

PERFORMANCE AND ACCOUNTABILITY REPORT

FY 2006



PROTECTING WORKPLACE DEMOCRACY

Table of Contents

Overview	4
I. Management's Discussion and Analysis	6
Message from the Chairman	6
Board Members	8
Message from the General Counsel	9
Mission Statement of the NLRB	11
Vision Statement	11
Major Goals	11
Background Information	11
The Statutory Structure of the Agency: Role of the Board and the General Counsel	12
Unfair Labor Practice Proceedings	12
Representation Proceedings	13
Compliance Cases	14
Administrative Functions	14
Effect of Division of Authority on Agency Performance	14
Highlights of FY 2006 Performance	14
Factors that Affect Agency Performance	15
Budget	15
Case Intake	15
Settlements	15
Presidential Appointees	16
Human Resources	16
Workforce Planning	16
Reliability and Completeness of Performance Data	17
Program Evaluation	18
Financial Statements Highlights	18
Results of FY 2006 FMFIA Review	19
Financial Planning Committee	20
II. Performance Information	22
Goals, Objectives, Strategies and Performance Measures	22
Performance Measures and FY 2006 Results	24
III. Financial Section	36
Letter from the Director of Administration	36
Agency Financial Statements and Related Auditor's Report	38
Independent Auditors' Report	40
Response	45
Agency Financial Statements	46
Notes to Principal Statements	51
Inspector General Summary of Management Challenges	69
IV. Management Assurance	73
Management Assurance Letter	74

Appendix A: Summary of Performance Measures	75
Appendix B: Acronyms	80
Appendix C: Definitions	81
Appendix D: Unfair Labor Practice Procedures	83
Appendix E: Outline of Representation Procedures Under Section 9(c)	84
Appendix F: National Labor Relations Board Organization Chart	85
Appendix G: Performance Charts	86

Overview

The National Labor Relations Board's (NLRB) Performance and Accountability Report for Fiscal Year (FY) 2006 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 2006. In assessing our performance, we are comparing actual results against targets and goals set out in our FY 2006 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 2006, 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 2006. A brief analysis accompanies each measure to explain any variance of performance.

The Financial Section provides the details on our finances for FY 2006, 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.

I. Management Discussion & Analysis

Message from the Chairman



Robert J. Battista

I am pleased to present the National Labor Relation Board's Performance and Accountability Report for Fiscal Year (FY) 2006. This publication presents our audited financial statements, and sets forth our performance against the major objectives we set for the Agency.

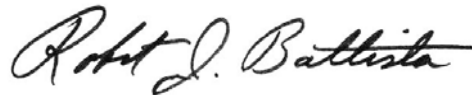
The National Labor Relations Board is an independent Federal Agency created in 1935 by Congress to administer the National Labor Relations Act, the basic law governing relations between labor unions and business enterprises engaged in interstate commerce.

The accompanying Performance and Accountability Report for FY 2006 shows the NLRB met many of its goals. The National Labor Relations Board issued 477 decisions during fiscal year 2006, which ended September 30. While production declined by 6% since FY 2005, we issued some difficult decisions during the year. The inventory of pending cases was reduced for the fourth year in a row. Notably, since taking office, the Bush Board has reduced our case inventory by over 50% to 305 cases at the end of FY 2006, the lowest level since at least 1974.

Although, the Board did not fully accomplish its FY 2006 goal under the Government Performance and Results Act (GPRA), it improved its performance over prior years. In FY 2005 the Board achieved 38% of its GPRA goal for unfair labor practice cases and 57% of its GPRA goal for representation cases. In FY 2006 the Board achieved 46% of its GPRA goal for unfair labor practice cases and 78% of its GPRA goal for representation cases.

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.

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, reading "Robert J. Battista". The signature is written in a cursive, flowing style.

Robert J. Battista
Chairman

Board Members



Wilma B. Liebman



Peter C. Schaumber



Peter Kirsanow



Dennis Walsh

Message from the General Counsel



Ronald Meisburg

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 General Counsel of the NLRB, I exercise general supervisory authority over this network of field offices.

During FY 2006, the Agency faced many challenges. Nearly 23,000 unfair labor practice charges were filed with the NLRB, of which 34.5 percent were determined to have merit. The NLRB was able to settle 96.7 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.

In addition, the NLRB family continued to support our New Orleans Regional Office that was deeply affected by the events of Hurricane Katrina. The office, which had been closed due to flooding and damage, has since reopened. Disaster recovery efforts continue to be one of the Agency's major priorities. The NLRB staff worked tirelessly throughout the fiscal year to assist our New Orleans colleagues, and to muster the resources necessary to meet our obligations to the public served by that Office.

I am proud to report that the Office of the General Counsel achieved all but one of its fifteen Government Performance and Results Act (GPRA) goals. This is 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 employee rights related to concerted activity and collective bargaining, and the right to refrain therefrom, is this Agency's mission. Surpassing our performance measures for FY 2006 shows that employees of the NLRB are committed to this mission. 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.

A handwritten signature in black ink, appearing to read "Ronald Meisburg". The signature is fluid and cursive, with a prominent "R" and "M".

Ronald Meisburg
General Counsel

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.¹ 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 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 (96.7 percent in FY 2006) 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 182,161 public inquiries in FY 2006, a 16 percent increase over the 216,723 received during FY 2005. The public can contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to

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

information 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 2006, the toll-free telephone service received 68,018 calls, of which 25,849 were connected to Regional Offices for further assistance.

To extend its public services efforts across the Internet, the Agency added a public information "Questions" page to its website, 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 1,447,969 visits, 513,799 of which involved inquiries that could be satisfied by answers provided through the site's electronic search system. In addition, Agency personnel provided 12,754 direct email responses to specific 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 5.2 percent in FY 2006, which is slightly higher than the 4.1 percent rate experienced in FY 2005.

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.²

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.³

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 practices⁴ 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 Board, to seek an injunction from a U.S. District _

²As of August 2006, there were five Board Members, with three confirmed Members and two recess appointees. The General Counsel's position is filled with a confirmed appointee.

³Appendix F is an organizational chart of the Agency.

⁴Appendix D is a chart on unfair labor practice case processing.



An election among approximately 80,000 employees employed at Ford Motor Company's River Rouge factory in Dearborn, Michigan in 1941.

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 proceedings⁵ 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 organiza-

tion 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.

⁵Appendix E is a chart on representation case processing.

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 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 2006 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 2006 results were favorable, exceeding the target for most measures. In the area of representation cases, the NLRB's Regional Offices conducted 94 percent of elections within 56 days of petition filing, exceeding their performance goal of 90 percent. All elections were conducted within 39 median days of filing. 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 and the goal of obtaining voluntary election agreements in at least 85 percent of the petitions filed was exceeded, with a performance of 88 percent.

For unfair labor practices in FY 2006, 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. Every one percent drop in the settlement rate costs the Agency more than \$2 million. The FY 2006 settlement rate was 96.7 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 \$249.789 million for FY 2007, which is \$44,000 more than the funding provided in FY 2006. Requested resources will be targeted to achieve the results described in the FY 2007 performance budget and in this report. Funding for FY 2007 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 88 percent of the Agency's budget devoted to space rent, building security and 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 affect 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 the Agency's intake and the complexity of its work. Also, the effects of immigration reform could lead to more organizing efforts, as employees are mobilized, and

become more proactive about asserting their respective positions. Additionally, the recently 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 seven years, case intake has fluctuated, decreasing from FY 1999 to FY 2000, increasing in FY 2001 and FY 2002, and then decreasing in recent years. In FY 2006, intake for ULP cases decreased from 24,736 cases in FY 2005, to 22,921. Representation case intake decreased from 5,151 cases in FY 2005, to 3,473 in FY 2006.

The chart below compares total actual case intake for FY 2001 through FY 2006, with an estimate for FY 2007.

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 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. Every one percent drop in the settlement rate costs the Agency more than \$2 million.

Actual Case Intake and Estimate for FY 2007

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007 (est)
ULP Cases	28,808	30,177	28,794	26,883	24,736	22,921	25,000
Representation Cases	5,413	5,695	4,945	4,897	5,151	3,473	4,500
TOTAL	34,221	35,872	33,739	31,780	29,887	26,394	29,500

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. The Government Accountability Office pointed out in its 1991 analysis of Board production, Board member vacancies and turnover are the primary reason for delays in issuance of Board decisions.

These factors—lack of a full-Board complement and new recess appointees—have an effect on perform-

Board Members and General Counsel		
	Appointed	Term Expiration
Robert J. Battista Chairman	12/17/02	12/16/07
Wilma B. Liebman Member	8/14/06	08/27/11
Peter C. Schaumber Member	8/14/06	8/27/10
Peter Kirsanow Member	1/4/06	Recess Appointment
Dennis Walsh Member	1/17/06	Recess Appointment
Ronald Meisburg General Counsel	06/06/05	8/13/10

ance goals. This chart 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 will be eligible to retire.

In FY 2006, 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 500 employees, with the remaining staff located in 32 Regional Offices, 3 Subregional Offices, 16 Resident Offices and 3 satellite judges 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 2006 was 1,840 and 1,800 FTE are included in the FY 2007 President's Budget submission. A stable workforce facilitates the Agency's ability to achieve performance goals.

Workforce Planning

The ability of the Agency to continue to achieve its mission and meet performance goals in such a dynamic environment was facilitated by an Agency-wide workforce assessment that was completed in FY 2004. The assessment resulted in a five-year plan, the objective of which, in keeping 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. Additionally, new training initiatives were developed to enhance the skills of the

professional and support staff. Programs were also created to train managers in areas other than where they are assigned. These programs broaden managers' knowledge and skills, facilitate cross-training, and enhance Agency flexibility, efficiency and effectiveness. In FY 2006, the Agency also took steps to implement an entry-level professional recruitment program, which will allow the Agency 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 the workplace. For instance, the Office of Appeals has converted to an electronic format for investigative case files. Also, a new pilot project by Operations-Management, Division of Judges, and Office of the Chief Information Officer (OCIO) was implemented in September 2005 to test electronic solutions for moving electronic case files between Field Offices and Headquarters Offices. The results of this pilot will guide the Agency toward an enterprise-wide, e-case management solution.

