

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



**Memorandum**

October 14, 2015

To: Mark Gaston Pearce  
Chairman

Richard F. Griffin, Jr.  
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. 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 eight management and performance challenges. This year we are retiring one challenge.

**CHALLENGES**

***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. Functioning in this environment continues to challenge both the political appointees who govern and the career personnel who manage. It is likely that, in the coming year, the Agency will continue to attract active Congressional oversight with the prospect of legislation affecting its authority to regulate labor relations and continued litigation regarding the implementation of its regulatory authority.

***Reorganize and consolidate operations.***

Starting in Fiscal Year (FY) 2011, the Office of the General Counsel initiated working groups to study the case processing of Regional Offices and certain Headquarters operations. At about the same time, the Board and the Office of the General Counsel began to reorganize the financial management of the Agency and other Headquarters operations.

Much of the effort that was focused on reorganizing the financial management and mission-related functions of the Agency has been completed. Now that effort should be refocused on the Agency's administrative functions.

Since the end of 2012, the Division of Administration has had significant turnover of its senior level managers. While the General Counsel's office has attempted to temporarily fill the management gap on an "as needed" basis, the administrative functions of the Agency need to be reassessed by the Agency's leadership, organized in a fashion that meets the needs of the Agency, and provided with competent and stable management to ensure that it accomplishes its functions. The scope of the challenge is illustrated by the results of our recent audit of the Security Branch that disclosed significant incidents of mismanagement. Also, during the past fiscal year, issues with the human resources function came to light. Although corrective actions are being undertaken, in the coming year, much of our attention will be focused on examining and making recommendations related to this challenge.

***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 (OCFO), 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 OCFO set about creating a new system of controls to effectively manage the Agency's appropriation. At the end of FY 2013 and during FY 2014, three senior financial managers departed the Agency and left behind very few records of processes or procedures.

Although the Board and Office of the General Counsel laid the foundation for a sound financial management system and the Chief Financial Officer has worked to remedy the deficiencies noted in past reviews, the *Audit of the NLRB Fiscal Year 2014 Financial Statements* found both a material weakness and significant deficiencies in internal controls. The OCFO is working to resolve those issues, but hard work must continue to ensure that the necessary internal controls are firmly established.

### ***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, but are not limited to, the prospect of hiring restrictions, reduced or flat appropriations, and the loss of key personnel through retirements.

The past uncertainty of the fiscal environment, along with the loss of key personnel to retirements and transfers, placed significant stress and burden upon the Agency's workforce. The threat of furloughs, curtailment of meaningful training opportunities, and loss of monetary awards and cost-of-living pay increases negatively affected the overall workforce morale. Combined, these factors degraded the Agency's ability to properly address its human capital needs and impeded its ability to maintain a stable workforce through retention and recruitment.

Historically, the Agency reduced its workforce through attrition to meet the fiscal restraints. As of January 2014, the Agency reduced its workforce by almost 10 percent from the FY 2011 workforce level, with over half of the reduction occurring in FY 2013. While the Agency was able to mitigate some of the effects of the reduction with targeted hiring for key positions, overall the loss of personnel and the administrative burdens of the hiring process created significant managerial challenges that were not necessarily evenly distributed across the Agency or mission functions.

Although there has been some relief in the fiscal environment, the prospect of a significant reduction in funding remains a very real possibility, and there remain few areas to trim the Agency's spending. Additionally, in the next fiscal years, the Agency will absorb many of the expenses related to the Headquarters move that was mandated by the General Services Administration (GSA). While some savings may occur with the reduction of Headquarters rent, to effectuate the move without a supplement to its appropriation, the Agency utilized GSA's "FIT" program to structure the cost of the move with future payments. The ability of the Agency to manage its fiscal resources through the management of its human capital is not without limits, and any significant reduction in funding will put significant limitations on the ability of the Agency to maintain its workforce and fulfill its 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. The fact that at an Agency of this size, specialized tasks are often performed by a limited number of employees compounds this problem.

We continue to see a loss of key employees because of retirement and other separations. The challenge of succession planning and capturing the knowledge and procedures for the Agency's processes by formalizing institutional knowledge with policies and procedures remains. Meeting that challenge is even more difficult when fiscal restraints limit the ability to hire or promote a successor prior to a key employee's departure.

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

Each year, the Office of the Chief Information Officer (OCIO) continues to devote significant resources to improving and upgrading information technology equipment and capability. During this fiscal year, the OCIO completed its migration of mission-related offices to the NxGen case processing system and began to implement a unified communications system.

The OCIO also devoted significant resources to securing and improving information technology networks. Likewise, the OIG also devotes 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 and the move to "Cloud" service providers, 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.***

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 15 open audit recommendations. Since that time, 6 of the 15 open recommendations were closed and we added 42 new recommendations. Of the 42 new recommendations, 9 have been closed. At this time, there are a total of 42 open recommendations. The oldest of the open recommendations is from an audit report issued in FY 2012. A recommendation is not closed until we verify that the implementing action appropriately addressed the issue that necessitated the recommendation.

## **Retiring Challenges**

***Relocate Headquarters.***

The relocation of Headquarters occurred in July 2015 and it was in fact a significant challenge. The move was completed and this challenge was met.