

INSPECTOR GENERAL



---

## NATIONAL LABOR RELATIONS BOARD


---

WASHINGTON, DC 20570

I hereby submit this Semiannual Report for the period April 1 – September 30, 2009. This report summarizes the major activities and accomplishments of the Office of Inspector General of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended (IG Act). Section 5 of the IG Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of the Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued one audit report and two issue alerts. In the investigation program, the Office of Inspector General processed 193 contacts, initiated 7 cases, and closed 4 cases. Our investigative efforts resulted in one removal, two suspensions, and two referrals to the Department of Justice. Details on these accomplishments can be found in the body of this report.

I appreciate the support of all Agency employees in achieving the accomplishments set forth in this report.

  
David Berry  
Inspector General  
October 30, 2009

## AGENCY PROFILE

---

The National Labor Relations Board (NLRB or Agency) 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 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, the free democratic choice by employees as to whether they wish to be

represented by a union in dealing with their employers and, if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions.

NLRB authority is divided by law and delegation. The five-member Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices before administrative law judges, whose decisions may be appealed to the Board; and, on behalf of the Board, conducts secret ballot elections to determine whether employees wish to be represented by a union.

The Board consists of the Chairman and four Members who are appointed by the President with the advice and consent of the Senate. Board Members serve staggered terms of 5 years each. The General Counsel is also appointed by the President with the advice and consent of the Senate and serves a 4-year term.

Chairman Wilma B. Liebman, Member Peter C. Schaumber, and General Counsel Ronald Meisburg continued to serve during this reporting period.

There are currently three Board Member nominations pending consideration by the Senate. If confirmed, those three will fill the vacant seats on the five-Member Board.

The NLRB received an appropriation of \$262,595,000 for Fiscal Year (FY) 2009 to fund a ceiling of 1,637 full-time

equivalents. NLRB Headquarters is at 1099 14<sup>th</sup> Street, NW, Washington, DC.

In addition to the Headquarters building, employees are located in 51 field offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. Since October 2, 2000, field offices have included 32 Regional Offices, 16 Resident Offices, and 3 Subregional Offices.

Additional information about the NLRB can be found at [www.NLRB.gov](http://www.NLRB.gov).

## OFFICE OF INSPECTOR GENERAL

---

NLRB established the Office of Inspector General (OIG) pursuant to the 1988 amendments to the Inspector General Act of 1978 (IG Act).

### **Resources**

The FY 2009 OIG budget was \$1,045,700 for operations, of which \$175,000 was for contract services. In addition to the Inspector General, the OIG consists of a Counsel/Assistant

Inspector General for Investigations, an Assistant Inspector General for Audits, two auditors, and a staff assistant. At this time, the Counsel/Assistant Inspector General for Investigations position is vacant.

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. *OIG issued one audit report and two issue alerts.*

### Reports Issued

We issued Audit Report OIG-AMR-60-09-02, *Office of the Executive Secretary Survey*, on August 26, 2009. Our objective for this review was to gather information about the Office of the Executive Secretary (OES) to determine functions performed by the office and internal controls that management exercises in carrying out its mission.

We found that the OES was generally assigning cases and affecting the issuance of the Board's decisions in a timely manner. We also found that there was a general lack of acceptance of ownership and responsibility for the case processing data.

We identified several internal control issues. This included errors in participant information that may affect service to those participants, errors in data elements in the Board's case

reporting systems, and differences in the two electronic case processing systems that made reconciling the two systems difficult. When we looked at the case assignment process, we identified a lack of documentation of procedures in the assignment of cases to Board Member offices that could call into question the fairness of that process. When we looked at the case processing reports, we found that the staff manipulated the data and processes to create reports.

We recommended that the Executive Secretary work with the Board to evaluate OES' organizational structure, duties, and staffing needs. We also made recommendations to strengthen internal controls.

- We released Issue Alert OIG-IA-09-03, *Nonreimbursable Details*, on May 18, 2009. The purpose of this Issue Alert was to provide information to Agency managers regarding

nonreimbursable details to other Federal agencies. We reported that there are two exceptions to the Antideficiency Act's prohibition on nonreimbursable details. The first is when the detail involves a matter that is so closely related to the agency's mission that it accomplishes the purpose for which the appropriation was made. The second is when the detail would have a negligible impact on the agency's appropriation and the detail is for a limited duration.

