

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL 
REPORT



OCTOBER 1, 2015 – MARCH 31, 2016

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EXECUTIVE SUMMARY

I hereby submit the Semiannual Report for the period October 1, 2015 – March 31, 2016. 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. Section 5 of the Inspector General Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued one audit report, conducted the annual review required by the Federal Information Security Management Act, issued a memorandum identifying the Agency's top management and performance challenges, and reported to the Office of Management and Budget on the Agency's progress in implementing recommendations related to Government charge cards in accordance with the Government Charge Card Abuse Prevention Act. In the investigation program, the Office of Inspector General processed 130 contacts, initiated 7 cases, closed 5 cases, and issued 3 investigative reports. Our investigative efforts resulted in a suspension, a demotion, and a recovery of \$4,174.07 in lost time. The U.S. Department of Justice was notified of three matters.

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



David Berry
Inspector General
April 30, 2016

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. The National Labor Relations Act 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; however, 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 term of 4 years.



Left to right: Philip A. Miscimarra, Mark Gaston Pearce, Kent Y. Hirozawa and Lauren McFerran

Chairman Mark Gaston Pearce, Philip A. Miscimarra, Kent Y. Hirozawa, and Lauren McFerran continued to serve as Members during the reporting period. Richard F. Griffin, Jr., continued to serve as the General Counsel.

For Fiscal Year (FY) 2016, the NLRB's appropriation is \$274,224,000.

NLRB Headquarters is located at 1015 Half Street, SE, Washington, DC. In addition to the Headquarters building, employees are located in 49 field offices and 2 satellite offices for administrative law judges. The NLRB has designated 26 of the 49 field offices as Regional Offices.

Additional information about the NLRB can be found at 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

During the reporting period, the OIG received sufficient funds to maintain its programs. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, and three auditors. During the reporting period, one auditor position was vacant. Additionally, the OIG staff is augmented by contract auditors.



AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued one audit report, conducted the annual review required by the Federal Information Security Management Act, issued a memorandum identifying the Agency's top management and performance challenges, and reported to the Office of Management and Budget (OMB) on the Agency's progress in implementing recommendations related to Government charge cards in accordance with the Government Charge Card Abuse Prevention Act.

Reports Issued

We issued Audit Report OIG-F-20-16-01, **Audit of the NLRB Fiscal Year 2015 Financial Statements**, on December 14, 2015. The audit, performed by an independent public accounting firm, found that the NLRB's FY 2015 Financial Statements were fairly stated. Tests on internal controls over financial reporting identified a significant deficiency due to inadequate controls over undelivered orders, accounts payable, and expenditures. This finding had been reported as a material weakness in the prior year's audit report. The report noted that prior recommendations related

to the finding had not been fully implemented and, therefore, it contained no new recommendations. The tests on compliance with laws and regulations identified no instances of noncompliance. Management agreed with the findings and recommendations.

The management letter, issued as part of the financial statement audit process, contained three findings related to improvements in internal controls over the management of Government charge cards; the management and monitoring of negative leave balances; and budget management, monitoring and reporting. The findings related

to the charge cards and negative leave balances continued from the prior year's audit report. The management letter contained three recommendations related to the budget finding. The management letter also provided information on the status of prior years' recommendations. The Chief Financial Officer (CFO) retired before we reached agreement with management. Shortly before the end of the reporting period, we began working with the new CFO to address the finding and recommendation.

We completed the **Federal Information Security Management Act of 2002** annual review of information security programs. The OIG review was accomplished as part of the audit of the FY 2015 financial statements and the completion of the OMB template. On November 13, 2015, the Chairman submitted reports from the Inspector General and the Chief Information Officer to OMB.

