

**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General**

MEMORANDUM

DATE: February 23, 1993

TO : Chairman James M. Stephens
General Counsel Jerry M. Hunter

FROM : Inspector General Bernard Levine

SUBJECT: Final Audit Report - "Review of the National Labor Relations Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act"
Audit Report No. OIG-AMR-14

Enclosed for each of you is a copy of the Office of Inspector General (OIG) audit report in the above referenced matter. Although the subject matter of the report originated on the General Counsel side of the Agency, a copy is being provided to each of you should the Chairman receive inquiries concerning the report. A draft of the report was submitted to the General Counsel for comment. The comments were considered in preparing this final report and are included in their entirety as an exhibit.

The report presents the results of an OIG audit which determined that the National Labor Relations Board needs to improve its process for evaluating and reporting on the Agency's systems of internal control. A total of seven recommendations were made in this report, all of which have been adopted.

Please provide an action plan which specifically implements each audit recommendation. The action plan should set forth specific actions which implement each recommendation and a schedule for their implementation. Your action plan should be submitted to the Supervisory Auditor within 60 days of this report.

We appreciate the cooperation extended to the OIG, specifically Emil George, during the conduct of this audit. Should you have any questions or comments concerning this report, please do not hesitate to call upon us.

B.L.
B.L.

AUDIT REPORT

Office of Inspector General

***REVIEW OF NATIONAL LABOR RELATIONS BOARD'S
COMPLIANCE WITH SECTION 2 OF THE
FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT***



National Labor Relations Board

AUDIT OIG-AMR-14

Issued: February 23, 1993

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ATTACHMENT

EXHIBIT A - Formal Comments on Draft Audit Report
 "Review of the National Labor Relations Board's
 Compliance with Section 2 of the Federal
 Managers' Financial Integrity Act"

I. EXECUTIVE DIGEST

The National Labor Relations Board (NLRB) needs to more fully integrate its Federal Managers' Financial Integrity Act (FMFIA) process within Agency components outside the Division of Administration. There were 52 assessable units identified within the NLRB of which 42 units were within the Division of Administration. The Division of Operations-Management, including all field offices and headquarters functions, was identified as constituting one assessable unit, comprising about 65 percent of the NLRB employee complement. The Division of Operations-Management assessable unit did not: (1) identify all major functions within Operations-Management or (2) provide the Division managers of more than 1400 employees a role in the FMFIA process. The Division of Enforcement Litigation was identified as constituting one assessable unit even though it has five branches, each with a unique mission. The inventory of assessable units for NLRB needs to more fully address operations within Agency components outside the Division of Administration.

Assessable units were not evaluated or were not evaluated in a timely manner. The NLRB, and specifically the Chairman and General Counsel, rely on these evaluations as the basis for annually reporting on the status of the Agency's systems of internal control.

Most managers with FMFIA responsibilities were not evaluated on their performance in regard to internal control functions under their supervision as required by OMB guidelines. One exception was the Procurement and Facilities Branch where the requirements of FMFIA were integrated into the position descriptions, performance plans and evaluations of the managers.

Risk assessments relating to NLRB components/functions were not supported by adequate documentation which reduced the credibility of the achieved results. Further, managers of assessable units outside the Division of Administration were not required to prepare an assurance letter regarding their systems of internal control.

Seven recommendations are being made in this report including actions which would:

- amend the inventory of assessable units to more fully integrate the FMFIA process within components outside the Division of Administration,

- establish compliance with statutory requirements by either assessing or reviewing each NLRB unit annually, and
- incorporate FMFIA responsibilities into the performance plans and evaluations of managers responsible for internal control functions.

II. BACKGROUND

The NLRB is an independent Agency established in 1935 to administer the principle labor relations law of the United States, the National Labor Relations Act. The NLRB implements national labor policy to protect the public interest by helping to maintain peaceful relations among 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. The Agency is headquartered in Washington, DC, and has 33 Regional Offices, several of which have Subregional and/or Resident Offices. The Agency employs about 2,200 people and has an annual appropriation of approximately \$170,000,000.

