. The Agency also maintains a network of Regional or “field” offices, each of which is under the direction of a Regional Director.<sup>3</sup>

The NLRA assigns separate and independent responsibilities to the Board and the General Counsel, particularly in the prevention and remedying of unfair labor practices. This division of authority between the Board and the General Counsel is reflected in the Agency’s operations, thereby affecting the strategic and annual performance plans. An explanation of this division of authority between the Board and the General Counsel will help to provide an understanding of the Agency’s operations.

### Unfair Labor Practice Proceedings

Unfair labor practices<sup>4</sup> are remedied through adjudicatory procedures under the NLRA in which the Board and the General Counsel have independent functions. The role of the General Counsel is to investigate ULP charges filed by individuals and organizations and, if there is

reason to believe that a charge has merit, to issue and prosecute a complaint against the charged party unless settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative law judge (ALJ), who issues a decision which may be appealed by any party 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.

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 to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding ULP cases.

Under Section 10(l) of the Act, when the 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 officer or regional attorney” is *required*, on behalf of the

<sup>3</sup> Appendix F is an organizational chart of the Agency.

<sup>4</sup> Appendix D is a chart on unfair labor practice case processing.

Board, to seek an injunction from a U.S. District Court to halt the alleged unlawful activity. Section 10(j) of the Act provides that where the General Counsel has issued a complaint alleging that any other type of ULP has been committed, 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.

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

## Representation Proceedings

In contrast to ULP proceedings, representation proceedings<sup>5</sup> conducted pursuant to the Act are not adversarial proceedings. Representation cases are initiated by the filing of a petition—by an employee, a group of employees, an individual or a labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a

union represents a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency in such cases is to investigate the petition and, if necessary, to conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the Act. The NLRB must also determine which employees are properly included in the bargaining unit and therefore eligible to vote, conduct 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.

## Compliance Cases

In order to obtain compliance with the NLRB's Orders and Settlement Agreements, staff must follow up to ensure that the results of the processes discussed above are enforced. Staff must be prepared to work with employees whose rights have been violated to calculate Backpay, work with respondents when terminated employees are entitled to reinstatement or having their records expunged in unlawful disciplinary actions, or monitor the bargaining

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<sup>5</sup> Appendix E is a chart on representation case processing.



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process when the Board has ordered the parties to bargain. Noncompliance or disputes on findings may require additional hearings or actions by the judicial system.

### **Administrative Functions**

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency, with the exception of the administrative law judges, who are under the general supervision of the Board, and the attorneys who serve as counsel to the Board members. The Board has also delegated to the General Counsel general supervision over the administrative functions of the Agency and over the officers and employees in the Regional Offices.

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 Offices, where all ULP charges and representation petitions are initially filed. The Field Offices include 32 Regional Offices, 3 Subregional Offices, and 16 Resident Offices.

### **Effect of Division of Authority on Agency Performance**

Although the General Counsel and the Board share a common goal of ensuring that the Act is fully and fairly enforced on behalf of all those who are afforded rights under the Act, the division of authority mandated by the Act necessarily means that the two branches of the Agency will have separate objectives and separate strategies for achieving objectives relating to those aspects of their statutory functions which are uniquely their own. The statutory framework in the processing of unfair labor practices cases separates the prosecutorial functions of the General Counsel from the adjudicatory functions of the Board. The Board and the General

Counsel, however, have worked together in developing one comprehensive strategic plan and annual performance plan.

## **VI. Highlights of FY 2005 Performance**

Due to the NLRB's unique legislative mandate, the performance goals and measures relate primarily to the effectiveness and efficiencies of dealing with the Agency's caseload. FY 2005 results were favorable, with the percentage increase over the performance goal greater than FY 2004. In the area of representation cases, the NLRB's Regional Offices conducted 94.2 percent of elections within 56 days of petition filing, exceeding their performance goal of 90 percent. All elections were conducted within 42 median days of filing. The goal of obtaining voluntary election agreements in at least 85 percent of the petitions filed was exceeded, with a performance of 91 percent, which also surpassed the FY 2004 level of 89 percent. The NLRB encourages employers and unions to enter voluntary agreements to hold elections in order to avoid the time and cost involved in a formal hearing.

For unfair labor cases in FY 2005, informal resolution of cases were completed well within the established performance goals and the resolution of cases exceeded performance levels of established time targets. For example, Regional Offices resolved well over 90 percent of cases within established time line goals. The NLRB also exceeded its goal of settling 95 percent of cases prior to formal litigation.

Litigation is a costly process for the parties and the Agency has consistently focused on settlements to ensure efficient use of its resources, obtain timely and effective remedies, and reduce the cost of litigation for the parties. The FY 2005 settlement rate was 97.2 percent.

## VII. Factors that Affect Agency Performance

Various 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

Our short term performance goals assume the level of funding set forth in the President's budget request of \$252.268 million for FY 2006, which is \$2.4 million more than the funding provided in FY 2005. Requested resources will be targeted to achieve the results described in the FY 2006 performance budget and in this report. Funding for FY 2006 would continue to support the processing of the Agency's caseload. Longer term, the uncertainty over funding makes it difficult to set future performance goals. With approximately 80 percent of the Agency's budget devoted to personnel related costs, and with our performance closely dependent on staffing, even slight changes in the resources available to the Agency are likely to significantly impact its ability to meet performance goals.

### Case Intake

The Agency does not control the number of cases filed. Public perceptions about unionization and the role of the Agency, employment trends, stakeholder strategies, the globalization of the economy, industrial economic trends, corporate organizations, unions' organizing strategies, and the level of labor-management cooperation efforts

can all have an impact on our intake and the complexity of our work. Additionally, the newly formed Change to Win labor federation, the result of disaffiliation from the AFL-CIO, could affect case intake in future years, as the federation leaders focus on bringing large numbers of new workers into the labor movement.

Further, the complexity of issues we handle may delay investigation or resolution of cases. Difficulties affecting our ability to achieve full compliance can arise when companies relocate or close, dissipate, or hide assets, file bankruptcy or reorganize or operate through a different corporate entity.

Over the past six years, case intake has fluctuated, decreasing from FY 1999 to FY 2000, increasing in FY 2001 and FY 2002, and then decreasing over the past three years. In FY 2005, intake for ULP cases decreased from 26,883 cases in FY 2004, to 24,736. Representation case intake increased from 4,897 cases in FY 2004, to 5,151 in FY 2005.

The chart below compares total actual case intake for FY 2000 through FY 2005, with an estimate for FY 2006.

### Settlements

While the Agency has experienced outstanding success in achieving the voluntary resolution of representation and ULP cases, we cannot control entirely the likelihood of these agreements. Disputes cannot always be resolved informally or in an expeditious manner. Parties may conclude

#### Actual Case Intake and Estimate for FY 2006

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 (est)
ULP Cases	27,021	28,808	30,177	28,794	26,883	24,736	26,000
Representation Cases	5,936	5,413	5,695	4,945	4,897	5,151	5,100
<b>TOTAL</b>	<b>32,957</b>	<b>34,221</b>	<b>35,872</b>	<b>33,739</b>	<b>31,780</b>	<b>29,887</b>	<b>31,100</b>

## Fannie M. Boyls



Women have been an integral part of the NLRB's workforce since the early, formative years of the Agency. One of those women was Fannie M. Boyls, who came to work for the NLRB on May 28, 1937 as a staff attorney in what was then known as the Review Section. When Fannie Boyls joined the NLRB in 1937, it was an especially tumultuous time in the Board's history. In the late '30s the Board had come under the scrutiny of the Special Committee of the House of Representatives to Investigate the National Labor Relations Board (Smith Committee). A number of women attorneys were employed in the Review Section at that time and its gender profile seemed to be a matter of concern for the Smith Committee. In fact, the first week of testimony was devoted solely to questioning the members of the Review Section who were women, and questions about the propriety of females holding these positions was a focus of the questioning.

None of this seemed to deter Fannie Boyls. She had a notable career with the NLRB and was involved in many "firsts." She prepared the first brief filed by the Board on the effect of the Administrative Procedures Act on the scope of judicial review of Board orders. After the passage of the Taft-Hartley Act in 1947, Fannie Boyls prepared the brief and argued the first case that involved a Board Order against a union. She was appointed the NLRB's first female Administrative Law Judge (ALJ) in 1960. In 1966, Judge Boyls was presented a Federal Woman's Award and, at that time, she was one of six female ALJ's out of 600 ALJ's employed in the Federal Government, with three of those ALJ's working at NLRB.

Judge Boyls retired in 1974, but she never forgot the NLRB and contacted the Board every year during the Combined Federal Campaign to make a generous contribution. Fannie Boyls died in 2002 at the age of 96.

that litigation serves their legitimate or tactical interests. The Agency's procedures provide for administrative hearings, briefs and appeals. When the process becomes formal and litigation takes over, Agency costs increase. Therefore, maintaining high settlement rates in a range over 90 percent promotes performance efficiency and cost savings, and most importantly, removes burdens on commerce by resolving labor disputes quickly.

## Presidential Appointees

Another factor outside the control of the Agency is the timely confirmation of Presidential appointees. The assigned caseload of individual Board members rises and decisions in difficult or controversial cases may be delayed due to vacancies on the five-member Board. As the General Accounting Office pointed out in a 1991 analysis of Board production, Board member vacancies and turnover are the primary reason for delays in issuance of Board decisions. For example, from December 16, 2004 through September 30,

2005, the Board had three members, which affected the ability of the Board to achieve caseload reduction goals during the year.

### Board Members and General Counsel

	Appointed	Term Expiration
Robert J. Battista Chairman	12/17/02	12/16/07
Wilma B. Liebman Member	12/17/02	08/27/06
Peter C. Schaumber Member	8/31/05	Recess Appointment
VACANT Member	TBD	TBD
VACANT Member	TBD	TBD
Arthur F. Rosenfeld Acting General Counsel	06/04/01 thru 06/06/05	General Counsel
	06/30/05 thru present	Acting Appointment

These factors—lack of a full-Board complement and new recess appointees—have an effect on performance goals. The chart on page 7 shows the appointment and term expiration dates of the current Board members and General Counsel.

## Human Resources

A well-trained professional and support staff is essential to the effective and efficient achievement of the Agency's mission and the meeting of its performance goals. The need to make the most efficient use of existing human resources and to attract qualified staff will become more critical in the next few years as by the end of FY 2007, 44 percent of GS 13-15 supervisors and 78 percent of Senior Executive Service (SES) members in the Agency are eligible to retire.

In FY 2005, 45 percent of the workforce were attorneys, 20 percent field examiners, 11 percent other administrative and professional staff, and 24 percent support and technical staff. The Washington, D.C. headquarters has approximately 600 employees, with the remaining staff located in 32 Regional Offices, 3 Subregional Offices, and 16 Resident Offices located throughout the country. Through its Regional

Office field structure, the Agency has provided the public with easy access to and direct contact with case-handlers and decision-makers.

The Full Time Equivalent (FTE) ceiling in FY 2005 was 1,865 and 1,840 FTE are included in the FY 2006 President's Budget submission. A stable workforce facilitates the Agency's ability to achieve performance goals.

## Workforce Planning

Recently, the NLRB completed an Agency-wide workforce assessment, which resulted in a five-year Workforce Plan. The objective of this Plan, in line with the President's Management Agenda (PMA), is to use workforce planning and restructuring to make the NLRB more citizen-centered and ensure that the Agency has the diverse workforce—with the right people, with the right skills, in the right places—to effectively accomplish its mission.

As a part of this Workforce Plan, a new initiative to increase the skills of Agency supervisors, managers, and executives was implemented. New training initiatives were developed to enhance the skills of the professional and support staff. Programs have also been created to train managers (through details to other offices) in areas other than where they are assigned. Additionally, managers participated in a variety of conferences including the Office of General Counsel management conference. Further, cultural diversity was provided by the NLRB's Office of Equal Employment Opportunity to Headquarters and Field Offices.

The Agency has also taken steps to implement the entry-level professional recruitment program beginning in FY 2006. This will allow the NLRB to better compete for entry-level applicants and plan its workforce hiring needs.

In addition, the NLRB is improving business processes by exploring new uses of technology in

NLRB employee in "beard net" and hard hat for union representation election at Tyson Foods.



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the workplace. The Office of Appeals has converted to the electronic format for investigative case files. A new pilot project by Operations Management and Office of Chief Information Officer (OCIO) is scheduled to start in September to test electronic solutions for moving electronic case files between Field Offices and Headquarters Offices.

In accordance with the PMA, competitive sourcing and direct conversion outsourcing opportunities were reviewed and utilized to the fullest extent possible. Agency managers reviewed public and private competitions of commercial activities to enhance cost efficiencies and program performance. As a result, under the FAIR Act, the OCIO increased the number of positions it identifies as commercial by 30 percent. Also, the Division of Administration's mailroom operation was outsourced.

Finally, the NLRB is reviewing business processes that will improve internal procedures and result in better delivery of services to the public. The Legal Research Committee, representing the users of the legal research system, developed an ongoing relationship with the OCIO. This new partnership has resulted in an established reliable system for assuring that the users have a legal research system suited to their needs and that it functions as effectively as possible.

## **VIII. Reliability and Completeness of Performance Data**

The National Labor Relations Board's performance measurement system used to track case processing times has been highly regarded for decades and modeled by other Federal agencies. Most of the data collected tracks how much time is spent in each step of the case processing "pipeline." The Agency does not rely on any outside sources for the data it uses in its performance measurement system.

This system has been incorporated into an electronic database called the Case Activity Tracking System (CATS). CATS is a critical part of the Agency's effort to modernize its case-handling information processing system and case tracking systems. CATS provides case activity and status information to all NLRB offices on the new cases filed each year, as well as cases carried over from the previous year. It provides support for the functional and work requirements of the NLRB's attorneys, field examiners, managers, and support staff. CATS has become a key tool for managing caseload and human resources.

Each NLRB office is responsible for collecting performance measurement data and verifying it. Most of the performance information for the Government Performance and Results Act (GPRA) measures is obtained through CATS data generated to assess the status of the case-handling process initiated in the Regional Offices. Data about each case is collected and reported in all offices daily. Data and reports are available online to users at the Regional and National levels. Verification of the accuracy of the data collected occurs regularly in all Regional Offices, as most resource allocation decisions are made on the basis of these data. Also, in headquarters offices, there are several other automated and manual systems that furnish data for several of the performance measures and aid in managing caseload and staff. Systemic verification occurs monthly during management reviews and during various phases of the budget and GPRA reporting cycles. Data is cross-checked and compared to historical trends to ensure the validation and reliability of the performance data.

When pertinent to the conduct of ongoing audit activities, the IG will review performance measures to consider their appropriateness.

## IX. Program Evaluation

The Agency 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 and representation case files on an annual basis to ensure that they are processed in accordance with substantive and procedural requirements and that the General Counsel's policies are implemented appropriately. Those reviews have assessed, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's priorities in the areas of representation cases, Impact Analysis prioritization of cases, and compliance with Agency decisions. Additionally, personnel from the Division of Operations-Management review all complaints issued in the Regions to ensure that pleadings are correct and supported, and conduct site visits during which they evaluate Regional case-handling and administrative procedures. The quality and timeliness of Regional work, and the Region's effectiveness in implementing the General Counsel's priorities are evaluated as part of the annual Regional Director's performance appraisal system.

