**UNITED STATES GOVERNMENT**
***National Labor Relations Board***
**Office of Inspector General**

# Monitoring Building Leases

Report No. OIG-AMR-45-05-02

March 2005

**INSPECTOR GENERAL**

# NATIONAL LABOR RELATIONS BOARD

**WASHINGTON, DC 20570**

March 8, 2005

I hereby submit an audit on *Monitoring Building Leases*, Report No. OIG-AMR-45-05-02. This audit was conducted to evaluate the process used by the Agency to procure office space and determine whether the National Labor Relations Board (NLRB or Agency) is adequately monitoring building leases.

The NLRB rented approximately 856,000 square feet of office space for its operations during FY 2004. The General Services Administration (GSA), which is the landlord for the Federal Government, procures this space for the Agency in 22 Federally owned buildings and 31 leased buildings. The Agency also rented from GSA 6,600 square feet of warehouse space to house new and excess furniture and computer system backups. In its FY 2005 budget request, the Agency's estimated expenditure for space rent is more than $29 million, approximately 12 percent of the Agency's request. The Procurement and Facilities Branch's (PFB) Facilities and Safety Section is responsible for managing the Agency's space acquisition program.

Generally, the Agency had effective controls over the procurement of space and monitoring of building leases. Agency policy was generally followed in lease actions active during FY 2004. The Agency has been proactive in attempting to determine whether excess office space can be returned to GSA. Adequate controls over space rent charges exist. The Agency does not actively monitor whether it is receiving standard services because these are GSA responsibilities and the Agency has generally not had problems with the provision of these services. The Agency had adequate controls over the procurement of above-standard services such as overtime utilities.

Each of the four field offices visited by the OIG had several vacant offices. Our observations were consistent with an analysis of leased space performed by PFB that was dated May 13, 2004. The PFB analysis also noted that most field offices have one or two vacant offices. Generally, vacant offices are not returned if the economic cost to release the space is greater than the projected savings, and GSA will not take the space back if it is not available in marketable blocks.

The Agency could put $6,756 to better use in FY 2006 by releasing parking spaces that are not needed in four field offices and $563 per month if spaces are released before then. On February 22, 2005, Operations-Management provided the OIG with a memo containing research conducted related to the excess parking spaces. They agreed to take action on six excess spaces and determined that the space in Subregion 37 was operationally justified. The actions being pursued by the Agency will save $5,040 in FY 2006.

An exit conference was held on February 14, 2005, with representatives of PFB. A draft report was sent to the PFB Chief on February 14, 2005, for review and comment. She generally agreed with our findings and the one recommendation made in the report and stated that she would continue to work closely with the Division of Operations-Management to ensure effective controls over parking spaces.

Management's comments are presented in their entirety as an appendix to this report.

Jane E. Altenhofen

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Inspector General

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## BACKGROUND

The National Labor Relations Board (NLRB or Agency) administers the principal labor relations law of the United States, the National Labor Relations Act (NLRA) of 1935, as amended. The NLRA is generally applied to all enterprises engaged in interstate commerce, including the United States Postal Service, but excluding other governmental entities as well as the railroad and the airline industries. The Fiscal Year (FY) 2005 appropriation authorizes 1,865 full-time equivalents that are located at Headquarters, 51 field offices throughout the country, and 3 satellite offices for Administrative Law Judges. NLRB received an appropriation of $251,875,000 for FY 2005, less an across-the-board rescission of .8 percent, leaving a net spending ceiling of $249,860,000.

The NLRB rented approximately 856,000 square feet of office space for its operations during FY 2004. The General Services Administration (GSA), which is the landlord for the Federal Government, procures this space for the Agency in 22 Federally owned buildings and 31 leased buildings. The Agency also rented 6,600 square feet of warehouse space from GSA to house new and excess furniture and computer system backups. In its FY 2005 budget request, the Agency's estimated expenditure for space rent is more than $29 million, approximately 12 percent of the Agency's budget request.

When the Agency requires new space or reaches the end of a lease term, the amount of space needed is determined by using the NLRB/GSA Space Allocation Standard, dated July 20, 1987. The standard states a maximum amount of office space allowed for each employee based on the employee's position. The Agency also determines support space needed for the office, such as hearing rooms and file rooms. The Agency provides its space and other requirements, including the delineated geographic boundaries, to GSA.