Competitive Sourcing: Further, in accordance with the PMA, the Agency has utilized competitive sourcing and direct conversion outsourcing opportunities to the fullest extent possible. Managers have reviewed public and private competitions of commercial activities to enhance cost efficiencies and program performance. As a result, under the Federal Activities Inventory Reform Act, in the past year, the OCIO increased the number of positions it identifies as commercial by 8 percent. Further, in FY 2004, the Division of Administration outsourced the mailroom operations. Other opportunities for competitive sourcing are being explored within the Agency.

Budget & Performance: The NLRB strengthens budget and performance linkages by establishing a direct, vertical relationship between the performance plans of individual executives in its Regional Offices and the performance goals for their programs, goals which are derived from the Agency's broader strategic goals. Agency goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency.

Improved Financial Performance: The Agency upgraded its financial system to the Depart-

ment of Interior's National Business Center's (NBC) Momentum system in FY 2004. This system has provided better web-based functionality, and improved integration with other systems. Currently, Momentum is integrated with the Federal Personnel and Payroll System, providing for more efficient payroll processing. Additionally, Momentum will be fully integrated with the Agency's new E-travel compliant travel manager system, E2Solutions, which is scheduled to be fully implemented in FY 2007. The improved integration of these systems will enhance financial reporting capabilities, facilitate more efficient and effective program and administrative performance, and enable continued compliance with the Chief Financial Officers Act of 1990.

The cost for Momentum totals about \$1 million annually. NBC is scheduled to upgrade our system in FY 2008, at an estimated additional cost of about \$800,000.

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 has been 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 been a key tool for managing caseload and human resources.

In future years, the Agency plans to transition to the

Next Generation Case Management (NGCM) system. The vision for the NGCM project is to build an enterprise-wide, common case management platform using the latest technologies for interfacing with the public and managing cases across the NLRB's offices in an automated, efficient and transparent way. The NGCM project will enable the NLRB to replace or optimize manual, paper-based processes and "stovepipe" legacy systems with a standards-based solution leveraging Commercial Off-The-Shelf tools and a Service-Oriented Architecture approach.

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 2006. They are:

(1) *Balance Sheet*—The NLRB assets were approximately \$27 million as of September 30, 2006. The Fund Balance with Treasury, which was \$25 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) *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 \$265 million net cost of operations in FY 2006, 16 percent was used to resolve Representation Cases and 84 percent was used to resolve ULP Charges.

(3) *Statement of Changes in Net Position*—The Statement of Changes in Net Position reports the change in net position during the reporting period. Net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. There was no material change in total Net Position from FY 2005 to FY 2006.

(4) *Statement of Budgetary Resources*—The Statement of Budgetary Resources shows budgetary resources available and the status at the end of the period. It represents the relationship between budget authority and budget outlays, and reconciles obligations to total outlays. For FY 2006, the NLRB had available budgetary resources of \$255 million, the majority of which were derived from new budget authority. This represents a zero percent increase over FY 2005 of available budgetary resources of \$255 million.

For FY 2006, the status of budgetary resources showed obligations of \$250 million, or 98 percent of funds available. This is comparable to FY 2005's obligations, which totaled \$250 million, or 98 percent of funds available. Total outlays for FY 2006 were \$249 million, which is a \$3 million in-

crease from FY 2005's total outlays of \$246 million.

(5) *Statement of Financing*—The Statement of Financing is designed to provide the bridge between accrual-based (financial accounting) information in the Statement of Net Cost and obligation-based (budgetary accounting) information in the 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 Statement of Financing takes net budgetary obligations of \$248 million and reconciles to the net cost of operations of \$265 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 2006 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 2006, 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 has met annually since 1992 to review and update the NLRB's five-year Financial Management Plan. The committee met early in FY 2006 to assess the Agency's accomplishments of the FY 2005 goals, and to review and approve the goals for FY 2006. Building on FY 2005 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.

One of the goals that was completed was the replacement of Treasury's Electronic Certification System (ECS) with their Secure Payment System (SPS). The ECS system used very old computer technology (DOS based software and a low end 486 computer). In fact the Finance Branch had to use parts from three old 486 computers to create one that would run after the existing one crashed. The SPS uses the internet, high end personal computers, and a USB key for security. Another goal that was achieved was implementing the Plastic Card Network. The NLRB is now accepting credit card payments. The NLRB is encouraging the use of the Treasury internet site called Pay.Gov for Freedom of Information Act (FOIA) payments.

II. Performance Information

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 2006 performance.

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, uncoerced 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.

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.
- 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.

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.

II. Performance Measures and FY 2006 Results

Goal #1: Resolve all questions concerning representation promptly.

I. 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 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 110 post-election cases that are appealed to the Board.

The Agency exceeded the standard 60-day median in FY 2006 with a result of 54 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 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 2006 due to the

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
53 median days	52 median days	53 median days	53 median days	60 median days	54 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
60 median days	60 median days	60 median days	60 median days

Goal I, Table 2: Representation Elections Held (Days)

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
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	94.2% of elections held w/in 56 days	90% of elections held w/in 56 days	94% of elections held w/in 56 days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
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

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 2006 met the goal of holding elections within 39 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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
41 median days	40 median days	39 median days	38 median days	42 median days	39 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
42 median days	42 median days	42 median days	42 median days

Goal I, Table 4: Issuance of Post-Election Reports

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
82% w/in 100 days	85.7% w/in 100 days	92.1% w/in 100 days	90.5% w/in 100 days	85% w/in 100 days	94.4% w/in 100 days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
85% w/in 100 days	85% w/in 100 days	85% w/in 100 days	85% w/in 100 days

elections where a party objects to the outcome of the election or challenges are 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 2006 (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 deter-

mined 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 2006 (Table 5). Success in 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.

Goal I, Table 5: Voluntary Election Agreement Rate

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
87.2%	88.5%	89%	91.1%	85%	88.2%

Projected

FY 2007	FY 2008	FY 2009	FY 2010
85%	85%	85%	85%

Goal I, Table 6: Issuance of Test-of-Certification Decisions

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
135 median days	114 median days	83 median days	118 median days	90 median days	100 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
90 median days	80 median days	80 median days	80 median days

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 was better than in FY 2005 (Table 6). However, the inability to meet the 90-day median goal is attributable in large part to the fact that during the first 4 months of the fiscal year the Board did not have a full complement of five Members, but instead had

only three Members until February 2006. When the Board is not at full strength, each of the three sitting Board Members must participate on every case presented to the Board and therefore have more cases to decide.

The result of this increase in the caseload for a 3-Member Board is that it takes longer to get the cases decided and issued. In addition, several of the test-of-certification decisions issued during FY 2006 involved novel or difficult legal issues that required closer scrutiny by the Board Members and more rationale set forth in the respective decisions than is customary for these types of cases.

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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
90% of cases pending over 18 months	67% of cases pending over 12 months	65% of cases pending over 12 months	57% of cases pending over 12 months	90% of cases pending over 12 months	78% of cases pending over 12 months

Projected

FY 2007	FY 2008	FY 2009	FY 2010
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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
100% of regions	100% of regions	100% of regions	100% of regions	100% of regions	100% of regions

Projected

FY 2007	FY 2008	FY 2009	FY 2010
100% of regions	100% of regions	100% of regions	100% of regions

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.

The Board issued decisions in 153 contested representation cases during FY 2006. The Board disposed of 100 cases of the 129 representation cases that, if not issued by the end of the fiscal year, would then have been pending for 12 months or longer (were over 12 months old during FY 2006), resulting in a 78 percent performance rate (Table 7). The FY 2006 goal of 90 percent was not met due to the significant number of representation cases awaiting decisions on lead cases involving issues of important national labor policies.

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 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 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.

The goal for FY 2006 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 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. Cases 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. Com-

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
82 median days	68 median days	61 median days	60 median days	70 median days	59 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
70 median days	70 median days	70 median days	70 median days

plaints 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 bettered in FY 2006 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

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

Actual (with FY 2006 Plan)

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
Cat. III	92.9%	95.7%	96.8%	97.6%	90%	98.3%
Cat. II	93.9%	97.3%	98.4%	98.7%	90%	99.1%
Cat. I	94.0%	99.3%	99.5%	99.5%	90%	99.5%

Projected

	FY 2007	FY 2008	FY 2009	FY 2010
Cat. III	90%	90%	90%	90%
Cat. II	90%	90%	90%	90%
Cat. I	90%	90%	90%	90%

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.

The goal for each category of ULP cases in FY 2006 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 in the absence of settlement, an administrative complaint is issued and the case 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 more than \$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 2006, the Agency met the 95 percent planned level with an actual rate of 96.7 percent, approximately the same as the end of year performance for FY 2005. 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 charge is found to have merit by a Regional Director, in the absence of settlement, a formal complaint is issued and a date for a hearing before an

Goal 2, Table 3: Settlement Rate for Unfair Labor Practice Cases

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
93.7%	92.8%	96.1%	97.2%	95%	96.7%

Projected

FY 2007	FY 2008	FY 2009	FY 2010
95%	95%	95%	95%

Goal 2, Table 4: Opening of Hearings from Issuance of Complaint

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
121 median days to open of hearing	104 median days to open of hearing	101 median days to open of hearing	96 median days to open of hearing	120 median days to open of hearing	84 median days to open of hearing

Projected

FY 2007	FY 2008	FY 2009	FY 2010
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

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 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 2006 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 Director's 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 2006, the Office of Appeals exceeded its goal. Appeals were sustained in 27 cases, 1.3% of the 2,123 cases processed (Table 5).

Goal 2, Table 5: Issuance of Sustained Appeals Decisions

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
72% w/in 120 days	63% w/in 110 days	36% w/in 90 days	83 median days	90 median days	73 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
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.

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 changed significantly. The second part of the measure (30 days) focuses on actual days as the time factor.

The slight shortfall in the goal of closing 90% of cases within 30 days resulted from the transition to a new General Counsel and the 36.3% increase from last fiscal year in the number of requests by the General Counsel for Section 10(j) authorization by the Board.

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 sub-

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
46.2% closed w/in 25 days	Closed all cases w/in 30.5 median days	Closed all cases w/in 25 median days	Closed all cases w/in 24 median days	Close all cases w/in 25 median days	Closed all cases w/in 24.5 median days
53.9% closed w/in 30 days	50% closed w/in 30 days	77.3% closed w/in 30 days	90.9% closed w/in 30 days	90% closed w/in 30 days	86.7% closed w/in 30 days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
27 median days	33 median days	27 median days	26 median days	62 median days	31 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
62 median days	62 median days	62 median days	62 median days

stantially 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 2006, the Division of Judges issued its decision in 31 median days from the receipt of briefs or submissions (Table 7). This was roughly a 20% increase from the figure for FY 2005, but well within the time target 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 re-

solving 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 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.

