

NATIONAL
LABOR
RELATIONS
BOARD



SEMIANNUAL REPORT

For the Period

April 1, 1990 through September 30, 1990

Office of Inspector General

SEMIANNUAL REPORT OF THE
OFFICE OF INSPECTOR GENERAL
NATIONAL LABOR RELATIONS BOARD

FOR THE PERIOD
APRIL 1, 1990 THROUGH SEPTEMBER 30, 1990

TABLE OF CONTENTS

	<u>Page</u>
FOREWORD	i
INSPECTOR GENERAL SUMMARY	iii
SECTION 1 DESCRIPTION OF SIGNIFICANT PROBLEMS, ABUSES AND DEFICIENCIES RELATING TO ADMINISTRATION OF PROGRAMS AND OPERATIONS AND DESCRIPTION OF RECOMMENDATIONS FOR CORRECTIVE ACTION (MANDATED BY SECTION 5 (a) (1) AND (2) OF THE ACT)	1
SECTION 2 IDENTIFICATION OF EACH SIGNIFICANT RECOMMENDATION IN PREVIOUS SEMIANNUAL REPORTS ON WHICH CORRECTIVE ACTION NOT COMPLETED (MANDATED BY SECTION 5 (a) (3) OF THE ACT)	2
SECTION 3 SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES AND RESULTANT PROSECUTIONS AND CONVICTIONS (MANDATED BY SECTION 5 (a) (4) OF THE ACT)	4
SECTION 4 SUMMARY OF EACH REPORT TO ESTABLISHMENT HEAD CONCERNING INFORMATION OR ASSISTANCE UNREASONABLY REFUSED OR NOT PROVIDED (MANDATED BY SECTION 5 (a) (5) OF THE ACT)	5
SECTION 5 LIST OF EACH AUDIT REPORT ISSUED (MANDATED BY SECTION 5 (a) (6) OF THE ACT)	6
SECTION 6 SUMMARY OF EACH SIGNIFICANT AUDIT REPORT IN SECTION 5 (MANDATED BY SECTION 5 (a) (7) OF THE ACT)	7
SECTION 7 STATISTICAL TABLES OF AUDIT REPORTS CONCERNING QUESTIONED AND UNSUPPORTED COSTS (MANDATED BY SECTION 5 (a) (8) OF THE ACT)	8

TABLE OF CONTENTS

SECTION 8	STATISTICAL TABLES OF AUDIT REPORTS CONCERNING RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE (MANDATED BY SECTION 5 (a) (9) OF THE ACT)	9
SECTION 9	SUMMARY OF EACH AUDIT REPORT ISSUED BEFORE REPORTING PERIOD FOR WHICH NO MANAGEMENT DECISION MADE BY END OF REPORTING PERIOD (MANDATED BY SECTION 5 (a) (10) OF THE ACT)	10
SECTION 10	DESCRIPTION AND EXPLANATION OF REASONS FOR ANY SIGNIFICANT REVISED MANAGEMENT DECISION MADE DURING THE REPORTING PERIOD (MANDATED BY SECTION 5 (a) (11) OF THE ACT)	11
SECTION 11	INFORMATION CONCERNING ANY SIGNIFICANT MANAGEMENT DECISIONS WITH WHICH INSPECTOR GENERAL IS IN DISAGREEMENT (MANDATED BY SECTION 5 (a) (12) OF THE ACT)	12

FOREWORD

The National Labor Relations Board, which employs about 2,200 employees and has an annual budget of approximately \$140,100,000, is an independent agency established in 1935 to administer the principal labor relations law of the United States, the Labor Management Relations Act. The provisions of the Act are generally applied, upon the filing of a petition or unfair labor practice charge, to all enterprises engaged in, or in activities affecting, interstate commerce, including health care institutions and the United States Postal Service, but excluding railroads and airlines.

The Agency implements national labor policy to protect the public interest by helping to maintain peaceful relations between employers, labor organizations and employees; encouraging collective bargaining; and, by providing a forum for all parties to peacefully resolve representation and unfair labor practice issues. This function is primarily carried out in two ways: (1) by conducting secret ballot elections to determine if a group of employees wishes to be represented for collective bargaining purposes by a labor organization and, (2) by preventing and/or remedying unfair labor practices committed by employers and unions.

Five Board Members and a General Counsel are appointed by the President with the advice and consent of the Senate. The Board Members have staggered terms of 5 years each and the General Counsel has a 4-year term.

The Agency, headquartered in Washington, has 33 Regional Offices, some of which have Subregional and Resident Offices. This far-flung organization has handled unfair labor practice cases affecting hundreds of thousands of persons and has conducted representation elections in which millions of employees have decided whether they wished to be represented by a labor organization for collective bargaining purposes.