- We released Issue Alert OIG-IA-09-04, *Merit System Issue*, on August 27, 2009. The purpose of this Issue Alert was to address a complaint that we received regarding a vacancy announcement and selection.

We reported that the merit principles require that agencies provide adequate public notice of competitive service vacancies that are being filled and that such notice means that any person who

wants to apply for a position will have all the information necessary to apply and will be given an open and fair opportunity to be hired.

We found that when a job announcement is corrected without a sufficient period of time remaining in the open period, there may be little to no opportunity for anyone to apply for the position under the correction. In this type of situation, the perception that can often be created is that there was a manipulation of the system involving the "pre-selection" of the hired applicant.

Because we did not find any evidence of misconduct, we suggested that the Human Resources Branch use this Issue Alert as an opportunity to remind its staff of the need to be mindful of the merit principles and provide guidance regarding matters to be considered when making amendments to a job announcement.

**Audit Follow-up**

Agreed upon actions were not completed within 1 year on five audit reports.

- ***Audit of the NLRB Fiscal Year***

***2006 Financial Statements***, OIG-F-11-07-01, was issued on December 14, 2006, and we reached agreement with management on June 14, 2007. We continue to monitor the Agency's progress towards implementing the final open recommendation.

- ***Continuity of Operations***,

OIG-AMR-55-07-03, was issued on September 18, 2007, and we reached agreement with management on that date. Action has been completed on one of the three recommendations. The Agency is actively working to implement the other two recommendations.

- ***Audit of the NLRB Fiscal Year***

***2007 Financial Statements***, OIG-F-12-08-01, was issued on December 17, 2007, and we reached agreement with management on that date. Action has

been completed on two of the three recommendations. The Agency is actively working to implement the final recommendation.

- ***Office of the Chief Information Officer Procurement Functions***, OIG-AMR-57-08-01, was issued on March 14, 2008, and we reached agreement with management on that date. Action has been completed on five of the seven recommendations. The Agency is actively working to implement the other two recommendations.

***Budget Submission Case Processing***

***Data***, OIG-AMR-58-08-02, was issued on September 3, 2008, and we reached agreement with management on that date. Management is making progress implementing one of the two recommendations and has reported that the corrective action on the other has been completed. We will review these actions after the current budget submission cycle is completed.

## INVESTIGATIONS PROGRAM

---

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. *OIG processed 193 contacts, initiated 7 cases, and closed 4 cases. The investigations resulted in one removal, two suspensions, and two referrals to the Department of Justice.*

Case Workload		Contacts Processed	
Open (4/1/2009)	10	Received	193
Initiated	7	Initiated Investigation	2
Closed	4	Opened Case -- Referred to Agency	0
Open (9/30/2009)	13	Non-Investigative Disposition	191

- False Information.** We initiated this investigation after receiving information that the subject provided misleading information in a document that was provided to an Agency manager. After we initiated the investigation, we found that not only was the allegation substantiated, but that the subject provided similar misleading information in an official writing sent to an outside entity. We also found that the subject provided misleading information during the investigation. After issuing our investigation report, the subject was removed from employment with the Agency. (OIG-I-433)

- False Employment Application.** This investigation was initiated after we received a report that the subject, an Agency employee, submitted a false application for a higher graded position. Our investigation substantiated the allegation. The subject’s employment with the Agency ended prior to management officials taking action based on the information in our investigative report. (OIG-I-434)

- Loss of Property.** We initiated this investigation after learning that certain inventoried property was missing. We found that two subjects



were involved in the taking of the property and that they took action to conceal the misconduct from Agency management. One of the subjects also provided misleading information to the OIG. We recovered the property. At the time of this report, Agency management is considering disciplinary action. (OIG-I-431)

- **Time and Attendance.** We initiated this investigation after receiving a complaint that a supervisor was approving his or her own leave. What we found was that although the time and attendance records for the supervisor were certified by a manager in accordance with Agency policy, the supervisor was not requesting or receiving approval of the leave prior to the absence. We also found that the supervisor's leave usage could indicate a leave abuse situation. After our report was issued, the supervisor received informal counseling. (OIG-I-432)

