

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL 
REPORT



APRIL 1, 2016 – SEPTEMBER 30, 2016

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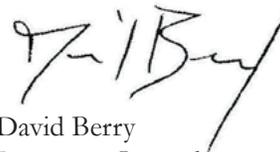
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EXECUTIVE SUMMARY

I hereby submit the Semiannual Report for the period April 1, 2016 – September 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 two audit reports and submitted three reports to Congress. In the investigation program, the Office of Inspector General processed 140 contacts, initiated 5 cases, closed 6 cases, and issued 4 investigative reports. Our investigative efforts led to a removal, retirement in lieu of removal, 10-day suspension, last chance agreement in lieu of discipline, and counseling. The U.S. Department of Justice was notified of one matter.

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



David Berry
Inspector General
September 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. Member Hirozawa's term ended on August 27, 2016. 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. 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 two audit reports and submitted three reports to Congress.

Reports Issued

In response to a request from the Committee on Homeland Security and Governmental Affairs, we issued OIG-AMR-78-16-01, **Freedom of Information Act**, on May 12, 2016. The request was that Inspectors General analyze the involvement of non-career officials in the FOIA process. The request was for the time period January 1, 2007 to the date of the letter. If non-career officials were involved, the Inspectors General were asked to analyze whether the non-career officials' involvement resulted in an undue delay of a response to a FOIA request or the withholding of any document or portion of any document that would have otherwise been released but for the non-career official's involvement in the process.

We determined that there was no documentation that a non-career official's involvement in the Agency FOIA's processing resulted in an

undue delay of a FOIA response and that there was no evidence that such involvement resulted in the withholding of a document or portion thereof that would have otherwise been released. We also determined that the FOIA Tracking System lacked effective internal controls.

In reaching those findings, we determined that certain limits were placed on the scope of our review. Because we determined that the FOIA Tracking System data was unreliable and that a significant number of FOIA files were missing, we cannot state with any degree of certainty that we reviewed all of the FOIA request files in which a non-career official may have been involved. Additionally, because of the lack of internal controls for the FOIA Tracking System, we could not test the accuracy of the 2014 Annual FOIA Report as part of our internal control testing. We made

three recommendations to address the internal control findings.

The management comments generally appear to agree with the findings and recommendations.

We issued **OIG-AMR-77-16-02, Training and Conferences**, on September 27, 2016. The audit objectives were to: (1) determine if the Agency had proper internal controls over the training program for individual training, including, but not limited to, ensuring that the training relates to the employee's duties and the Agency's mission; (2) determine if the Agency had proper internal controls over the expenditures of funds for conferences; and (3) determine if the Agency was complying with the reporting requirements related to conference expenditures. Our review was limited to training that began between July 1, 2014 and June 30, 2015, and conferences that were held or in the process of being planned during the same period of time.

We found that the NLRB's Office of Employee Development generally followed its procedures when approving training requests, but the process for recording the training obligations should be improved. Additionally, we found that the Office of Employee Development lacked a process for ensuring that employee training needs were appropriately addressed with Individual Development Plans

and Senior Executive Development Plans. We found \$36,095.60 in questioned costs because the approvals of the college courses were not supported by proper documentation resulting from the lack of an academic degree program.

Our review of the employee conferences generally found a lack of documented conference procedures and documentation to support a finding that the conferences were properly managed. We also determined that four of the five conferences with break refreshments exceeded the Contracting Officer's reasonableness guidelines for the expenditure of appropriated funds for food. Additionally, we found that there was a waste of appropriated funds for conference expenses related to the procurement of refreshments for meals and refreshments at awards ceremonies. As a result of these determinations, we questioned the expenditure of \$20,225.37 for expense related to food and bartending services.

Additional findings related to other administrative training and conference functions are detailed in the report. The report contains 14 recommendations for corrective actions.

The Director of Administration and the Chief Financial Officer reviewed the draft report and provided comments that were sufficient to



reach agreement on each of the recommendations.

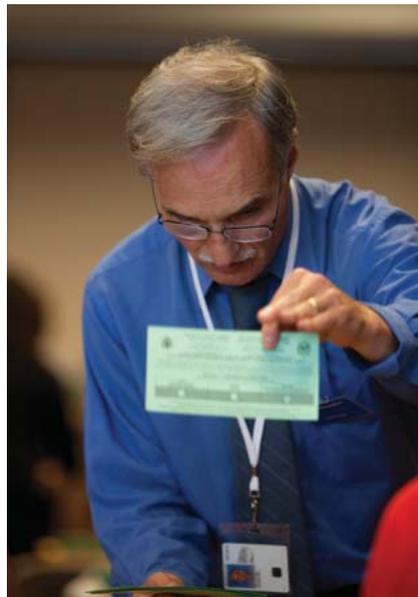
On May 4, 2016, we complied with the provisions of the **Improper Payments Information Act**, as amended by the Improper Payments Elimination and Recovery Act, and reported to Congress and the Office of Management and Budget documenting our review of the Agency's improper payment reporting in the Agency's Performance and Accountability Report. We concurred with the Agency's determination that the Agency does not have a risk of significant improper payments.