In addition to the evaluation of Regional Office activities discussed above, the Office of the General Counsel monitors the litigation success rate before the Board and before district courts with regard to injunction litigation. The success rate before the Board has been approximately 80 percent and before the district courts it has been 85-90 percent. The Division of Operations-Management regularly reviews case decisions in order to determine the quality of litigation. Similarly, the Agency keeps abreast of its success rate before Circuit Courts of Appeals and analyzes case decisions in order to ensure quality in its litigation. Other branches and offices, such as the Office of Appeals, Division of Advice, Contempt Litigation and Compliance Branch, and Office of Representation Appeals, provide

valuable insight and constructive feedback on the performance and contributions of Field Offices. Moreover, top Agency management meets regularly with relevant committees of the American Bar Association regarding their members' experiences practicing before the NLRB.

## X. Financial Statements Highlights

The NLRB's financial statements summarize the financial activity and financial position of the Agency. The financial statements, footnotes, and the balance of the required supplementary information appear in Part III of this Performance and Accountability Report.

There are five financial statements and associated footnotes, which were audited for FY 2005. They are:

- (1) *Consolidated Balance Sheet*—The NLRB assets were approximately \$28 million as of September 30, 2005. The Fund Balance with Treasury, which was \$26 million, represents the NLRB's largest asset. The Fund Balance consists of unspent appropriated and unappropriated funds from the past six fiscal years and includes Backpay settlement funds. The NLRB has one unusual account, Backpay Settlements Due to Others. These are Backpay funds that are owed to discriminatees by employers due to the filing of ULP charges with the NLRB. The source of these funds is either the original employer or through a bankruptcy court disposition. During the time it takes the Agency to locate discriminatees, these funds are sometimes invested in U.S. Treasury market-based securities.
- (2) *Consolidated Statement of Net Cost*—The NLRB's appropriation is used to resolve Representation Cases or ULP Charges filed by employees, employers, unions, and union members. Of the \$262 million net cost of operations in FY 2005, 15 percent was used

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to resolve Representation Cases and 85 percent was used to resolve ULP Charges.

- (3) *Consolidated Statement of Changes in Net Position*—The Consolidated Statement of Changes in Net Position reports the change in net position during the reporting period. Net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. The change in total Net Position of \$3 million from FY 2004 to FY 2005 represents the change in Unexpended Appropriations and Cumulative Results of Operations.
- (4) *Combined Statement of Budgetary Resources*—The Combined Statement of Budgetary Resources shows budgetary resources available and the status at the end of the period. It represents the relationship between budget authority and budget outlays, and reconciles obligations to total outlays. For FY 2005, the NLRB had available budgetary resources of \$255 million, the majority of which were derived from new budget authority. This represents a 3 percent increase over FY 2004 of available budgetary resources of \$248 million.

For FY 2005, the status of budgetary resources showed obligations of \$250 million, or 98 percent of funds available. This is comparable to FY 2004's obligations, which totaled \$243 million, or 98 percent of funds available. Total outlays for FY 2005 were \$246 million, which is a \$4 million increase from FY 2004's total outlays of \$242 million.

- (5) *Consolidated Statement of Financing*—The Consolidated Statement of Financing is designed to provide the bridge between accrual-based (financial accounting) information in the Consolidated Statement of Net Cost and obligation-based (budgetary accounting) information in the Combined Statement of Budgetary Resources by reporting the differences and reconciling the two

statements. This reconciliation ensures that the proprietary and budgetary accounts in the financial management system are in balance. The Consolidated Statement of Financing takes net budgetary obligations of \$249 million and reconciles to the net cost of operations of \$262 million.

The outlays of funds shown on the statements is for the following: of the budget appropriation received by the NLRB, approximately 88 percent of the payments are to employees for salaries and benefits, space rent, and building security. Much of the remaining 12 percent is utilized for expenses integral to the Agency's case-handling mission, such as information technology; transcripts in cases requiring a hearing; interpreter services, reflective of a growing community of non-English-speaking workers; travel; and witness fees.

## **XI. Results of FY 2005 FMFIA Review**

The Federal Managers' Financial Integrity Act (FMFIA) requires an Agency's management controls and financial systems to be periodically evaluated and for an Agency to report annually on the status of these systems to the President through OMB.

Management control systems reviewed under FMFIA are intended to provide reasonable assurance that:

- Obligations and costs are in compliance with applicable law;
- Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- Programs are efficiently and effectively carried out in accordance with applicable law and management policy; and

- Revenues and expenditures applicable to Agency operations are properly recorded and accounted for to permit preparation of accounts, reliable financial statistical reports, and to maintain accountability of assets.

During FY 2005, there were no material weaknesses or material non-conformances identified. Therefore, the results of the FMFIA assessment process, based primarily on the written assurances of the 16 designated managers who responded to an extensive survey, indicated that the management control systems taken as a whole provide reasonable assurance that the management control objectives were achieved.

In addition, the annual statement by the Chief, Finance Branch, on compliance with OMB Circular A-127 indicates that our financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General.

### **Financial Planning Committee**

The NLRB has a long-established Financial Planning Committee that meets annually to review and update the NLRB's five-year Financial Management Plan. The committee met early in FY 2005 to assess the Agency's accomplishments of the FY 2004 goals, and to review and approve the goals for FY 2005. Building on FY 2004 accomplishments, the committee determined that the five-year financial management goals should continue to include improvement of financial accountability; improvement of financial systems; development of human resources; improvement of the management of receivables; and use of electronic commerce to improve financial management.

During FY 2005, the NLRB had planned, consistent with a government-wide initiative, to implement an e-Travel system by FY 2006. The NLRB had chosen a system provider (one of the three selected by the General Services Administration) and had begun work with that provider

and the Department of the Interior to implement an e-Travel system in its headquarters' offices by March 2005, with the NLRB's Field Offices converting by the end of the fiscal year. Training for the Field Office managers had already been planned and scheduled with different groups coming to headquarters for training throughout mid-year. However, as the date approached for implementation of e-Travel in headquarters, the Agency was informed by the system provider that the system would not be ready for implementation in March and that the planned training for headquarters' employees would not take place. Substantial developmental delays and the uncertainty of funding for the e-Travel initiative by Congress forced the NLRB to postpone implementation of this initiative in FY 2005, but it continued to take the necessary steps to ensure that it is ready to migrate to a system once the system provider has completed development and testing.

The delay in implementing the e-Travel system also impacted another milestone that the NLRB had planned for in FY 2005—the replacement of its 14-year-old Regional Office Budgeting System (ROBS) with Momentum Financials. Momentum is the NLRB's accounting system provided by the Department of Interior's National Business Center, and ROBS is a system developed in-house that the NLRB's Field Offices use to track and control their allocated funds. Along with the planned training on e-Travel, the Field Office managers were also to have been provided training on Momentum Financials and on another Momentum accounting module, Acquisitions. Once the training was complete, one of the expectations was that the office managers would be able to input and track electronically their offices' acquisitions, thus fully implementing the electronic acquisition function contained in the Acquisitions module. Once it became apparent that there would be a delay in implementing the e-Travel system, the NLRB determined that it would not be cost-effective to



bring the Field Office managers to headquarters just for the Momentum training. However, agencies are still required to implement an e-Travel system by September 30, 2006 so, while there was a delay in implementing this particular milestone for FY 2005, it is expected that it will be completed by the end of FY 2006.

The NLRB, consistent with its Financial Management Plan, made significant progress on improving the management of its receivables. In the past year, as required by the Debt Collection Improvement Act of 1996, the NLRB began referring debts more than 180 days delinquent to the United States Treasury and drafted regulations to be published in the *Federal Register* outlining its debt collection procedures.

### Backpay



Rocky Mountain Steel Mills  
Pueblo, Colorado  
(formerly CF&I Steel)

Recovering lost wages or benefits for workers who were terminated due to their union organizing activities is an essential function of the NLRB in litigating, resolving, or settling a ULP charge. Over the past year, the NLRB has secured Back-

pay settlements ranging from \$287,457 for 309 employees of General Cable Industries in Scottsville, Texas to a \$100 million settlement for 1,000 employees of CF&I Steel—now Rocky Mountain Steel Mills—in Pueblo, Colorado. This \$100 million settlement is one of the largest in the NLRB's history.

The CF&I case is especially noteworthy because it involved a labor dispute and litigation that lasted over six years.

The dispute began in 1997 when 1,000 workers walked off the job in protest of alleged unfair labor practices in connection with negotiations over a new collective bargaining agreement. These employees eventually lost their jobs even though they had unconditionally offered to return to work less than three months after their walk-out. This action resulted in charges and counter charges being filed with the NLRB, hundreds of hours of investigation, and a trial that lasted through all of 1998 and into February 1999. While the NLRB prevailed on all charges, the dispute continued through the filing of exceptions by the employer. The breakthrough came when CF&I and the Steelworkers Union, through the collective bargaining process, were able to agree on a global settlement that provided for immediate reinstatement and/or retirement for the 1,000 workers and payment of \$100 million in Backpay over a 10-year period.

Other notable Backpay settlements secured by the NLRB in the past year included a \$6.6 million settlement for workers of Public Service of Oklahoma, and a \$5.5 million settlement for the workers of Daufuskie Island Club and Resort in Hilton Head, South Carolina.



# II. Performance Information

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## I. Goals, Objectives, Strategies and Performance Measures

Below is a description of the goals, objectives and strategies for the NLRB, followed by an examination of each measure, including background information and performance targets, as well as analysis of FY 2005 performance.

Two previous measures from the FY 2004 Performance and Accountability Report (PAR): Goal #1, Measure #6—Review of Regional Director Election Decisions, and Goal #2, Measure #9—Reduce cases pending decision at the Board, were both dropped as GPRA measures for FY 2005 and beyond, but will continue to be used as internal management goals.

### ***Goal #1: Resolve questions concerning representation promptly.***

#### **Objectives**

The Act recognizes and expressly protects the right of employees to freely and democratically determine, through a secret-ballot election, whether they want to be represented for purposes of collective bargaining by a labor organization. In enforcing the Act, the Agency does not have a stake in the results of that election. It merely seeks to ensure that the process used to resolve such questions allows employees to express their choice in an open, un-coerced atmosphere. The NLRB strives to give sound and well-supported guidance to all parties and to the public at large with respect to representation issues. Predictable, consistent procedures and goals have been established to better serve our customers and avoid unnecessary delays. The Agency will process representation cases

promptly in order to avoid unnecessary disruptions to commerce and minimize the potential for unlawful or objectionable conduct.

The objectives are to:

- A. Encourage voluntary election agreements by conducting an effective stipulation program.
- B. Conduct elections promptly.
- C. Issue all representation decisions in a timely manner.
- D. Afford due process under the law to all parties involved in questions concerning union representation.

#### **Strategies:**

- 1. Give priority in timing and resource allocation to the processing of cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public.
- 2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
- 3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
- 4. Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.
- 5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases, e.g., super-panels.

6. Ensure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeal and Hearing Officer Reports, and where appropriate, the records in the cases.
  7. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
  8. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.
- B. Give special priority to disputes with the greatest impact on the public and the core objectives of the Act.
  - C. Conduct effective settlement programs.
  - D. Provide prompt and appropriate remedial relief when violations are found.
  - E. Afford due process under the law to all parties involved in ULP disputes.

***Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.***

**Objectives**

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

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

**Strategies:**

1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in ULP matters and the rights and obligations of employers, employees, unions, and the Board under the Act.
2. Evaluate the quality of ULP casework regularly to provide the best possible service to the public.
3. Utilize impact analysis to provide an analytical framework for classifying ULP cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.
4. Share best practices in the processing of ULP cases to assist regions in resolving ULP issues promptly and fairly.
5. Emphasize the early identification of remedy and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.
6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.

7. Emphasize and encourage settlements as a means of promptly resolving ULP disputes at all stages of the case-handling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in ULP cases.
9. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
10. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

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 adjustment of industrial disputes. This measure reflects the number of median days from the filing of a petition to the date of certification. Certification is the issuance of a document by the NLRB certifying the results of the election. This measure includes approximately 300 post-election cases that are appealed to the Board.

The Agency exceeded the standard 60-day median in FY 2005 with a result of 53 median days (Table 1). The success in exceeding the planned level can be attributed, in part, to the Agency's success in obtaining voluntary election agreements, where the parties mutually

## II. Performance Measures and FY 2005 Results

### **Goal #1: Resolve all questions concerning representation promptly.**

#### **1. Issue certifications in representation cases within 60 median days of filing of petition. (Table 1)**

##### **Analysis:**

This measure was first implemented in FY 2003. An employer, labor organization, or a group of employees may file a petition in a NLRB

**Goal 1, Table 1: Issuance of Certification in Representation Cases**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
N/A	53 median days	52 median days	53 median days	60 median days	53 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
60 median days	60 median days	60 median days	60 median days

agree to an election date. Voluntary election agreements typically provide for the election to be held within six weeks after the filing of the petition. Also, the Agency has focused on resolving post-election matters as expeditiously as possible, thereby reducing further the time necessary to reach a final determination on issues affecting the election and expediting the certification process.

**2. Hold 90 percent of all representation elections within 56 days of filing of a petition. (Table 2)**

**Analysis:**

Prompt elections are desirable because an expeditious determination affords both employers and unions a more stable environment and promotes the resolution of industrial disputes. This measure looks at the timeliness of Agency performance in holding most representation elections.

The Agency exceeded this goal in FY 2005 due to the efforts of Regional Directors to convince the parties to enter election agreements and to direct elections very soon after the close of representation case hearings in the absence of an agreement (Table 2). In addition, performance was improved through the ongoing efforts of Regional Offices in processing cases through to election or hearing without delay.

**3. Hold elections within 42 median days of filing petition. (Table 3)**

**Analysis:**

This measure is very similar to the previous one, but utilizes median days. It has been the traditional Agency measure for performance in this part of the case-handling process.

The Agency in FY 2005 again exceeded the goal for holding elections within 42 median days (Table 3) after filing of the petition due to the success of Regional Directors in securing election agreements and directing elections shortly after the close of hearings. As a result, the holding of elections as soon as possible after the filing of a petition provided employees, employers, and unions the prompt resolution of questions concerning representation.

**4. Issue 85 percent of all post-election reports within 100 days from the date of the election, or in the case of objections, from the date they are filed. (Table 4)**

**Analysis:**

After the NLRB conducts an election to resolve a representation case, a union may be certified if it receives a majority of the votes cast, or the *results* may be certified if no union received a majority of the ballots. In elections where a party objects to the outcome of the election or challenges are

<b>Goal 1, Table 2: Representation Elections Held (Days)</b>					
<b>Actual (with FY 2005 Plan)</b>					
<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005 Plan</b>	<b>FY 2005 Actual</b>
86.7% of elections held w/in 56 days	90.7% of elections held w/in 56 days	92.5% of elections held w/in 56 days	93% of elections held w/in 56 days	90% of elections held w/in 56 days	94.2% of elections held w/in 56 days
<b>Projected</b>					
<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>		
90% of elections held w/in 56 days	90% of elections held w/in 56 days	90% of elections held w/in 56 days	90% of elections held w/in 56 days		

**Goal 1, Table 3: Representation Elections Held (Median Days)**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
41 median days	41 median days	40 median days	39 median days	42 median days	38 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
42 median days	42 median days	42 median days	42 median days

posed to the eligibility of a determinate number of voters, the Board’s post-election procedures offer the parties an opportunity to present their evidence and arguments. If a party files objections to the election, and there is merit to the objections, a second election is ordered. Post-election determinations by the Regional Director or a hearing officer regarding election results can be appealed to the Board, thus lengthening the time to determination. This performance measure establishes a goal for the Regions to issue 85 percent of post-election reports within 100 days of the election in cases involving challenged ballots and within 100 days of the filing of objections to the election.

