



UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

To Fred Feinstein
General Counsel

Date: September 14, 1995

From John E. Higgins, Jr.
Acting Inspector General

Subject Final Audit Report - "Review of Overlapping Functions Between the
Division of Operations-Management and the Division of Administration"
Audit Report No. OIG-AMR-18

Attached is the Office of Inspector General (OIG) audit report regarding the above referenced matter. Although the subject matter of the audit is under the management of the General Counsel, a copy of the report is being provided to the Chairman should he receive inquiries concerning the report. A draft of the report was submitted to the Office of the General Counsel for comment. The comments were considered in preparing this final report and are included in their entirety as an exhibit. There were no recommendations requiring a response, therefore, the audit is closed.

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


J. E. H.

Attachment

cc: Chairman William B. Gould, IV

AUDIT REPORT

Office of Inspector General
National Labor Relations Board

**REVIEW OF OVERLAPPING FUNCTIONS BETWEEN THE DIVISION OF
OPERATIONS-MANAGEMENT AND THE DIVISION OF ADMINISTRATION**

OIG-AMR-18

Issued: September 14, 1995



	<u>PAGE</u>
I. RESULTS OF AUDIT	1
II. BACKGROUND	6
III. OBJECTIVES, SCOPE AND METHODOLOGY	6

ATTACHMENTS

- Exhibit A: Formal Comments on Draft Audit Report by the
Acting Associate General Counsel,
Division of Operations-Management
- Exhibit B: Formal Comments on Draft Audit Report by the
Director, Division of Administration

I. RESULTS OF AUDIT

A. Summary. The General Counsel requested the Office of Inspector General (OIG) to ascertain whether an overlapping of administrative functions exist between the Division of Operations-Management (DOM) and the Division of Administration (DofA). An overlapping function was defined as the performance of similar tasks by both DOM and DofA. Duplications would occur if the same tasks were repeated. The OIG used the following criteria in identifying overlap:

(1) Does DOM perform tasks for itself which are routinely provided by the DofA to other National Labor Relations Board (NLRB) offices? and

(2) Do guidelines prescribe that certain offices or officials perform administrative functions?

We concluded that DOM was performing some personnel related functions which overlap with the mission of the DofA.¹ However we also concluded that although overlap was occurring, DOM and DofA were not duplicating each other's efforts.

DOM includes the departmental staff in Headquarters and the Regional Offices. With respect to the Regional Offices, we noted that they have been delegated the appropriate authorities necessary to carry out personnel related tasks at the local level and much of what is done at the local level comes under the general supervision of the DOM departmental staff. Some officials both in DofA and DOM indicated that regional officials need more direct contact with individuals in the Personnel Branch who are considered experts in personnel management issues. Officials in the DofA cited erroneous vacancy announcements and delays in the processing of Requests for Personnel Action as consequences when offices outside of the Personnel Branch perform personnel related tasks. The DofA was unable to provide specific examples of such delays or errors.

The General Counsel relies on the DOM to ensure that Regional Directors, who act on behalf of the Board and General Counsel, adhere to Board and Office of the General Counsel (OGC) policies. In order to assure a consistent nationwide application of those policies, it is necessary to have Headquarters' management of the Regional Offices. While we find no duplication of management efforts, we have, as discussed more fully, found some overlap. Some overlap is inevitable and acceptable. However whether the General Counsel wishes to

¹ The DOM performs other administrative functions such as financial management, training, labor relations, and Equal Employment Opportunity matters. We do not believe there was any material overlap in these areas. Rather, each of these functions are essentially those that any organization would expect to be performed by line officials in the field (Regional Offices) and by their line supervisors in headquarters (DOM departmental). Moreover in each case these are a critical part of the appraisals of the line managers and are supervised by the appraising officials.

continue even this overlap is a policy issue beyond the scope of this audit. There are two questions which we believe that the General Counsel should consider in assessing whether any identified overlap between DOM and DofA is warranted.

(1) Would consolidating personnel related functions under the DofA adversely affect the DOM's capacity to oversee the activities of the Regional Offices?

(2) Would a consolidation of personnel related functions under the DofA result in economies of effort since the Personnel Branch would then provide support directly to the Regional Offices? In regard to this second question, savings to be accrued would involve those instances when a DOM official needs to consult with the DofA prior to handling a personnel matter.

