

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Budget Submission Case Processing Data

Report No. OIG-AMR-58-08-02

September 2008

INSPECTOR GENERAL



NATIONAL LABOR RELATIONS BOARD

WASHINGTON, DC 20570

September 3, 2008,

I hereby submit an audit on Budget Submission Case Processing Data, Report No. OIG-AMR-58-08-02. This audit was conducted to evaluate the process used to develop case intake and related employee requirements for annual budget requests and to compare forecasted amounts to actual figures.

We found that the Budget Branch is not using the procedures that are set forth in the Administrative Policies and Procedures Manual, Chapter BUD-1, Budget Planning and Operations, or the Budget Branch's desk manual in developing the case intake and related requirements for the annual budget requests. We also found that the current year estimates and future budget year forecasts in those reports generally exceed the actual case intake.

Although the task of forecasting the future is an imprecise art, the Agency established a fairly reasonable and transparent method of arriving at its reported figures. This method included input and intake estimates from Regional Directors. Also, a summary of the Regional Director's submission and the Budget Branch's analysis were to be submitted to the Chairman and General Counsel for revision and approval before the budget requests were prepared.

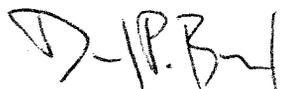
This process was abandoned by the Agency after 1996 when the Budget Branch retired its desk manual. The Budget Branch now uses a more abbreviated approach to its analysis that lacks supporting documentation as well as the revision and approval by the Chairman and the General Counsel.

When we attempted to recompute the current year estimates for the years 2000 to 2007 using the Budget Branch's stated method of "annualizing" the actual intake for the first three quarters of a fiscal year to arrive at the estimate for the fourth quarter, we came up with different results. Because the Budget Branch did not create and maintain documentation on how it arrived at its current year estimates, we cannot reconcile the figures. We know, however,

that the current year estimates are the basis for the future budget year forecasts. We also know that from 2000 to 2007 the Agency overestimated those forecasts by 6.7 to 29.2 percent. This is significant because the future budget year forecasts are the basis for the amount of the appropriation requested by the President and data from the forecasts is included in the President's budget submission to Congress.

Our primary recommendation in this report is that the Agency either returns to the procedures it currently has in the Budget Branch's desk manual or that it develops new procedures. Whichever path the Agency takes, the goal should be internal transparency in that the Chairman and the General Counsel understand the methods used by the Budget Branch to arrive at its estimates and forecasts and external transparency in that the Office of Management and Budget and Congress receive forecasts arrived at from a well-reasoned process. We also recommend that the Budget Branch create and maintain the supporting documentation in accordance with the Agency's Records Disposition Standards. We would consider these recommendations appropriate without regard to the precision in forecasting case intake.

On August 29, 2008, the Budget Branch Chief provided written comments to our draft report. Those comments are attached as an appendix to the report. The Budget Branch Chief stated that she did not agree with our finding that the case intake calculation process lacked internal control as the numbers are reviewed by senior management before submission to the Office of Management and Budget. She also stated that the estimates will become even more accurate as more experience is gained in projecting intake during the current environment. Despite these differences in opinion, the Budget Branch Chief agreed with our recommendations to document the procedures for this process in a revised Administrative Policies and Procedures Manual Chapter BUD-1 and to maintain the supporting documentation.



David P. Berry
Acting Inspector General

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BACKGROUND

The National Labor Relations Board (NLRB or Agency) administers the principal labor relations law of the United States, the National Labor Relations Act (NLRA) of 1935, as amended. The NLRA is generally applied to all enterprises engaged in interstate commerce, including the United States Postal Service, but excluding other governmental entities as well as the railroad and the airline industries. The Fiscal Year (FY) 2008 appropriation authorized 1,690 full-time equivalents (FTE) that are located at Headquarters, 51 field offices throughout the country, and 3 satellite offices for administrative law judges. The NLRB received an appropriation of \$256,238,000 for FY 2008, less a rescission of 1.747 percent, leaving a net spending ceiling of \$251,762,000.

In June of each year, the Agency begins the process of preparing a Performance Budget Request in accordance with the guidance issued by the Office of Management and Budget (OMB). The data provided in the request includes a significant amount of information related to case intake, output, and staffing requirements for the entire Agency and each office. The request provides an estimate for the current year, based on partial year data, and forecasts for the next 2 years. For example, the FY 2009 request, prepared in FY 2007, included an estimate of case intake based on the current trend for FY 2007 and forecasts for FY 2008 and FY 2009.