The Agency exceeded this goal in FY 2005 (Table 4). Post-election issues typically involve sophisticated and difficult issues, and are often accompanied by the filing of related ULP cases

that must be investigated before the post-election matter can be resolved. Although every effort is directed toward minimizing the effect of such filings, disposition of each case is determined by the particular factual circumstances.

**5. Achieve voluntary representation election agreements for 85 percent of the petitions filed. (Table 5)**

**Analysis:**

The NLRB encourages employers and unions to enter voluntary agreements to hold elections in order to avoid the time and cost involved in a formal hearing. It is the NLRB’s goal to obtain voluntary election agreements in not less than 85 percent of the petitions filed.

The Agency exceeded its goal for obtaining election agreements in FY 2005 (Table 5). Success in

**Goal 1, Table 4: Issuance of Post-Election Reports**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
80.7% w/in 100 days	82% w/in 100 days	85.7% w/in 100 days	92.1% w/in 100 days	85% w/in 100 days	90.5% w/in 100 days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
85% w/in 100 days	85% w/in 100 days	85% w/in 100 days	85% w/in 100 days

**Goal 1, Table 5: Voluntary Election Agreement Rate**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
89%	87.2%	88.5%	89%	86%	91.1%

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
85%	85%	85%	85%

this area normally ensures the timely resolution of questions concerning representation without litigation, with lower expenditure of resources. The Agency continues to support initiatives such as the Consent Election project to improve performance under this goal.

**6. Issue all test-of-certification decisions in an 80-day median from filing of charge by FY 2008. (Table 6)**

**Analysis:**

If after an election is held, and an employer refuses to bargain with the union certified by the election process and the union files a ULP charge over the refusal to bargain, the Board must render what is called a test-of-certification decision. This procedure is the only statutorily approved method by which an employer can appeal a Board decision in an election case. Because all relevant legal issues should have been litigated during the phase of the case leading to the election itself, this test-of-certification decision can be rendered without a hearing and in a summary

proceeding brought by the General Counsel before the Board.

Performance is lower than in FY 2004 due to lack of a full complement of Board members for most of FY 2005 (Table 6). The ability to meet this performance goal in the future will depend to a large degree on the stability of Board membership.

**7. Decide 90 percent of representation cases pending at the Board for more than 12 months. (Table 7)**

**Analysis:**

Once a representation election has been held and the Regional Director has determined the results of the election, any of the parties involved may appeal the Regional Director's decision to the Board. If the decision of the Regional Director is appealed, the Board reviews the election and certification occurs after the Board decision.

**Goal 1, Table 6: Issuance of Test-of-Certification Decisions**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
101 median days	135 median days	114 median days	83 median days	90 median days	118 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
90 median days	90 median days	80 median days	80 median days



**Goal 1, Table 7: Issuance of Decisions in Representation Cases Pending at the Board**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
100% of cases pending over 18 months	90% of cases pending over 12 months	67% of cases pending over 12 months	65% of cases pending over 12 months	90% of cases pending over 12 months	57% of cases pending over 12 months

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
90% of cases pending over 12 months	90% of cases pending over 12 months	90% of cases pending over 12 months	90% of cases pending over 12 months

The Board issued decisions on 160 contested representation cases during FY 2005. The Board disposed of 84 cases of the 147 representation cases that were over 12 months old during FY 2005, resulting in a 57 percent performance rate (Table 7). The FY 2005 goal of 90 percent was not met due to the significant number of representation cases awaiting decisions on lead cases. The Board’s longstanding practice is to decide significant or “lead” cases only when there are four or five Board members.

of quality control is critical to the Agency and its stakeholders, and its importance is emphasized and reaffirmed by this performance goal. The General Counsel’s Division of Operations-Management randomly selects Regional ULP and representation case files for quality review. The quality review process referred to in this performance measure is conducted in all 32 of the NLRB’s Regional Offices and involves the review of case files that would not otherwise be seen by headquarters managers.

**8. Conduct quality reviews in 100 percent of the Regional Offices each year. (Table 8)**

**Analysis:**

The NLRB is not only concerned about how quickly cases move through its pipeline but also with the quality of the case-handling. This issue

The goal for FY 2005 was achieved (Table 8). Agency managers recognize that measures describing the timeliness of actions must be considered in conjunction with the quality measures to assess the Agency’s effectiveness in achieving its mission. The quality review procedure is only part of a quality control system that affords

**Goal 1, Table 8: Quality Reviews of Representation Case Files**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
100% of regions	100% of regions	100% of regions	100% of regions	100% of regions	100% of regions

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
100% of regions	100% of regions	100% of regions	100% of regions

managers an opportunity to address trends and areas of concern relating to case-handling and to balance the need for expeditious action with quality decision-making. Representation Case files from all Regional offices were reviewed during the fiscal year.

**Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.**

**1. Achieve informal resolution of unfair labor practice cases within a median time of 70 days by FY 2008. (Table 1)**

**Analysis:**

This is an overarching measure that is designed to cover a larger segment of the case-handling pipeline and all of the NLRB divisions and offices that are involved in the case-handling process. Current performance measures primarily look at the impact that individual Agency branches have on case-handling time frames. After an individual, employer, or union files a ULP charge, a Regional Director evaluates it for merit and decides whether or not to issue a complaint. Complaints not settled or withdrawn are litigated before an ALJ, whose decision may be appealed to the Board. This measure covers the time from the filing of the charge through informal resolution, which disposes of 90 percent of all cases, but does not include any cases litigated before administrative law judges and appeals to the Board.

This performance goal was exceeded in FY 2005 and the goal has been met faster than anticipated (Table 1).

**2. Resolve 90 percent of unfair labor practice cases within established Impact Analysis time frames. (Table 2)**

**Analysis:**

NLRB has created a system, Impact Analysis, to prioritize the processing of ULP cases based on their public impact and how closely they relate to the Agency's core mission. This Impact Analysis system has been used to classify cases into three categories, with Category III assigned the highest priority. Usually Category III cases involve significant issues, large-scale labor unrest, or high economic impact. NLRB has set goals for the number of days within which a disposition should be reached for each category, beginning on the day a ULP charge is filed. If a disposition on the case has not been reached within that time frame it is considered "overage"—for Category III the standard is 49 days (7 weeks), for Category II, 63 days (9 weeks), and for Category I, 84 days (12 weeks). NLRB's goal is to reduce the percentage of overage cases in each category to the lowest possible percentage, and reach and maintain a 90 percent level for all categories. Cases which cannot be processed within the time lines established under the Impact Analysis program for reasons that are outside the control of the Regional Office are not considered to be overage.

**Goal 2, Table 1: Resolution of Unfair Labor Practice Cases**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
94 median days	82 median days	68 median days	61 median days	80 median days	60 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
70 median days	70 median days	70 median days	70 median days

**Goal 2, Table 2: Resolve Cases Within Impact Analysis Time Frames**

**Actual (with FY 2005 Plan)**

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
Cat. III	91.2%	92.9%	95.7%	96.8%	90%	97.6%
Cat. II	88.7%	93.3%	97.3%	98.4%	89%	98.7%
Cat. I	92.7%	94.0%	99.3%	99.5%	88%	99.5%

**Projected**

	FY 2006	FY 2007	FY 2008	FY 2009
Cat. III	90%	90%	90%	90%
Cat. II	90%	90%	90%	90%
Cat. I	90%	90%	90%	90%

The goal for each category of ULP cases in FY 2005 was exceeded (Table 2). If staffing resources can be maintained, continued success in achieving these performance levels may require a reexamination of the planned performance goals.

**3. Settle 95 percent of meritorious unfair labor practice charges consistent with established standards. (Table 3)**

**Analysis:**

Once a Regional Director has determined a ULP charge has merit, it is scheduled for a hearing date before an ALJ. However, the pursuit of a settlement by the NLRB begins immediately. Litigation is a costly process for the parties and the Agency has consistently focused on settlements to ensure efficient use of resources, obtain timely and effective remedies, and reduce the cost of litigation for the parties. Successive General Counsels have pursued an aggressive settlement program to ensure that the Agency is utilizing its resources in the most efficient manner possible. For every 1 percent increase in the settlement rate, the NLRB estimates an approximate \$2 million in cost avoidance to the Agency per year. The NLRB attributes this high settlement rate to several activities at the Regional level—a careful charge acceptance procedure, thorough investigations,

careful merit determinations, and an active settlement program. The settlement rate is also attributable to a high success rate for the General Counsel during litigation.

For FY 2005, the Agency exceeded the 95 percent planned level with an actual rate of 97.2 percent (Table 3). The NLRB’s emphasis on obtaining voluntary settlements is key to the achievement of the Agency’s mission. Such settlements ensure the parties’ commitment to the resolution of their issues and conserve Agency resources. Settlements typically provide remedies to aggrieved parties earlier and more effectively than formal litigation.

**4. Open hearings within 120 median days from the issuance of complaint. (Table 4)**

**Analysis:**

When a ULP complaint is found to have merit by a Regional Director, a date for a hearing before an ALJ is scheduled. As part of its mission to provide decisions promptly, the Agency aims to shorten the median number of days between the setting of a hearing date when a formal complaint is filed and the opening of a hearing. Delays mean witnesses may be harder to locate, and their memories and thus their testimony may become less reliable. In addition, delays

**Goal 2, Table 3: Settlement Rate for Unfair Labor Practice Cases****Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
96.5%	93.7%	92.8%	96.1%	95%	97.2%

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
95%	95%	95%	95%

may result in parties becoming more intransigent in their positions and less likely to settle.

The wording of this measure reflects an adjustment that has been made to this measure beginning in FY 2002. Through FY 2001, this measure focused on the time elapsed from the issuance of a complaint to the close of a hearing. The end point of the measure has been changed to the opening of the hearing in order to be consistent with existing NLRB data collection and performance management systems. It also focuses the goal on performance within the Agency's control. Once a hearing is opened, many intervening factors can affect the closing date of a hearing.

The performance for FY 2005 well exceeded the planned level and the long-term goal of opening hearings within 120 median days from the issuance of a complaint (Table 4).

**5. Issue appeals decisions within 90 median days of receipt of the appeal of the Regional Directors' dismissal of the charge. (Table 5)****Analysis:**

If a Regional Director dismisses a ULP charge, it can be appealed to the Office of Appeals, which could reverse the Regional Director's decision with the instruction to issue a complaint, absent settlement. Of the 3,000 cases per year that are appealed, about 1-3 percent are reversed by the Office of Appeals.

For FY 2005, a 90-day median for sustaining appeals replaced the former performance goal. The Agency instituted new internal performance measures that, combined with a reduction in case intake, allowed expedited case processing. This led to a reduction in all case processing times (Table 5).

**Goal 2, Table 4: Opening of Hearings from Issuance of Complaint****Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
140 median days to close of hearing	121 median days to close of hearing	104 median days to open of hearing	101 median days to open of hearing	120 median days to open of hearing	96 median days to open of hearing

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
120 median days to open of hearing	120 median days to open of hearing	120 median days to open of hearing	120 median days to open of hearing

**Goal 2, Table 5: Issuance of Sustained Appeals Decisions**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
68% w/in 120 days	72% w/in 120 days	63% w/in 110 days	36% w/in 90 days	90 median days	83 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
90 median days	90 median days	90 median days	90 median days

**6. Achieve a 25 median day case processing time, excluding deferral time, for closing those Advice cases where the General Counsel recommended Section 10(j) injunction proceedings. Additionally, close 90 percent of these cases within 30 actual days, excluding deferral time, by FY 2008. (Table 6)**

**Analysis:**

In certain ULP cases, the NLRB Regional Director may request authorization to file a petition for injunctive relief in U.S. District Court to prevent what the Director views as conduct

that will do irreparable harm while the merits of the case are being litigated. Regional Directors submit a request for authorization to the Division of Advice. If the General Counsel agrees injunctive relief is warranted, the Board is asked for authorization to institute injunction proceedings. If the Board approves, the Region files for an injunction in the relevant U.S. District Court. This measure excludes deferral time (time waiting) for Regional Offices to provide additional information about the cases to the Division of Advice that may be needed to present the case to the Board.

**Goal 2, Table 6: Closing of Advice Cases in Section 10(j) Injunction Proceedings**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
67.4% closed w/in 25 days	46.2% closed w/in 25 days	Closed all cases w/in 30.5 median days	Closed all cases w/in 25 median days	Close all cases w/in 25 median days	Closed all cases w/in 24 median days
88.4% closed w/in 30 days	53.9% closed w/in 30 days	50% closed w/in 30 days	77.3% closed w/in 30 days	90% closed w/in 30 days	90.9% closed w/in 30 days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
Close all cases w/in 25 median days	Close all cases w/in 25 median days	Close all cases w/in 25 median days	Close all cases w/in 25 median days
90% closed w/in 30 days	90% closed w/in 30 days	90% closed w/in 30 days	90% closed w/in 30 days

This measure was slightly revised for FY 2003. The original measure had a goal of closing 95 percent of Advice cases within 25 days of receipt from Regional Offices. The revised measure focuses on closing all cases, but uses median days as the time factor. Therefore, the data between FY 2002 and FY 2003 in the chart on page 25 changed significantly. The second part of the measure (30 days) focuses on actual days as the time factor.

The cases included in this measure for FY 2005 closed in 24 median days, meeting the goal of 25 median days. Additionally, 90.9 percent of the 10(j) cases were closed within 30 actual days (Table 6). Strict attention to the timeliness of case-processing was the key to achieving these goals and contributed to prompt relief of cases.

**7. Issue Administrative Law Judge decisions within 62 median days from the receipt of briefs or submissions after the close of a hearing. (Table 7)**

**Analysis:**

After a Regional Director determines action should be taken on a case, the Regional Director issues a formal complaint and schedules a hearing before an ALJ. After presiding over a full-scale hearing, which lasts an average of about three days, the judge usually provides for the subsequent filing of briefs. In a small number of cases, oral argument may be substituted for the filing of briefs. The judge then issues a

decision. This measure begins from the date of receipt of the briefs or submissions after the close of the hearing to the issuance of the ALJ decision. Although the goal of issuing decisions within 62 median days has been substantially exceeded in recent years, the goal represents a historical standard that is a good indicator of performance without compromising the quality of judges' decisions.

In FY 2005, the Division of Judges issued its decision in 26 median days from the receipt of briefs or submissions (Table 7). This was slightly better than last year, and well within the GPRA goal.

**8. File applications for enforcement within 30 median days from referral by the Regional Director. (Table 8)**

**Analysis:**

After an ALJ's decision is appealed to the Board, the Board considers the case and issues a final order resolving a ULP case. Board orders are not self-enforcing, and therefore, absent voluntary compliance, the Board must secure enforcement of its order by an appropriate U.S. Court of Appeals. The Appellate Court Branch handles all litigation in the courts of appeals seeking review or enforcement of final Board orders. Cases come to the Branch in two ways. A party aggrieved by the Board's final order may file a petition for review in an appropriate court of appeals. A majority of cases handled

**Goal 2, Table 7: Issuance of ALJ Decisions After Close of Hearings**

**Actual (with FY 2004 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
42 median days	27 median days	33 median days	27 median days	62 median days	26 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
62 median days	62 median days	62 median days	62 median days

**Goal 2, Table 8: Filing of Applications for Enforcement**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
65.5% w/in 50 days	88 median days	21 median days	28 median days	30 median days	26 median days

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
30 median days	30 median days	30 median days	30 median days

in the Branch are initiated by parties seeking review of Board orders. No goal has been set for review cases because the courts control the filing deadlines for the Agency’s submission in those cases. The second avenue is referral of the case from the Regional Office, if the Region cannot secure compliance in the period immediately following the Board’s order. Upon referral to the Branch, a determination is made whether to continue to pursue compliance or to initiate court proceedings by filing an application for enforcement.