B. Overlap - Hiring and Competitive Selections. The chief area of overlap between DOM and DofA is in recruitment, hiring and promotion. The DOM, including the Regional Offices, perform many tasks relating to the recruitment, hiring and promotion of most personnel in the OGC. The positions which can be staffed by the DOM include Headquarters (OGC) Attorneys, Field Attorneys and Examiners, Supervisory Attorneys and Examiners in the field offices, and all field clerical positions except for the Office Manager.² The DofA's Personnel Branch handles the staffing process for the Regional Director and Office Manager positions and also determines the qualified applicants for the Assistant Office Manager and the Secretary to the Regional Director by reviewing applications received in response to Notice of Vacancy Announcements posted by the Regional Offices. The Personnel Branch submits listings of qualified applicants, regarding vacancies for Office Manager, Assistant Office Manager and Secretary to the Regional Director, to the DOM which transmits the listing to the Regional Offices.

1. Recruitment and Hiring

Regional Offices, in conjunction with the DOM's Office of Executive Assistant (OEA), have authority to recruit applicants, post notices of vacancy announcements and initiate personnel actions by executing Requests for Personnel Action. Each Regional Office may recruit for clerical and professional positions in their geographical area. Applicants are interviewed by officials in the field office and, in the case of clericals, the Regional Office makes the selection. In the case of professionals, the interviewer's rating of the applicant (Form NLRB 4305) along with the candidate's application is transmitted to the DOM. The

² DOM's role with respect to Headquarters' attorneys is to provide a service to the other Division Heads primarily because General Counsels have historically sought to put the responsibility for these functions in a single organization. Other than this expressed desire of General Counsels, there is no reason why some of these functions for Headquarters divisions could not be handled by DofA. The only exception might be in the area of recruitment where Regional Office personnel are able to act as a recruitment agent for the entire Office of General Counsel, thus assuring a broad base applicant pool from which selections can be made.

OEA ensures that the application is complete and prepares an applicant record card (Form NLRB 4623) which is used to track evaluations made of the candidate by Agency officials as well as document an applicant's eligibility status, education, and other background information. The applications are then sent to the Personnel Branch which also prepares an applicant record card which is used by the DofA in tracking the processing of applications from DOM and (the card) serves as a reference source to determine if applications had previously been submitted to the Agency. The Personnel Branch then attaches an evaluation form (Form NLRB 4435) to the application and returns it to the DOM where it is rated by a Deputy Assistant/Deputy Assistant to the General Counsel. The OEA reviews the numeric score given to the applicant and then designates that the application be placed either in the select file or in the retain file. Applications rated 80 or above are placed in the select file. The DOM maintains applications in the select file for two years and it (the select file) is available to Agency officials, including Board Members, when searching for applicants to fill vacancies. The DOM notifies each applicant designated as "select" as to her or his status and then documents that status on the applicant record card. Applications which were marked for the retain file are sent by the DOM to the Personnel Branch which prepares and sends a letter to the applicant stating that no position will be available. The Personnel Branch keeps those applications in the retain file for two years and then destroys them as set forth in the Records Disposition Standards.

The DOM is designing an automated database file to replace the hard copy applicant record card. The Personnel Branch could also utilize this database file and avoid preparing their own applicant record card.

The General Counsel is the authorizing official in regard to the hiring of Attorneys and Examiners for the OGC. When a decision to hire is made, the OEA sends the application to the DofA's Security Office which performs a pre-employment check (PEC). If the PEC is positive the OEA prepares and sends an offer letter to the applicant. The offer letter includes security forms which the applicant is requested to complete and send back to the Agency by a specific date. If the applicant accepts the offer of employment, the OEA contacts the appropriate Agency official, usually a Regional Director, and requests an effective starting date for the new hire. Prior to sending a confirmation letter, the OEA verifies that the applicant returned the security forms. A confirmation letter which states an approximate starting date is then sent to the applicant.

The OEA prepares a Request for Personnel Action (Standard Form 52) which must be completed before the applicant can enter on duty. The Standard Form 52 is then routed through the appropriate Associate General Counsel to the General Counsel who authorizes the request. After the Request for Personnel Action is authorized the OEA establishes a permanent employment file for the new hire. The Standard Form 52 is then routed through the Budget Branch, Security Office and the Personnel Branch for processing. The effective date of the Standard Form 52 should be on or after the date that the request was approved.