An audit of NLRB's conformance with the Federal Managers' Financial Integrity Act (FMFIA) of 1982, Public Law 97-255, was conducted as set forth in the Office of Inspector General's (OIG) Annual Audit Plan for Fiscal Year 1992. Section 2 of the FMFIA requires that:

- agencies evaluate their systems of internal accounting and administrative control in accordance with guidelines established by the Office of Management and Budget (OMB) and
- agencies, on the basis of this evaluation, annually report to the President and the Congress on the status of their Agency's systems of internal control.

The intent of the FMFIA is to provide agency managers with a framework for self-analysis of internal controls, and to report the results of this analysis to the agency heads, who in turn report to the President and the Congress. If administered effectively, the FMFIA program will provide comprehensive coverage of the agency when identifying assessable units. An assessable unit is a program, activity, organization or function within an agency.

The Agency has a FMFIA Review Committee that administers the requirements of the FMFIA plan and provides technical guidance to the managers of assessable units. Presently, the NLRB has 52 assessable units identified in the Agency's Management Control Plan (MCP). An MCP identifies assessable units and their risk rating, and provides a schedule of actions to be taken regarding the assessable units.

III. OBJECTIVES, SCOPE AND METHODOLOGY

The purpose of the audit was to ascertain whether the NLRB was in conformance with Section 2 of the FMFIA which requires agencies to evaluate and report on their systems of internal control. Our audit scope was Fiscal Years 1990 and 1991. Specifically the audit determined if:

- 1) an adequate inventory of assessable units had been compiled,
- 2) adequate and sufficient information was available to personnel with FMFIA responsibilities,
- 3) Agency managers had accountability for the performance of their FMFIA responsibilities, and
- 4) the Agency met the internal and external reporting requirements of the FMFIA.

During the audit we evaluated NLRB's inventory of assessable units against criteria established by OMB and ascertained the authenticity of information set forth in the Agency's MCP. Position descriptions, performance plans and evaluations were reviewed to determine if NLRB was using FMFIA performance as a factor when establishing employee responsibilities and judging the performance of Agency managers. Several NLRB officials with FMFIA responsibilities were interviewed to identify Agency policies and procedures. There were documentation reviews of operating manuals, risk assessments and internal control reviews. We examined compliance with applicable laws and regulations, including OMB Circular A-123.

This audit was performed in accordance with generally accepted Government auditing standards at NLRB's Headquarters during May - December 1992.

IV. FINDINGS AND RECOMMENDATIONS

A. Inadequate Inventory of Assessable Units

As implemented by the Agency, the FMFIA process focused on NLRB's Division of Administration with minimal coverage of the Agency's program offices. The inventory of assessable units for NLRB needs to more fully address operations within Agency components outside the Division of Administration. As stated in OMB Circular A-123, the objectives of internal controls apply to all program and administrative activities. These objectives include providing reasonable assurance that programs are efficiently and effectively carried out in accordance with applicable law and management policy. We evaluated the Agency's inventory of assessable units against criteria provided in the OMB Internal Control Guidelines published in December 1982 which states:

"In developing the inventory of assessable units, reference should be made to such sources of information as the agency's budget and related materials, organization charts, agency manuals, and program and financial management information systems. The following specific factors should be considered:

- . Existing organizational structure,
- . Nature and size of the agency's programs and administrative functions,
- . Number of sub-programs or sub-functions in a program or function,
- . Number of separate organizations operating the function,
- . Degree of independence of the program or function,
- . Differences in operating systems,
- . Degree of centralization or decentralization,
- . Budget levels, and
- . Numbers of personnel.

The degrees of independence and centralization/decentralization are very significant. A program or administrative function could operate in several locations. Since the program or administrative function and internal control system may vary among locations -- in design and/or operation -- it may be necessary to perform separate vulnerability assessments and/or internal control reviews for each location."