Applications for enforcement in FY 2005 were filed within 26 median days, exceeding the performance goal of 30 median days (Table 8). A total of 45 applications for enforcement were filed.

**9. Decide 90 percent of unfair labor practice cases pending at the Board for over 16 months by FY 2008. (Table 9)**

**Analysis:**

The amount of time ULP cases wait for a Board decision impacts the interests of the parties, and the public. The Board’s projected goal for FY 2005 was to dispose of 90 percent of all ULP cases that have been pending before it for more than 17 months. This goal for FY 2005 and beyond is a slight modification of the FY 2004 goal of 100 percent of cases pending over 18 months to more realistically reflect potential performance.

The Board issued decisions in 348 contested ULP cases during FY 2005. The Board disposed of 134 cases of the 347 that were pending for

**Goal 2, Table 9: Decide 90 Percent of Older Cases Pending at the Board**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
100% reduction of pending cases over 24 months	53.8% reduction of pending cases over 20 months	46% reduction of pending cases over 18 months	38% reduction of pending cases over 18 months	100% reduction of pending cases over 17 months	38.6% reduction of pending cases over 17 months

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
90% reduction of pending cases over 17 months	90% reduction of pending cases over 17 months	90% reduction of pending cases over 16 months	90% reduction of pending cases over 16 months

more than 17 months, resulting in a 38.6 percent reduction of pending cases. The target was not met due to cases awaiting decisions on lead cases. Also, the Board did not have a full complement (three members from December 16, 2004 through the end of FY 2005) which adversely impacted its ability to process cases requiring Full-Board action. The Board's longstanding practice is to decide significant or "lead" cases only when there are four or five Board members.

**10. Resolve compliance cases within established Impact Analysis guidelines. (Table 10)**

**Analysis:**

After an ALJ's decision is appealed to the Board, the Board considers the case and issues a final order resolving a ULP case. If the respondent refuses to voluntarily comply with the Board's order, the Board must seek enforcement of its order in an appropriate U.S. Court of Appeals.

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.

Regional Directors are responsible for effectuating compliance with ALJ's decisions, Board orders, and Court judgments resulting from cases filed in their Regions. The Agency has set goals to ensure the orders that result from its litigation or Board directives are implemented promptly, since the passage of time can reduce the effectiveness of its remedies. The time is measured beginning on the date a decision, order, or judgment is received. Cases which cannot be processed within the timelines established under the Impact Analysis program for reasons that are outside the control of the Regional Office, such as bankruptcy proceedings or other related liti-

**Goal 2, Table 10: Resolve Compliance Cases Within Impact Analysis Guidelines**

**Actual (with FY 2004 Plan)**

	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005 Plan</b>	<b>FY 2005 Actual</b>
Cat. III	95.3% @ 91 days	95.2% @ 91 days	96.1% @ 91 days	98.1% @ 91 days	95% @ 91 days	97% @ 91 days
Cat. II	96.9% @ 119 days	95.1% @ 119 days	95.4% @ 119 days	95.7% @ 119 days	95% @ 119 days	96.9% @ 119 days
Cat. I	98.5% @ 147 days	98.0% @ 147 days	97.3% @ 147 days	97.8% @ 147 days	98% @ 147 days	99.5% @ 147 days

**Projected**

	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
Cat. III	95% @ 91 days	95% @ 91 days	95% @ 91 days	95% @ 91 days
Cat. II	95% @ 119 days	95% @ 119 days	95% @ 119 days	95% @ 119 days
Cat. I	98% @ 147 days	98% @ 147 days	98% @ 147 days	98% @ 147 days



**Goal 2, Table 11: Quality Reviews of Unfair Labor Practice Case Files**

**Actual (with FY 2005 Plan)**

FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 Plan	FY 2005 Actual
100% of regions	100% of regions	100% of regions	100% of regions	100% of regions	100% of regions

**Projected**

FY 2006	FY 2007	FY 2008	FY 2009
100% of regions	100% of regions	100% of regions	100% of regions

gation, are not considered to be overage. The following are the current processing time targets: Category III—91 days, Category II—119 days, Category I—147 days.

For FY 2005, the Agency exceeded its goals (Table 10). These positive results are attributed to ongoing efforts to monitor the status of cases at the highest level and the redirection of resources to Regions experiencing extremely heavy case loads.

**11. Conduct quality reviews in 100 percent of the Regional Offices each year.**

**Analysis:**

As with representation cases, the NLRB emphasizes quality as well as timeliness in the handling of ULP cases. Accordingly, along with its review of the quality of representation cases, the General Counsel’s Division of Operations-Management randomly selects ULP case files at the Regional Offices for quality review. The goal is to conduct quality reviews in all Regional Offices each year.

The goal for FY 2005 was achieved (Table 11). Quality reviews were conducted in 100 percent of the Regional Offices.



# III. Financial Section

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## Letter from the Director of Administration

As the Director of Administration for the National Labor Relations Board (NLRB), I am responsible for the overall administrative management of the NLRB, including financial management.

I am pleased to present the NLRB's Performance and Accountability Report for fiscal year 2005. Incorporated in this report is the NLRB's FY 2005 performance data as required by the Government Performance and Results Act (GPRA), and the annual report on the effectiveness and efficiency of our internal management controls as required by the Federal Managers' Financial Integrity Act. The report also includes the audited financial statements prepared by the NLRB, thus presenting a fair and accurate picture of the Agency's financial position.

The NLRB is committed to providing high quality financial management and financial reporting and to ensuring that its resources are used efficiently in the accomplishment of its mission. In FY 2004, the NLRB underwent its first full financial audit and received an unqualified opinion from its auditors on its financial statements. While the audit resulted in an unqualified opinion, the auditors identified one reportable condition relating to the NLRB's information technology controls. Four general conditions related to the NLRB's information technology controls were noted by the auditors in their report. Two of those conditions, lack of an intrusion detection response system and maintenance of a copy of the NLRB's internally-developed Backpay software in the software library, were implemented in FY 2005. Implementation of a disaster recovery plan and development of a policy for storing, retrieving, retaining, and disposing of Privacy Act information were begun in FY 2005, with full implementation of these two remaining controls expected in FY 2006.

Also, in connection with the audit, the NLRB's Inspector General issued a management letter which contained four findings and recommendations. To date, two of those recommendations have been implemented and progress is being made in implementing the recommendation made in connection with the NLRB's debt collection efforts. The final action to fully implement this recommendation will occur with the publishing of the NLRB's regulations covering the collection of debts. Full completion of the remaining recommendation had to be postponed due to delays experienced with the government-wide e-Travel initiative.

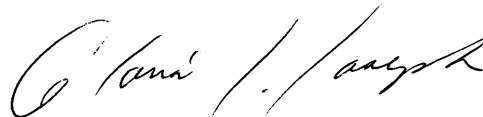
For 2005, the NLRB has once again received an unqualified opinion from the auditors on its financial statements. However, I would like to note that the FY 2005 Comparative Balance Sheet includes a change to the amount shown for FY 2004 intragovernmental accounts payable. The FY 2004 amount was included in the (non-Federal) accounts payable and not separately shown as intragovernmental as required by OMB.

In 2004, the NLRB upgraded its accounting system to the Department of Interior's National Business Center's (NBC) Momentum system. Momentum was the successor to NBC's Federal Financial

System (FFS), which the NLRB had been using since 2002. Momentum provides integrated capabilities, including accounting, budget execution, acquisitions, and various reporting requirements. Momentum is certified by the Joint Financial Management Improvement Project and complies with the Chief Financial Officer (CFO) Act requirements. Momentum is also in the early stages of its system development life cycle, so the manufacturer is expected to continue to issue newer versions of the software to remain compliant with changing requirements. Momentum should be available to support the NLRB's financial processing needs for the next 10 to 20 years.

With the conversion effort now completed, the focus has been in FY 2005, and will be again in FY 2006, to assess remaining administrative systems to determine which functionalities, if any, can be absorbed in the current NBC solution or with other systems. Once complete, each assessment will conclude with a decision to eliminate, retain, or reengineer the system as appropriate.

On July 5, 1935, President Franklin Roosevelt signed into enactment the National Labor Relations Act (NLRA), which resulted in the creation of the NLRB. For 70 years, the NLRB has protected workplace democracy and ensured employees' rights to bargain collectively. However, the Agency's mission can be accomplished only through the proper stewardship of its resources, both human and financial. Special emphasis is being placed on succession planning and the appropriate management and development programs in order to ensure that our workforce is adequately prepared to guide the Agency in the future. By making the enhancement and streamlining of our financial management and business processes an administrative priority, we are in a better position to meet the challenges facing the Agency and to support its efforts to improve performance and financial accountability.



Gloria Joseph  
Director of Administration

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**UNITED STATES GOVERNMENT**  
***National Labor Relations Board***  
**Office of Inspector General**



**Memorandum**

November 10, 2005

To: Robert J. Battista  
Chairman

From: Jane E. Altenhofen  
Inspector General

A handwritten signature in cursive script, appearing to read "Jane E. Altenhofen".

Subject: Audit of the National Labor Relations Board Fiscal Year 2005 Financial Statements  
(OIG-F-10-06-01)

This memorandum transmits Carmichael, Brasher, Tuvell & Co.'s (CBTC) audit report on the National Labor Relations Board (NLRB) Fiscal Year 2005 Financial Statements.

The Accountability of Tax Dollars Act of 2002 requires NLRB to prepare and submit to the Congress and the Director of the Office of Management and Budget annual audited financial statements. We contracted with CBTC, an independent public accounting firm, to audit the financial statements. The contract required that the audit be performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States, and Bulletin 01-02, *Audit Requirements for Federal Financial Statements*, issued by the Office of Management and Budget.

**Results of Independent Audit**

CBTC issued an unqualified opinion on the NLRB Fiscal Year 2005 financial statements. CBTC previously issued an unqualified audit opinion on the Fiscal Year 2004 information included with the consolidated and combined statements. In issuing its opinion on the Fiscal Year 2005 financial statements, CBTC included an explanatory paragraph concerning an obligation contingency discussed in financial statement footnote number 18.

CBTC is not required and did not provide an opinion on internal control. In its audit report, CBTC identified one reportable condition relating to NLRB's information technology controls. A reportable condition is a significant deficiency in the design or operation of internal control that could adversely affect the Agency's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

CBTC also reported that they did not identify noncompliance with laws and regulations tested. In addition, CBTC reported that tests of compliance with the Federal Financial Management Improvement Act (FFMIA) disclosed no instances in which the NLRB's financial management systems did not substantially comply with the requirements of the Act.

NLRB's Director of Administration concurred with the finding regarding the reportable condition. The Director of Administration's response, dated October 31, 2005, follows CBTC's report.

### **Evaluation of CBTC's Audit Performance**

To fulfill our responsibilities under the Accountability of Tax Dollars Act, the Office of Inspector General reviewed CBTC's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with the United States generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on the NLRB financial statements or internal controls or whether NLRB's financial management systems substantially complied with FFMIA, or conclusions on compliance with laws and regulations. CBTC is responsible for the attached auditor's report dated October 31, 2005, and the conclusions expressed in the report. However, our review disclosed no instances where CBTC did not comply, in all material respects, with generally accepted government auditing standards.

The Office of Inspector General appreciates the courtesies and cooperation extended to CBTC and our staff during the audit. If you have any questions, please contact me or Emil T. George, Assistant Inspector General for Audits.

Attachment

cc: General Counsel

## **INDEPENDENT AUDITORS' REPORT**

To Jane E. Altenhofen, Inspector General  
National Labor Relations Board

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

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

We have audited the consolidated balance sheet of NLRB as of September 30, 2005 and 2004, and the related consolidated statements of net cost, changes in net position, statement of financing, and the combined statement of budgetary resources for the years then ended. These financial statements are the responsibility of NLRB's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

### **OPINION ON FINANCIAL STATEMENTS**

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net position of NLRB, as of September 30, 2005 and 2004; and the net cost, changes in net position, budgetary resources, reconciliation of net cost to budgetary resources and financing for the years then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 18 to the financial statements, a FY 2005 obligation totaling approximately \$1.5 million is currently under review by NLRB management and the NLRB Office of Inspector General. The ultimate outcome of this matter cannot presently be determined. Accordingly, no provision for any liability that may result has been made in the accompanying financial statements.

## **REPORT ON INTERNAL CONTROL**

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the Agency's internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA), such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not provide an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Agency's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that material misstatements in relation to the audited financial statements may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted a matter involving the internal control and its operation that we consider to be a reportable condition described in Exhibit A. However, the reportable condition is not believed to be a material weakness.

A separate letter will be provided to management regarding other matters that came to our attention as a result of our audit.

We considered NLRB's internal control over Required Supplementary Information (RSI) by obtaining an understanding of the Agency's internal control, determining whether these internal controls had been placed in operation, assessing control risk, and performing tests of controls as required by OMB Bulletin No. 01-02. The objective of our audit was not to provide assurance on these internal controls. Accordingly, we do not provide an opinion on such controls. With respect to internal control related to performance measures reported in the Management Discussion and Analysis (MD&A) section of the Performance and Accountability Report, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, and determined whether these internal controls had been placed in operation as required by OMB Bulletin No. 01-02. Our procedures were not designed to provide



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assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

## **REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS**

The management of NLRB is responsible for complying with laws and regulations applicable to the Agency. As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 01-02, including the requirements referred to in the Federal Financial Management Improvement Act of 1996 (FFMIA). We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to NLRB.

The results of our tests of compliance with the laws and regulations discussed in the preceding paragraph disclosed no instances of noncompliance with laws and regulations that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

Providing an opinion on compliance with laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

## **REPORT ON COMPLIANCE WITH THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1996**

We have examined NLRB's compliance with the requirements of FFMIA as of September 30, 2005. These requirements include implementing and maintaining financial management systems that substantially comply with the Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. Management is responsible for the NLRB's compliance with these requirements. Our responsibility is to report whether the Agency's financial management systems substantially comply with these requirements.

Our examination was conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants; *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. These standards include examining, on a test basis, evidence about NLRB's compliance with those requirements, including FFMIA Section 803(a) requirements, and performing such other procedures as we considered necessary in the circumstances. Our examination does not provide a legal determination on NLRB's compliance with specified requirements. The results of our tests of compliance with FFMIA disclosed no instances in which NLRB's financial management systems did not substantially comply with Federal financial management system requirements, applicable Federal accounting standards, or the United States Government Standard General Ledger at the transaction level.

**OTHER ACCOMPANYING INFORMATION**

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

The other accompanying information included in the MD&A and RSI sections of the Performance and Accountability Report are required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the information. We did not audit the other accompanying information and, accordingly, do not express an opinion or any other form of assurance on it.

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

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

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

Atlanta, Georgia  
October 31, 2005

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## **Exhibit A**

### **CURRENT YEAR REPORTABLE CONDITION**

#### **Information Technology**

Federal information systems are required to conform to standards set forth by both OMB and the National Institutes of Science and Technology (NIST). NIST Special Publication 800 establishes many of the minimum information systems requirements for Federal agencies. Certain conditions related to NLRB's information technology function were identified that could adversely impact the Agency's ability to accumulate, process, and report information critical to NLRB's mission and programs. The following general condition was noted during both the FY 2005 and FY 2004 audits:

- A disaster recovery plan has not yet been implemented.

The specifics of the findings have been presented to management. NLRB is actively working to remediate this condition.