We issued a memorandum identifying the Agency's **Top Management and Performance Challenges** on October 10, 2014. The OIG developed a list of what it considers to be the most serious management and performance challenges facing the NLRB. The challenges are:

1. Managing in the current political environment;

2. Reorganizing and consolidating operations;
3. Managing the Agency's financial resources;
4. Managing the NLRB's human capital;
5. Maintaining the Agency's institutional knowledge;
6. Managing the Agency's information technology resources in a manner that achieves efficiency and security; and
7. Implementing audit recommendations in a timely manner.

On January 29, 2016, we complied with the provisions of the **Government Charge Card Abuse Prevention Act** and reported to OMB the Agency's progress in implementing audit recommendations related to Government charge cards. At that time, we reported that the Agency had 8 open recommendations related to the management of Government charge cards.

Audit Follow-up

Agreed-upon actions were not completed within 1 year on five audit reports. As of the end of the reporting period, the status of the implementation of the recommendations is as follows:

Audit of the NLRB Fiscal Year 2012 Financial Statements, OIG-F-17-13-01, was issued on

December 6, 2012, and we reached agreement with management on that date. Management has implemented two of the three recommendations made in the report.

Cloud Computing, OIG-AMR-74-14-03, was issued on September 11, 2014, and we reached agreement with management on that date. Management has implemented three of the four recommendations made in the report.

Audit of the NLRB Fiscal Year 2014 Financial Statements, OIG-F-19-15-01, was issued on December 12, 2014, and we reached agreement with management on that date. Management has implemented 7 of the 19 recommendation made in the report.

Personnel Security, OIG-AMR-73-15-01, was issued February 3, 2015, and we reached agreement with management on that date. The report provided management with the opportunity to accept one recommendation to reorganize the Security Branch or 12 specific recommendations that addressed the internal control issues. Management initially elected to implement the 12 recommendations. In November 2015, management then requested to reorganize the branch in lieu of attempting to implement the 12 recommendations. We agreed to management's request and the single recommendation remains open.

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. During this reporting period, we processed 130 contacts, initiated 7 cases, closed 5 cases, and issued 3 investigative reports. Our investigative efforts resulted in a suspension, a demotion, and a recovery of \$4,174.07 in lost time. The U.S. Department of Justice was notified of three matters.

Case Workload		Contacts Processed	
Open (10/1/2015)	10	Received	130
Initiated	7	Initiated Investigation	3
Closed	5	Opened Case - Referred to Agency	0
Open (3/31/2016)	12	Non-Investigative Disposition	127

Investigative Highlights

We previously reported an investigation involving the misuse of a Government vehicle and the 30-day suspension of the employee. During this reporting period, the disciplinary action was referred to an arbitrator. Management settled the matter by amending the offense to negligent performance of duties

and agreeing to reduce the period of suspension to 15 days. OIG-I-510

We previously reported an investigation involving an allegation that a field employee purchased a controlled substance during the lunch break and was subsequently arrested by local law enforcement. We substantiated the allegation and issued a report. Management placed the employee in an unpaid status while the matter was prosecuted in State court. During this reporting period, the employee was convicted, and we issued a supplemental report. Management is considering disciplinary action. OIG-I-513

We previously reported an investigation involving the misuse of the travel card. During this reporting period, we substantiated the allegation and issued a report.

Management is considering disciplinary action. OIG-I-514

We previously reported an investigation involving an allegation that a field employee improperly accessed a database and released “Sensitive Personally Identifiable Information” to a person outside the Agency. We substantiated the allegation and issued a report. During this reporting period, management removed the employee. The matter was then referred to an arbitrator who reinstated the employee in a different position and at a lower grade. OIG-I-515

Investigated an allegation that a senior employee violated the Standards of Ethical Conduct for Employees of the Executive Branch. We substantiated the allegation and issued a report. The employee received a 30-day suspension. There was also an investigative recovery of lost time at a value of \$4,174.07. OIG-I-516

Hotline

Employees and members of the public with information on fraud, waste, and abuse are encouraged to contact the OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, email, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts. Hotline contacts are analyzed to



determine if further inquiry or action is warranted.