2. Competitive Selections

The DOM's Associate General Counsel issues a memorandum soliciting applicants to fill the following competitive positions:

- Assistant to the Regional Director
- Regional Attorney
- Deputy Regional Attorney
- Officer-in-Charge
- Resident Officer

Formal vacancy announcements are not issued for these positions. Rather, the field offices are instructed to place the Associate General Counsel's memorandum on their bulletin board and specifically advise all eligibles in their office regarding the vacancy. The memorandum further states that anyone who desires to be considered for the vacant position should notify the DOM by a specified date. The OEA, after being informed of those individuals who expressed an interest in the vacancy, utilizes employee files to prepare a short profile for each individual. This profile includes the individual's performance ratings, awards, and employment history. A rating and ranking panel rates and ranks the individuals based on the profiles and appraisals. The panel includes a Deputy Assistant/Deputy to the Assistant General Counsel from each of DOM's four districts, DOM's Executive Assistant and one representative from the Personnel Branch who serves as a technical advisor but does not rate the individuals. A list of best qualified applicants is routed through to DOM's Associate General Counsel who makes a recommendation and then forwards it to the General Counsel who makes the selection. The DOM prepares the Request for Personnel Action which is authorized by the General Counsel. The OEA then updates the selectee's employment file being maintained in the DOM. The Standard Form 52 is then routed to the Budget Branch, Security Office and the Personnel Branch. Notification letters to the non-selectees, signed by the Associate General Counsel, are prepared and sent by the OEA.

Vacancy announcements for first line supervisory positions in Regional Offices are posted by the field offices as set forth in the collective bargaining agreement. In addition, the OEA maintains a write-in register regarding those field unit professional employees who have expressed an interest in first-line field supervisory positions. When a supervisory position is posted, the OEA notifies employees on the list who have expressed an interest in the position about the vacancy. If the employee advises the Regional Director of his or her interest, the OEA sends the Regional Office the most recent four performance appraisals of the employee. The rating and ranking of applicants is performed by officials in that Regional Office. Once the rating and ranking panel determines the best qualified applicants for the positions, the Regional Director makes her or his recommendation to the responsible Assistant or Assistant to the General Counsel who then makes a recommendation to the Associate General Counsel. The General Counsel makes the selection after reviewing the Associate General Counsel's recommendation. The OEA prepares the Request for Personnel Action for the General Counsel's signature. The Standard Form 52 is then routed through the Budget Branch, the

Security Office and the Personnel Branch. The OEA updates the selectee's employment file and prepares notification letters which are sent to the non-selectees.

C. Overlap - Records We noted some duplication of records. The OEA maintains the original appraisal files for Field Attorneys and Field Examiners in a Employee Performance File (EPF). An EPF may also include employment applications, interview reports, memoranda concerning employee promotions, personnel forms and other relevant documents. A copy of the summary rating sheet for Field Attorneys and Field Examiners is forwarded to the Personnel Branch for placement in their EPF. Both OEA and the Personnel Branch maintain complete appraisals for Attorneys and Examiners who are assigned to the OGC in Headquarters. 5 CFR 293.402 does permit the establishment of EPFs outside of the Official Personnel Folder (OPF) which is maintained by the Personnel Branch. EPFs and OPFs are considered part of the Office of Personnel Management's Systems of Records.

Entities utilize the Federal Register to announce the establishment or revision of a System of Records from which information is retrieved by an individual's name or by some other identifying particular assigned to the individual. The Privacy Act, at 5 U.S.C. 552 a(e)(4), states that entities will disclose the existence and character of these records. The Agency's Systems of Records at NLRB-5 and NLRB-6 pertain to Employment and Performance Records. NLRB-6 applies to current and former NLRB employees who occupied positions classified as Nonprofessionals and NonLegal Professionals. The system (of records) locations for NLRB-6 include all Agency offices. NLRB-5 applies to Attorneys and Field Examiners presently and formerly with the Agency. The OEA is designated as the system location for records relating to Attorneys and Field Examiners under the General Counsel's supervision. In addition, Headquarters units and Field Offices are authorized to maintain NLRB - 5 related records for attorneys and examiners who are/were employed by that particular office.