#### **Recommendation**

We recommend that the Chief Information Officer implement a disaster recovery plan to assure compliance with NIST standards.

#### **Management's Response**

We are in agreement with this recommendation. The CIO has budgeted funds in FY 2006 to initiate a disaster recovery plan. The expected completion date for this project is the fourth quarter of FY 2006.



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**UNITED STATES GOVERNMENT**  
**National Labor Relations Board**  
**Division of Administration**  
**Memorandum**



TO: Jane E. Altenhofen  
Inspector General

FROM: Gloria Joseph  
Director of Administration

DATE: October 31, 2005

SUBJECT: Response to Draft Audit Report – NLRB Fiscal Year 2005 Financial Statements

We have reviewed the Audit Report submitted by Carmichael Brasher Tuvel & Company (Carmichael) and are pleased that the FY 2005 audit of the NLRB's financial statements has resulted in an unqualified opinion. We are in agreement with the findings of the report.

In Appendix A, Carmichael identified one reportable condition related to the Agency's information technology function that could adversely impact the Agency's ability to accumulate, process, and report information critical to the NLRB's mission and programs. The one reportable condition was that the Agency has not yet implemented a disaster recovery plan. This reportable condition was also noted in the FY 2004 audit. Carmichael recommended that the Chief Information Officer (CIO) implement a disaster recovery plan in accordance with the standards issued by the National Institutes of Science and Technology (NIST).

We are in agreement with this recommendation. The CIO has budgeted funds in FY 2006 to initiate a disaster recovery plan. The expected completion date for this project is the fourth quarter of FY 2006.

If you have any questions, please do not hesitate to contact me.

cc: Board  
Acting General Counsel

## Auditors' Reports and Financial Statements

### Principal Statements

## National Labor Relations Board

### Consolidated Balance Sheet

As of September 30, 2005 (CY)\* and September 30, 2004 (PY)\* (in dollars)

	2005 (CY)	2004 (PY)
<b>Assets</b>		
Intragovernmental		
Fund balance with treasury (Note 2)	\$ 25,649,530	\$ 22,835,385
Investments, net (Note 3)	1,652,216	4,987,094
Accounts receivable (Note 5)	37,313	—
Advances (Note 4)	20,848	2,952
Total intragovernmental	27,359,907	27,825,431
Accounts receivable, net (Note 5)	53,696	46,508
Advances (Note 4)	14,447	4,773
General property plant, and equipment, net (Note 6 and 10)	126,384	77,519
<b>Total assets</b>	<b>\$ 27,554,434</b>	<b>\$ 27,954,231</b>
<b>Liabilities</b>		
Intragovernmental		
Accounts payable (Note 7)	\$ 723,580	\$ 1,508,233
Employee contributions and payroll taxes	1,332,219	1,007,545
FECA liability (Note 8 and 10)	921,357	1,016,372
Custodial liability	50	489
<b>Total Intragovernmental</b>	<b>2,977,206</b>	<b>3,532,639</b>
Accounts payable (Note 7)	4,522,069	4,728,853
Estimated future FECA liability (Note 8 and 10)	1,784,290	1,889,307
Accrued payroll and benefits	6,047,056	5,418,496
Accrued annual leave (Note 8 and 10)	13,263,621	12,425,309
Backpay settlement due to others (Note 8 and 9)	3,079,936	7,027,695
Custodial liability (Note 8 and 9)	549,313	163,164
<b>Total liabilities</b>	<b>32,223,491</b>	<b>35,185,463</b>
<b>Net position</b>		
Unexpended appropriations	11,120,013	7,979,219
Cumulative results of operations (Note 10)	(15,789,070)	(15,210,451)
<b>Total net position</b>	<b>\$ (4,669,057)</b>	<b>\$ (7,231,232)</b>
<b>Total liabilities and net position</b>	<b>\$ 27,554,434</b>	<b>\$ 27,954,231</b>

\*CY=Current Year, PY= Prior Year

The accompanying notes are an integral part of these statements.

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# National Labor Relations Board

## Consolidated Statement of Net Cost

As of September 30, 2005 (CY) and September 30, 2004 (PY) *(in dollars)*

	<b>2005 (CY)</b>	<b>2004 (PY)</b>
<b>Program Costs:</b>		
<b>Resolve representation cases</b>		
Total Gross Cost (Note 11)	\$ 38,440,183	\$ 39,862,438
<b>Resolve unfair labor practices</b>		
Total Gross Cost (Note 11)	<u>223,916,422</u>	<u>221,880,171</u>
<b>Other</b>		
Gross Costs	112,556	123,860
Less: Earned Revenue	<u>112,556</u>	<u>123,860</u>
<b>Total Gross Cost</b>	<u>—</u>	<u>—</u>
<b>Net Cost of Operations (Note 11)</b>	<u><u>\$ 262,356,605</u></u>	<u><u>\$ 261,742,609</u></u>

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

## National Labor Relations Board

### Consolidated Statement of Changes in Net Position

As of September 30, 2005 (CY) and September 30, 2004 (PY) *(in dollars)*

	<b>2005 Cumulative Results of Operations (CY)</b>	<b>2005 Unexpended Appropriations (CY)</b>	<b>2004 Cumulative Results of Operations (PY)</b>	<b>2004 Unexpended Appropriations (PY)</b>
<b>Beginning Balances</b>	\$ (15,210,451)	\$ 7,979,219	\$ (14,795,410)	\$ 11,764,532
<b>Budgetary Financing Sources:</b>				
Appropriations—received	—	251,875,000	—	244,073,000
Appropriations—used	245,515,820	(245,515,820)	245,664,129	(245,664,129)
Rescissions & cancelled appropriations	—	(3,218,386)	—	(2,194,184)
<b>Other Financing Sources:</b>				
Imputed financing costs (Note 15)	16,262,166	—	15,663,439	—
Transfers out without reimbursement	—	—	—	—
<b>Total Financing Sources</b>	<b>261,777,986</b>	<b>3,140,794</b>	<b>261,327,568</b>	<b>(3,785,313)</b>
<b>Net Cost of Operations</b>	<b>(262,356,605)</b>	<b>—</b>	<b>(261,742,609)</b>	<b>—</b>
Net Change	(578,619)	—	(415,041)	—
<b>Ending Balances</b>	<b><u>\$ (15,789,070)</u></b>	<b><u>\$ 11,120,013</u></b>	<b><u>\$ (15,210,451)</u></b>	<b><u>\$ 7,979,219</u></b>

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



# National Labor Relations Board

## Combined Statement of Budgetary Resources

As of September 30, 2005 (CY) and September 30, 2004 (PY) (in dollars)

	2005 (CY)	2004 (PY)
<b>Budgetary Resources:</b>		
<b>Budget authority:</b>		
Appropriations received (Note 13)	\$ 251,875,000	\$ 244,073,000
<b>Unobligated balance:</b>		
Beginning of period	4,841,158	3,861,883
<b>Spending authority from offsetting collections:</b>		
Earned		
Collected	191,943	123,860
Receivable from Federal sources	37,157	—
<b>Earned</b>	<b>229,100</b>	<b>123,860</b>
<b>Recoveries of prior year obligations</b>	<b>1,219,779</b>	<b>1,953,564</b>
<b>Permanently not available</b> (Note 13)	<b>(3,218,386)</b>	<b>(2,194,184)</b>
<b>Total budgetary resources</b> (Note 14)	<b><u>\$ 254,946,651</u></b>	<b><u>\$ 247,818,123</u></b>
<b>Status of Budgetary Resources:</b>		
<b>Obligations incurred:</b>		
Direct	\$ 249,930,369	\$ 242,853,105
Reimbursable	112,556	123,860
<b>Subtotal</b> (Note 14)	<b>250,042,925</b>	<b>242,976,965</b>
<b>Unobligated balance:</b>		
Apportioned (Note 14)	455,357	392,805
Exempt from apportionment	10,124	9,503
Unobligated balance not available	4,438,245	4,438,850
<b>Total status of budgetary resources</b>	<b><u>\$ 254,946,651</u></b>	<b><u>\$ 247,818,123</u></b>
<b>Relationship of Obligations to Outlays:</b>		
<b>Obligated balance, net, beginning of period</b>	<b>\$ 15,793,463</b>	<b>\$ 17,094,345</b>
<b>Obligated balance, net, end of period:</b>		
Accounts receivable	(37,157)	—
Undelivered orders	6,180,990	3,130,337
Accounts payable	12,624,924	12,663,126
<b>Outlays:</b>		
Disbursements	245,810,694	242,324,282
Collections	(191,943)	(123,860)
<b>Net Outlays</b>	<b><u>\$ 245,618,751</u></b>	<b><u>\$ 242,200,422</u></b>

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

## National Labor Relations Board

### Consolidated Statement of Financing

As of September 30, 2005 (CY) and September 30, 2004 (PY) (in dollars)

	2005 (CY)	2004 (PY)
<b>Resources Used to Finance Activities:</b>		
<b>Budgetary Resources Obligated:</b>		
Obligations incurred	\$ 250,042,925	\$ 242,976,965
Less: spending authority from offsetting collections/adjustments	1,448,879	2,077,424
Net obligations	<u>\$ 248,594,046</u>	<u>\$ 240,899,541</u>
<b>Other Resources:</b>		
Transfers in/out without reimbursement (+/–)	—	—
Imputed financing from costs absorbed by others (Note 15)	16,262,166	15,663,439
Net other resources used to finance activities	16,262,166	15,663,439
<b>Total resources used to finance activities</b>	<b>\$ 264,856,212</b>	<b>\$ 256,562,980</b>
<b>Resources Used to Finance Items Not Part of the Net Cost of Operations</b>		
Change in budgetary resources obligated for goods, services, and benefits ordered but not yet provided (+/–)	\$ (3,078,225)	\$ 5,003,070
Resources that finance the acquisition of assets	(118,870)	(58,369)
<b>Total resources used to finance items not part of the net cost of operations</b>	<b>(3,197,095)</b>	<b>4,944,701</b>
<b>Total resources used to finance the net cost of operations</b>	<b>\$ 261,659,117</b>	<b>\$ 261,507,681</b>
<b>Components of Net Cost of Operations That Will Not Require or Generate Resources In the Current Period</b>		
<b>Components Requiring or Generating Resources in Future Periods:</b>		
Increase in annual leave liability	838,314	452,465
Upward/downward reestimates in credit subsidy expense (+/–)	—	—
Increase in exchange revenue receivable from the public	(10,797)	25,355
Other (+/–)	<b>(200,033)</b>	<b>(318,878)</b>
<b>Total components of net cost of operations that will require or generate resources in future periods</b>	<b>627,484</b>	<b>158,942</b>
<b>Components not Requiring or Generating Resources:</b>		
Depreciation and amortization (Note 6)	70,004	75,986
<b>Total components of Net Cost of Operations that will not require or generate resources</b>	<b>70,004</b>	<b>75,986</b>
<b>Total components of net cost of operations that will not require or generate resources in the current period</b>	<b>697,488</b>	<b>234,928</b>
<b>Net cost of operations</b>	<b><u>\$ 262,356,605</u></b>	<b><u>\$ 261,742,609</u></b>

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

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## Notes to Principal Statements

### Note 1. Summary of Significant Accounting Policies

#### A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent Federal Agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. NLRB's jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within NLRB's jurisdiction). The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. It does this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The NLRB has two principal functions: (1) to determine and implement, through secret-ballot elections, and free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices before administrative law judges, whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret-ballot elections to determine whether employees wish to be represented by a union.

#### B. Basis of Accounting and Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position, budgetary resources and reconciliation of net cost to budgetary obligations of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the books and records of NLRB in accordance with accounting principles generally accepted in the United States of America (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136 (formerly Bulletin No. 01-09). GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal Government. These financial statements present proprietary and budgetary information.

OMB financial statement reporting guidelines for FY 2005 require the presentation of comparative financial statements for all of the principal financial statements. NLRB is presenting comparative FY 2005 financial statements for the Consolidated Balance Sheet, Consolidated Statement of Net Cost, Consolidated Statement of Changes in Net Position, the Combined Statement of Budgetary Resources, and Consolidated Statement of Financing.

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

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

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

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

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

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

### **C. Budgets and Budgetary Accounting**

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

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

### **D. Financing Sources**

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

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### **E. Fund with the U.S. Treasury**

The NLRB's cash receipts and disbursements are processed by the U.S. Treasury (Treasury). The fund balances with the Treasury are primarily appropriated funds that are available to pay current liabilities and to finance authorized purchases. Funds with Treasury represent NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with Treasury also include escrow funds that are not appropriated but are Backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

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

### **F. Investments, Net**

NLRB invests funds in Federal Government securities for Backpay that are held in the escrow account at Treasury. These funds held in Treasury are not appropriated funds. Backpay is the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

The Federal Government securities include marketable Treasury market-based securities issued by the Federal Investment Branch of the Bureau of the Public Debt. Market-based securities are Treasury securities that are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms.

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

The market value is estimated as the sales price of the security multiplied by the bid price as of September 30, 2005 and September 30, 2004, respectively.

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

See Note 3 for additional information on Investments, Net.

### **G. Advances**

Advances consist of amounts advanced by NLRB for the transit subsidy program and for commercial payment system for postage and penalty mail.

See Note 4 for additional information on the Advances.

### **H. Accounts Receivable, Net of Allowance for Doubtful Accounts**

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

See Note 5 for additional information on Accounts Receivable.

### **I. General Property Plant, and Equipment**

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

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

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

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

### **J. Non-Entity Assets**

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

See Notes 8, 9 and 16 for additional information on Non-Entity Assets.

### **K. Liabilities Not Covered by Budgetary Resources**

Liabilities represent the amount of monies or other resources that are likely to be paid by NLRB as the result of a transaction or event that has already occurred. No liability can be paid by NLRB absent an appropriation. Liabilities for which an appropriation has not been enacted and for which there is no certainty that an appropriation will be enacted are classified as Liabilities Not Covered by Budgetary Resources.

#### ***Intragovernmental***

The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of NLRB which had not been billed or paid by NLRB as of September 30, 2005 and 2004, respectively.

#### ***Federal Employees Workers' Compensation Program***

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

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

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

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

See Note 8 for additional information on the FECA liability.

***Other***

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

See Note 10 for additional information on Annual Leave.

**L. Contingencies**

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

See Note 17 for additional information on Contingencies.

**M. Unexpended Appropriations**

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

**N. Annual, Sick, and Other Leave**

***Annual and Sick Leave Program***

Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Sick leave and other type of nonvested leave are expensed as taken.

See Note 10 for additional information on Annual Leave.

## **O. Life Insurance and Retirement Plans**

### ***Federal Employees Group Life Insurance (FEGLI) Program***

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

### ***Retirement Programs***

NLRB employees participate in one of two retirement programs, either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), which became effective on January 1, 1987. Most NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS.

For FERS employees, NLRB contributes an amount equal to one percent of the employee’s basic pay to the tax deferred Thrift Savings Plan and matches employee contributions up to an additional four percent of pay. The maximum percentage of base pay that an employee participating in FERS may contribute is 15 percent in calendar year (CY) 2005 to this plan. Employees belonging to CSRS may contribute up to 10 percent of their salary in CY 2005 and receive no matching contribution from NLRB. The maximum amount that either FERS or CSRS employees may contribute to the plan is \$14,000 in CY 2005. The sum of the employees’ and NLRB’s contributions are transferred to the Federal Retirement Thrift Investment Board.

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

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

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



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**P. Operating Leases**

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with GSA. The real property leases are for NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars. The GSA charges NLRB lease rates that approximate commercial rates for comparable space.