Our audit showed that the NLRB's inventory of assessable units does not provide comprehensive coverage of the Agency when compared to the criteria listed above. If assessable units are not properly inventoried, Agency functions will not be subject to internal control reviews which could

identify material weaknesses that hinder the NLRB in accomplishing its mission. Thus:

- o The inventory of assessable units relating to the Division of Operations-Management did not provide full coverage of its functions. The MCP maintained by the FMFIA Review Committee did not agree with documents provided by the Division of Operations-Management regarding identification of the assessable unit. The MCP identified the assessable unit as Regional Casehandling while the risk assessment performed by the Division of Operations-Management identified it as Regional Office Operations. Neither provides full coverage of the functions performed. Regional Casehandling or Regional Office Operations: (1) did not identify all major functions done in the Division of Operations-Management, (2) did not provide for participation in the process by the field offices or the Districts, and (3) was too general in that this one (of 52) assessable units comprises about 65 percent of the NLRB. The headquarters unit performs functions inherently different from those performed by the field offices and should be considered separately..
- o The inventory of assessable units relating to the Division of Enforcement Litigation did not provide full coverage of its program functions. The Division of Enforcement Litigation was identified as one assessable unit even though it has five branches, each with a unique mission:
 - Supreme Court Branch,
 - Special Litigation Branch,
 - Appellate Court Branch,
 - Contempt Branch, and
 - Office of Appeals.
- o The inventory of assessable units relating to the Division of Advice does not provide comprehensive coverage of its program functions. The Division of Advice was identified as one assessable unit even though it is comprised of two branches; Regional Advice Branch and Legal Research and Policy Planning Branch, each with a different mission.
- o The Office of Inspector General (OIG) was not identified as an assessable unit in the Agency's Management Control Plan, even though it operates with a great deal of independence and its mission is different from any other at the Agency. Subsequent to the completion of our audit fieldwork the Agency implemented our suggestion to include the OIG in the MCP.

1. Recommendation 1 of 7

That the NLRB's MCP be amended to more fully identify operations/branches/activities within Agency components outside the Division of Administration.

Management Response

We agree that a review of Agency activities outside the Division of Administration should be made to determine those which might be added to the Management Control Plan as assessable units. Discussions towards this end have already begun within and between the Division of Administration and Operations-Management.

B. Assessable Units Not Evaluated In Accordance With Statutory Requirements or Agency Directive

Assessable units were not evaluated or were not evaluated in a timely manner which limited the basis on which the NLRB relied when the Agency annually reported on its systems of internal control. Risk Assessments (RA) and Internal Control Reviews (ICR) were not scheduled as set forth by statute and Agency directive.

NLRB's Administrative Policies and Procedures Manual (APPM), Chapter FIN-4 provides the scheduling requirements regarding FMFIA reviews. "Effective August 1986, FMFIA required that Risk Assessments be conducted annually. Upon a high risk rating, as a result of an RA, an ICR is performed. Otherwise an ICR is conducted once every 5 years for each assessable unit regardless of risk rating."

The FMFIA and OMB Circular A-123 require the heads of agencies to annually report to the President and to Congress whether: (1) the evaluations of internal controls in an agency were conducted in accordance with OMB Circular A-123, and (2) an agency's systems of internal control comply with the standards prescribed by GAO and OMB. OMB Circular A-123 also requires that managers of individual components within agencies report to their agency head annually whether the internal control systems in their component comply with the requirements of FMFIA and OMB Circular A-123.

An ICR should have been performed on every assessable unit by the end of Fiscal Year 1991. Also, based on the Agency's own APPM, an annual RA should be done for each assessable unit. The following is a summary of ICRs and RAs which should have been, but were not conducted by the Agency.

- Six of the 41 assessable units in the Division of Administration had not performed an ICR by Fiscal Year 1991 as required. These ICRs were performed for Fiscal Year 1992.
- No assessable units outside the Division of Administration have performed an ICR, and no ICRs are scheduled for these units until Fiscal Year 1994.
- Four of nine assessable units outside the Division of Administration had not conducted an RA for Fiscal Years 1991 and prior. All assessable units, identified as such, conducted an RA for Fiscal Year 1992.

