

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



**Memorandum**

October 5, 2017

To: Board and General Counsel

From: David Berry  
Inspector General

A handwritten signature in black ink, appearing to read "D. Berry", is written over the printed name of David Berry.

Subject: Top Management and Performance Challenges

As part of the Performance and Accountability Report, the Office of Inspector General 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. This memorandum fulfills 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 five management and performance challenges.

## **CHALLENGES**

### ***Manage the Agency***

In prior reports, I categorized the challenges into specific items and provided a brief explanation of the specific issues. Although this reporting method meets the statutory requirement, last year I decided that method was not capturing an overarching challenge that this Agency faces.

Because of the technical expertise required to administer the enforcement of the National Labor Relations Act (NLRA), the NLRB tends to promote its employees to management rather than recruiting seasoned managers from outside. As a result, the NLRB's management team is dominated by attorneys and examiners. Those individuals are generally smart and well-intentioned public servants who time and again demonstrate a true commitment to enforcing the NLRA, but they are not always effective managers or leaders. There are exceptions to this tendency, but they are rare and generally follow an effort at restructuring, such as when the Office of the Chief Financial Officer (OCFO) was created, or in the hiring in administrative areas such as Human Resources.

Our audit reports and investigative activity over the last several years draw into focus a significant management challenge. In order for the Board or General Counsel, the NLRB's governance structure, to ensure that the Agency is properly managed, there must be sufficient internal controls and processes to ensure that the controls are implemented and that they are operating as intended. Our audits and investigations continue to have findings of instances of failures in the internal control processes at the NLRB that result from either the lack of a control, disregard for the implementation of established controls, or the failure to properly supervise employees. This lack of effective management puts at risk the NLRB's ability to meet its basic mission.

### ***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 OCFO, implementing the final recommendation of the FY 2010 audit of the financial statements. That office now oversees the budget, procurement, and payment processes.

The creation of the OCFO was not a quick fix. The *Audit of the NLRB Fiscal Year 2014 Financial Statements* found both a material weakness and two matters that were each a significant deficiency in internal control. The *Audit of the NLRB Fiscal Year 2015 Financial Statements* found that the matter identified as a material weakness was not fully remediated and continued as a significant deficiency, but the other two matters were remediated. The *Audit of the NLRB Fiscal Year 2016 Financial Statements* found that the matter first identified in FY 2014 as a material weakness continued as a significant deficiency through FY 2016, and added a new matter as a significant deficiency.

We are aware that the OCFO took steps during FY 2017 to restructure the staff and address issues related to the sound management of the NLRB's financial resources. We have also observed that the Chief Financial Officer is fully engaged in addressing the issues of the prior audits and improving the OCFO's processes. We do, however, remain concerned that the OCFO is not properly staffed to ensure the effective management of the NLRB's financial processes.

### ***Manage the NLRB's Human Capital and Maintain the Agency's Institutional Knowledge***

These two challenges are interrelated. 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, but are not limited to, reduced or flat appropriations and the loss of key personnel through retirements.

In our audit work we have, over an extended period of time, observed the loss of institutional knowledge in management practices as new personnel take over key positions. In some circumstances when information about historical practices is available, the context regarding why the practice was developed has been lost with personnel changes. The challenge is to recruit qualified personnel who can improve management practices while understanding the NLRB's past practices.

The hiring freeze that was imposed in the second quarter of FY 2017 and the threat of a significant reduction in the NLRB's appropriation have made the management of human capital a Herculean task. We have observed, both in the Field and at Headquarters, offices that are clearly understaffed. Employees have expressed to us that the level of stress and frustration in the workplace caused by staffing issues was a factor in their decision to leave. This situation feeds upon itself and perpetuates the human capital challenges.

### ***Manage the Agency's Information Technology Security***

Our FY 2016 submission for the annual Federal Information Security Management Act (FISMA) security review noted our observation that a significant number of information technology (IT) security procedures were not in place and that most of what the IT security staff was doing was on an ad hoc basis. Overall, the NLRB Office of the Chief Information Officer received a FISMA score of 39 out of 100. During the *Audit of the NLRB Fiscal Year 2017 Financial Statements*, the auditors confirmed our observations.

We remain concerned about the status of the NLRB's IT security. At this time, it is our assessment that the loss of one key IT security employee could result in the collapse of all of the IT security processes. The Chief Information Officer must address this challenge by creating and effectively implementing a system of internal controls that meet the Government-wide IT security requirements.

### ***Implement Audit Recommendations***

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 33 open audit recommendations. Since that time, we added 12 and we closed 8. At this time, there are a total of 37 open recommendations. The oldest of the open recommendations is from an audit report issued in FY 2015. A recommendation is not closed until we verify that the implementing action appropriately addressed the issue that necessitated the recommendation.