See Note 12 for additional information on Operating Leases.

**Q. Net Position**

The NLRB's net position consists of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent appropriated spending authority that is unobligated and has not been withdrawn by Treasury, and obligations that have not been paid. Cumulative results of operations represent the excess of financing sources over expenses since inception.

**R. Use of Management Estimates**

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

## Note 2. Fund Balance With Treasury

Treasury performs cash management activities for all Federal agencies. The net activity represents Fund Balance with Treasury. The Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2005 and September 30, 2004 consists of the following:

### Fund Balance with Treasury by Fund Type:

(Dollars in thousands)	FY 2005			FY 2004		
	Entity Assets	Non-Entity Assets	Total	Entity Assets	Non-Entity Assets	Total
General Funds	\$24,222	—	\$24,222	\$20,794	—	\$20,794
Escrow Funds	—	1,428	1,428	—	2,041	2,041
<b>Total Fund Balance with Treasury</b>	<b>\$24,222</b>	<b>\$1,428</b>	<b>\$25,650</b>	<b>\$20,794</b>	<b>\$2,041</b>	<b>\$22,835</b>

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior fiscal years, which are not available to fund new obligations. The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received but for which payment has not yet been made.

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

Status of Fund Balance with Treasury as of September 30, 2005 and September 30, 2004 consists of the following:

### Fund Balance with Treasury by Availability:

(Dollars in thousands)	FY 2005	FY 2004
<b>Unobligated Balance</b>		
Available	\$ 466	\$ 403
Unavailable	6,415	6,639
Obligated balance not yet disbursed	18,769	15,793
<b>Totals</b>	<b>\$ 25,650</b>	<b>\$ 22,835</b>

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## Note 3. Investments, Net

### Investments in Treasury Securities:

The NLRB invests Backpay funds that are authorized by the Regional Compliance Officers and other management officials in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of Public Debt.

In FY 2005, the maturity value of the investment was \$2 million as compared to FY 2004 of \$5 million. The decrease was a result of maturity of securities that were disbursed to discriminatees.

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

Investments as of September 30, 2005 and September 30, 2004 consist of the following:

### *Investment Value at Investment Market Value:*

<b>(Dollars in thousands)</b>	<b>Investment Type</b>	<b>Value at Maturity</b>	<b>Investment Net</b>	<b>Market Value Disclosure</b>
FY 2005 U.S. Treasury Securities	Marketable	\$ 1,665	\$ 1,652	\$ 1,652
FY 2004 U.S. Treasury Securities	Marketable	\$ 4,995	\$ 4,987	\$ 4,987

For FY 2005 and 2004, the discount on the marketable securities amounted to \$13 and \$8, respectively (Dollars in thousands).

## Note 4. Advances

### Intragovernmental

Intragovernmental Advances of \$20,848 represent advances to the United States Postal Service (USPS) for penalty mail and the Department of Transportation (DOT) for the transit subsidy as of September 30, 2005. The USPS advance for September 30, 2005 was \$20,848 and zero for September 30, 2004. The DOT advance for September 30, 2005 was zero and \$2,952 for September 30, 2004 (Amounts in dollars).

### Commercial

Advances of \$14,447 as of September 30, 2005 and \$4,773 for September 30, 2004, represent advances to a commercial vendor for postage (Amounts in dollars).

**Note 5. Accounts Receivable, Net of Allowance for Doubtful Accounts**

The intragovernmental accounts receivable for FY 2005 is the amount due from the Federal Emergency Management Agency (FEMA) for NLRB's employees assisting FEMA with hurricane Katrina's destruction. Accounts receivable at each fiscal year end consisted of the following

(Dollars in thousands)	FY 2005	FY 2004
Intragovernmental		
Accounts Receivable	\$ 37	0
Total Intragovernmental	\$ 37	0
With the Public		
Accounts Receivable	\$ 56	\$ 48
Allowance Doubtful Accounts	(2)	(1)
Total Accounts Receivable, Net—Public	54	47
Accounts Receivable—Net	\$ 91	\$ 47

**Note 6. General Property Plant, and Equipment, Net**

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

Depreciation expenses for September 30, 2005 were \$70,004 and \$75,986 for September 30, 2004 (Amounts in dollars).

(Dollars in thousands)	FY 2005 General Property Plant, and Equipment	FY 2004 General Property Plant, and Equipment
Cost	\$ 1,529	\$ 1,694
Accumulated Depreciation	(1,403)	(1,616)
Net Book Value	\$ 126	\$ 78

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## Note 7. Intragovernmental Accounts Payable

The FY 2005 Consolidated Balance Sheet is being presented to include a change to the amount shown for FY 2004 intragovernmental accounts payable for comparative financial statements. The FY 2004 amount for intragovernmental accounts payable was included in the (non-Federal) accounts payable of \$6,237,086 and was not separately shown as intragovernmental as required by OMB Circular No. A-136 (formerly Bulletin No. 01-09). The accounts payable (non-Federal) for FY 2004 is being reclassified to show the portion for non-Federal of \$4,728,853 and intragovernmental of \$1,508,233 on the FY 2005 Consolidated Balance Sheet (Amounts in dollars).

## Note 8. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents amounts collected from the public for court costs, freedom of information requests and other miscellaneous amounts that must be transferred to the U.S. Treasury. The composition of liabilities not covered by budgetary resources as of September 30, 2005, and September 30, 2004, is as follows:

<b>(Dollars in thousands)</b>	<b>FY 2005</b>	<b>FY 2004</b>
Intragovernmental		
FECA—Unfunded	\$ 921	\$ 1,016
Total Intragovernmental	921	1,016
Estimated Future—FECA	1,784	1,889
Accrued Annual Leave	13,264	12,425
Backpay Settlement Due to Others	3,080	7,028
Custodial Liability	549	163
Total Liabilities Not Covered by Budgetary Resources	\$ 19,598	\$ 22,521
Total Liabilities Covered by Budgetary Resources	12,625	12,664
Total Liabilities	\$ 32,223	\$ 35,185

## Note 9. Non-Entity Assets

Non-entity assets, restricted by nature, consist of miscellaneous receipt accounts and Backpay settlement due to others. These amounts represent cash collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court costs, freedom of information requests and closed out Backpay cases that must be transferred to the U.S. Treasury. The Backpay settlement due to others represents monies to be disbursed to discriminatees at a later date. The composition of non-entity assets as of September 30, 2005 and September 30, 2004, is as follows:

(Dollars in thousands)	FY 2005	FY 2004
Non-Entity Assets		
Intragovernmental		
Fund Balance with Treasury	\$ 549	\$ 160
Accounts Receivable	—	—
Total Intragovernmental	\$ 549	\$ 160
Backpay Settlement Due to Others	3,080	7,028
Total Non-Entity Assets	\$ 3,629	\$ 7,188
Entity Assets	23,925	20,766
Total Assets	\$ 27,554	\$ 27,954

## Note 10. Cumulative Results of Operations

(Dollars in thousands)	FY 2005	FY 2004
FECA paid by DOL	\$ (469)	\$ (495)
FECA—Unfunded	(921)	(1,016)
Estimated Future FECA	(1,784)	(1,889)
Accrued Annual Leave	(13,264)	(12,425)
General Property Plant, and Equipment, Net	126	78
Other	523	537
Cumulative Results of Operations	\$ (15,789)	\$ (15,210)

## Note 11. Intragovernmental Costs and Exchange Revenue

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

(Amount in dollars)	FY 2005	FY 2004
<b>Resolve Representation Cases</b>		
Intragovernmental Costs	\$ 12,236,370	\$ 13,303,374
Costs with the Public	26,203,813	26,559,064
<b>Total Net Cost—Resolve Representation Cases</b>	<b>38,440,183</b>	<b>39,862,438</b>
<b>Resolve Unfair Labor Practices</b>		
Intragovernmental Costs	70,845,144	73,842,907
Costs with the Public	153,071,278	148,037,264
<b>Total Net Cost—Resolve Unfair Labor Practices</b>	<b>223,916,422</b>	<b>221,880,171</b>
<b>Other</b>		
Intragovernmental Costs	112,556	123,860
Less: Intragovernmental Earned Revenue	112,556	123,860
Net Intragovernmental Cost	—	—
<b>Total Net Cost—Other</b>	<b>—</b>	<b>—</b>
<b>Net Cost of Operations</b>	<b>\$262,356,605</b>	<b>\$261,742,609</b>

## Note 12. Operating Leases

**GSA Real Property.** Most of the NLRB's facilities are rented from the General Services Administration (GSA), which charges rent that is intended to approximate commercial rental rates. The terms of the NLRB's occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA (or another Federal Agency) or rented by GSA from the private sector. The NLRB has OAs with GSA, which sets forth terms and conditions for the space the Agency will occupy for an extended period of time. Included within the OA are notification requirements for the Agency to release space, that are generally 120 to 180 days. For purposes of disclosing future operating lease payments in the table below, Federally owned leases are included in years 2006 through 2010.

Rental expenses for operating leases as of September 30, 2005 were \$26,866,735 for Agency lease space and \$1,432,593 for Agency building security. For FY 2004 the GSA operating lease costs was \$27,125,204 and the building security portion was \$1,146,691. As of FY 2005, the Agency is required

to show separately the payment to GSA for the operating lease and the payment to the Department of Homeland Security for the building security.

**Personal Property.** The NLRB leases personal property from GSA. The terms for GSA leases frequently exceed one year, although a definite lease period is not always specified. For purposes of disclosing future operating lease payments in the table below, GSA personal property leases are included in years 2006 through 2010. The estimated future operating lease payments for GSA and private personal property leases are based on a 3 percent increase over the 2005 actual personal property rental expense.

Rental expenses for operating leases as of September 30, 2005 and 2004 were \$122,014 and \$111,948, respectively.

The aggregate of the NLRB's estimated real and personal property future lease payment to GSA are presented in the table below and it does not include building security. The NLRB does not have any commitment for future lease payments after five years.

(Dollars in thousands) Fiscal Year	GSA Real Property	Personal Property	Total
2006	\$ 28,113	\$ 126	\$ 28,239
2007	28,517	130	28,647
2008	29,773	134	29,907
2009	30,487	138	30,625
2010	31,219	142	31,361
After 5 Years	—	—	—
Total Future Lease Costs	\$ 148,109	\$ 670	\$ 148,779

### Note 13. Appropriations Received

The NLRB received \$249,860,000 and \$242,632,969 (net of rescission) in warrants for the fiscal years ended September 30, 2005 and 2004, respectively. The rescissions were \$2,015,000 and \$1,440,031 for FYs 2005 and 2004, respectively. The amount shown on the Combined Statement of Budgetary Resources under caption "Permanently not available" for FY 2005 in the amount of \$3,218,386 is a combination of the rescission of \$2,015,000 and the cancelled appropriation for FY 2000 in the amount of \$1,203,386. The amount of \$2,194,184 for FY 2004 is a combination of the rescission of \$1,440,031 and FY 1999 cancelled appropriation of \$754,153.



## Note 14. Statement of Budgetary Resources

The Combined Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into generally accepted accounting principles for the Federal Government. The total Budgetary Resources of \$254,946,651 as of September 30, 2005 and \$247,818,123 as of September 30, 2004, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. NLRB's unobligated balance available at September 30, 2005, was \$455,357 and at September 30, 2004 was \$392,805.

**Apportionment Categories of Obligations Incurred.** The NLRB's obligations incurred as of September 30, 2005 and September 30, 2004 by apportionment Category A and B is shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects or a combination of these categories.

(Dollars in thousands) FY 2005	Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$ 236,982	\$ 12,958	\$ (10)	\$ 249,930
Reimbursable	113	—	—	113
Total Obligations Incurred	\$ 237,095	\$ 12,958	\$ (10)	\$ 250,043

(Dollars in thousands) FY 2004	Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$ 231,773	\$ 11,090	\$ (10)	\$ 242,853
Reimbursable	124	—	—	124
Total Obligations Incurred	\$ 231,897	\$ 11,090	\$ (10)	\$ 242,977

### Note 15. Imputed Financing

OPM pays pension and other future retirement benefits on behalf of Federal agencies for Federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of Federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other Federal agencies at September 30, 2005 and 2004 consisted of:

(Dollars in thousands)	FY 2005	FY 2004
Office of Personnel Management:		
Pension Expenses	\$ 7,581	\$ 7,786
Federal Employees Health Benefits	8,653	7,849
Federal Employees Group Life Insurance Program	28	28
Total Imputed Financing	<u>\$ 16,262</u>	<u>\$ 15,663</u>

### Note 16. Backpay Checks Held in NLRB Regional Offices

The NLRB may use Backpay as a remedy to settle a ULP. The Backpay may be disbursed by three different methods: (1) the respondent prepares the Backpay and disburses it directly to the discriminatee(s); (2) the respondent prepares the Backpay and gives the check(s) to a NLRB Regional Office to deliver to the discriminatee(s); and (3) the respondent makes the Backpay payable to the NLRB, who deposits the check and then issues U.S. Treasury checks to the discriminatee(s).

This footnote identifies the number and dollar value of checks that are received in the Regional Offices that are made payable to discriminatees. The NLRB has a fiduciary type of responsibility to safeguard these checks until they are successfully disbursed to the discriminatee(s). It should be noted that it might take months to successfully deliver the Backpay, due to the length of time it may take to settle cases and then obtain current addresses for the discriminatee(s).

	FY 2005		FY 2004	
	Number	Amount	Number	Amount
Checks on Hand, Beginning of Period	921	\$ 755	102	\$ 323
Checks Received	9,622	21,015	7,560	17,374
Less Checks Distributed	(10,154)	(21,251)	(6,741)	(16,942)
Net Change in Checks on Hand	(532)	\$ (236)	819	\$ 432
Checks on Hand at End of Period	389	\$ 519	921	\$ 755

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**Note 17. Contingencies Liability**

The NLRB is a party to several threatened or pending litigation claims. NLRB management has estimated that claims from \$200 to \$500 thousand dollars have a reasonable possibility of loss (the chance of loss is less than probable, but more than remote). The Agency has and will continue to vigorously contest these claims. In the opinion of NLRB's management, the ultimate resolution of pending litigation will not have a material effect on the NLRB's financial statements.

**Note 18. Obligation Contingency**

A FY 2005 obligation, totaling approximately \$1.5 million for contractual information technology and end-user support services, is currently under review by NLRB management and the NLRB Office of Inspector General. Final determination could have a direct effect upon the amounts reported in the Statement of Budgetary Resources and the Consolidated Statement of Financing.

## Inspector General Summary of Management Challenges

### UNITED STATES GOVERNMENT

*National Labor Relations Board*

Office of Inspector General




### Memorandum

October 14, 2005

To: Robert J. Battista  
Chairman

Arthur F. Rosenfeld  
Acting General Counsel

From: David P. Berry   
Acting Inspector

Subject: Issue Alert No. OIG-IA-06-01: Top Management and Performance Challenges

With the passage of the Accountability of Tax Dollars Act of 2002, Public Law 107-289, the Agency is required to produce audited financial statements. Along with the audited financial statements, the Agency is required to prepare a Performance and Accountability Report. As part of that report, the Office of Inspector General is required by section 351 of title 31 to summarize what the Inspector General considers to be the most serious management and performance challenges facing the Agency and briefly assess its progress in addressing those challenges.