1. Recommendation 2 of 7

That the Agency conduct, as appropriate, either an RA or an ICR annually for each and every assessable unit.

Management Response

A Risk Assessment or Internal Control Review will be conducted annually for each and every assessable unit.

2. Recommendation 3 of 7

That the Agency perform ICRs during Fiscal Year 1993 for all assessable units which are overdue.

Management Response

An Internal control Review will be performed for every assessable unit overdue.

C. FMFIA Responsibilities Not Used When Judging Managers' Performance

Most managers with FMFIA responsibilities were not evaluated on their performance in regards to internal control functions under their supervision as required by OMB Internal Control Guidelines. Page II-6 of the Guidelines state, "Performance Appraisal - Administrative procedures should be initiated to evaluate performance in assessment and review activities. Personnel should be advised that this will be a factor in their overall performance evaluation."

In contravention of that requirement:

- o The Agency did not consistently include FMFIA and internal control responsibilities in position descriptions of managers of assessable units.
 - 82% of managers in assessable units did not have a reference to their FMFIA or internal control responsibilities in their position descriptions.
- o Performance plans were not used to inform and appraise managers of their FMFIA responsibilities.
 - No managers of components other than the Division of Administration have performance plans or evaluations which reference their performance in regard to meeting FMFIA or internal control requirements.
 - In the Division of Administration, 38% of the managers' evaluations did not reference their FMFIA or internal control performance.
 - At the end of Fiscal Year 1990, there were three identified material weaknesses covering six specific items. Of the six items, only two were addressed in the performance evaluation of the responsible manager.

1. Recommendation 4 of 7

That the performance plans and evaluations of assessable unit managers specifically address their FMFIA responsibilities.

Management Response

Performance plans of affected unit managers will be reviewed to determine which plans and evaluations should have FMFIA responsibilities specifically addressed in them.

D. Proper Use of Position Descriptions, Performance Plans, and Performance Evaluations by Procurement and Facilities Branch

The Procurement and Facilities Branch had integrated the requirements of FMFIA into position descriptions, performance plans, and evaluations.

- Two of the five managers within the Procurement and Facilities Branch had position descriptions which referenced their FMFIA or internal control responsibilities. The position description of the Branch Chief, as indicated in the MCP, did note the FMFIA or internal control responsibilities.
- All managers received evaluations which noted their performance regarding FMFIA.
- Performance plans for all five assessable unit managers in the Procurement and Facilities Branch noted the managers FMFIA or internal control responsibilities.
- The branch had one reported material weakness. The manager's evaluation sufficiently addressed his performance relating to the material weakness.

E. No Documentation In Support of Risk Assessments

RAs for eight assessable units were reviewed and none of the units maintained adequate supporting documentation. The value and credibility of RAs is reduced when documentation is not maintained to corroborate the results of the assessment.

- OMB Internal Control Guidelines page II-5 prescribes, "Adequate written documentation should be maintained. In particular, documentation should be maintained for activities conducted in connection with vulnerability assessments, internal control reviews and follow-up actions to provide a permanent record of the methods used, the personnel involved and their roles, the key factors considered and the conclusions reached. This information will be useful for reviewing the validity of the conclusions reached, evaluating the performance of individuals involved in the assessments and reviews, and performing subsequent assessments and reviews."

We noted that one assessable unit, Budget Formulation and Budget Execution, did not have a current desk manual. The manual presented for review was developed in 1979. A manual is essential to the documentation of a system of internal control. It should provide the detailed steps that must be followed by an employee carrying out their responsibilities in performing their part of an event cycle. In addition, the manual provides the basis for determining if an internal control review addressed all transaction cycles and control techniques.

1. Recommendation 5 of 7

That assessable units maintain documentation supporting RAs.