If GSA determines that available space that meets the Agency's requirements exists in a Federally owned space, GSA will place the Agency there and will charge the Agency rent based on a market appraisal. If no adequate Federally owned space exists, GSA will solicit offers for leased space. GSA will negotiate on behalf of the Agency and select a space for the Agency. The rental charge is based on a pass-through of the actual costs, plus a fee paid to GSA for its services. The Agency will enter into an agreement with GSA to occupy the space that GSA has procured. The Agency generally enters into 10-year leases, with a Government option to vacate after 5 years.

The Procurement and Facilities Branch's (PFB) Facilities and Safety Section (Facilities) is responsible for managing the Agency's space acquisition program and providing design services and oversight for construction and alterations. Facilities also prepares and monitors the rental budget; manages services; and periodically assesses the Agency's space utilization, space requirements, and projected needs for expansions and reductions.

## OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this audit were to evaluate the process used by the Agency to procure office space and determine whether the Agency is adequately monitoring building leases. Our scope included building leases held by the Agency during FY 2004.

We interviewed employees in PFB to learn about the processes for procuring space, preparing space for Agency use, and monitoring the billing and services provided to the Agency. We interviewed employees in the field offices visited to learn about spacing issues and the receipt and monitoring of services.

We reviewed laws and regulations relevant to facilities and the leasing process, including the Federal Management Regulation. We reviewed the Agency's Administrative Policy and Procedures Manual Chapter FAC-2 (FAC-2), *Facilities/Space Management*, revised November 30, 2002, for Agency procedures for monitoring building leases. We reviewed the Agency's Space Allocation Standard, dated July 20, 1987, and Supplemental Space Standards, dated December 8, 1976. We reviewed the Agency's contracts with the National Labor Relations Board Union (NLRBU) for items related to union involvement in space procurement actions. We also reviewed guidance from GSA, including the Customer Guide to Real Property and the Pricing Desk Guide.

We reviewed the occupancy agreements and leases for office space used by the Agency. We examined documentation for lease actions that were active during FY 2004 to determine whether Agency practices were followed and whether the Space Allocation Standard was used to determine space requirements. We recalculated the amounts paid in rent to determine whether the Agency was being billed properly for rent and whether the Agency was receiving above-standard services. We reviewed documentation received from the Budget Branch and the Division of Operations-Management (Operations-Management) to determine field offices with declining employment. We reconciled rental payments to documentation obtained from the Finance Branch.

For each field office visited, we performed a walk-through of the office space to determine whether Agency space was being used for its intended purpose and to document any office space that was currently vacant. We evaluated whether services were monitored to determine if services were being provided in accordance with the occupancy agreement or lease. We also performed a walk-through of warehouse space rented by the Agency in Washington, D.C.

This audit was performed in accordance with generally accepted government auditing standards during the period of September 2004 through March 2005 at NLRB Headquarters in Washington, D.C., warehouse space in Washington, D.C., and the following field offices: Region 1 – Boston, Region 5 – Baltimore, Region 28 – Phoenix, and Subregion 33 – Peoria.

## FINDINGS

Generally, the Agency had effective controls over the procurement of space and monitoring of building leases. Agency policy was generally followed in lease actions active during FY 2004. The Agency has been proactive in attempting to determine whether excess office space can be returned to GSA. Adequate controls over space rent charges and the procurement of above-standard services exist. The number of parking spaces procured was not justified in some Regions.

### PROCUREMENT OF OFFICE SPACE

FAC-2 states that the amount of space assigned to each field office is based upon the guidelines specified in the Space Allocation Standard. The Space Allocation Standard identifies the square footage allowance for each employee based on the employee's position. The Agency's contracts with the NLRBU require that the Agency work with a national and a local NLRBU representative on all plans related to space reallocation. The contracts also state that the Agency shall provide an initial space layout for local management and the NLRBU to review.

For the 13 lease actions that were active during FY 2004, the Agency followed the Space Allocation Standard for determining the amount of office space needed for each employee. Also, the NLRBU was a party to each of the 13 lease actions active during FY 2004. For the five instances in which the action was completed, both local management and the NLRBU signed the floor plan to annotate the review.

### VACANT SPACE

Executive Order 12411, Government Work Space Management Reforms, dated March 29, 1983, states that the heads of all Federal Executive agencies shall establish programs to reduce the amount of work space, used or held, to that amount which is essential to known agency missions. FAC-2 states that all NLRB facilities are periodically monitored to assess space utilization, space requirements, and projected needs for expansions and reductions.