The Budget Branch (Budget) obtains current year case processing data from the different program offices, which Budget uses as the basis for its own intake estimates. The program offices also provide qualitative information about items that may have an impact on case intake, such as changes in labor law.

The Performance Budget Request is provided to the General Counsel and the Board for their review and approval in August. The request is due to OMB on the second Monday of September. Upon receiving OMB's approval, the Agency prepares a Justification of Performance Budget for Committee on Appropriations (Congressional Budget Justification) to explain its budget request to the responsible congressional committees. The President transmits the budget, which includes data provided by the Agency in the Performance Budget Request, to Congress on the first Monday in February. The Agency separately transmits its Congressional Budget Justification.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this audit are to evaluate the process used to develop case intake and related employee requirements for annual budget requests and to compare forecasted amounts to actual figures.

We reviewed guidance from OMB regarding preparation of budget materials, including Circular A-11, Preparation, Submission, and Execution of the Budget. We reviewed Administrative Policies and Procedures Manual (APPM) Chapter BUD-1, Budget Planning and Operations, dated May 3, 2006, and Budget's desk manual, dated June 24, 1991, to identify internal policies and procedures for budget preparation. We interviewed employees in Budget, Division of Operations-Management (Operations-Management), Division of Enforcement Litigation, Division of Advice, and the Office of the Executive Secretary to identify the processes for preparing case intake estimates.

For Budget Years 2000 – 2009, we obtained the Performance Budget Requests submitted to OMB and the Congressional Budget Justifications. We evaluated case intake trends for unfair labor practice cases and representation cases for the current year and future years for those submissions. These trends included the intake in the Regional Offices and Headquarters offices throughout the case handling process. We compared the case intake figures submitted in the Performance Budget Request with the intake figures submitted in the Congressional Budget Justification. We also compared the trends in case intake with the trends in FTE in order to evaluate whether the trends were consistent with each other.

This audit was performed in accordance with generally accepted government auditing standards during the period March through July 2008. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted this audit at NLRB Headquarters in Washington, DC.

FINDINGS

The current year estimates and the future budget year forecasts of case intake used in the Performance Budget Request and the Congressional Budget Justification were not prepared in accordance with Agency policies and procedures. Instead, Budget used a less formal process that did not obtain substantive case intake forecasts from the Regional Directors. The estimates and forecasts provided by Budget generally overestimated the anticipated case intake. Additionally, Budget did not create and maintain the documentation for this activity as required by the Agency's Records Disposition Standards.

CASE INTAKE CALCULATION PROCESS

Budget is not implementing the policies and procedures set forth in APPM Chapter BUD-1 or its desk manual. According to the Budget Chief, the desk manual has been retired, but not replaced.

As stated in APPM Chapter BUD-1, the estimate should be developed through the joint efforts of the Regional Directors; the Associate General Counsel, Operations-Management; and Budget; and reflect each Regional Director's knowledge of the situation in his/her Region and any national trends, such as union activity and industrial growth, which would necessitate adjustment in individual estimates. When in use, Budget's desk manual provided significant framework for collecting the data and created a transparent process. This process included obtaining Regional Directors' estimates and comments and providing Budget's analysis to the Chairman and the General Counsel for their revision and approval prior to drafting the Performance Budget Request. The last time that intake estimates and forecasts were requested from the Regional Directors was in June 1996 for the FY 1998 budget.

Budget currently uses a more informal process to calculate the current year estimates and future budget year forecasts. The Budget Chief stated that she receives case intake data from Operations-Management at about the end of the third quarter and then annualizes that data to determine the estimate of current year intake. The intake estimate is then adjusted based on the Budget Chief's judgment and interpretation of the information received from Operations-Management. The Budget Chief then provides the current year estimate to the Budget Analysts, who input the estimate into the tables of the Performance Budget Request. The Budget Chief stated that the supporting documentation for both the intake calculations and the information received from Operations-Management is not created or maintained by Budget.

Internal control is a major part of managing an agency and is the first line of defense in detecting errors. The Government Accountability Office's Standards for Internal Control in the Federal Government state that procedures and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in directives, administrative policies, and operating manuals. Information should also be recorded and communicated to management in a form and within a timeframe that enables them to carry out their internal control and other responsibilities.