During this reporting period, the OIG received 130 Hotline contacts, of which 69 were telephone calls or walk-ins and 61 were in writing.

Most Hotline contacts are from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction. As appropriate, the OIG refers those Hotline contacts to an NLRB Regional Office; local, state, or Federal agencies; or private resources to provide assistance.

LEGISLATION, REGULATIONS AND POLICY

The responsibilities and duties of an OIG include reviewing existing and proposed legislation and regulations relating to the programs and operations of its agency and making recommendations in the semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the agency or the prevention and detection of fraud and abuse in such programs and operations.

Legislation

During the current Congress, 23 legislative proposals have been introduced that would amend the National Labor Relations Act or otherwise impact the programs and operations of the Agency:

- H.R. 511 & S. 248 Tribal Labor Sovereignty Act of 2015;
- H.R. 612 & S. 391 National Right-to-Work Act;
- H.R. 1003 & S. 507 RAISE Act;
- H.R. 1431 Prohibits the NLRA's preemption of State stalking laws;
- H.R. 1432 Prohibits the NLRA's preemption of State identity theft laws;
- H.R. 1513 Union Integrity Act;
- H.R. 1746 Truth in Employment Act of 2015;
- H.R. 1767 Employee Privacy Protection Act;
- H.R. 1768 & S. 933 Workforce Democracy and Fairness Act;
- H.R. 1856 Employee Benefits Protection Act of 2015;
- H.R. 1893 & S. 2084 Protecting American Jobs Act;
- H.R. 2384 Prohibits an appropriation for the NLRB;
- H.R. 3222 & S. 1874 Employee Rights Act;
- H.R. 3433 & S. 1519 PORTS Act;
- H.R. 3459 & S. 2015 Protecting Local Business Opportunity Act;
- H.R. 3514 & S. 2042 WAGE Act;
- H.R. 3690 & S. 2142 Workplace Democracy Act;
- H.R. 3837 Employee Empowerment Act;



- H.R. 4022 & S. 288 National Labor Relations Reform Act;
- S. 801 Representation Fairness Restoration Act;
- S. 1630 PLUS Act;
- S. 2398 Clean Energy Worker Just Transition Act; and
- S. 2686 Protecting Local Business Opportunity Act (Also S. 2015)

In addition to the proposed legislation, both the House of Representatives and the Senate

passed a resolution disapproving the rules for representation case procedures. The Congressional disapproval was sent to the President as S.J. Res. 8. The President vetoed the resolution.

Regulations

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.

Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). This organization consists of Inspectors General at the Federal Government's departments and agencies. The Inspector General sits as member of the CIGIE Investigations Committee and the CIGIE Information Technology Committee.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executive Council, Financial Statement Audit Network, and the Interagency Fraud and Risk Data Mining Group. The Counsel to the Inspector General participates 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 Government Accountability Office, with a view toward avoiding duplication and ensuring effective coordination and cooperation.

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) Other than any matters reported in the Audit and Investigative sections of this report, the 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) There were 21 corrective actions described or otherwise noted

in previous semiannual reports that have not been implemented. (Note: For OIG-AMR-73-15-01, 12 recommendations are now consolidated into a single recommendation and reported as such.)

(4) Three matters were referred to the U.S. Department of Justice.

(5) No reports were made to the Board 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 reports issued during this period had questioned costs.



See Table 1.

(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 are no significant management decisions with which I am in disagreement.

(13) There is no information to report under the requirements of section 05(b) of the Federal Financial Management Improvement Act of 1996.

(14) (15) A peer review of the audit program was conducted by the Corporation for Public Broadcasting Office of Inspector General. The peer review report was issued on February 3, 2015. A copy of the peer review report is attached as an appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

(16) The OIG did not conduct a peer review of any other entities during this reporting period.