Prior to the creation of the Office of Inspector General (OIG) under the Inspector General Act of 1978, as amended, the Agency had a Security and Audit Branch under the Division of Administration. The audit function of that Branch is now contained within the OIG. The OIG consists of the Inspector General (IG); a Supervisory Auditor; three Auditors; a Staff Assistant, who has not yet entered on duty; a Counsel to the IG who also serves as an Investigator; and, a Secretary to the Inspector General.

The OIG has established an audit universe, prioritized the elements of that universe, begun implementing those priorities, and has continued not only investigation of those employee complaints which have been brought to its attention,

but also those investigations which have been self-initiated

This semiannual report is the second issued by the OIG since the appointment of the IG.¹ While a number of audits and inspections were undertaken and completed during this reporting period, the OIG, in this report, has chosen to only reveal the results of one of those efforts as the rest are, in large measure, directly related to ongoing criminal investigations. As a result, the OIG has elected to not take any action which would result in a premature disclosure of the evidence obtained. At the same time, the OIG has continued to apprise the Chairman and General Counsel of the Agency of the significant investigative and audit findings so whatever steps are necessary to safeguard the financial integrity of the Agency can be taken.

¹ The initial semiannual report issued prior to the advent of the IG.

INSPECTOR GENERAL SUMMARY

During the current reporting period, the OIG:

- - Added a Supervisory Auditor, two Auditors and a Counsel to the Inspector General;
- - Initiated 2 investigations (exclusive of those referred to the General Counsel on the basis that they concerned purely programmatic matters), 10 audits and 3 inspections;
- - Of the 2 nonprogrammatic investigations initiated during this reporting period, 1 was referred to the General Counsel for action and 1 remains pending in the OIG. The 1 referred to the General Counsel also remains pending;
- - Referred 4 matters to the General Counsel which were purely programmatic in nature and fell under the aegis of the General Counsel;
- - Of the 4 programmatic matters referred to the General Counsel during this reporting period, 2 are still pending;
- - Of the 5 programmatic matters referred to the General Counsel during the prior reporting period, 3 are still pending;
- - The 1 matter referred to the General Counsel's Office of Equal Employment Opportunity during the prior reporting period remained pending at the end of this reporting period;
- - During the reporting period, made 5 recommendations and/or suggestions to the Chairman and/or General Counsel for improving Agency programs, operations and activities;
- - Of the 5 recommendations and/or suggestions made during the reporting period, 3 are still pending;
- - Of the 9 recommendations and/or suggestions made during the reporting period April 1, 1989 through September 30, 1989, 2 remain pending;
- - Of the 12 recommendations and/or suggestions made during the reporting period October 1, 1989 through March 31, 1990, 7 remain pending;

- - Referred 1 matter to the Criminal Division of the Justice Department for appropriate action;

The status of matters pending before the OIG at the end of the reporting period are as follows

- - 12 audits and 3 inspections in progress;
- - 9 investigations in progress, excluding the 6 referred to the General Counsel during this and the prior reporting periods;
- - 5 programmatic matters referred to the General Counsel;
- - 1 matter referred to the General Counsel's Office of Equal Employment Opportunity;
- - 12 recommendations and/or suggestions pending action by the Chairman and/or General Counsel, 3 of which were made during the reporting period and 9 of which were made during the two prior reporting periods. Of the 9 pending since the two prior reporting periods, 3 have been agreed to, but not implemented;
- - 1 matter pending final action by the Civil Division of the Justice Department (see Section 3) and 2 matters pending action by the Criminal Division;

SECTION 1

DESCRIPTION OF SIGNIFICANT PROBLEMS, ABUSES AND DEFICIENCIES RELATING TO ADMINISTRATION OF PROGRAMS AND OPERATIONS AND DESCRIPTION OF RECOMMENDATIONS FOR CORRECTIVE ACTION (MANDATED BY SECTION 5 (a) (1) AND (2) OF THE ACT)

As noted in Section 3, during the prior reporting period, the OIG referred a matter to both the Civil and Criminal Divisions of the United States Department of Justice and, during this reporting period, a second matter was referred to the Criminal Division.

No audit reports issued during this reporting period concerning those matters even though audits have been performed, because of a desire on the part of the OIG not to do anything which would result in premature discovery. Without disclosing the details of those, as yet unpublished, audit reports, it is sufficient to say that, when published, they will reveal serious financial irregularities. Both the Chairman and General Counsel have been kept apprised of the findings so whatever steps are necessary can be taken to assure the financial integrity of the Agency's programs and operations. It is hoped that by the time of the next semiannual report, a full disclosure can be made.

