

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 30, 2013

To: Mark Gaston Pearce
Chairman

Lafe Solomon
Acting General Counsel

From: David Berry 
Inspector General

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General (OIG) is required by section 3516 of title 31 to summarize what the Inspector General considers to be the most serious management and performance challenges facing the Agency and briefly assess its progress in addressing those challenges. The purpose of this memorandum is to fulfill that requirement. The information provided in this report is based upon our reviews and investigations, as well as our general knowledge of the National Labor Relations Board's (NLRB or Agency) operations.

For the purpose of this report, an item can be noted as a management or performance challenge even though it is not a deficiency or within the control of the Agency. In our prior year's memorandum, we identified nine management and performance challenges. Our overall assessment is that during the past fiscal year, we generally observed significant efforts to meet the performance and management challenges and improve the management and performance of the Agency. A more detailed statement for each challenge is provided below.

CHALLENGES

Mission Centered

Manage in the current political environment.

Without commenting on the merits of the issues, it is appropriate to highlight the politically charged debate regarding labor relations and the NLRB, as well as the Government-wide issues related to Federal spending. Functioning in this environment is a challenge for both

the political appointees who govern and the career personnel who manage. The obvious challenge is that there is a diversion of resources and attention away from the Agency's mission to defend its actions and decisions or to respond to repeated demands for information both for oversight and litigation discovery. There was also a level of uncertainty that was created by the recess appointments of Board Members and operating for an extended period of time with an Acting General Counsel. Although the Board is now fully staffed with five Members, there remains lingering issues regarding the recess appointments, repeated threats of Government shutdowns and furloughs, and the potential for additional spending cuts from sequestration. Over time, these factors combine to create anxiety in the Agency's workforce and divert attention and resources away from mission-related functions.

Resource Management

Reorganize and consolidate operations.

In Fiscal Year 2011, the Acting General Counsel initiated working groups to study the case processing of Regional Offices and certain Headquarters operations. In April 2011, we issued an audit report that compared case processing activity with the associated expenses of Regional Office operations and made recommendations to consider the consolidation of certain Regional Offices that have a low caseload. At about the same time, the Chairman and Acting General Counsel began to reorganize the financial management of the Agency and other Headquarters operations.

During the past 12 months, the Board and Acting General Counsel consolidated 12 Regional Offices into 6 Regions resulting in a reduction of the number of Regions from 32 to 26. Additional consolidation efforts were undertaken to reorganize the General Counsel's legal and ethics staff at the Headquarters and create the Division of Legal Counsel; create the Office of the Chief Financial Officer; restructure the Division of Administration; and add additional functions to the Office of the Chief Information Officer. These efforts at consolidation and reorganization resulted in a substantial amount of change. The challenge now is to manage this change to ensure success and capture the potential for improved productivity, efficiency, and control.

Implement the Next Generation Case Management System and seize opportunities to create more productive and efficient procedures and organizations.

The Agency built an enterprise-wide electronic case management and processing system. The system replaced 13 separate legacy systems by integrating them into a single unified system using multiple technologies, including 5 distinct software solutions for customer relationship management, document management, collaboration, business analytics, and Web-based services for external constituents. This was the most comprehensive information technology project undertaken by the Agency. This system has now been fully implemented across the Agency's field operations for just under a year. The challenge that remains is to leverage this system to realize the potential for improved casehandling, productivity, and quality control.

Manage the Agency's financial resources.

Both the FY 2010 and FY 2011 audits of the financial statements contained a finding by the independent auditing firm that there was a significant deficiency in internal control.

Although the findings were largely related to problems in the procurement process, our audit of end-of-the-year spending demonstrated that there was a lack of sound budgeting and planning processes that are essential to proper fiscal management.

In July 2012, the Board created the Office of the Chief Financial Officer, implementing the final recommendation of the FY 2010 audit of the financial statements. That office now oversees the budget, procurement, and payment processes. In FY 2013, the Office of the Chief Financial Officer set about creating a new system of controls to effectively manage the Agency appropriation. This was a herculean task of not only creating the structure and procedures for a new office, but also changing the culture of the Agency so that the managers will accept and understand fundamental changes in the fiscal management of the Agency. After our audits of the FY 2013 financial statements and the actions to implement the FY 2013 sequestration, we will have the information needed to provide an assessment of this challenge and, if necessary, make recommendations for further improvement.