As noted supra, DOM is preparing an automated database. It may be that some duplication of records could be avoided if DOM and DofA worked together on this project.

D. Conclusion. The OIG determined that the DOM was performing administrative functions in conformance with applicable laws and regulations. Our evaluation of management controls ascertained that the policies and procedures utilized by the DOM reasonably ensure that personnel actions are processed as intended. In addition to staffing positions and maintaining personnel records, the DOM was performing administrative functions in such areas as financial management and training. While we found some duplication of records, our overall assessment is that there was no material overlap with the DofA in areas other than the personnel related tasks previously identified. That overlap is described above and, with the exception of records, this overlap does not amount to a duplication of work. While some overlap is inevitable, its extent is a policy decision for the General Counsel and beyond the scope of this audit.

II. BACKGROUND

The Agency's mission is to administer the principal labor relations law of the United States, the National Labor Relations Act, which is generally applied to all enterprises engaged in interstate commerce, including health care institutions and the United States Postal Service, but excluding other governmental entities, railroads and airlines. The Act is intended to protect the public interest by helping to maintain peaceful relations among employers, labor organizations and employees by encouraging collective bargaining; and by providing a forum for all parties to peacefully resolve representation and unfair labor practice issues. The NLRB's mission 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. The Agency employs about 2000 people and for Fiscal Year 1995 has an appropriation of over \$176,000,000.

The Office of General Counsel has responsibility for managing the activities of the 33 Regional Offices, 17 Resident Offices and 2 Subregional Offices. These field offices employ over two-thirds of NLRB's personnel. The Division of Operations-Management (DOM) has been delegated oversight responsibility over the Agency's Regional Offices. The DOM officials monitor the timeliness of case processing and evaluate the quality of casehandling. The Office of Executive Assistant (OEA), which is part of the DOM, provides administrative support to the 52 field offices under the supervision of the General Counsel. The OEA coordinates many matters with technical staffs assigned to the Agency's Division of Administration. DOM: coordinates administrative activities pertaining to employee relations, appraisals, training, recruitment, hiring, and transfers; develops and monitors staffing ceilings for the field offices; and, allocates funds to the Regional Offices and oversees their expenditures to ensure that budgetary allowances are not exceeded.

III. OBJECTIVES, SCOPE AND METHODOLOGY

The General Counsel requested the Office of Inspector General to ascertain whether an overlapping of administrative functions exists between the Division of Operations-Management (DOM) and the Division of Administration (DofA). The objectives of our review were to: (1) identify administrative functions being performed by both Divisions for the benefit of DOM employees; (2) ascertain whether DOM or DofA perform administrative tasks which overlap the mission of the other; and (3) assess whether any such overlap is warranted. Our audit scope covered the period October 1, 1993 through March 31, 1995.

During this audit we interviewed employees within DOM, Division of Enforcement Litigation, and DofA. We examined documents processed by DOM where interaction with DofA was necessary to complete the final processing stage. Documents created or collected by DOM and DofA, regarding DOM employees, were reviewed to determine if records were being duplicated. We identified, flowcharted and evaluated management controls relating to the processing of personnel actions. We assessed Agency operations in conjunction with:

- 5 Code of Federal Regulations;
- the Paperwork Reduction Act;
- NLRB's Administrative Policies and Procedures Manual;
- the NLRB Files Management and Records Disposition Handbook; and
- NLRB's Merit Promotion Regulations.

This audit was performed in accordance with generally accepted Government auditing standards at NLRB's Headquarters during the period February to June 1995. The Federal Personnel Manual, although abolished, was utilized as a source for guidance.

MEMORANDUM***National Labor Relations Board***

To: John E. Higgins, Jr.
Acting Inspector General

From: B. Allan Benson
Acting Associate General Counsel

Subject: Draft Audit Report
OIG-AMR-18

September 1, 1995

In response to your August 14, 1995 memorandum, I have reviewed the draft report in the above matter. Except for one suggested minor clarification noted below, the report accurately sets forth the factual matters relating to the Division of Operations-Management as regards the specific topics discussed. I appreciate the thoroughness of the report's treatment of those particular matters. I am not in a position to comment upon how related matters are processed in the Division of Administration, which form the basis for the report's conclusions as regards overlap, but I have no reason to question those conclusions and they appear logically correct.