In October 2004, we identified eight management and performance challenges. Since that time, four have been met and we have identified two new challenges. Below are the top management and performance challenges with brief summaries of the Agency's progress in addressing the previously identified challenges and a brief summary of the completed challenges:

### Current Challenges

#### 1. Reduce the Board's pending caseload to meet performance goals.

The Fiscal Year (FY) 2004 Performance and Accountability Report contained a performance goal to have a 90 percent reduction of pending unfair labor practice cases over 17 months old at the Board. The Board began FY 2005 with 347 cases that could potentially be more than 17 months old by September 30, 2005. The Board closed 39 percent (134 cases) of these by September 30, 2005.

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The FY 2004 Performance and Accountability Report also included a performance goal to decide 90 percent of representation cases pending at the Board for more than 12 months. As of September 30, 2004, 147 cases were pending at the Board. The Board closed 57 percent (84 cases) by September 30, 2005.

During FY 2005, the Board operated without a full complement of Presidentially-appointed and Senate-confirmed members. When we provided our list of management challenges in FY 2003, we noted the importance of maintaining a full-strength Board that is able to issue decisions and set clear priorities on matters affecting the Agency. We are again raising this issue and its impact on the Board's ability to meet its performance goals.

**2. Comply with the Privacy Act System Notice requirement for the Agency's information systems.**

On July 13, 2004, the Rules Revision Committee received and considered a draft Privacy Act Notice for the General Counsel's Case Activity Tracking System (CATS). On September 21, 2004, the Rules Revision Committee was provided a draft Privacy Act Notice that included the Committee's recommended revisions. On September 23, 2004, the General Counsel forwarded the CATS Privacy Act System Notice to the Board with a recommendation that a similar notice be created for the Board's case management system. The Board, through its Executive Secretary, is responsible for sending such notices to the Office of Management and Budget for publication in the Federal Register.

During FY 2005, the Board did not take any action on the CATS Privacy Act System Notice. It is our understanding that the Board now intends to modify the CATS Privacy Act System Notice to also address the remaining case tracking systems throughout the Agency. On August 31, 2005, the OIG issued OIG-AMR-48-05-05, Safeguarding Social Security Numbers, noting that the Agency has not published the CATS Privacy Act System Notice and that the Privacy Act creates criminal penalties for officers or employees of an Agency who willfully maintain a system of records without meeting the notice requirements.

**3. Develop, implement, and test an IT contingency plan in accordance with guidance promulgated by the National Institute of Standards and Technology.**

Over the past several years, OIG audit reports and issue alerts identified that the Agency did not have current, implemented, and tested contingency plans. The latest of such reports, OIG-F-9-05-01, Audit of the National Labor Relations Board's FY 2004 Financial Statements, recommended that the Agency implement a disaster recovery plan.

The independent public accountants performing the Agency's FY 2005 financial statement audit concluded that the Agency has an Agency-wide contingency plan that addresses an emergency response, contingency plan, and disaster recovery. The plan, however, needs to be updated, implemented, and tested.

**4. Implement e-government initiatives to effectively communicate with parties and the public.**

The Board made significant progress on its e-government initiatives. In FY 2005, the Board implemented a system that allows a party to electronically submit any document that needs to be filed in a case pending before the Board—subject to a size limitation of 10 MB.

While the General Counsel had focused attention on the primary forms used by the public to initiate cases, that effort has been postponed while the Division of Operations-Management and the Chief Information Officer focus their attention on developing a commercial off-the-shelf solution for the next generation of CATS. Subject to the availability of funding, management's best estimate is that a pilot program for the filing of electronic charges and petitions will begin in FY 2007 or 2008.

Other e-government initiatives of the General Counsel have made progress. In January 2005, the General Counsel expanded the authorization of Regions to include the electronic acceptance of all documents filed electronically with the Board as well as certain other Regional documents. Although the Agency did not have the Electronic Case Information System (ECIS) online in early FY 2005 as expected, this system will be previewed for the American Bar Association in October 2005 and then be deployed for general use. ECIS will allow the public to access information in CATS that has been determined to be public information.

The ability to submit electronic Freedom of Information Act requests through the Agency's Web site remains limited to Headquarters. The Agency's electronic Extension of Time System for the Office of Appeals that was released for public use in June 2002 continues to be operational.

**5. Strengthen control over employees' use of the Agency information technology assets to include Internet access.**

Over the last several years, the Agency has devoted significant resources to improving and upgrading information technology equipment and capability. During the last fiscal year, the OIG devoted significant resources investigating employees for improper use of the Agency's Internet access and e-mail system. Because this is a new challenge, we will assess the Agency's progress next year.

**6. Manage the Agency and meet performance goals during a period that will be covered by continuing resolutions and then followed by an appropriation that is expected to provide a nominal funding increase.**

These types of budgetary uncertainties and constraints create significant management hurdles. Managing during a period of continuing resolutions requires careful monitoring of resources and implementation of cost-saving measures wherever possible. Additionally, it is clear that the nominal increase in the proposed budget will offer little relief in light of the Agency's fixed rent and personnel expenses. Because this is a new challenge, we will assess the Agency's progress next year.

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## Challenges Met

When we provided the management and performance challenges in October 2004, we included three challenges directly related to the Agency's first audited financial statement. Those challenges were "[i]mplement internal controls needed to obtain an unqualified opinion on financial statements to be audited;" "meet Regulatory and statutory reporting due dates for government-wide reporting requirements;" and "[s]trengthen internal controls over backpay funds deposited with and paid through the U.S. Department of Treasury." During the last year, the Agency met these challenges by obtaining an unqualified opinion on the FY 2004 financial statement, by submitting the Performance and Accountability Report on time, and by issuing operating procedures for the processing of backpay. The effort required to meet these challenges cannot be understated and it is a significant achievement by the Agency's managers. In FY 2005, the Agency also met the challenge of obtaining an information security intrusion detection system.

cc: Board





# Appendix A

## Summary of Performance Measures

### 2005 Annual Performance Report and 2006 Plan

<b>Goal #1: Resolve all questions concerning representation promptly.</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>
<b>Performance Indicators</b>	<b>FY 2003 Actual</b>	<b>FY 2004 Actual</b>	<b>FY 2005 Actual</b>	<b>FY 2006 Projected</b>
<b>Measure 1</b> Issue certifications in representation cases within 60 median days of filing of petition.	52 median days	53 median days	53 median days	60 median days
<b>Measure 2</b> Hold 90% of all representation elections within 56 days of filing of petition.	92.5% within 56 days	93% within 56 days	94.2% within 56 days	90% within 56 days
<b>Measure 3</b> Hold elections within 42 median days of filing petition.	40 median days	39 median days	38 median days	42 median days
<b>Measure 4</b> Issue 85% of all post-election reports within 100 days from the date of the election, or in the case of objections, from the date they are filed.	85.7% within 100 days	92.1% within 100 days	90.5% within 100 days	85% within 100 days
<b>Measure 5</b> Achieve voluntary election agreements for 85% of the petitions filed.	88.5%	89%	91.1%	85%
<b>Measure 6</b> Issue all test-of-certification decisions in an 80-day median from filing of charge by FY 2008.	114 median days	83 median days	118 median days	90 median days
<b>Measure 7</b> Decide 90% of representation cases pending at the Board for more than 12 months.	67% reduction of pending cases over 12 months	65% reduction of pending cases over 12 months	57% reduction of pending cases over 12 months	90% reduction of pending cases over 12 months
<b>Measure 8</b> Conduct quality reviews in 100% of the Regional Offices each year.	100% of regions	100% of regions	100% of regions	100% of regions

**2005 Annual Performance Report and 2006 Plan**

<b>Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>
<b>Performance Indicators</b>	<b>FY 2003 Actual</b>	<b>FY 2004 Actual</b>	<b>FY 2005 Actual</b>	<b>FY 2006 Projected</b>
<p><b>Measure 1</b> Achieve informal resolution of unfair labor practice cases within a median time of 70 days by FY 2008.</p>	68 median days	61 median days	60 median days	70 median days
<p><b>Measure 2</b> Resolve 90% of unfair labor practice cases within established Impact Analysis time frames.  Cases from these targets: Category III = 49 days Category II = 63 days Category I = 84 days</p>	<p>Cat. III: 95.7%</p> <p>Cat. II: 97.3%</p> <p>Cat. I: 99.3%</p>	<p>Cat. III: 96.8%</p> <p>Cat. II: 98.4%</p> <p>Cat. I: 99.5%</p>	<p>Cat. III: 97.6%</p> <p>Cat. II: 98.7%</p> <p>Cat. I: 99.5%</p>	<p>Cat. III: 90%</p> <p>Cat. II: 90%</p> <p>Cat. I: 90%</p>
<p><b>Measure 3</b> Settle 95% of meritorious unfair labor practice charges consistent with established standards.</p>	92.8%	96.1%	97.2%	95%
<p><b>Measure 4</b> Open hearings within 120 median days from the issuance of a complaint.</p>	104 median days from complaint to open of hearing	101 median days from complaint to open of hearing	96 median days from complaint to open of hearing	120 median days from complaint to open of hearing
<p><b>Measure 5</b> Issue 60% of sustained appeals decisions within 60 days of receipt of the appeal of the Regional Directors' dismissal of the charge.  This measure was modified for FY 2005 to: "Issue sustained appeals decisions within 90 median days of receipt of the appeal of the Regional Directors' dismissal of the charge."</p>	63% within 110 days	36% within 90 days	83 median days	90 median days

## 2005 Annual Performance Report and 2006 Plan

Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.	Indicators	Indicators	Indicators	Indicators
Performance Indicators	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Projected
<p><b>Measure 6</b> Achieve a 25 median day case processing time, excluding deferral time, for closing those Advice cases where the General Counsel recommended Section 10(j) injunction proceedings.</p> <p>Note: This was changed to a <i>median</i> (from actual) of 25 days starting in FY 2003. Additionally, close 90% of these cases within 30 <i>actual</i> days, excluding deferral time, by FY 2008.</p>	<p>Closed all cases within 30.5 median days</p> <p>50% closed within 30 days</p>	<p>Closed all cases within 25 median days</p> <p>77.3% closed within 30 days</p>	<p>Closed all cases within 24 median days</p> <p>90.9% closed within 30 days</p>	<p>Close all cases within 25 median days</p> <p>90% closed within 30 days</p>
<p><b>Measure 7</b> Issue Administrative Law Judge decisions within 62 median days from the receipt of briefs or submissions after the close of a hearing.</p>	<p>33 median days</p>	<p>27 median days</p>	<p>26 median days</p>	<p>62 median days</p>
<p><b>Measure 8</b> File applications for enforcement within 30 median days from referral by the Regional Director.</p>	<p>21 median days</p>	<p>28 median days</p>	<p>26 median days</p>	<p>30 median days</p>
<p><b>Measure 9</b> Issue all Unfair Labor Practice decisions pending at the Board within 12 months by FY 2007.</p> <p>This measure was modified for FY 2005 to: Decide 90% of Unfair Labor Practice cases pending at the Board for over 16 months by FY 2008.</p>	<p>46% reduction of pending cases over 18 months</p>	<p>38% reduction of pending cases over 18 months</p>	<p>38.6% reduction of pending cases over 17 months</p>	<p>90% reduction of pending cases over 17 months</p>

**2005 Annual Performance Report and 2006 Plan**

<b>Goal #2: Investigate, Prosecute and Remedy Cases of Unfair Labor Practices by Employers or Unions Promptly.</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>	<b>Indicators</b>
<b>Performance Indicators</b>	<b>FY 2003 Actual</b>	<b>FY 2004 Actual</b>	<b>FY 2005 Actual</b>	<b>FY 2006 Projected</b>
<p><b>Measure 10</b>                      Resolve compliance cases within established Impact Analysis guidelines.                      Category III: 91 days                      Category II: 119 days                      Category I: 147 days</p>	<p>Cat. III: 96.1%                      Cat. II: 95.4%                      Cat. I: 97.3%</p>	<p>Cat. III: 98.1%                      Cat. II: 95.7%                      Cat. I: 97.8%</p>	<p>Cat. III: 97.0%                      Cat. II: 96.9%                      Cat. I: 99.5%</p>	<p>Cat. III: 95%                      Cat. II: 95%                      Cat. I: 98%</p>
<p><b>Measure 11</b>                      Conduct quality reviews in 100% of the Regional Offices each year.</p>	<p>100% of regions</p>	<p>100% of regions</p>	<p>100% of regions</p>	<p>100% of regions</p>

# Appendix B

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## Acronyms

ALJ	Administrative Law Judge
FMFIA	Federal Managers' Financial Integrity Act
FTE	Full Time Equivalent
FY	Fiscal Year
GPRA	Government Performance and Results Act
IG	Inspector General
MD&A	Management Discussion and Analysis
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
OCIO	Office of the Chief Information Officer
OMB	Office of Management and Budget
PAR	Performance and Accountability Report
PMA	President's Management Agenda
ROBS	Regional Office Budget System
ULP	Unfair Labor Practice

# Appendix C

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## Definitions

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

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

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

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

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

**Formal Action:** Formal actions may be documents issued or proceedings conducted when the voluntary agreement of all parties regarding the disposition of all issues in a case cannot be obtained, and where dismissal of the charge or

petition is not warranted. Formal actions are those in which the Board exercises its decision-making authority in order to dispose of a case or issues raised in a case. “Formal action” also describes a Board decision and consent order issued pursuant to a stipulation, even though a stipulation constitutes a voluntary agreement.

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

**Overage Case:** To facilitate/simplify Impact Analysis, case processing time goals—from the date a charge is filed through the Regional determination—are set for each of the three categories of cases, based on priority. A case is reported “overage” when it is still pending disposition on the last day of the month in which its time target was exceeded. Cases which cannot be processed within the timelines established under the Impact Analysis program for reasons that are outside the control of the Regional Office are not considered to be overage.

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

**Quality:** Complete assignments and investigations in a full and thorough manner consistent with high standards of excellence and perform-

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ance expectations, as well as the National Labor Relations Act and controlling decisions of the Board and the courts.