Goal 2, Table 8: Filing of Applications for Enforcement

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
88 median days	21 median days	28 median days	26 median days	30 median days	26 median days

Projected

FY 2007	FY 2008	FY 2009	FY 2010
30 median days	30 median days	30 median days	30 median days

Applications for enforcement in FY 2006 were filed within 26 median days, exceeding the performance goal of 30 median days (Table 8).

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

Analysis:

The length of time it takes the Board to decide ULP cases impacts the interests of the parties, and the public. The Board’s projected goal for FY 2006 was to dispose of 90 percent of all ULP cases that if not disposed of by the end of the fiscal year would then have been pending for 17 months or longer.

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 324 contested ULP cases during FY 2006. The Board disposed of 137 of the 295 cases pending for more than 17 months, resulting in a 46 percent reduction of pending cases. The target was not met due to the considerable time and effort spent, once the Board was at full strength, to processing lead case decisions to issuance and cases having to await these lead decisions involving issues of important national labor policies.

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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
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	38.6% reduction of pending cases over 17 months	100% reduction of pending cases over 17 months	46% reduction of pending cases over 17 months

Projected

FY 2007	FY 2008	FY 2009	FY 2010
90% reduction of pending cases over 17 months	90% reduction of pending cases over 16 months	90% reduction of pending cases over 16 months	90% reduction of pending cases over 16 months

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

Actual (with FY 2006 Plan)

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
Cat. III	95.2% @ 91 days	96.1% @ 91 days	98.1% @ 91 days	97% @ 91 days	95% @ 91 days	97.6% @ 91 days
Cat. II	95.1% @ 119 days	95.4% @ 119 days	95.7% @ 119 days	96.9% @ 119 days	95% @ 119 days	98.6% @ 119 days
Cat. I	98.0% @ 147 days	97.3% @ 147 days	97.8% @ 147 days	99.5% @ 147 days	98% @ 147 days	99.5% @ 147 days

Projected

	FY 2007	FY 2008	FY 2009	FY 2010
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

control of the Regional Office, such as bankruptcy proceedings or other related litigation, 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 2006, 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 caseloads.

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 2006 was achieved.

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

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

Actual (with FY 2006 Plan)

FY 2002	FY 2003	FY 2004	FY 2005	FY 2006 Plan	FY 2006 Actual
100% of regions	100% of regions	100% of regions	100% of regions	100% of regions	100% of regions

Projected

FY 2007	FY 2008	FY 2009	FY 2010
100% of regions	100% of regions	100% of regions	100% of regions

III.

Financial Section

Letter from the Director of Administration

As the Director of Administration at the National Labor Relations Board (NLRB), I am responsible for the overall administrative management of the NLRB, including financial management, and I am pleased to present the NLRB's Performance and Accountability Report for Fiscal Year 2006. Section III of this report, containing the Fiscal Year 2006 financial statements for the NLRB, presents a fair and accurate picture of the financial health of the Agency.

Fiscal Year 2005 was the second year that the NLRB had undergone a full-scale financial audit, which resulted in an unqualified opinion from the auditors, but with one reportable condition addressed to the NLRB's Chief Information Officer (CIO). The reportable condition was one that was noted in the FY 2004 audit report as well and involved the implementation of a disaster recovery plan. The Agency has now developed and implemented a disaster recovery plan and in October 2006 performed simulation testing as described in the plan.

The NLRB's Inspector General also issued a management letter in connection with the audit which contained three findings, one of which involved recommendations that had not yet been implemented from the 2004 audit, and two new recommendations. The two new recommendations have been implemented. The recommendations remaining from 2004 include the development of a policy for storing, retrieving, retaining, and disposing of Privacy Act information and the migration of the Agency's Regional Office Budgeting System to Momentum, the NLRB's accounting system. The NLRB has amended its policies and procedures pertaining to Privacy Act information to provide for the storage, retrieval, retaining, and disposal of such information. The new policy was issued in September 2006. The Agency had planned to migrate from its Regional Office Budgeting System to Momentum concurrently with the implementation of the government-wide eTravel system and provide training to the appropriate personnel on both systems simultaneously. The Agency decided it was not cost-effective to conduct separate training sessions for the two systems. However, this effort has been hampered due to the problems experienced government-wide with the implementation of the eTravel initiative.

For Fiscal Year 2006, once again, I am pleased that the NLRB has received an unqualified opinion from the auditors on its financial statements. Also, in 2006, the NLRB underwent an audit by the Internal Revenue Service (IRS). The IRS began auditing Federal agencies to determine whether an agency was under-reporting services and/or paying the proper amount of taxes to the Government. The IRS audited the NLRB's two tax ID numbers for the 2004 calendar year and found that no additional taxes were due. The findings resulting from these audits, both conducted in 2006, are a testament to the dedication and skill of the staff of the NLRB's Finance Branch.

In 2006, the NLRB implemented two eGov initiatives to facilitate the processing of payments received by the Agency. Parties requesting information under the Freedom of Information Act (FOIA) can now pay their FOIA invoices by credit card through the Department of the Treasury's Plastic Card Network. The Agency implemented the system on March 28 and received its first credit card payment on July 3. In June, the NLRB began using Treasury's Paper Check Conversion System, a highly automated, multi-redundant system that converts paper checks received by agencies into electronic debits charged directly to the issuer's account. The system also allows

staff to make online bank deposits instead of going to a banking facility.

Efforts were undertaken as well to improve our internal financial reporting. Current financial information is now available to users on a daily rather than a monthly basis. Management officials can now run accounting reports that show a financial picture of their organization on a daily basis. They no longer have to wait until data is compiled after the end of the month to ascertain their organizations' financial and budgetary status.

As the Director of Administration at the NLRB, I also have oversight of the NLRB's management controls program as prescribed by the Federal Managers Financial Integrity Act (FMFIA). While the NLRB had no material weaknesses or nonconformances to report for FY 2006, I did note one issue that is a possible internal control issue for the Agency. In 2006, the Office of the Chief Information Officer (OCIO) was granted independent procurement authority, which I believe is inconsistent with principles of sound management control and places the NLRB at an increased level of risk, especially since the procurement of IT services and equipment is a critically important function both for operational reasons and because IT procurements involve the expenditure of over \$10 million annually. Effective management controls work to prevent and detect errors, irregularities, fraud, waste, and abuse. A good management control system relies on a network of checks and balances placed at key levels of program responsibility to ensure it operates as intended. Granting the CIO independent procurement authority essentially vests both the supervision of a program and the procurement authority needed to acquire the major services required to run the program in the same office, thus removing those checks and balances.

The NLRB is committed to providing high quality financial management services and financial reporting and continually looks for ways to improve services to both internal and external customers. We were able to take steps in that direction by simplifying payments for FOIA invoices and in the handling of checks received by the Agency. Managers now have access to daily financial information to assist them in the decision-making process. We continually seek ways to improve the NLRB's internal processes and provide excellent customer service in support of the NLRB's mission of protecting democracy in the workplace.



Gloria Joseph

Director of Administration

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



Memorandum

November 9, 2006

To: Robert J. Battista
Chairman

From: Jane E. Altenhofen *Jane E. Altenhofen*
Inspector General

Subject: Audit of the National Labor Relations Board Fiscal Year 2006 Financial Statements
(OIG-F-11-07-01)

This memorandum transmits Carmichael, Brasher, Tuvell & Company's (CBTC) audit report on the National Labor Relations Board (NLRB) Fiscal Year (FY) 2006 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 (OMB) 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 done in accordance with the generally accepted government auditing standards issued by the Comptroller General of the United States, and Bulletin 06-03, *Audit Requirements for Federal Financial Statements*, issued by the OMB.

Results of Independent Audit

CBTC issued an unqualified opinion on the NLRB FY 2006 financial statements. CBTC previously issued an unqualified audit opinion on the FY 2005 information included with the consolidated and combined statements. 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 FFMIA.

NLRB's Director of Administration agreed with the finding regarding the reportable condition. The Director of Administration's response, dated November 2, 2006, follows CBTC's report. The response states that action has been taken to implement the recommendation. The Agency's actions will be evaluated during the FY 2007 audit.

Evaluation of CBTC's Audit Performance

In connection with the contract, we reviewed CBTC's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on the NLRB's financial statements or internal control or on 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 November 1, 2006, 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, 2006 and 2005, and the related consolidated statements of net cost, changes in net position, statements of financing, and the combined statements 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. 06-03, *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, 2006 and 2005; 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.

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. 06-03. 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. 06-03. 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. 06-03. Our procedures were not designed to provide 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. 06-03, 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. 06-03.

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, 2006. These requirements include implementing and maintaining financial management systems that substantially comply with 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. 06-03, *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 specific 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, PC

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

Atlanta, Georgia
November 1, 2006

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 Institute of Standards and Technology (NIST). NIST Special Publication (SP) 800-34, *Contingency Planning Guide for Information Technology Systems*, establishes many of the minimum information systems requirements for Federal agencies. A condition related to NLRB's information technology function was 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 the FY 2006, 2005 and 2004 audits:

- A disaster recovery plan has not yet been implemented.

The specifics of the findings have been presented to management. NLRB contracted with a third party to develop a management action plan for a disaster recovery plan. However, as of September 30, 2006 the disaster recovery plan had not been fully implemented.

Recommendation

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

Management's Response

The Director of Administration stated that the Agency had previously agreed to implement this recommendation and has been working towards full implementation. The Office of Chief Information Officer contracted with an outside vendor to develop a Disaster Recovery Plan for the Agency. A plan was developed in accordance with NIST standards, received by the Agency, and has been implemented. Simulation testing, as recommended by the contractor, was held on October 19, 2006.

Auditor Comments

We acknowledge Management's response and the Agency's accomplishments in developing and testing the disaster recovery plan subsequent to September 30, 2006. The Agency's actions to address the recommendation will be evaluated during the FY 2007 audit.