GSA guidance states that customer agencies have the right to return space to GSA if a need for the space no longer exists. This space must be in marketable blocks. GSA considers factors such as location, size, and predominant use in concluding whether space is marketable. GSA also requires that an agency pay the cost of any remaining unamortized alterations.

The Agency has been proactive in attempting to determine whether excess office space can be returned to GSA. Facilities stated that an annual analysis of space use is performed to determine whether any space reductions are possible. The latest analysis was dated May 13, 2004. As a result of these efforts, the Agency returned to GSA approximately 13,400 square feet at Headquarters and about 700 square feet at 3 field offices at the beginning of FY 2005. This space reduction could result in an estimated savings of approximately $600,000 for FY 2005. This analysis also noted that most field offices have one or two vacant offices.

Facilities considers factors such as the following when determining not to return space:

- Returning all vacant office space is difficult because if the Agency must reacquire and build out space to meet staffing increases, the Agency will bear such costs;

- The space may not be of a sufficient size or type, such as an interior space, to allow the Agency to return the space to GSA; and

- Returning space might not be economic if the cost to release the space is greater than the projected savings.

**Walk-through of Office Space**

A walk-through of the four field offices visited showed the following results:

| Region | Vacant Offices | Space ($ft^2$) | Total Usable Space ($ft^2$) | Percent |
|---|---|---|---|---|
| Region 1 | 4 professional | 540 | | |
| | 1 support | 100 | | |
| | Total | 640 | 15,583 | 4 |
| Region 5 | 5 professional | 675 | 12,662 | 5 |
| Region 28 | 3 professional | 405 | 9,854 | 4 |
| Subregion 33 | 6 professional | 810 | 7,815 | 10 |
| Total | 19 | 2,530 | 45,914 | 6 |

The last annual space analysis produced results similar to the above for the three Regional Offices shown above, but none were mentioned as possibilities for space reduction in FY 2004. Subregion 33 was not subject to this analysis because the office was going through a lease action at that time.

PFB stated the following specific reasons for why space could not be returned to GSA:

- Region 1 has high renovation costs due to the type of wall used in the building, so the cost of releasing a small space of four offices would likely be greater than the benefits;

- Region 28 is still in the portion of the lease that includes paying the tenant improvement allowance. Staff said that returning space during this part of the lease is difficult because the Agency must pay the unamortized portion of the tenant improvement allowance related to the returned space. Staff noted that the repayment to GSA comes out of the current year appropriation; and

- Because of a lack of alternatives in Peoria, Subregion 33 had to renew at the same location with the same amount of space. Staff also noted that the vacant space in Peoria would not be marketable.

Documentation obtained from Operations-Management showed that Region 5 was below its full-time equivalent ceiling at the time of our walk-through. According to Operations-Management, Region 5 intends to hire an examiner and additional space would be needed to house employees participating in the Agency's exchange program. PFB noted that space for the exchange program would not factor into the analysis of needed space.

## RECEIPT OF LEASE SERVICES

GSA is responsible for providing standard services. The Agency does not actively monitor whether it is receiving those services. The Agency had adequate controls over the procurement of above-standard services such as overtime utilities.

### Monitoring of Lease Services

GSA is responsible for providing or obtaining building services equal to commercial buildings. These services include regular services such as trash removal and periodic services such as window cleaning. The GSA OIG noted in its report "Audit of PBS Lease Oversight Practices" that GSA is not monitoring receipt of periodic services, is inconsistent in its oversight, and may rely too heavily on tenants to identify substandard lease services.

The Agency does not actively monitor services to determine whether they are being provided in accordance with the leases. Field offices visited stated that while they do not actively monitor whether services are provided, they have generally not had problems with the provision of services. Field offices also stated that they were notified prior to having periodic services performed. Facilities added that GSA monitors the services and that the services are usually provided properly, although some delays have occurred. Region 5 noted that the draperies have not been cleaned since the Region relocated in February 1996.

### Above-Standard Services

GSA provides above-standard services, including overtime utilities, to tenant agencies at a cost above the rental payment. These services were procured by the Agency through a Reimbursable Work Authorization (RWA) with GSA. Facilities stated that the Agency obligates the amount estimated in the RWA, but pays for actual usage.