Without the process that was provided by the Budget's desk manual, APPM Chapter BUD-1 lacks sufficient details to meet the requirement for internal controls. APPM Chapter BUD-1 does not have any provisions for documentation of this process, control over the process for the information provided to Budget, or top level review, to name just a few of the internal controls that were once present. The current year estimates and future budget year forecasts now rely on the skill and judgment of a single official rather than a concerted effort by senior management officials from across the Agency. The estimates and forecasts are provided to the Agency's leadership at the end of the process when the Performance Budget Request is submitted for final approval before submission. This is a lengthy, bureaucratic document that contains a vast amount of budgetary data, but lacks any detail on the analysis or process used in deriving those estimates and forecasts. Because the case intake estimates and forecasts are not provided in a form and within a timeframe that allows management to perform a proper review, there is little opportunity to adjust or detect errors in the analysis.

CASE INTAKE CALCULATION RESULTS

Current Year Estimates

The current year estimates reported in the Performance Budget Request were generally higher than the current year actual case intake figures reported in the Congressional Budget Justification, as shown on the following table.

**Comparison – Current Year Intake
Performance Budget Request and Congressional Budget Justification**

Year	Performance Budget Request (Estimate)	Congressional Budget Justification (Actual)	Difference	Percent
2001	33,284	33,558	-274	-0.82
2002	34,630	35,875	-1,245	-3.47
2003	35,440	33,738	1,702	5.04
2004	31,792	31,780	12	0.04
2005	30,024	29,879	145	0.49
2006	29,500	26,395	3,105	11.76
2007	26,500	25,646	854	3.33

Budget stated that they annualized the current year intake at about the end of the third quarter to arrive at a yearly estimate, but that they did not create and, therefore, not maintain supporting documentation. When we recalculated each year’s estimate by annualizing the first three quarters – this assumes that case intake in the fourth quarter will be consistent with the prior three quarters, we did not arrive at the same figures. The following tables compare Budget’s estimates of the fourth quarter intake and the annual intake with an annualized estimate.

**Comparison of Fourth Quarter Calculations
Performance Budget Request and Annualization**

Year	Performance Budget Request		Actual	Annualization	
	Number of Cases	Percent Variance from Actual		Percent Variance from Actual	Number of Cases
2001	7,762	-3.41	8,036	-3.58	7,748
2002	7,452	-14.32	8,697	-5.14	8,250
2003	10,324	19.74	8,622	-0.41	8,587
2004	7,459	0.16	7,447	3.44	7,703
2005	7,340	2.02	7,195	1.67	7,315
2006	9,343	49.78	6,238	5.76	6,597
2007	7,503	12.84	6,649	-5.11	6,309

**Comparison of Annual Intake Calculations
Performance Budget Request and Annualization**

Year	Performance Budget Request		Actual	Annualization	
	Number of Cases	Percent Variance from Actual		Percent Variance from Actual	Number of Cases
2001	33,284	-0.82	33,558	-0.86	33,270
2002	34,630	-3.47	35,875	-1.25	35,428
2003	35,440	5.04	33,738	-0.10	33,703
2004	31,792	0.04	31,780	0.81	32,036
2005	30,024	0.49	29,879	0.40	29,999
2006	29,500	11.76	26,395	1.36	26,754
2007	26,500	3.33	25,646	-1.33	25,306

Because of the lack of supporting documentation, we were unable to reconcile the differences between Budget's estimates and the annualized figures. At a minimum, Budget should have memorialized any information provided by Operations-Management and maintained that documentation for 1 year in accordance with the Agency's Records Disposition Standards.

Although the current year estimated case intake would not affect the justification for the appropriation being acted upon, as staff in Budget noted, that estimate is the baseline for the future budget year forecast. If the current year case intake is overestimated or underestimated, then the future budget year forecast will likely follow in the same manner.

Future Budget Year Forecasts

Case intake forecasts are not obtained from the Regional Directors as required by the Agency's policies and procedures. Staff in Budget stated that the future budget year intake forecasts are currently developed based on the current year estimates and qualitative information, such as legislative changes, obtained from Operations-Management. Staff in Operations-Management stated that they provide Budget with anecdotal information about trends in the Regions. Operations-Management has not issued memorandums requesting Regional information since 1996.

Budget noted that if there is an increase in case intake during the current year, they may maintain the increase through the future budget year as long as there is justification to support the increase. Alternatively, if current year intake decreases, then Budget will forecast that the future budget year intake will remain at current levels, unless there is a reason to support an increase or

decrease. This process resulted in a lag in the Agency forecasting the extent of the decrease in case intake.

Comparison of Forecasted and Actual Intake

The forecasted Regional Office case intake in the Performance Budget Requests overestimated the actual case intake for that year in all years compared. The trend is shown in the following table.