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum



TO: Jane E. Altenhofen
Inspector General

FROM: Gloria Joseph
Director of Administration

DATE: November 2, 2006

SUBJECT: Response to Draft Audit Report – NLRB Fiscal Year 2006 Financial Statements

We have reviewed the Audit Report submitted by Carmichael Brasher Tuveill & Company (Carmichael) and are pleased that the FY 2006 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 and the FY 2005 audits. 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 had previously agreed to implement this recommendation and have been working towards full implementation since the recommendation was made by the auditors in 2004. The Office of the Chief Information Officer (OCIO) contracted with an outside vendor to develop a Disaster Recovery Plan for the Agency. A plan was developed in accordance with NIST standards, received by the Agency, and has been implemented. Simulation testing, as recommended by the contractor, was held on October 19, 2006.

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

cc: Board
General Counsel

Auditors' Reports and Financial Statements

Principal Statements

National Labor Relations Board

BALANCE SHEET

As of September 30, 2006 (CY) and 2005 (PY)

(in dollars)

	2006 *(CY)	2005 *(PY)
Assets:		
Intragovernmental:		
Fund balance with Treasury (Note 2)	\$ 24,541,644	\$ 25,649,530
Investments, net (Note 3)	1,668,341	1,652,216
Accounts receivable (Note 5)	0	37,313
Advances (Note 4)	64,460	20,848
Total intragovernmental	26,274,445	27,359,907
Accounts receivable, Net (Note 5)	53,840	53,696
Advances (Note 4)	29,419	14,447
General property, plant and equipment, net (Note 6 and 10)	277,488	126,384
Total assets	\$ 26,635,172	\$ 27,554,434
Liabilities:		
Intragovernmental:		
Accounts payable (Note 7)	\$ 375,612	\$ 723,580
Employer contributions and payroll taxes	1,379,765	1,332,219
FECA liability (Note 8 and 10)	920,487	921,357
Custodial liability	0	50
Total intragovernmental	2,675,864	2,977,206
Accounts payable (Note 7)	3,730,917	4,522,069
Estimated future FECA liability (Note 8 and 10)	2,135,103	1,784,290
Accrued payroll and benefits	6,172,321	6,047,056
Accrued annual leave (Note 8 and 10)	13,511,257	13,263,621
Backpay settlement due to others (Note 8 and 9)	2,532,232	3,079,936
Custodial liability (Note 8 and 9)	253,671	549,313
Total liabilities	31,011,365	32,223,491
Net position:		
Unexpended appropriations	11,859,347	11,120,013
Cumulative results of operations (Note 10)	(16,235,540)	(15,789,070)
Total net position	\$ (4,376,193)	\$ (4,669,057)
Total liabilities and net position	\$ 26,635,172	\$ 27,554,434

*CY=Current Year, PY= Prior Year

The accompanying notes are an integral part of these statements.

National Labor Relations Board

STATEMENT OF NET COST For the Years Ended September 30, 2006 (CY) and 2005 (PY) (In dollars)

	2006 (CY)	2005 (PY)
Program Costs:		
Resolve representation cases		
Total Gross Cost (Note 11)	\$ 43,171,033	\$ 38,440,183
Resolve unfair labor practices		
Total Gross Cost (Note 11)	221,885,443	223,916,422
Other		
Gross Costs	288,891	112,558
Less: Earned Revenue	288,891	122,558
Total Gross Cost	-	-
Net Cost of Operations (Note 11)	\$ 265,056,476	\$ 262,358,805

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

National Labor Relations Board

STATEMENT OF CHANGES IN NET POSITION For the Years Ended September 30, 2006 (FY) and 2005 (FY) (In dollars)

	Consolidated Total 2006 (CY)	Consolidated Total 2005 (CY)
Cumulative Results of Operations:		
Beginning Balances	(15,789,070)	(15,210,451)
Budgetary Financing Sources:		
Appropriations - used	247,717,037	245,515,820
Other Financing Sources (Non-Exchange):		
Imputed financing costs (Note 15)	16,892,969	16,262,166
Total Financing Sources	264,610,006	261,777,986
Net Cost of Operations	(265,056,476)	(262,356,605)
Net Change	(448,470)	(578,619)
Cumulative Results of Operations (Note 10)	(16,235,540)	(15,789,070)
Unexpended Appropriations:		
Beginning Balance	11,120,013	7,979,219
Budgetary Financing Sources:		
Appropriations received	252,268,000	251,875,000
Appropriations - used:	(247,717,037)	(245,515,820)
Recissions & cancelled appropriations	(3,811,629)	(3,218,386)
Total Budgetary Financing Sources	739,334	3,140,794
Total Unexpended Appropriations	11,859,347	11,120,013
Net Position	(4,376,193)	(4,669,057)

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

National Labor Relations Board

STATEMENT OF BUDGETARY RESOURCES

For the Years Ended September 30, 2006 (CY) and 2005 (PY)
(In dollars)

	2006 (CY)	2005 (PY)
Budgetary Resources:		
Unobligated balance, brought forward, October 1:	4,903,727	4,841,158
Recoveries of prior year unpaid obligations	1,843,869	1,219,779
Budget authority:		
Appropriations (Note 13)	252,268,000	251,875,000
Spending authority from offsetting collections:		
Earned		
Collected	372,551	191,943
Receivable from Federal sources	(37,157)	37,157
Subtotal	252,603,394	252,104,100
Permanently not available (Note 13)	(3,811,829)	(3,218,386)
Total Budgetary Resources (Note 14)	\$ 255,339,361	\$ 254,946,851
Status of Budgetary Resources:		
Obligations incurred:		
Direct	\$ 250,043,526	\$ 249,830,369
Reimbursable	286,891	112,556
Subtotal (Note 14)	250,310,417	250,042,925
Unobligated balances:		
Apportioned (Note 14)	420,908	455,357
Exempt from apportionment	0	10,124
Unobligated balance not available	4,608,036	4,438,245
Total Status of Budgetary Resources	\$ 255,339,361	\$ 254,946,851
Change in Obligated Balance:		
Obligated balance, net,	\$	\$
Unpaid obligations, brought forward, October 1	18,805,914	15,793,463
Uncollected customer payments from Federal Sources, brought forward, October 1	(37,157)	-
Total unpaid obligated balance, net:	18,768,757	15,793,463
Obligations incurred, net	250,310,417	250,042,924
Gross Outlays	(249,077,325)	(245,810,694)
Recoveries of prior year unpaid obligations, actual	(1,643,869)	(1,219,779)
Change in uncollected customer payments from federal sources	37,157	(37,157)
Obligated balance, net, end of period:		
Unpaid obligations	18,395,138	18,805,914
Net Outlays:		
Gross outlays	249,077,325	245,810,694
Offsetting collections	(372,551)	(191,943)
Net Outlays	\$ 248,704,774	\$ 245,618,751

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

National Labor Relations Board
STATEMENT OF FINANCING
For the Years Ended September 30, 2006 (CY) and 2005 (PY)
(In dollars)

	2006 (CY)	2005 (PY)
<i>Resources Used to Finance Activities:</i>		
Budgetary Resources Obligated:		
Obligations incurred	\$ 250,310,417	\$ 250,042,925
Less: Spending authority from offsetting collections/adjustments	<u>1,979,263</u>	<u>1,448,879</u>
Net obligations	248,331,154	248,594,046
Other Resources:		
Imputed financing from costs absorbed by others (Note 15)	<u>16,892,969</u>	<u>16,262,166</u>
Net other resources used to finance activities	<u>16,892,969</u>	<u>16,262,166</u>
Total resources used to finance activities	265,224,123	264,856,212
<i>Resources Used to Finance Items Not Part of the Net Cost of Operations</i>		
Change in budgetary resources obligated for goods, services, and benefits ordered but not yet provided (+/-)	(614,117)	(3,078,225)
Resources that finance the acquisition of assets	<u>(232,297)</u>	<u>(118,870)</u>
Total resources used to finance items not part of the net cost of operations	(846,414)	(3,197,095)
Total resources used to finance the net cost of operations	264,377,709	261,659,117
<i>Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period</i>		
Components Requiring or Generating Resources in Future Periods:		
Increase in annual leave liability	247,635	838,314
Increase in Exchange Revenue Receivable From the Public	(25)	(10,797)
Other (+/-) (Note 8 and 10)	<u>349,943</u>	<u>(200,033)</u>
Total components of Net Cost of Operations that will require or generate resources in future periods	597,553	627,484
Components not Requiring or Generating Resources:		
Depreciation and amortization (Note 6)	<u>81,214</u>	<u>70,004</u>
Total components of Net Cost of Operations that will not require or generate resources	81,214	70,004
Total components of net cost of operations that will not require or generate resources in the current period	678,767	697,488
Net Cost of Operations	\$ <u>265,856,476</u>	\$ <u>262,356,605</u>

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

Notes to Principal Statements

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent Federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA is the principal labor relations law of the United States, and its provisions generally apply to private sector enterprises engaged in, or to activities affecting, interstate commerce. 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, free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices (ULP), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP 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, *Financial Reporting Requirements*. GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal government. While the statements have been prepared from the books and records of NLRB in accordance with United States GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. These financial statements present proprietary and budgetary information.

The fiscal year (FY) 2008 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2006 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in February 2007 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2005 that have been reported in the FY 2007 Budget of the United States and the actual numbers that appear in the FY 2005 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2006 require the presentation of comparative financial statements for all of the principal financial statements. NLRB is presenting comparative FY 2006 financial statements for the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, and Statement of Financing and these statements have been prepared in accordance with generally accepted accounting principles.

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

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 administrative law judge (ALJ), who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial

body, deciding cases on the basis of the formal trial record according to the law and the body of case law that has been developed by the Board and the Federal courts.

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from Treasury to meet operating expense requirements. NLRB has single year budgetary authority and all unobligated amounts at year-end are expired. At end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the Treasury.

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

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

D. Financing Sources

NLRB received funds to support its programs through annual appropriations. These may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual service costs).

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

E. Fund with the U.S. Treasury

The NLRB does not maintain cash in commercial bank accounts. 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 the Treasury represent NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with the Treasury also include escrow funds that are not appropriated but are Backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

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, 2006 and September 30, 2005, 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, United States Postal Service for penalty mail and for commercial payment system for postage.

See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of health benefit premiums due the NLRB from agency employees. Accounts receivable are stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year end.