- **Merit System Principles.** We received a complaint that the Agency provided an unlawful preference when it hired an employee. Although we did not find sufficient evidence to substantiate the allegation, we did find procedural issues involving the Merit System Principles. We resolved this matter through an Issue Alert. (OIG-I-438)

- **Travel Card Abuse.** As previously reported, we conducted an investigation involving an allegation that an employee misused the Government travel card. During a 3-month period of time, the employee made 22 purchases at gas stations that totaled \$934.38. During the same period of time, the subject was reimbursed \$192.36 for travel-related expenses – including \$62.50 for parking and tolls. Only five of the reimbursements occurred on or within 2 days of a travel card purchase by the subject. The employee also failed to pay the balance due on the travel card and the travel card account was terminated. During the investigation, the employee provided misleading statements to the

OIG investigator. As discipline, the subject received a 2-day suspension. (OIG-I-430)

- **Travel Card Abuse.** As previously reported, we conducted an investigation involving an employee who misused the Government travel card. During the 18 months preceding our investigation, the employee used the travel card on eight occasions to receive cash advances at casinos. The total amount of the cash advances, including the associated fees, was \$3,314.76. On two occasions, the subject used the travel card for food and lodging for total charges of \$240.03 that were not related to official travel. As discipline, the subject received a 30-day suspension with an additional 30 days held in abeyance for a period of 2 years. (OIG-I-429)

### **Hotline**

Employees and members of the public with information on fraud, waste, and

abuse are encouraged to contact OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, e-mail, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts.

The information received over the Hotline is the basis for the initial review for potential investigations. The information is analyzed to determine if further inquiry is warranted. Most Hotline contacts are calls from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction.

As appropriate, OIG refers these callers to the Regional Office; local, state, or Federal agency; or private resources to provide assistance. During this reporting period, OIG received 193 Hotline contacts, of which 67 were telephone calls or walk-ins and 126 were in writing.

## LEGISLATION, REGULATIONS, AND POLICY

---

The Inspector General is to review existing and proposed legislation and regulations relating to programs and operations of the Agency and is to make recommendations concerning the impact of such legislation or regulations. Similarly, we review Agency and OIG policy. *We reviewed six pieces of legislation.*

### Legislation

We reviewed the following legislation and provided input when appropriate.

**H.R. 2142, Government Efficiency, Effectiveness, and Performance Improvement Act of 2009.** This legislation would require the head of each agency, in collaboration with the Director of the Office of Management and Budget, to conduct an assessment of each agency program at least once every 5 fiscal years, assessing the program's purpose, strategic plan and objectives, organizational design, management, efficiency, and effectiveness in achieving its performance objectives and identifying strengths and weaknesses and factors affecting program success.

Each year, following the release of assessment reports, the Inspector General of each agency shall submit to Congress, and post on the OIG Web site, a report on the agency's implementation

of the requirements of this section and on the strengths, weaknesses, and limitations of the agency's assessment process, as well as the quality of the agency's assessment reports and improvement plans.

**S. 921, United States Information and Communications Enhancement Act of 2009.** This legislation makes the head of each agency responsible for providing appropriate information security protections. It also requires that the Inspector General of each agency conduct an annual independent information security effectiveness evaluation.

The legislation would also require that each agency coordinate with the United States Computer Emergency Readiness Team. It would require that the components of each agency establish an automated reporting mechanism allowing its chief information security

officer and security operations center at the agency level to implement and monitor the agency's security policies, procedures, and controls.

**S. 976.** This legislation provides that certain provisions of the Paper Work Reduction Act shall not apply to the collection of information during any investigation, audit, inspection, evaluation, or other review conducted by: (1) any Federal Office of Inspector General; (2) the Council of the Inspectors General on Integrity and Efficiency; or (3) the Recovery Accountability and Transparency Board.

**H.R. 2646, Government Accountability Office Improvement Act of 2009.** This legislation would authorize the Comptroller General to: (1) obtain Federal agency records required to discharge his or her duties; and (2) make and retain copies of agency records and interview Federal agency officers and employees. It also requires an agency's statement on actions taken or planned in response to Comptroller

General recommendations to be submitted to the Congressional committees with jurisdiction over the agency and to the Government Accountability Office (GAO).