Comparison – Forecasted to Actual Intake

Budget Year	Forecasted	Actual	Difference	Percent
2000	38,179	32,957	5,222	15.84%
2001	36,200	33,558	2,642	7.87%
2002*	Not Available	35,875	Not Applicable	Not Applicable
2003	36,005	33,738	2,267	6.72%
2004	36,005	31,780	4,225	13.29%
2005	36,005	29,879	6,126	20.50%
2006	34,100	26,395	7,705	29.19%
2007	31,100	25,646	5,454	21.27%

* OMB did not require a submission for the FY 2002 Budget.

COMPARISON OF CASE INTAKE TO FTE

Although FTE levels at the Agency have declined, they have not done so to the same extent as case intake. For the period from FY 1998 to FY 2007, the Regional Office case intake decreased by 30 percent. During this period, the requested FTE level decreased Agencywide by approximately 13 percent and 11 percent in the field offices.

Because the Agency is in a period that case intake is not increasing, Budget has based the number of projected FTE on the current staffing level instead of the case intake trend. Staff in Budget stated that requested future FTE levels will likely continue to be comparable to previous year requests in the absence of a substantial increase in case intake.

Justifying FTEs based on the current staffing is reasonable. The President's Management Agenda stated that a significant number of the Government's current permanent employees will be eligible for retirement by 2010. At the NLRB, 44 percent of GS 13-15 supervisors and 78 percent of Senior Executive Service members were eligible to retire as of the end of FY 2007. Given this situation, it appears appropriate for the Agency to adopt this approach to

maintain a staff with the core qualifications and experience to ensure that it has a workforce that can effectively accomplish its mission.

RECOMMENDATIONS

We recommend that the Budget Chief:

1. Either:
 - A. Follow the policy in APPM Chapter BUD-1 and readopt the provisions in Budget's desk manual regarding the formulation of the intake estimates and forecasts in the Performance Budget Request; or
 - B. Draft procedures that implement the policy in APPM Chapter BUD-1 regarding the formulation of the intake estimates and forecasts in the Performance Budget Requests. These procedures should have sufficient detail to meet the requirements of internal control.
2. Create and maintain the supporting documentation for this activity in accordance with the Agency's Records Disposition Standards.

APPENDIX

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum



To: Dave P. Berry
Acting Inspector General

From: Shanti Ananthanayagam, Chief 
Budget Branch

Date: August 29, 2008

Subject: Draft Report "Budget Submission Case Processing Data" (OIG-AMR-58)

This is in response to draft audit report "Budget Submission Case Processing Data" (OIG-AMR-58), dated August 4, 2008. The entrance conference for this audit was held on March 24, 2008, and the exit conference was held on July 25, 2008.

CASE INTAKE CALCULATION PROCESS

There is much discussion in this section of the draft regarding Budget no longer following procedures detailed in a desk manual, and the OIG's assessment that there is a resulting lack of internal controls. While it is correct that the procedures in the desk manual are no longer being implemented, we do not agree that there is any lack of internal control. Our reasons are set forth as below:

Desk Manual

The desk manual was developed in the early 1990s, and has not been used for over a decade, as many of the procedures outlined therein are either no longer necessary or applicable in today's labor and budget environment, or have been overcome by advances in technology. Instead, with management's approval, in the mid-90s, we opted to implement processes that achieved comparable results, but with increased efficiency and timeliness. In terms of determining case intake, for instance, rather than send letters to individual Regional Directors, we started utilizing the Agency's intranet website, where case intake, by region, month, and fiscal year, was readily available on a daily basis. The annualization of this data comprises more than 90 percent of the current year estimate, and provides the

baseline for future estimates.¹ Thus, a significant portion of the data we were receiving from the Regional Directors became more quickly accessible on line, negating the need for individual letters and responses.

Further, the regional and/or national trends that might necessitate adjustments to the annualized total are received directly from the Associate General Counsel, Operations-Management, (AGC/OM) who supervises the Regional Directors. Thus Budget defers to the AGC/OM responsible for overseeing the Regional Directors to solicit and provide their input, thereby negating the need for tracking and compiling information from over thirty directors, while achieving the same result. Finally, the information received from the AGC/OM is documented in the narrative that accompanies the Agency's budget requests; and provided to the AGC/OM for review, prior to submission to OMB or Congress.

The process for estimating intake has thus been streamlined, enabling us to prepare the submission more quickly and efficiently, and providing more time to coordinate with management to review the overall submission.