Manage the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation.

In prior years, the OIG conducted audits involving the Agency's procurement function. These audits found numerous problems that could generally be attributed to some breakdown in the internal control process. Additional issues have been found during the course of the annual audits of the financial statements.

Adequate staffing, competence, and communication are critical to maintaining a well-managed procurement process. The prior years' convergence of budgetary issues and a shortage of competent candidates to fill vacant positions in a highly competitive field resulted in an understaffed procurement office. That lack of staffing created delays in processing procurement actions and greatly increased the opportunity for mistakes.

Last year, we reported that we were encouraged that the new Office of the Chief Financial Officer took immediate steps to remedy the procurement issues, but that the daunting task of building a well-controlled procurement process remained. Since that time, the Office of the Chief Financial Officer has added three members to the procurement staff, including a new Branch Chief. The new Branch Chief implemented standard procurement procedures and met with Agency's senior managers to educate them on the new procurement processes. As with the prior challenge, it is too soon to provide an assessment of these efforts, but our observation is that the new procedures add a substantial amount of internal control that was previously lacking.

Manage the NLRB's human capital.

The need to maintain a stable and productive workforce is key to the NLRB's ability to fulfill its statutory mission. Factors outside the NLRB's control that may directly affect its ability to maintain a stable and productive workforce include the prospect of Government-wide hiring restrictions, reduced or flat appropriations, and the loss of key personnel through retirements. Coupled with those issues are matters directly within the control of management, including a healthy and productive relationship with the two employee unions; a fair and equitable means to address allegations of discrimination and grievances; and maintaining an environment throughout the NLRB that fosters collaboration along with effective and efficient processes.

The uncertainty of the current fiscal environment, along with the loss of key personnel to retirements and transfers, places a significant stress and burden upon the Agency's workforce. The threat of furloughs, the curtailment of meaningful training opportunities, and loss of monetary awards and cost-of-living pay increase tend to negatively affect the overall workforce morale. Combined, these factors degrade the Agency's ability to properly address its human capital needs, impede its ability to maintain a stable workforce through retention and recruitment, and could ultimately have a negative impact on its ability to meet the statutory mission.

Maintain the Agency's institutional knowledge.

The many changes in technology, laws and regulations, and management systems have altered the manner in which employees perform their official duties. As these changes occur, the policies and procedures are not always updated on a timely basis. Over time, individual offices come to rely upon the collective institutional knowledge of the staff. While this may be a short-term solution, it puts far too much reliance on the skills of individual employees while lacking the safeguards of well-documented processes. This problem is compounded by the fact that at an Agency of this size, specialized tasks are often performed by a limited number of employees.

As additional "key" personnel reach the point of retirement, the challenge of succession planning and capturing the knowledge and procedures for the Agency's processes by formalizing institutional knowledge with policies and procedures becomes even greater. In addition to the loss of personnel, the consolidation and reorganization efforts create additional opportunities for the loss of the Agency's institutional knowledge.

Manage the Agency's information technology resources in a manner that achieves efficiency and security.

Each year the Agency continues to devote significant resources to improving and upgrading information technology equipment and capability. The OIG also devotes its resources to auditing, inspecting, and investigating information technology control and security issues. Despite these efforts, the Agency's information technology infrastructure and the information contained in it remain at risk because of the rapid evolution of information technology

threats. Given this environment, ensuring the security of the Agency's information in its information technology systems remains a long-term challenge.

Implement audit recommendations in a timely manner.

We added this challenge in FY 2008 because we observed that the Agency was not implementing audit recommendations in a timely manner, there was a recurrence of audit findings, and the Agency managers failed to state an adequate basis when disagreeing with an audit recommendation – including recommendations that would have resulted in cost savings. Also, since 2007, we have received yearly requests from the Committee on Oversight and Government Reform for detailed information on audit recommendations. This year, we reported that as of June 2013, we had 15 unimplemented recommendations. After we reported that figure, we added 12 new recommendations and closed two.