

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 13, 2020

To: Board and 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 National Labor Relations Board (NLRB or 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 and observations of the NLRB's 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. The challenges noted below are not OIG findings or matters that necessarily involve mismanagement or any type of failure on the part of the NLRB's leaders or managers. In our view, a challenge is just that, a task or endeavor that is made difficult by the circumstances, and not all of them are unique to the NLRB. In our prior year's memorandum, we identified five management and performance challenges.

CHALLENGES

Manage the Agency

This year is obviously an extraordinary situation due to the pandemic. The rapid, almost instantaneous, switch to an entirely remote work force was unprecedented. Despite the enormity of the situation, the NLRB appears to have continued to meet its statutory mission to enforce the National Labor Relations Act through the investigation and resolution of unfair labor complaints and determining representation matters. In Fiscal Year (FY) 2021, we anticipate that the NLRB will continue to face unforeseen challenges once it begins the process of bringing employees back to its offices and implements processes to address more frequent in-person contacts with its own employees, representatives, parties, and witnesses.

Manage the Agency's Financial Resources

In July 2012, the Board created the Office of the Chief Financial Officer (OCFO), implementing a recommendation from the FY 2010 audit of the financial statements. The OCFO now oversees the budget, procurement, and finance functions.

In the audits of the financial statements for 5 of the 6 prior fiscal years, the audits reported findings related to significant deficiencies and/or material weaknesses involving financial management. Over those years, the audits have also noted issues related to OCFO staffing. We have also observed that since the creation of the OCFO, there have been four Chief Financial Officers, three appointed and one acting. These staffing issues contribute to the difficulties regarding this challenge. Also, for FY 2019, the NLRB had a lapse in appropriated funds of approximately \$5.7 million. Our audit of the lapse in funds found that it was caused by an overestimation in payroll expenses and a failure to properly track the obligations of the appropriation over the fiscal year. In FY 2020, the OCFO closed a number of the pending audit recommendations from the prior financial statement audits and reported that as of October 1, 2020, the lapse in FY 2020 funding was \$434,000. Notwithstanding those efforts, additional work remains on several open recommendations and the financial management of the Agency continues to be a significant management challenge.

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, 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 the personnel changes. The most recent example of this challenge was observed during the audit of the lapse in the FY 2019 appropriation.

Manage the Agency's Information Technology Security

The FY 2016 Federal Information Security Modernization Act review was the start of the change from reviewing what the Agency was doing to assessing the maturity of the Agency's information technology (IT) security processes. For the past several years, the OCIO has made steady progress in improving the Agency's IT security processes and maturity. For this year's review, the OCIO will meet at least the "managed and measurable" level across the five IT security functions and obtain an overall maturity level assessment of "effective." This steady improvement over an extended period of time represents a significant effort on the part of the OCIO security staff and should be commended. Nevertheless, threats to the NLRB's information systems will not abate in the future or as older systems evolve and new systems are developed. We expect that the OCIO will continue to face challenges as it works to maintain its IT security maturity level.

Implement Audit Recommendations

In last year's Top Management and Performance Challenges memorandum, we reported that the Agency had 48 open audit recommendations. Since then time, we added 22 recommendations and we closed 29. Currently, there are a total of 41 open recommendations. As with the prior fiscal year, the oldest open recommendations are from audit reports issued in FY 2015. A recommendation is not closed until we verify that the implementing action appropriately addressed the issue that necessitated the recommendation.