Internal Controls

While the process for estimating case intake has changed, there is no lack of internal control, as the numbers are still reviewed by senior management, before submission to OMB and Congress. The case intake projections are reflected in the narrative provided to the Chairman and General Counsel for their review, with their questions answered, including any questions related to intake numbers, prior to finalization of the document. In fact, as stated above, because of this more streamlined process, Budget is able to provide a draft earlier than it would otherwise, providing a longer period of time for management review. Finally, once the budget request has been approved, it is submitted to OMB with a cover letter signed by both the Chairman and General Counsel.

As for the supporting documentation for the intake calculations, the methodology is fairly straightforward, the computations performed with the aid of an adding machine, and the results entered directly into the relevant narrative or table. Thus, for these numbers, there has been no significant documentation to retain. However, going forward, it would not be a problem to do so.

CASE INTAKE CALCULATION RESULTS

Current Year Estimates

Regarding the methodology used for estimating current year intake, as per the draft report, we do annualize third quarter intake data, and then adjust this total based on additional information from the Associate General Counsel,

¹ For instance, in FY 2007, the annualized total was 25,306 cases, which is 95 percent of the projected total of 26,500 cases that was included in the budget submission.

Operations-Management, regarding union activity and trends in the Regions. For instance, if the current year estimate in the Performance Budget Request totals 26,500, but the annualization totals 25,306, then the difference, 1,194, is the adjustment added to the estimate to capture trends in the Regions, or an average of about 35 - 40 cases per Region. This is, by necessity, an estimate; there is no algebraic or other formula that can predict with a high degree of accuracy the impact of environmental factors on case intake, as even regression analysis would not be able to capture it completely.

Further, the timing of the impact of environmental factors can also vary, resulting in estimates for the following year being closer than the current year. For instance, while the 26,500 cases projected for FY 2007 was off by 3.33 percent, the FY 2008 projection in the same Performance Budget Request, is estimated to be within 2 percent of the actual intake, based on June data.² As more experience is gained in projecting intake during the current environment, Budget expects future estimates to be even more accurate.

Future Budget Year Forecasts

Projecting intake two years into the future is difficult, particularly given the varying conditions in the Regions, where intake differs markedly from previous years. However, as noted above, as we gain more experience forecasting in this environment, we expect to close the gap between our projections and actuals in future years.

COMPARISON OF CASE INTAKE TO FTE

We agree with the draft report's conclusion that Budget's methodology for projecting staffing is reasonable.

SUMMARY

In formulating the Agency's budget submissions, the Budget Branch's goal is to prepare a coherent, logical narrative that is consistent with the numbers reflected therein. As part of this process, Budget does ensure that the numbers reflected in both the OMB and Congressional budget submissions are fully supportable, based on the information known at the time. Through close coordination with the Chairman, General Counsel, Operations-Management, and other divisions, Budget has been able to support the language with the case intake numbers with some success. In fact, after reading the Agency's FY 2008 Congressional Justification, our OMB examiner provided positive feedback, thanking us for,

²Intake through June 2008 totals 19,304 cases. In FY 2007, about 74.14 percent of total case intake had been received by June. Assuming the same distribution as last year, intake would total at least 26,037 cases – less than a 1.8 percent variance from the projection of 26,500. Add another 15 cases per Region to adjust for environmental factors, and the actual would be about 26,500 – the exact same total as projected for FY 2008 in the FY 2009 Performance Budget.

“putting together a well-written, comprehensive Congressional justification.” As we continue to gain more experience projecting intake in the current environment, we fully expect to improve on that standard in future years.

RECOMMENDATIONS

1. Either:

- A. Follow the policy in APPM Chapter BUD-1 and readopt the provisions in Budget’s desk manual regarding the formulation of the intake estimates and forecasts in the Performance Budget Request; or
- B. Draft procedures that implement the policy in APPM Chapter BUD-1 regarding the formulation of the intake estimates and forecasts in the Performance Budget Requests. These procedures should have sufficient detail to meet the requirements of internal control.

The Budget Branch will be revising APPM Chapter BUD-1 to reflect more accurately the current procedures used to formulate the intake estimates in the Performance Budget Request. As noted above, these current procedures do meet the requirements for internal control.

2. Create and maintain the supporting documentation for this activity in accordance with the Agency’s Records Disposition Standards.

We agree with this recommendation. The supporting documentation will be maintained in accordance with the Agency’s Records Disposition Standards.

cc: Board
General Counsel
Gloria Joseph, Director of Administration