See Note 5 for additional information on Accounts Receivable.

I. General Property, Plant and Equipment

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

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. Expenditures for repairs and maintenance are charged to operating expenses 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 Note 8, 9 and 16 for additional information on Non-Entity Assets.

K. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by NLRB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriation will be enacted. Also, liabilities of NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

L. Liabilities Not Covered by Budgetary Resources

Liabilities represent the amount of monies or other resources that are likely to be paid by NLRB as the result of a transaction or event that has already occurred. Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity.

Intragovernmental

The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of NLRB which had not been billed or paid by NLRB as of September 30, 2006 and 2005, 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.

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.

M. 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.

N. 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.

O. Annual, Sick, and Other Leave

Annual and Sick Leave Program.

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

See Note 10 for additional information on Annual Leave.

P. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program.

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

Retirement Programs.

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 \$15,000 in calendar year (CY) 2006 to this plan. Employees belonging to CSRS may also contribute up to \$15,000 of their salary in CY 2006 and receive no matching contribution from NLRB. The maximum amount that either FERS or CSRS employees may contribute to the plan is \$15,000 in CY 2006. 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.

SFFAS No. 5, Accounting for Liabilities of the Federal Government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future, and provide these factors to the agency for current period expense reporting. Information was also provided by OPM regarding the full cost of health and life insurance benefits.

In FY 2006, NLRB, utilizing OPM provided cost factors, recognized \$7,347,627 of pension expenses, \$9,516,780 of post-retirement health benefits expenses, and \$28,562 of post-retirement life insurance expenses, beyond amounts actually paid. NLRB recognized offsetting revenue of \$16,892,969 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

In FY 2005, NLRB, utilizing OPM provided cost factors, recognized \$7,581,409 of pension expenses, \$8,652,569 of post-retirement health benefits expenses, and \$28,188 of post-retirement life insurance expenses, beyond amounts actually paid. NLRB recognized offsetting revenue of \$16,262,166 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

See Note 15 for additional information

Q. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (GSA).

Regarding NLRB's building lease, the GSA entered into a lease agreement for NLRB's rental of building space. NLRB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. NLRB is not legally a party to any building lease agreements, so it does not record GSA-owned properties. The real property leases are for NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars.

See Note 12 for additional information on Operating Leases.

R. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended

appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of NLRB's operations since inception.

S. Use of Management Estimates

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

T. Tax Status

NLRB, as an independent Board of the Executive Branch, a Federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

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, 2006 and September 30, 2005 consists of the following:

Fund Balance with Treasury by Fund Type:

(Dollars in thousands)	FY 2006 Entity Assets	Non- Entity Assets	Total	FY 2005 Entity Assets	Non- Entity Assets	Total
General Funds	\$23,678		\$23,678	\$24,222	-	\$24,222
Escrow Funds		864	864	-	1,428	1,428
Total Fund Balance with Treasury	\$23,678	\$864	\$24,542	\$24,222	\$1,428	\$25,650

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

Obligated and unobligated balances reported for the status of fund balance with Treasury do not agree with obligated and unobligated balances reported on the Statement of

Budgetary Resources because the Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts.

Status of Fund Balance with Treasury as of September 30, 2006 and September 30, 2005 consists of the following:

Fund Balance with Treasury by Availability:

(Dollars in thousands)	<u>FY 2006</u>	<u>FY2005</u>
Unobligated Balance		
Available	\$421	\$466
Unavailable	5,352	6,415
Obligated balance not yet disbursed	<u>18,769</u>	<u>18,769</u>
Totals	<u>\$24,542</u>	<u>\$25,650</u>

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 2006, the maturity value of the investment was \$2 million as compared to FY 2005 of \$2 million.

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

Investments as of September 30, 2006 and September 30, 2005 consist of the following:

Investment Value at Investment Market Value

(Dollars in thousands)	Investment Type	Value at Maturity	Investment Net	Market Value Disclosure
FY 2006				
U.S. Treasury Securities	Marketable	1,683	1,668	1,668
FY 2005				
U.S. Treasury Securities	Marketable	1,665	1,652	1,652

For FY 2006 and 2005, the discount on the marketable securities amounted to \$15 and \$13, respectively (Dollars in thousands).

Note 4. Advances

Intragovernmental

Intragovernmental Advances of \$64,460 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, 2006. The USPS advance for September 30, 2006 was \$12,611 and \$20,848 for September 30, 2005. The DOT advance for September 30, 2006 was \$51,849 and zero for September 30, 2005 (Amounts in dollars).

Commercial

Advances to Others of \$29,419 as of September 30, 2006 and \$14,447 for September 30, 2005, represent advances to a commercial vendor for postage (Amounts in dollars).

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

The FY 2006 intragovernmental accounts receivable is zero and the FY 2005 amount was from the Federal Emergency Management Agency (FEMA) relative to NLRB's employees assisted FEMA with Hurricane Katrina's destruction. Accounts receivable at each fiscal year end consisted of the following:

(Dollars in thousands)	FY 2006	FY2005
Intragovernmental		
Accounts receivable	0	37
Total Intragovernmental	0	37
With the public		
Accounts receivable	\$56	\$56
Allowance doubtful accounts	(2)	(2)
Total Accounts receivable, net - Public	54	54
Accounts receivable-net	\$54	\$91

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, 2006 were \$81,214 and \$70,004 for September 30, 2005 (Amounts in dollars).

(Dollars in thousands) FY 2006	Acquisition Cost	Accumulated Depreciation/Amortization	Net Book Value
Equipment	\$ 1,761	\$ 1,484	\$ 277
Internal Use Software	\$ 163	\$ 163	\$ -

(Dollars in thousands) FY 2005	Acquisition Cost	Accumulated Depreciation/Amortization	Net Book Value
Equipment	\$ 1,529	\$ 1,403	\$ 126
Internal Use Software	\$ 163	\$ 163	\$ -

Note 7. Intragovernmental Accounts Payable

The FY 2006 Balance Sheet is being presented to include the amount shown for intragovernmental accounts payable for comparative financial statements (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, 2006 and September 30, 2005, is as follows:

Intragovernmental: (Dollars in thousands)	FY 2006	FY 2005
FECA-Unfunded	\$920	\$921
Total Intragovernmental	920	921
Estimated Future - FECA	2,135	1,784
Accrued Annual Leave	13,511	13,264
Backpay Settlement Due to Others	2,532	3,080
Custodial Liability	254	549
Total Liabilities not covered by budgetary resources	\$19,352	\$19,598
Total Liabilities covered by budgetary resources	11,659	12,625
Total Liabilities	\$31,011	\$32,223

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, 2006 and September 30, 2005, is as follows:

(Dollars in thousands)	<u>FY 2006</u>	<u>FY 2005</u>
Non-entity assets		
Intragovernmental		
Fund Balance with Treasury	\$254	\$549
Accounts receivable	-	-
Total Intragovernmental	<u>\$254</u>	<u>\$549</u>
Backpay Settlement Due to Others	2,532	3,080
Total Non-entity assets	<u>\$2,786</u>	<u>\$3,529</u>
Entity assets	<u>23,849</u>	<u>23,925</u>
Total Assets	<u>\$26,635</u>	<u>\$27,554</u>

Note 10. Cumulative Results of Operations

(Dollars in thousands)	<u>FY 2006</u>	<u>FY 2005</u>
FECA paid by DOL	\$(419)	\$(469)
FECA - Unfunded	(920)	(921)
Estimated Future FECA	(2,135)	(1,784)
Accrued Annual Leave	(13,511)	(13,264)
General Property, Plant & Equipment, Net	277	126
Other	472	523
Cumulative Results of Operations	<u>\$(16,236)</u>	<u>\$(15,789)</u>

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 2006	FY 2005
Resolve Representation Cases		
Intragovernmental Costs	\$ 8,800,420	\$ 12,238,370
Costs with the Public	34,570,813	28,203,813
Total Net Cost - Resolve Representation Cases	43,171,093	38,440,183
Resolve Unfair Labor Practices		
Intragovernmental Costs	43,788,511	70,845,144
Costs with the Public	178,088,932	153,071,278
Total Net Cost - Resolve Unfair Labor Practices	221,885,443	223,918,422
Other		
Intragovernmental Costs	268,891	112,556
Less: Intragovernmental Earned Revenue	268,891	112,556
Net Intragovernmental Cost	-	-
Total Net Cost - Other	-	-
Net Cost of Operations	\$ 285,056,476	\$ 282,358,605

Note 12. Operating Leases

GSA Real Property. Most of the NLRB's facilities are rented from the 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 120 to 180 day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, federally owned leases are included in years 2007 through 2011.

Rental expenses for operating leases as of September 30, 2006 were \$27,180,435 for Agency lease space and \$1,267,062 for Agency building security. For FY 2005 the GSA operating lease costs was \$26,866,735 and the Department of Homeland Security building security portion was \$1,432,593. Also, in FY 2006, the Agency is showing 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 2007 through 2011. The estimated future operating lease payments for GSA and private personal property leases are based on a 3 percent increase over the 2006 actual personal property rental expense.

Rental expenses for operating leases as of September 30, 2006 and 2005 were \$125,132 and \$122,014, 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		Total
	Real Property	Personal Property	
2007	\$27,685	\$129	\$27,814
2008	29,354	133	29,487
2009	33,299	137	33,436
2010	34,098	141	34,239
2011	34,917	145	35,062
After 5 Years	-	-	-
Total Future Lease Costs	\$159,353	\$685	\$160,038

Note 13. Appropriations Received

The NLRB received \$249,745,320 and \$249,860,000 (net of rescission) in warrants for the FY ended September 30, 2006 and 2005, respectively. The rescissions were \$2,522,680 and \$2,015,000 for FY 2006 and 2005, respectively. The amount shown on the Statement of Budgetary Resources under caption "Permanently not available" for FY 2006 in the amount of \$3,811,629 is a combination of the FY 2006 rescission of \$2,522,680, the cancelled appropriation for FY 2001 and FY 1999/2001 Y2K in the amounts of \$1,118,695 and 170,254, respectively. The amount of \$3,218,386 for FY 2005 is a combination of the rescission of \$2,015,000 and FY 2000 cancelled appropriation of \$1,203,386.