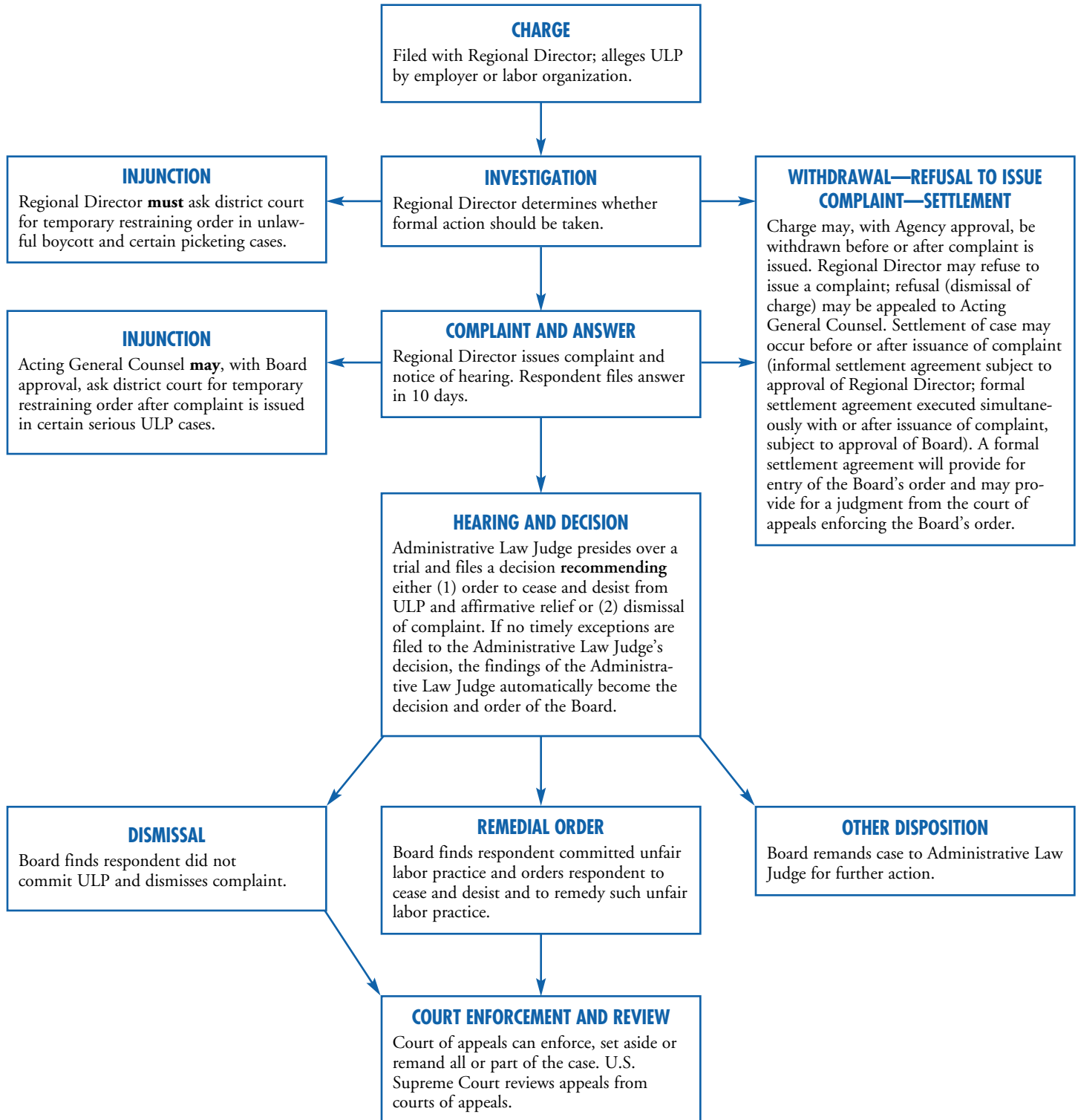
**Quality Review Process:** Quality of unfair labor practices and representation case processing assessed through review of a randomly selected sample of Regional Office case files; review all administrative law judge and Board decisions; quality review also involved in Divisions of Advice, Office of Representation Appeals, and Enforcement Litigation's processing of cases arising in the Regional Offices.

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

# Appendix D

## Unfair Labor Practice Procedures

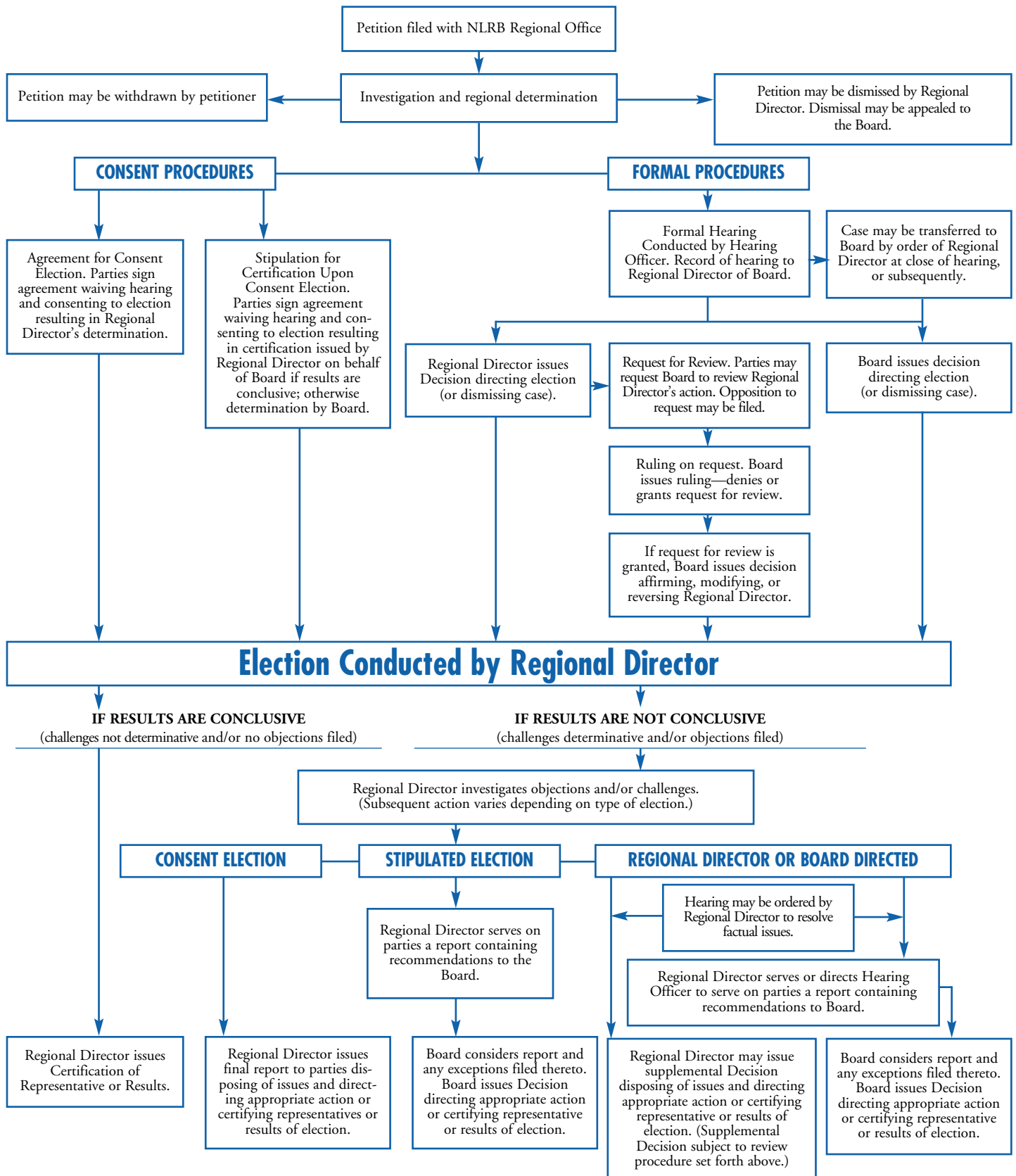
### Basic Procedures in Cases Involving Charges of Unfair Labor Practices





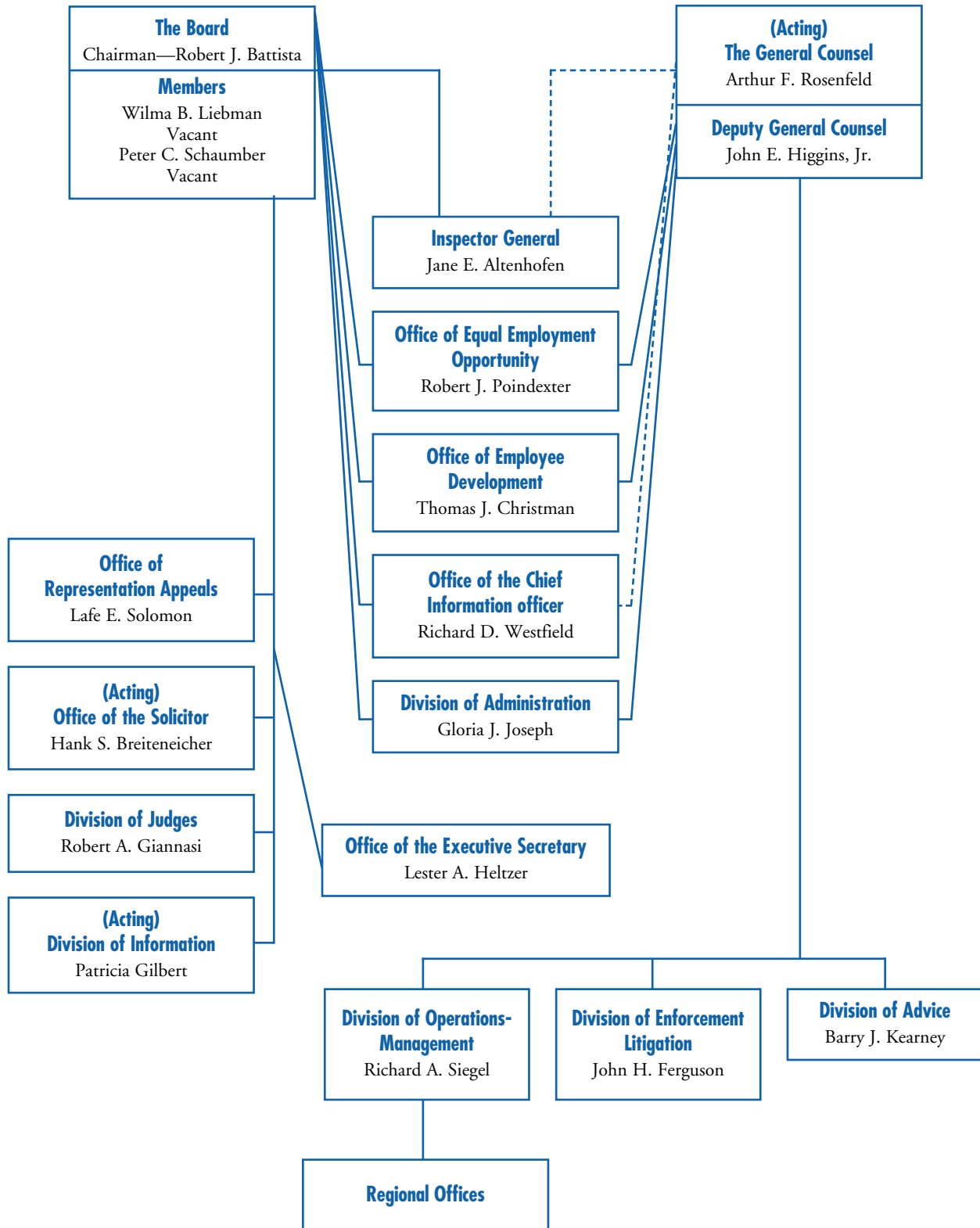
# Appendix E

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



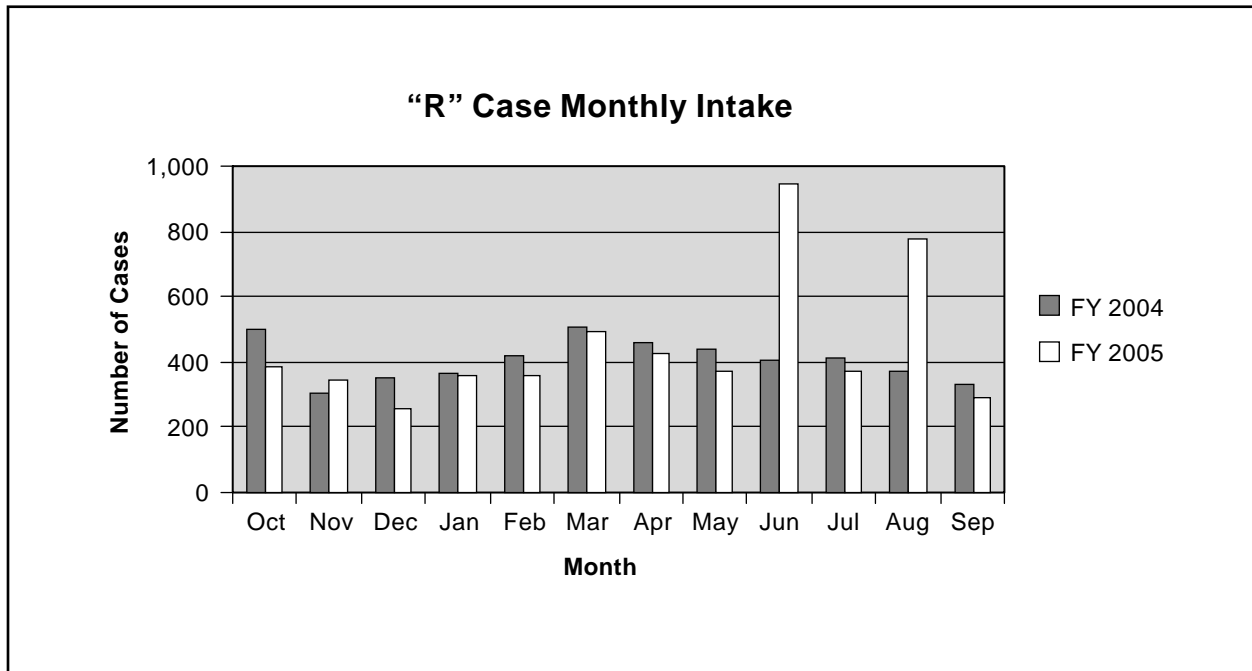
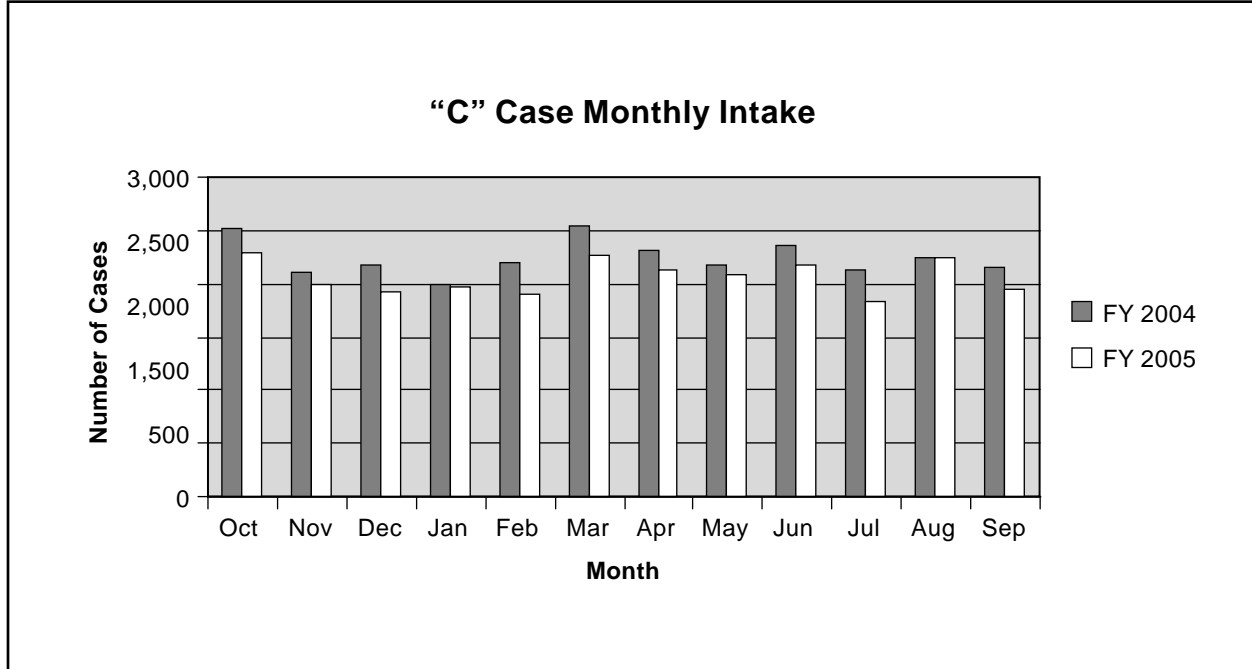
# Appendix F

## National Labor Relations Board Organization Chart



# Appendix G

## Performance Charts









National Labor Relations Board  
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Washington, D.C. 20570-0001

[www.nlrb.gov](http://www.nlrb.gov)