AUDIT REPORTS BY

SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Funds To Be Put To Better Use
General Administration NLRB Fiscal Year 2015 Financial Statements OIG-F-20-16-01	0	0	0

Table I. Reports With Questioned Costs

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
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

Table 2. Reports with Recommendations that Funds be Put to Better Use

	Number of Reports	Funds To Be Put To Better Use
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

APPENDIX



Corporation
for Public
Broadcasting

Office of Inspector General

System Review Report

February 3, 2015

David P. Berry
Inspector General
National Labor Relations Board
1099 14th Street N.W., Suite 9820
Washington, D.C. 20573

Dear Mr Berry:

We have reviewed the system of quality control for the audit organization of National Labor Relations Board (NLRB) Office of the Inspector General (OIG) in effect for the year ended September 30, 2014. A system of quality control encompasses NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in the *Government Auditing Standards*. NLRB OIG is responsible for establishing and maintaining a system of quality control that is designed to provide NLRB OIG with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and NLRB OIG's compliance therewith based on our review.

Our review was conducted in accordance with *Government Auditing Standards* and the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Guide for Conducting Peer Reviews of the Audit Organizations of Federal Offices of Inspector General*, dated September 2014. During our review, we interviewed NLRB OIG's personnel and obtained an understanding of the nature of the NLRB OIG's audit organization and the design of NLRB OIG's system of quality control sufficient to assess the risks implicit in its audit function. Based on our assessments, we selected audits and administrative files to test for conformity with professional standards and compliance with NLRB OIG's system of quality control. The audits selected represented a reasonable cross-section of NLRB OIG's audit organization, with emphasis on higher-risk audits. Prior to concluding the peer review, we reassessed the adequacy of the scope of the peer review procedures and met with NLRB OIG management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

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www.cpb.org/oig

In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG audit organization. In addition, we tested compliance with NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of NLRB OIG's policies and procedures on selected audits. Our review was based on selected tests; therefore, it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it.

There are inherent limitations in the effectiveness of any system of quality control, and therefore, noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

Enclosure 1 to this report identifies the NLRB OIG audits that we reviewed.

In our opinion, the system of quality control for the audit organization of NLRB OIG in effect for the year ended September 30, 2014, has been suitably designed and complied with to provide NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. NLRB OIG has received an external peer review rating of *pass*.

In addition to reviewing its system of quality control to ensure adherence with *Government Auditing Standards*, we applied certain limited procedures in accordance with guidance established by CIGIE related to NLRB OIG's monitoring of audits performed by independent public accountants (IPAs) under contract where the IPA served as the auditor. It should be noted that monitoring of audits performed by IPAs is not an audit and therefore, is not subject to the requirements of *Government Auditing Standards*. The purpose of our limited procedures was to determine whether NLRB OIG had controls to ensure IPAs performed contracted work in accordance with professional standards. However, our objective was not to express an opinion and accordingly, we do not express an opinion, on NLRB OIG's monitoring of work performed by IPAs.

Enclosure 2 to this report is NLRB OIG's response to our draft report.

Very truly yours,

Mary Mitchellson

Enclosures (2)

Scope and Methodology

We tested compliance with NLRB OIG audit organization’s system of quality control to the extent we considered appropriate. These tests included a review of 2 of 4 audit reports issued during the period October 1, 2013, through September 30, 2014. We also reviewed the internal quality control reviews performed by NLRB OIG.

In addition, we reviewed NLRB OIG’s monitoring of its financial statement audit performed by an IPA.

We reviewed the following two audits performed by NLRB OIG.

Report No	Report Date	Report Title
OIG AMR-71-14-01	01/06/2014	Division of Administration Pilot Employee Recognition Program
OIG-AMR-72-14-02	06/26/2014	FY 2013 Sequestration-Preparation Implementation Impact

We reviewed the monitoring of the audit performed by an IPA.

Report No	Report Date	Report Title
OIG-F-18-14-01	06/29/2014	Audit of the NLRB Fiscal Year 2013 Financial Statements

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