Note 14. Statement of Budgetary Resources

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into generally accepted accounting principles for the Federal government. The total Budgetary Resources of \$255,339,361 as of September 30, 2006 and \$254,946,651 as of September 30, 2005, 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, 2006, was \$420,908 and at September 30, 2005 was \$455,357.

Apportionment Categories of Obligations Incurred. The NLRB's obligations incurred as of September 30, 2006 and September 30, 2005 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 2006	Apportioned Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$239,730	\$10,313	\$0	\$250,043
Reimbursable	267	-		267
Total Obligations Incurred	\$239,997	\$10,313	\$0	\$250,310

(Dollars in thousands) FY 2005	Apportioned Category A	Apportioned Category B	Not Subject to Apportionment	Total
Obligations Incurred:				
Direct	\$236,982	\$12,958	\$(10)	\$249,930
Reimbursable	113	0		113
Total Obligations Incurred	\$237,095	\$12,958	\$(10)	\$250,043

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, 2006 and 2005 consisted of:

(Dollars in thousands)	FY 2006	FY 2005
Office of Personnel Management:		
Pension expenses	\$7,347	\$7,581
Federal employees health benefits	9,517	8,653
Federal employees group life insurance program	29	28
Total Imputed Financing	\$16,893	\$16,262

Note 16. Backpay Checks Held In NLRB Regional Offices

The NLRB may use Backpay as a remedy to settle an 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 an 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 (in units) and dollar value (in thousands) 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.

(Dollars in thousands)	FY 2006		FY 2005	
	Number	Amount	Number	Amount
Checks on Hand, Beginning of Period	389	\$ 519	921	\$ 755
Checks Received	5,492	17,606	9,622	21,015
Less Checks Distributed	(5,528)	(17,964)	(10,154)	(21,251)
Net Change in Checks on Hand	(36)	\$ (358)	(532)	\$ (236)
Checks on Hand at End of Period	353	\$ 161	389	\$ 519

Note 17. Contingencies

The NLRB is a party to several threatened or pending litigation claims. NLRB management has estimated claims are between \$100 to \$500 thousand that 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 for Severable Services

A FY 2005 obligation, totaling approximately \$758 thousand (previously stated at 1.5 million) for contractual information technology and end-user support services, was determined by Comptroller General of the United States to be improperly obligated in FY 2005 and should have been charged to FY 2006. This error was corrected in FY 2006. Additionally in FY 2006, obligations totaling \$718 thousand for data base subscription services are currently under review by NLRB management and the NLRB Office of Inspector General. The ultimate outcome of this matter cannot presently be determined. In the opinion of NLRB's management, the ultimate resolution would not have a material effect on the NLRB's financial statements.

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



Memorandum

October 12, 2006

To: Robert J. Battista
Chairman

Ronald Meisburg
General Counsel

From: Jane E. Altenhofen
Inspector General

A handwritten signature in cursive script, reading "Jane E. Altenhofen", is written over the printed name of the Inspector General.

Subject: Issue Alert No. OIG-IA-07-01: 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 (OIG) 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 2005, we identified six management and performance challenges. For this report, we are including all of the previously identified challenges and adding two new challenges. Below are the top management challenges with brief summaries of the Agency's progress in addressing the previously identified challenges:

Current Challenges

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

The Fiscal Year (FY) 2005 Performance and Accountability Report (PAR) 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 2006 with 295 cases that could potentially be more than 17 months old by September 30, 2006. The Board closed 46 percent (137 cases) of these by September 30, 2006.

The FY 2005 PAR 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, 2005, 129 of these cases were pending at the Board. The Board closed 78 percent of these (100 cases) by September 30, 2006.

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. Rather than approving the notice for publication in the Federal Register, the Board requested that the appropriate Agency official draft proposed Privacy Act notices for all of the Agency's electronic case tracking systems. 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 officials of an agency who willfully maintain a system of records without meeting the notice requirements.

On August 7, 2006, the Agency's Special Litigation Branch circulated draft notices to the managers responsible for the data bases that are subject to the requirement of the Privacy Act. Once the comments from those managers are addressed, the Special Litigation Branch will forward the notices to the Rules Revision Committee for its review and recommendation to the Board. We remain concerned that the process has taken in excess of 2 years and urge management to cease the delay and to take timely action. We take this opportunity to remind the Board and General Counsel of the criminal penalties associated with a Privacy Act violation of this nature.

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 a current, implemented, and tested disaster recovery plan. The latest of such reports, OIG-F-10-06-01, Audit of the National Labor Relations Board's FY 2005 Financial Statements, recommended that the Agency implement a disaster recovery plan to assure compliance with National Institute of Standards and Technology standards.

The Agency awarded a contract on August 28, 2006, to develop a disaster recovery plan. The plan was delivered to the Agency on September 29, 2006. Management is working to test and implement the plan.

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

Beginning in June 2003, the Board developed an E-Filing project that enabled the public to file certain documents online. In January 2005, the project was expanded to include all documents in all cases before the Board. According to management officials, the Agency is now in the process of expanding this project to documents filed with the General Counsel

and the Division of Judges. To achieve this goal, the Agency intends to implement a portal solution to provide NLRB stakeholders with a single point of entry for all content and processes that can be accessed from a public Web site. It is expected that the actions initiated by the public through this portal will then be seamlessly integrated into the Agency's electronic case processing systems. This plan appears to involve multiple projects that are in various phases of planning, procurement, and implementation.

The Agency did not have the Electronic Case Information System (ECIS) on-line in early FY 2005 as expected. In the last Top Management and Performance Challenges report, we stated that, after missing the early FY 2005 goal, Agency management expected this system to be previewed for the American Bar Association in October 2005 and then be deployed for general use. As of the date of this report, ECIS has not yet been deployed for general use, but Agency managers are again reporting that deployment is within the near future. ECIS will allow the public to access case activity information 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. The Office of Appeals expects to begin accepting documents electronically in late October 2006.

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

Over the last several years, the Agency devoted significant resources to improving and upgrading information technology equipment and capability. The OIG continues to devote significant resources investigating employees for improper use of the Agency's Internet access and e-mail systems. We are unaware of action during the preceding year by the Agency to meet this challenge.

6. Manage the Agency during periods of time that are covered by continuing resolutions and appropriations that are expected to be flat or provide only nominal increases.

These types of budgetary uncertainties and constraints create significant management hurdles. Nevertheless, over the last 7 fiscal years, more than \$6.68 million of the Agency's appropriations have lapsed. This occurred at a time when the Agency implemented cost saving efforts that included limiting witness travel related to pretrial preparation and not assigning inexperienced counsel to work with senior counsel as a training exercise when trials were out of town. The majority of these funds lapsed because allowance holders are failing to monitor and deobligate funds when appropriate, to allow those funds to become available for other needs of the Agency. Further, Budget officials create a "reserve" of funds by fully allocating the annual appropriation, but not intending the allowance holders to obligate their entire allocation. This system of reserving funds lacks the transparency generally associated with a well managed budget process.

New Challenges

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

The OIG conducted an audit of the Agency's information technology procurement actions. The audit found numerous problems that generally depicted a lack of proper internal controls. Because of the number and severity of the problems identified in that audit, the OIG initiated a second audit to review procurement actions that are not related to information technology. We believe that through this audit process, we can assist the Agency in making positive changes in its procurement process. The Agency has implemented some of the recommended changes to the process.

8. Provide sufficient protection of sensitive and Personally Identifiable Information that is maintained by the Agency.

During the preceding year, there have been numerous incidents of the loss of sensitive and personally identifiable information in the Government and private sectors. On June 23, 2006, the Office of Management and Budget (OMB) issued a memorandum that required agencies to have certain safeguards in place to ensure the proper protection of information assets within 45 days. To date, the Agency has not met the OMB requirements and managers estimate that all of the controls will not be in place until June 2007.

IV.

Management Assurance

Statement of Assurance from the Chairman and General Counsel

National Labor Relations Board



SUBJECT: Management Assurance Letter

To comply with the new A-123 guidelines for Analysis of an Entity's Systems, Controls and Legal Compliance, a careful review of the National Labor Relation Board's (NLRB) Principal Financial Statements (also referred to as "financial statements") has been completed. Those financial statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources and Statement of Financing as of September 30, 2006. The financial statements are compiled for the purposes of (1) expressing an opinion as to whether the Financial Statements are presented fairly, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles, (2) reporting on the NLRB's internal control as of September 30, 2006, (3) reporting whether the NLRB's financial management systems substantially comply with Federal financial management systems requirements, applicable Federal accounting standards (U.S. Generally Accepted Accounting Principles), and the U.S. Government Standard General Ledger at the transaction level as of September 30, 2006, and (4) testing for compliance with applicable laws and regulations.

In May 2006, the NLRB initiated an agency-wide internal control review and assessment for ensuring that effective internal controls are in place. The NLRB approach included the identification and assessment of risks, by 16 designated managers, on an integrated agency-wide basis that provides a proactive course to risk management aimed at focusing and directing attention on areas of high risk.

The designated managers were responsible for conducting reviews of program operations; assisting program offices in identifying risks and conducting internal control reviews; issuing reports of findings and making recommendations to improve internal controls and risk management. Also, a review of our financial management system was completed by the appropriate offices to assure the status and effectiveness of our systems supporting the preparation of financial statements.

We certify that the NLRB's management controls and financial systems meet and conform with the requirements of the Federal Managers' Financial Integrity Act.

A handwritten signature in black ink, appearing to read "Robert J. Battista", written over a horizontal line.

Robert J. Battista
Chairman

A handwritten signature in black ink, appearing to read "Ronald Meisburg", written over a horizontal line.