The suggested change appears at page 7, the first full paragraph, sentences 2 and 3, which we propose (as 3 sentences) to read:

In addition, the OEA maintains a write-in register regarding those field unit professional employees who have expressed an interest in first-line field supervisory positions. When a supervisory position is posted, the OEA notifies employees on the list who have expressed an interest in the position about the vacancy. If the employee advises the Regional Director of his or her interest, the OEA sends the Regional Office the most recent four performance appraisals of the employee.

I thank you for the opportunity to review the draft report. We appreciate the time and effort expended by investigator Joe Young of your staff in interviewing the various staff members in the Division of Operations-Management.

B. A. B.



UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration



Memorandum

To: John E. Higgins, Jr.
Acting Inspector General

From: Gloria Joseph *G*
Director of Administration

Date: September 11, 1995

Subject: Response to Audit Report - "Review of Overlapping Functions
Between the Division of Operations Management and the Division of
Administration" OIG-AMR-18

We have reviewed the above-mentioned report and welcome the opportunity to provide comments. At the outset of the audit, our expectations were that the audit would reveal any overlapping and/or duplication of personnel management functions being performed by the Division of Operations Management (DOM) and the Division of Administration (DOA), and would also define the roles with respect to personnel responsibilities. In the report you raised two important questions that the GC should consider in deciding whether or not the overlap that exists between DOM and DOA is warranted:

- (1) Would consolidating personnel-related functions under the DOA adversely affect the DOM's capacity to oversee the activities of the regional offices? and**
- (2) Would a consolidation of personnel-related functions under the DOA result in economies of effort since the Personnel Branch would then provide support directly to the regional offices?**

We expected that the audit would fully explore these issues and make recommendations for eliminating any duplication or overlap that was found to exist between DOM and DOA. Unfortunately, from our perspective, we were disappointed that this did not occur. Rather, the report appears to legitimize the necessity of the personnel work performed by DOM and goes even further to recommend that DOA can work more closely with DOM for our mutual benefit. The report did not focus on the proper role of the Personnel Branch in administering an agency-wide personnel management program.

Through a delegation of authority from the GC, the DOA is responsible for the administrative management, support services and fiscal functions of the General Counsel as well as on behalf of the Board and its members. These activities are carried out with assistance of branches dealing with personnel, etc. Specifically, through a redelegation from the Director of Administration, the Director of Personnel is responsible for a myriad of personnel functions, i.e., administering the Agency's merit promotion program dealing with staffing and recruitment; position classification and position management; employee relations; labor-management relations; personnel management evaluation program; performance management systems; employee development; payroll, etc.

As part of NPR initiatives, the Agency was charged with reviewing all Agency functions in terms of the most efficient use of resources. In our review of various current Agency procedures and consistent with NPR recommendations on streamlining, layering and eliminating unnecessary paperwork, we would question whether or not it is the most effective utilization of the Agency's human resources to have two staffs in Headquarters carrying out overlapping responsibilities, primarily in the areas of recruitment, hiring and competitive procedures. Although we recognize that DOM has some administrative oversight responsibility in these areas for their Division, we feel that the Agency would be better served by consolidating the above-mentioned functions in the Personnel Branch. Although, you conclude in your report that some overlap and duplication is inevitable and acceptable, we are unclear as to the criteria that were used at arriving at this conclusion, particularly in this atmosphere of streamlining and downsizing. In its October 11, 1991 Personnel Management Evaluation (PME) Report on NLRB installations located in the geographical jurisdiction of the Philadelphia OPM region, OPM concluded that the division of personnel-related responsibilities between DOM and DOA, and the resultant confusion on the part of the Regional Office staff, leads to significant personnel program deficiencies. OPM recommended establishing a unified program in which the Personnel Branch's jurisdiction and responsibilities are clear, with personnel policy and guidance being issued only by the Personnel Branch.

In light of dwindling resources, coupled with the proposed reduction in staffing, it seems that DOM and DOA can complement each other by more efficiently performing their respective responsibilities, with DOA performing the full range of personnel management functions for the Agency.