SECTION 2

IDENTIFICATION OF EACH SIGNIFICANT RECOMMENDATION DESCRIBED IN PREVIOUS SEMIANNUAL REPORTS ON WHICH CORRECTIVE ACTION NOT COMPLETED (MANDATED BY SECTION 5 (a) (3) OF THE ACT)

The first two semiannual reports of the OIG, ² covering the periods April 1, 1989 through September 30, 1989 and October 1, 1989 through March 31, 1990, contained several recommendations for corrective action, only some of which have been acted upon to completion. Each will be dealt with separately

UNUSED AIRLINE TICKETS

Prior to the issuance of the previous semiannual report, an independent certified public accounting firm had conducted an audit of the Agency's FY '87 financial statements. Their management letter included a recommendation that accounts receivable established for reimbursement of unused airline tickets be removed from the books and all supporting documentation be forwarded to GSA for collection if refund checks were not received within the required time period. It was also recommended that uncollected accounts receivable which were not supported by the proper documentation (the unused airline tickets) be written off. The Agency, commencing with the prior reporting period, began implementing those recommendations.

In its response to the previous semiannual report, the Agency noted that the recommendations of the independent certified public accounting firm had not been fully implemented in that it had to complete the process of catching up with the accounting paperwork to eliminate unused airline ticket costs from the obligations record. To date, the OIG has not been apprised that the process has been completed.

FOLLOWUP MANAGER

Prior to the creation of the OIG, it had been the responsibility of the Agency's Audit Staff to conduct followups of audit findings. Upon the creation of the OIG, it absorbed the one remaining auditor, leaving no one to conduct followups of audit findings. Therefore, it was recommended in the semiannual reports for the two prior reporting periods that management assign this responsibility to other personnel. Although the Agency, in its response to the previous semiannual report, noted that the Division of

² As noted earlier in footnote 1, the first of the two semiannual reports of the OIG issued prior to the advent of the IG.

Administration was in the process of recommending procedures to meet this requirement, the OIG has not been apprised of any such assignment as yet

AMENDMENT OF EMPLOYEE CODE OF CONDUCT (COOPERATION WITH OIG)

During the prior reporting period, it was suggested by the OIG that the Agency's code of "Employee Responsibilities and Conduct" be amended to require employee cooperation with the OIG. While that suggestion was agreed to, it has not been implemented. Specific amendatory language was recommended during this reporting period, but no action has been taken as yet

AMENDMENT OF EMPLOYEE CODE OF CONDUCT (SEXUAL HARASSMENT)

During the prior reporting period, it was suggested by the OIG that the Agency's code of "Employee Responsibilities and Conduct" be amended to include a provision against sexual harassment. The OIG was informed that the matter would be studied, but no action has been taken as yet

ASSESSMENT OF AGENCY'S INTERNAL CONTROL EVALUATION PROCESS

During the prior reporting period, it was suggested by the OIG that the Agency reassess its Internal Control Evaluation Process. The OIG was informed that the matter had been referred for study, but no action has been taken as yet.

PUBLICATION OF OIG HOTLINE NUMBER

It was also suggested during the prior reporting period that the Agency publish the OIG hotline number in Agency pamphlets or manuals when next published, or procurement contracts when next let. This matter is still pending.

ACQUISITION OF 800 NUMBER

Finally, during the prior reporting period, the OIG recommended that the Agency determine the cost of an 800 number for the OIG and, if not prohibitive, secure one and publish the number in all telephone directories for cities in which field offices are housed. This matter is still pending.

SECTION 3

SUMMARY OF MATTERS REFERRED TO PROSECUTIVE AUTHORITIES
AND RESULTANT PROSECUTIONS AND CONVICTIONS
(MANDATED BY SECTION 5 (a) (4) OF THE ACT)

During the prior reporting period, the OIG referred a matter to both the Civil and Criminal Divisions of the United States Department of Justice and, during this reporting period, a second matter was referred to the Criminal Division. As of the end of the reporting period, no final, reportable action had been taken by the Criminal Division.

However, the Civil Division has notified an employee, who was required to file Financial Disclosure Reports under the Ethics in Government Act (EIGA), of (1) the failure to file those Reports for two years, and (2) the further failure to reflect in those Reports which were filed the existence of federal tax liabilities in a number of years. Settlement negotiations are underway.