Two field offices visited obtained overtime utilities from GSA, and these offices appeared to have adequate controls over how the overtime utilities were requested and used. Staff in another field office visited expressed concern that overtime heating and air conditioning services were not provided in the building, and management stated that overtime heating and air conditioning services had never been provided.

The Agency obtained overtime utilities in four Regional Offices during FY 2004. The Agency was not billed for overtime utilities in Region 28. For the three Regional Offices located in Federal buildings, the amount paid for overtime utilities was the same amount that was obligated. GSA staff stated that because GSA is unable to identify actual usage, agencies are billed based solely on the estimated amount.

## CONTROLS OVER RENTAL PAYMENTS

FAC-2 states that the Space Management Specialist is responsible for reviewing the monthly rent bills and working with GSA Realty Specialists to correct identified discrepancies.

The Space Management Specialist reviews the monthly billing statements by comparing them to the month before and noting when the bill changes in an unexpected manner. The Specialist stated that he is unable to track the rental payments to the leases or occupancy agreements because these amounts are only estimates to help budget for the coming year. After reviewing the billing statements, the Space Management Specialist would notify management in PFB and staff in the Finance Branch and Budget Branch that the bill was correct or that GSA had been contacted about discrepancies. Discrepancies were followed up in the subsequent months until corrected.

Adequate controls over the payments for space rent existed. The Agency was slightly undercharged rent during FY 2004 because of an immaterial understatement of the management fee charged by GSA.

## PROCUREMENT OF PARKING SPACES

Operations-Management stated that the Agency obtains parking spaces for vehicles leased from GSA, Regional Directors, and for accommodation under the Rehabilitation Act if requested.

The Agency could put $6,756 to better use in FY 2006 by releasing parking spaces that are not needed in four field offices and $563 per month if spaces are released before then. Excess parking spaces are identified in the table below.

**Excess Field Office Parking Spaces**

| | Spaces Procured | Spaces Needed | Excess | Cost |
|---|---|---|---|---|
| Region 10 | 5 | 2 | 3 | $1,680 |
| Las Vegas Resident Office | 2 | 0 | 2 | 1,440 |
| Region 34 | 3 | 2 | 1 | 1,920 |
| Subregion 37 | 1 | 0 | 1 | 1,716 |
| Total | 11 | 4 | 7 | $6,756 |

Staff in PFB stated that parking spaces are marketable and that the Agency has returned parking spaces in the past. PFB also stated that Operations-Management notifies PFB when a parking space is available and can be returned to GSA.

On February 22, 2005, Operations-Management provided the OIG with a memo containing research conducted related to the excess parking spaces. They agreed to take action on six excess spaces and determined that the space in Subregion 37 was operationally justified.

## RECOMMENDATION

We recommend that the Procurement and Facilities Branch Chief coordinate with Operations-Management to eliminate excess parking spaces.

# APPENDIX

**UNITED STATES GOVERNMENT**
***National Labor Relations Board***
**Division of Administration**

**Memorandum**

| | |
|---|---|
| **To:** | Emil T. George, Assistant Inspector General for Audits |
| **From:** | Angela F. Crawford Angela F. Crawford<br>Chief, Procurement and Facilities Branch |
| **Date:** | February 23, 2005 |
| **Subject:** | Monitoring Building Leases (OIG-AMR-45) |

In response to your subject memorandum, dated February 7, 2005, we offer the following comments on the draft Report No. OIG-AMR-45 on Monitoring Building Leases.

We generally agree with the audit findings. We are also very pleased that you acknowledged in your findings that we have effective controls over the procurement of space and monitoring of building leases. With regard to the one area where you made recommendations, i.e., a handful of parking spaces in the field were not justified, we will continue to work closely with the Division of Operations Management to ensure effective control over parking spaces.

We continue to believe that it is inappropriate to make reference to provisions of the collective bargaining agreement in your report. The collective bargaining agreement is not part of the underlying legal authority for the space management program, and your reference to it under the circumstances is misleading and unnecessary. Therefore, we believe that the reference to the contract provisions should be removed from the report, particularly as its removal has no substantive impact on the report.

In closing, we would again note that the audit expanded well beyond the audit scope that was described during the audit entrance conference, resulting in a significant and unexpected impact upon the branch's resources during a time of other significant program activity.

Thank you for the opportunity to share information on the space management program.