Management Response

Existing policies and procedures will be reviewed to assure that appropriate documentation exists to support Risk Assessments.

2. Recommendation 6 of 7

That the Budget Formulation and Budget Execution assessable units update their desk manuals.

Management Response

The Budget Branch plans to issue a consolidated desk manual that incorporates the clerical and professional tasks covering the Budget Formulation and Budget Execution Assessable Units.

F. Assurance Letters On Internal Controls
Not Prepared

The managers of the nine assessable units outside the Division of Administration did not provide an assurance letter regarding their systems of internal control. OMB Circular A-123 prescribes that policies and procedures relating to internal controls apply to program and administrative activities of an agency. The FMFIA Review Committee did not require assurance letters from assessable units outside the Division of Administration.

OMB Internal Control Guidelines page VI-2 require, "Written assurances from the designated senior official responsible for coordinating the agencywide effort and the heads of the agency's various organizational units, and comments from the Inspector General or equivalent."

1. Recommendation 7 of 7

That the managers of assessable units outside the Division of Administration submit an annual assurance letter regarding the adequacy of internal controls under their supervision.

Management Response

The managers outside the Division of Administration will submit an annual assurance letter for the next report.



UNITED STATES GOVERNMENT
National Labor Relations Board

Memorandum

TO Bernard Levine
Inspector General

DATE: February 18, 1993

FROM Jerry M. Hunter
General Counsel

SUBJECT Comments on Draft Audit Report "Review of the National Labor Relations Board's Compliance with Section 2 of the Federal Managers' Financial Integrity Act" (OIG-AMR-14)

We have carefully reviewed the above draft audit report. The report raises legitimate concerns regarding the Agency's FMFIA process. In the upcoming weeks we will undertake a review of our procedures in this area in the context of the audit recommendations.

Our response to each of the seven recommendations is presented below.

Recommendation 1 of 7:

That the NLRB's Management Control Plan be amended to more fully identify operations/branches/activities within Agency components outside the Division of Administration.

Response:

We agree that a review of Agency activities outside the Division of Administration should be made to determine those which might be added to the Management Control Plan as assessable units. Discussions towards this end have already begun within and between the Divisions of Administration and Operations-Management.

Recommendation 2 of 7:

That the Agency conduct, as appropriate, either a Risk Assessment or an Internal Control Review annually for each and every assessable unit

Response:

A Risk Assessment or Internal Control Review will be conducted annually for each and every assessable unit.

Exhibit
A
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1 of 3



Recommendation 3 of 7.

That the Agency perform Internal Control Reviews during Fiscal Year 1993 for all assessable units which are overdue.

Response:

An Internal Control Review will be performed for every assessable unit overdue.

Recommendation 4 of 7.

That the performance plans and evaluations of assessable unit managers specifically address their FMFIA responsibilities.

Response:

Performance plans of affected unit managers will be reviewed to determine which plans and evaluations should have FMFIA responsibilities specifically addressed in them.

Recommendation 5 of 7.

That assessable units maintain documentation supporting Risk Assessments.

Response:

Existing policies and procedures will be reviewed to assure that appropriate documentation exists to support Risk Assessments.

Recommendation 6 of 7.

That the Budget Formulation and Budget Execution assessable units update their desk manuals.

Response:

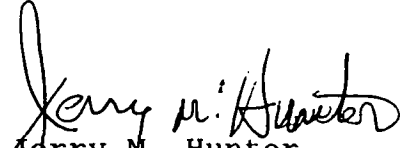
The Budget Branch plans to issue a consolidated desk manual that incorporates the clerical and professional tasks covering the Budget Formulation and Budget Execution Assessable Units.

Recommendation 7 of 7:

That the managers of assessable units outside the Division of Administration submit an annual assurance letter regarding the adequacy of internal controls under their supervision.

Response:

The managers outside the Division of Administration will submit an annual assurance letter for the next report


Jerry M. Hunter
General Counsel