SECTION 4

SUMMARY OF EACH REPORT TO ESTABLISHMENT HEAD CONCERNING INFORMATION OR ASSISTANCE UNREASONABLY REFUSED OR NOT PROVIDED (MANDATED BY SECTION 5 (a) (5) OF THE ACT)

Section 5 (a) (5) of the Act requires the OIG to include in a semiannual report a summary of each report made to the head of the establishment under Section 6 (b) (2) during the reporting period. Section 6 (b) (2), in turn, authorizes an Inspector General to report to the head of the establishment whenever information or assistance requested under subsection (a) (1) or (3) is, in the judgement of an Inspector General, unreasonably refused or not provided. The subsections referred to authorize an Inspector General to have access to, in effect, all documentation or other material available to the establishment which relate to programs and operations with respect to which the Inspector General has responsibilities under the Act, and authorize an Inspector General to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by the Act from any Federal, State, or local governmental agency or unit.

During this reporting period, one such report was made and, because of the nature of the documents sought, it was necessary to seize the documents prior to an official resolution of the matter. The nature of the dispute in this and one other instance that occurred during the reporting period, but which was not referred by the OIG, concerned the OIG's entitlement, during a criminal investigation, to have custody of original records rather than copies. The OIG submitted a legal memorandum to both the Chairman and General Counsel supporting the OIG's view that, when conducting a criminal investigation, it is entitled to possession of original records. The Chairman has agreed to the OIG view, however, by the end of the reporting period, no word had been received from the General Counsel.

SECTION 5

LIST OF EACH AUDIT REPORT ISSUED
(MANDATED BY SECTION 5(a)(6) OF THE ACT)

Dollar Value (in thousand \$)

<u>AUDIT</u> <u>BY</u> <u>TYPE</u>	<u>REPORT</u> <u>NUMBER</u>	<u>QUESTIONED</u> <u>COSTS</u>	<u>UNSUPPORTED</u> <u>COSTS</u>	<u>RECOMMENDATIONS</u> <u>THAT FUNDS BE</u> <u>BETTER SPENT</u>
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None issued. The only audit completed during this reporting period (OIG-AMR-6) concerned itself with the question of whether federal income taxes had been avoided on performance awards received, but no evidence was obtained to reveal any improprieties. Accordingly, no audit report issued.

SECTION 6

SUMMARY OF EACH SIGNIFICANT AUDIT REPORT IN SECTION 5
(MANDATED BY SECTION 5 (a) (7) OF THE ACT)

None issued. See comment in Section 5

SECTION 7

STATISTICAL TABLES OF AUDIT REPORTS
CONCERNING QUESTIONED AND UNSUPPORTED COSTS
(MANDATED BY SECTION 5 (a) (8) OF THE ACT)

	<u>Number</u>	<u>Dollar Value (in thousand \$)</u>	
		<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A. Reports for which no management decision had been made by the beginning of the reporting period	-0-		
B. Findings in reports issued during the reporting period	-0-		
Subtotal (A + B)	-0-		
C. For which a management decision was made during the reporting period	-0-		
(i) Disallowed costs	-0-		
(ii) Costs not disallowed	-0-		
D. For which no management decision has been made by the end of the reporting period	-0-		

SECTION 8

STATISTICAL TABLES OF AUDIT REPORTS
CONCERNING RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE
(MANDATED BY SECTION 5 (a) (9) OF THE ACT)

	<u>Number</u>	<u>Dollar Value (in thousand \$)</u>
		Recommendations That Funds Be Put To Better Use
A. Reports for which no management decision had been made by the beginning of the reporting period	-0-	
B. Findings in reports issued during the reporting period	-0-	
Subtotal (A + B)	-0-	
C. For which a management decision was made during the reporting period	-0-	
(i) Recommendations agreed to by management	-0-	
(ii) Recommendations not agreed to by management	-0-	
D. For which no management decision has been made by the end of the reporting period	-0-	

SECTION 9

SUMMARY OF EACH AUDIT REPORT ISSUED
BEFORE REPORTING PERIOD FOR WHICH NO MANAGEMENT DECISION
MADE BY END OF REPORTING PERIOD
(MANDATED BY SECTION 5 (a) (10) OF THE ACT)

Not applicable

SECTION 10

DESCRIPTION AND EXPLANATION OF REASONS FOR ANY
SIGNIFICANT REVISED MANAGEMENT DECISION
MADE DURING THE REPORTING PERIOD
(MANDATED BY SECTION 5 (a) (11) OF THE ACT)

During the reporting period, no significant revised management decisions were made.

SECTION 11

INFORMATION CONCERNING ANY SIGNIFICANT MANAGEMENT DECISIONS
WITH WHICH INSPECTOR GENERAL IS IN DISAGREEMENT
(MANDATED BY SECTION 5 (a) (12) OF THE ACT

During the reporting period, there were no significant management decisions with which the Inspector General disagreed.