**S. 1508 and H.R. 3393, Improper Payments Elimination and Recovery Act of 2009.** This legislation would require the head of each Federal agency to review agency programs and activities every 3 fiscal years and identify those that may be susceptible to significant improper payments. It defines "significant" as improper payments in programs in the preceding fiscal year that may have exceeded \$10 million and 2.5 percent of program outlays or \$100 million. It also sets forth risk factors for conducting improper payment reviews. The head of each agency would be required to produce a statistically valid estimate of the improper payments in their agencies and include such estimates in the annual financial statements. The Inspector General would be required to report each fiscal year on agency compliance with this act.

**Regulations**

The Counsel to the Inspector General is an advisory member of the Agency's

Rules Revision Committee that develops changes to the Agency's procedural regulations.

## LIAISON ACTIVITIES

---

The Inspector General is to recommend policies for, and is to conduct, supervise, or coordinate relationships between the Agency and other Federal agencies, state and local governmental agencies, and non-governmental entities. The Inspector General is to give particular regard to the activities of the Comptroller General of the United States. Similarly, we encourage OIG staff members to participate in Agency programs and activities. *OIG staff are active in the inspector general community and Agency functions.*

### **Inspector General Community**

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency. This organization consists of Inspectors General at the Federal Government's departments and agencies.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executives Council, Financial Statement Audit Network, and the Interagency Investigative Data Mining Working Group.

The Counsel participated in the Council of Counsels to Inspectors General.

### **Government Accountability Office**

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the GAO, with a view toward avoiding duplication and ensuring effective coordination and cooperation. We had no activity during this reporting period that required coordination with GAO.

## **INFORMATION REQUIRED BY THE ACT**

---

Certain information and statistics based on the activities accomplished during this period are required by section 5(a) of the IG Act to be included in the semiannual reports. These are set forth below:

### Section 5(a)

- (1), (2), (7)      OIG did not identify significant problems, abuses or deficiencies relating to the administration of programs. For the purpose of this section, we used the definition of significant as set forth in the Federal Managers' Financial Integrity Act.
  
- (3)                Corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.
  
- (4)                Two cases were referred to prosecutorial authorities.
  
- (5)                No reports were made to the Chairman that information or assistance requested by the Inspector General was unreasonably refused or not provided.
  
- (6)                A listing by subject matter is located on page 15.
  
- (8), (9)          No audit reports issued during this period had a recommendation on questioned costs or that identified funds that could be put to better use. See Table 1 and 2.
  
- (10)              There are no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.
  
- (11)              No significant revised management decisions were made during the reporting period.
  
- (12)              There were no significant management decisions with which I am in disagreement.

## **AUDIT REPORTS BY SUBJECT MATTER**

---

<b><u>Report Title and Number</u></b>	<b><u>Questioned Costs</u></b>	<b><u>Unsupported Costs</u></b>	<b><u>Ineligible Costs</u></b>	<b><u>Funds To Be Put To Better Use</u></b>
BOARD ADJUDICATION				
Office of the Executive Secretary Survey OIG-AMR-60-09-02	0	0	0	0



**Table 1****REPORTS WITH QUESTIONED COSTS**

	<b><u>Number of Reports</u></b>	<b><u>Dollar Value</u></b>	
		<b><u>Questioned Costs</u></b>	<b><u>Unsupported Costs</u></b>
A. For which no management decision has been made by the commencement of the period	0	0	0
B. Which were issued during the reporting period	0	0	0
Subtotals (A+B)	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) Dollar value of disallowed costs	0	0	0
(ii) Dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0
Reports for which no management decision was made within six months of issuance	0	0	0

## REPORTS WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE

**Table 2**

	<b><u>Number of Reports</u></b>	<b><u>Funds Be Put To Better Use</u></b>
A. For which no management decision has been made by the commencement of the period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A+B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) Dollar value of recommendations that were agreed to by management	0	0
(ii) Dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
Reports for which no management decision was made within six months of issuance	0	0

*Every employee is the  
guardian of integrity.*

**OIG Hotline  
1 800 736-2983  
oighotline@nlrb.gov  
or  
1099 14th Street, NW  
Washington, DC 20570**