Ronald Meisburg
General Counsel

Appendix A

FY 2006 ANNUAL PERFORMANCE REPORT AND FY 2007 PERFORMANCE PLAN

2006 Annual Performance Report and 2007 Plan

Goal #1: Resolve all questions concerning representation promptly.	Indicators	Indicators	Indicators	Indicators
Performance Indicators	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Projected
Measure 1 Issue certifications in representation cases within 60 median days of filing of petition.	53 median days	53 median days	54 median days	60 median days
Measure 2 Hold 90% of all representation elections within 56 days of filing of petition.	93% within 56 days	94.2% within 56 days	94% within 56 days	90% within 56 days
Measure 3 Hold elections within 42 median days of filing petition.	39 median days	38 median days	39 median days	42 median days
Measure 4 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.	92.1% within 100 days	90.5% within 100 days	94.4% within 100 days	85% within 100 days
Measure 5 Achieve voluntary election agreements for 85% of the petitions filed.	89%	91.1%	88.2%	85%
Measure 6 Issue all test-of-certification decisions in an 80-day median from filing of charge by FY 2008.	83 median days	118 median days	100 median days	90 median days
Measure 7 Decide 90% of representation cases pending at the Board for more than 12 months.	65% reduction of pending cases over 12 months	57% reduction of pending cases over 12 months	78% reduction of pending cases over 12 months	90% reduction of pending cases over 12 months
Measure 8 Conduct quality reviews in 100% of the Regional Offices each year.	100% of regions	100% of regions	100% of regions	100% of regions

2006 Annual Performance Report and 2007 Plan

Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.	Indicators	Indicators	Indicators	Indicators
Performance Indicators	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Projected
Measure 1 Achieve informal resolution of unfair labor practice cases within a median time of 70 days by FY 2008.	61 median days	60 median days	59 median days	70 median days
Measure 2 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	Cat. III: 96.8% Cat. II: 98.4% Cat. I: 99.5%	Cat. III: 97.6% Cat. II: 98.7% Cat. I: 99.5%	Cat. III: 98.3% Cat. II: 99.1% Cat. I: 99.5%	Cat. III: 90% Cat. II: 90% Cat. I: 90%
Measure 3 Settle 95% of meritorious unfair labor practice charges consistent with established standards.	96.1%	97.2%	96.7%	95%
Measure 4 Open hearings within 120 median days from the issuance of a complaint.	101 median days from complaint to open of hearing	96 median days from complaint to open of hearing	84 median days from complaint to open of hearing	120 median days from complaint to open of hearing
Measure 5 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."	36% within 90 days	83 median days	73 median days	90 median days

2006 Annual Performance Report and 2007 Plan

Goal #2: Investigate, prosecute, and remedy cases of unfair labor practices by employers or unions promptly.	Indicators	Indicators	Indicators	Indicators
Performance Indicators	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Projected
Measure 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. 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.	Closed all cases within 25 median days 77.3% closed within 30 days	Closed all cases within 24 median days 90.9% closed within 30 days	Closed all cases within 24.5 median days 86.7% closed within 30 days	Close all cases within 25 median days 90% closed within 30 days
Measure 7 Issue Administrative Law Judge decisions within 62 median days from the receipt of briefs or submissions after the close of a hearing.	27 median days	26 median days	31 median days	62 median days
Measure 8 File applications for enforcement within 30 median days from referral by the Regional Director.	28 median days	26 median days	26 median days	30 median days
Measure 9 Issue all Unfair Labor Practice decisions pending at the Board within 12 months by FY 2007. 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.	38% reduction of pending cases over 18 months	38.6% reduction of pending cases over 17 months	46% reduction of pending cases over 17 months	90% reduction of pending cases over 17 months

2006 Annual Performance Report and 2007 Plan

Goal #2: Investigate, Prosecute and Remedy Cases of Unfair Labor Practices by Employers or Unions Promptly.	Indicators	Indicators	Indicators	Indicators
	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Projected
Measure 10 Resolve compliance cases within established Impact Analysis guidelines. Category III: 91 days Category II: 119 days Category I: 147 days	Cat. III: 98.1% Cat. II: 95.7% Cat. I: 97.8%	Cat. III: 97% Cat. II: 96.9% Cat. I: 99.5%	Cat. III: 97.6% Cat. II: 98.6% Cat. I: 99.5%	Cat. III: 95% Cat. II: 95% Cat. I: 98%
Measure 11 Conduct quality reviews in 100% of the Regional Offices each year.	100% of regions	100% of regions	100% of regions	100% of regions

Appendix B

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

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 performance 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 prac-

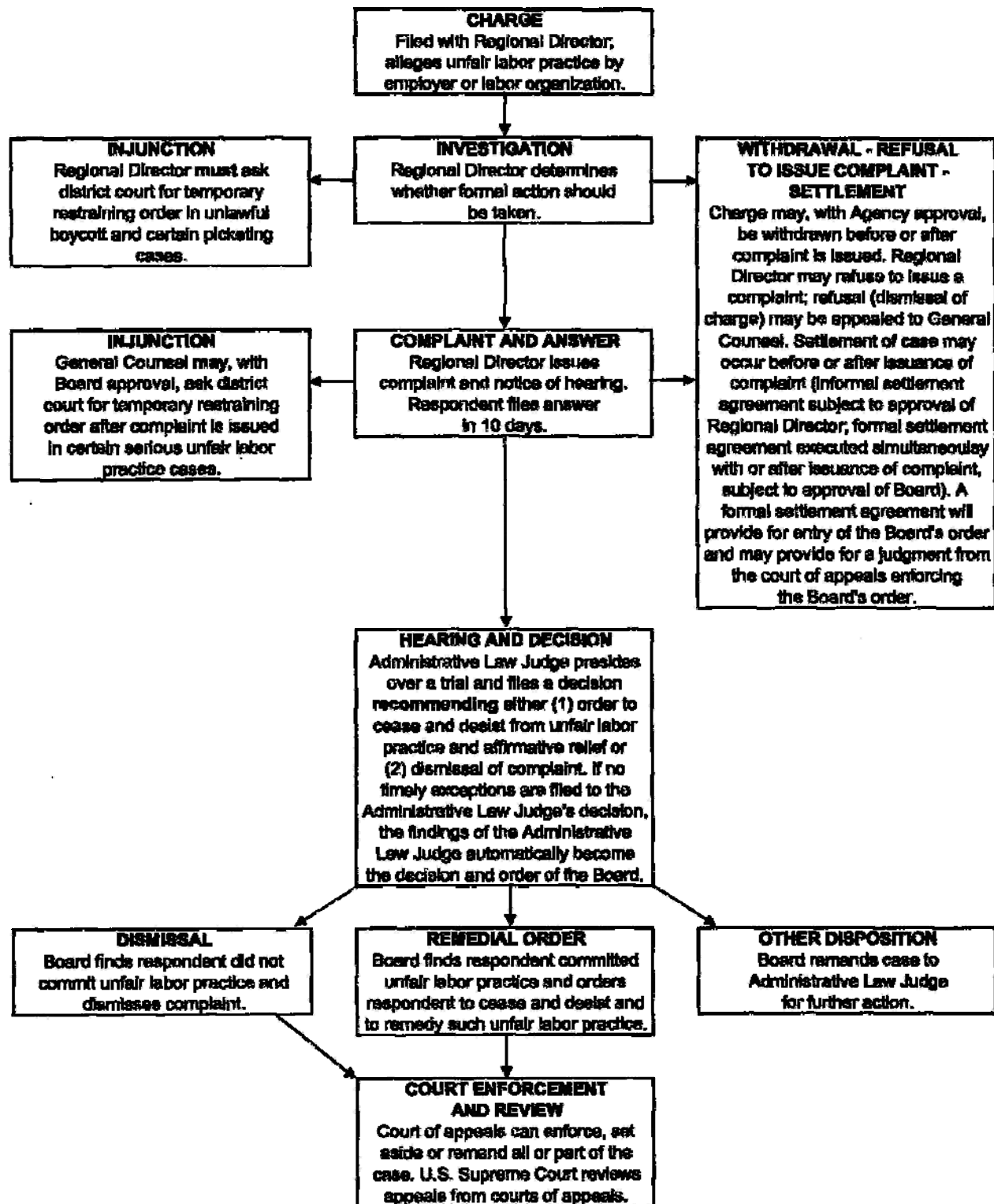
tices and representation case processing assessed through review of a randomly selected sample of Regional Office case files; review all administrative law judge and Board decisions; quality review also involved in Divisions of Advice, Office of Representation Appeals, and Enforcement Litigation's processing 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