As required by the **Cybersecurity Act of 2015**, section 40, Title IV, Division N, Consolidated

Appropriations Act, 2016, we submitted a report to Congress regarding the logical access controls and multi-factor authentication for the NLRB's covered information technology systems. Our report noted an issue with the use of multi-factor authentication. The NLRB Chief Information Officer commented on the report, and stated that the issue would be addressed in early FY 2017.

As required by the **Data Accountability and Transparency Act of 2014 (DATA Act)**, we completed a review of the NLRB's readiness to implement the DATA Act reporting requirements. Our assessment was that the NLRB has taken the necessary steps to be ready to transmit data, but the NLRB's

Federal Shared Service Provider has not completed its work to enable the financial system to communicate with the Department of Treasury's data broker. Although the Federal Shared Service Provider stated it will be ready in time to meet the DATA Act reporting requirements, because the Federal Shared Service Provider missed earlier deadlines, we suggested that the NLRB's DATA Act working group consider alternatives such as workarounds or identify the necessary steps to address the inability to transmit data to the Department of Treasury's data broker.



Audit Follow-up

Agreed-upon actions were not completed within 1 year on four 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.

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

9 of the 19 recommendations 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's recommendations were consolidated into a single recommendation that remains open.

Travel Cards, OIG-AMR-75-15-02, was issued on June 16, 2015, and we reached agreement with management on that date. Management has implemented 7 of the 11 recommendations made in the report.

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 140 contacts, initiated 5 cases, closed 6 cases, and issued 4 investigative reports. Our investigative efforts led to a removal, retirement in lieu of removal, 10-day suspension, last chance agreement in lieu of discipline, and counseling. The U.S. Department of Justice was notified of one matter.

Case Workload		Contacts Processed	
Open (4/1/2016)	12	Received	140
Initiated	5	Initiated Investigation	0
Closed	6	Opened Case - Referred to Agency	0
Open (9/30/2016)	11	Non-Investigative Disposition	140

Investigative Highlights

Investigated an allegation that an employee misused a Government vehicle and violated the Standards of Ethical Conduct for Employees of the Executive Branch. We did not substantiate the allegation. OIG-I-512

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 on indefinite suspension while the matter was prosecuted in State court. The employee was convicted. We issued a supplemental report providing additional information to management. During this reporting period, management entered into a last chance agreement with the employee. The agreement did not provide for any discipline. OIG-I-513

We previously reported an investigation involving the misuse



of the travel card. We issued a report substantiating the allegation. During this reporting period, the employee was suspended for 10 days. As part of an agreement to resolve disciplinary action for misconduct unrelated to the OIG investigation, the suspension was changed to leave without pay in exchange for the employee's resignation. 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." After the employee was removed, an arbitrator directed that the employee be reinstated. During this reporting period, the employee was again removed

for misconduct currently under investigation. OIG-I-515 and OIG-I-519

Investigated allegations that an employee engaged in multiple violations the Standards of Ethical Conduct for Employees of the Executive Branch and caused a false document to be submitted to the Agency's human resources files. We substantiated the allegations and issued a report. We also issued a report for an employee who was involved in one of the violations of the Standards of Ethical Conduct for Employees of the Executive Branch. OIG-I-520

Investigated and issued a report substantiating an allegation that an employee viewed sexually

explicit material while at work on Government computer. The employee was counseled and their internet access was restricted.

OIG-I-521

Investigated and issued a report that an employee signed in with a false time on the attendance sign-in sheet. The employee agreed to retire in lieu of removal. OIG-I-524

Initiated an investigation of a probationary employee who allegedly used official time and information technology resources in violation of the Standards of Ethical Conduct for Employees of the Executive Branch. Management removed the employee before the investigation was completed. OIG-I-525

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 140 Hotline contacts, of which 73 were telephone calls or walk-ins and 67 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, 26 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. 97 & S. 1156 Protecting Employees and Retirees in Business Bankruptcy Act of 2015;
- 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;
- H.R. 5000 Employee Free Choice Act of 2016;
- H.R. 5939 Giving Workers a Fair Shot 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 16 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) One matter was 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 17.

(8), (9) One report 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
Administration Freedom of Information Act OIG-AMR-78-19-01	0	0	0
Administration Training and Conferences OIG-AMR-77-16-02	\$20,225.37	\$36,095.60	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	1	\$20,225.37	\$36,095.60
Subtotals (A+B)	1	\$20,225.37	\$36,095.60
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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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 Mitchelson

Enclosures (2)

Enclosure 1

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

**Office of Inspector General
National Labor Relations Board**

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