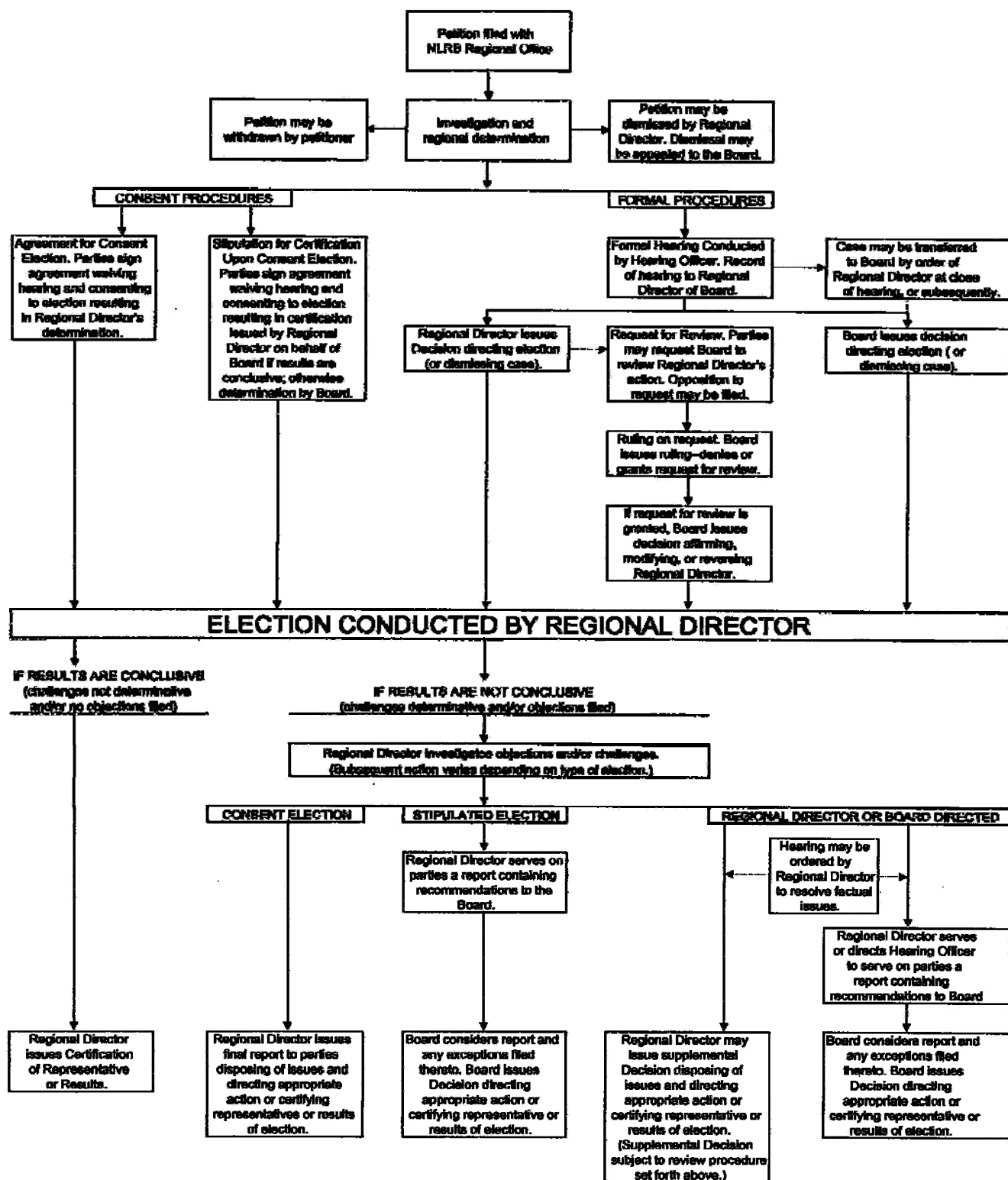
Unfair Labor Practice Procedures

Basic Procedures in Cases Involving Charges of Unfair Labor Practices



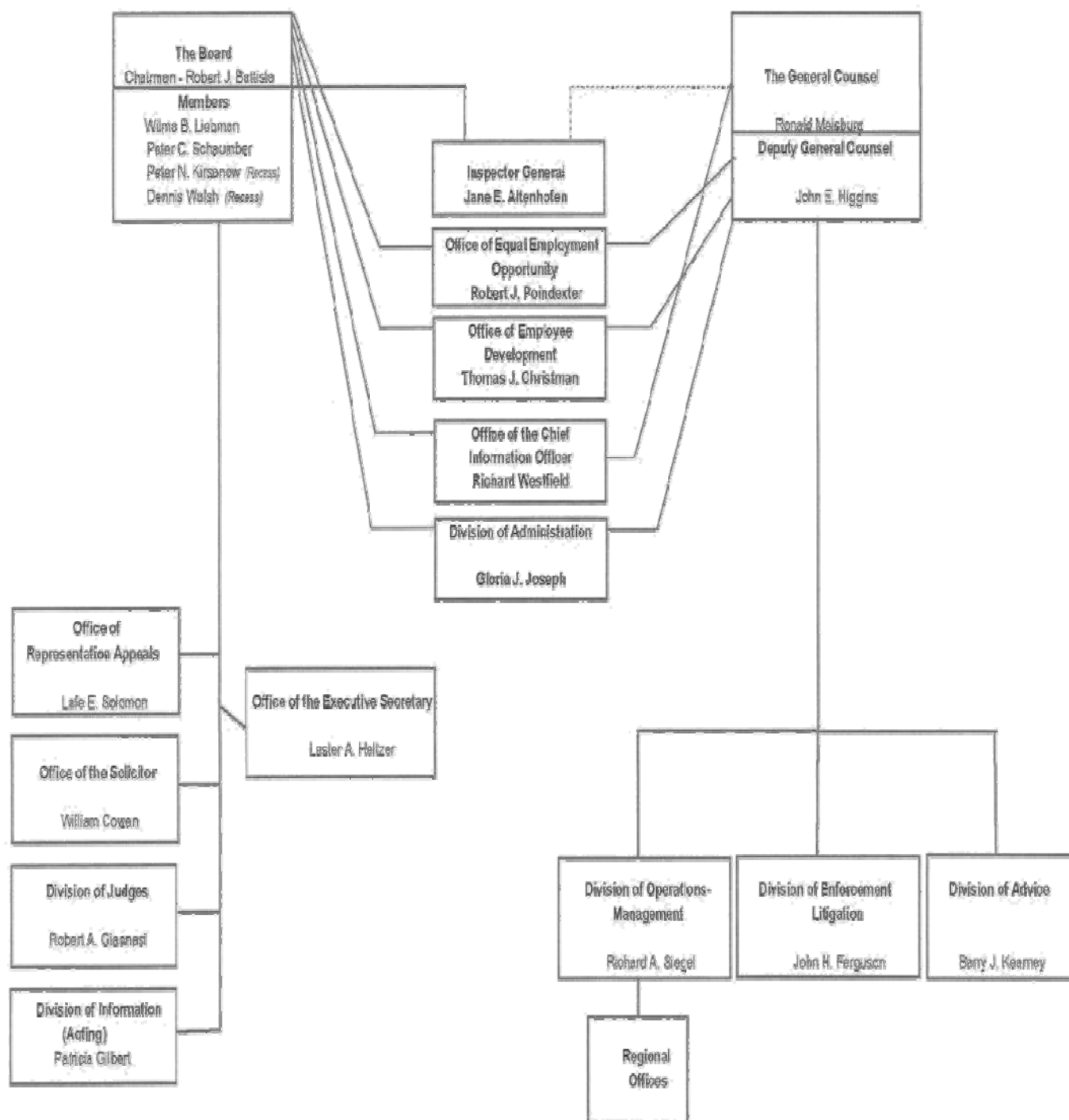
Appendix E

Outline of Representation Procedures Under Section 9(c)



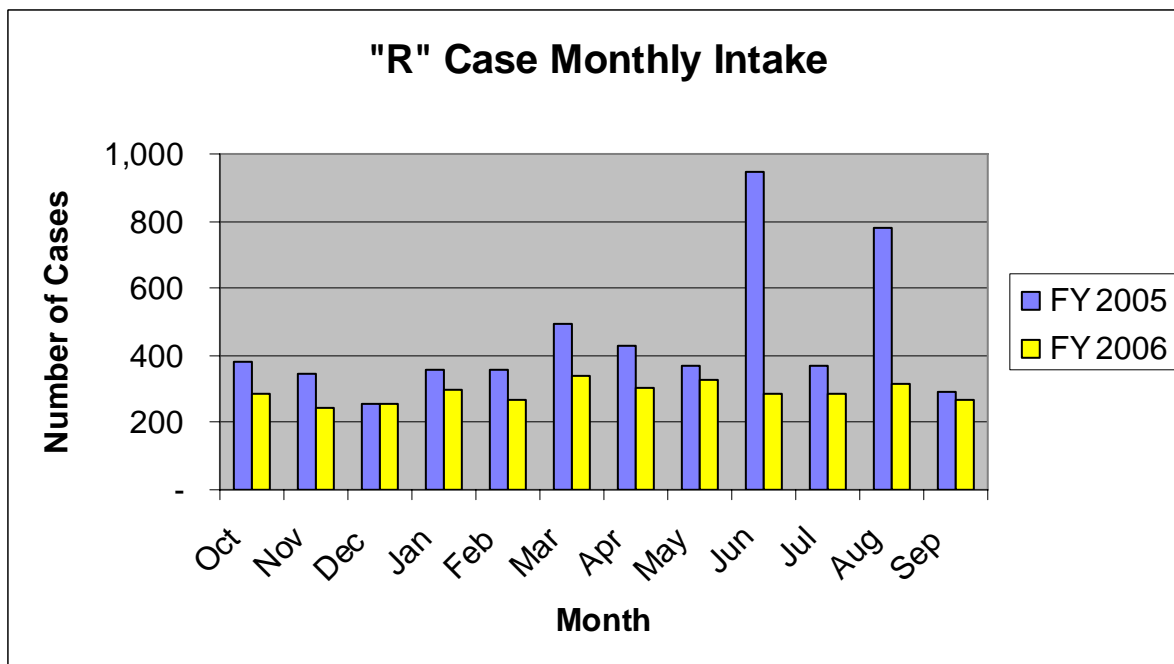
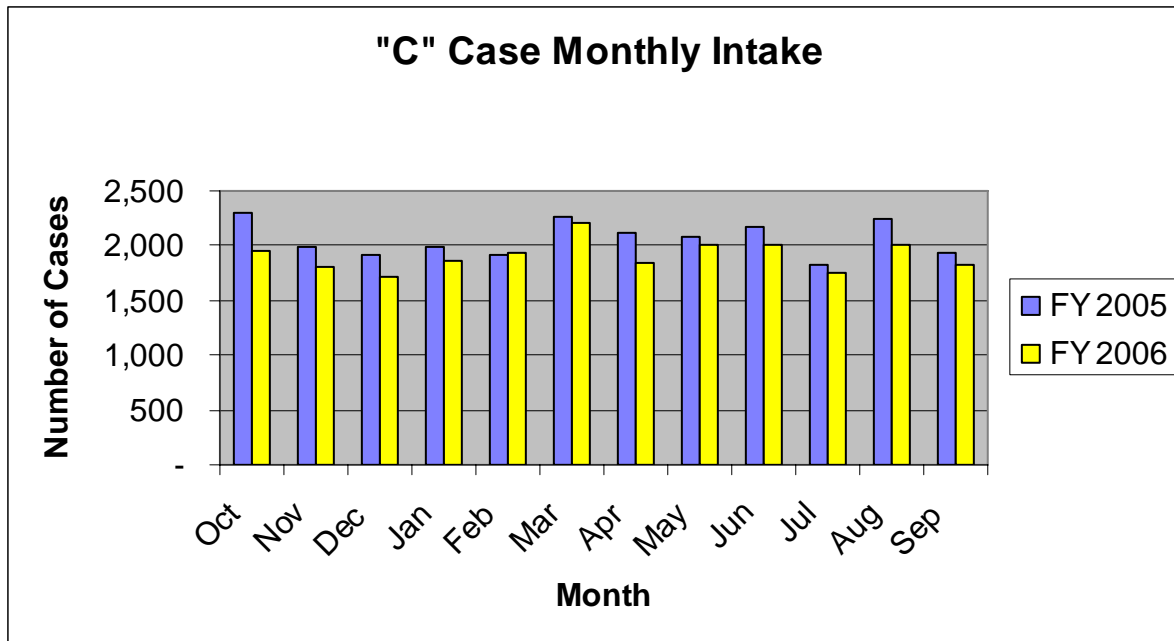
Appendix F

National Labor Relations Board Organization Chart



Appendix G

Performance Charts





National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570-0001

www.nlrb.gov