UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

NxGen Data Accuracy

Report No. OIG-AMR-94-22-02

November 16, 2021

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APPENDIX C –

Memorandum from the Assistant General Counsel, Division of Operations-Management, OIG NxGen Data Accuracy Audit Report – OIG-AMR-94, dated November 12, 2021

EXECUTIVE SUMMARY

The National Labor Relations Board's (NLRB or Agency) NxGen Case Management System (NxGen) is the Agency's electronic case management system for both Unfair Labor Practice (C) and Representation (R) cases. In prior Office of Inspector General audits, we determined that NxGen data that was significant to the audit objective was unreliable. To address those repeated findings, we determined that it was appropriate to initiate this audit to gain a better understanding of NxGen data accuracy issues.

The objectives of this audit are to determine the accuracy of the FY 2020 NxGen case processing data and to evaluate the effectiveness of the internal controls for managing the case processing data. The scope of this audit is all NxGen case data processed during FY 2020.

We found that 12 of the 20 C case data elements and 4 of the 29 R case data elements tested were inaccurate and unreliable in that they had an error rate that exceeded 10 percent. We also determined the disposition date element for both C and R cases and the R case date closed date were not being entered in NxGen in a timely manner. Based on this testing, we determined that 12 statistics provided in the PAR are based in whole or part on NxGen data elements were inaccurate and unreliable. We also found that the methodology used by the Agency to report its ULP charge merit statistic was misleading. Overall, we found that the Division of Operations-Management lacks a proper internal control environment for NxGen data accuracy. We made five recommendations for corrective action.

In the Management Comments, the Division of Operations-Management stated that it concurred with the report and recommendations. The comments also noted that many of the difficulties in case documentation could be attributed to staffing deficiencies and pandemic-related telework, and the reclassification of "key desk" administrative support positions, which resulted in reallocation of the previously established duties and protocols formerly associated with these positions. Management anticipates a significant hiring of additional administrative support staff, which will ease the burdens placed on Regional offices. The Management Comments are attached as Appendix C to the report.

BACKGROUND

The National Labor Relations Board's (NLRB or Agency) NxGen Case Management System (NxGen) is the Agency's electronic case management system for both Unfair Labor Practice (C) and Representation (R) cases. NxGen has been the official Regional Office case file for all cases filed on or after October 1, 2012.

NxGen stores data on significant Regional Office case processing milestones, including but not limited to the date the charge is filed, the various actions involving the charge, the date the complaint is issued, and the date cases are closed. This data is then used to manage the processing of cases, determine if Regional Office performance goals are met, and to determine Regional Office staffing levels. The data is also used to report information to both Congress and the Office of Management and Budget in reports such as the Performance and Accountability Report (PAR), and the Agency's annual reports.

In prior Office of Inspector General audits, we determined that NxGen data that was significant to the audit objective was unreliable. To address those repeated findings, we determined that it was appropriate to initiate this audit to gain a better understanding of NxGen data accuracy issues.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this audit are to determine the accuracy of the FY 2020 NxGen case processing data and to evaluate the effectiveness of the internal controls for managing the case processing data. The scope of this audit is all NxGen case data processed during FY 2020.

We reviewed laws, regulations, and Governmentwide policies related to NxGen. We interviewed staff in the Division of Operations-Management (Operations-Management) and the Office of the Chief Information Officer (OCIO) to obtain an understanding of NLRB procedures related to processing and recording of NxGen data and to learn about internal controls and processes within NxGen.

We reviewed the reports in NxGen and those used by the General Counsel to determine which case processing data elements to test. We obtained the database of FY 2020 closed C and R cases from the OCIO and generated multiple NxGen reports independently to verify information provided by the Agency. We logically grouped the data elements that were common to all C and R cases, and elements that were not common to C and R cases.

The universe of C cases was divided into two groups for the purpose of selecting our samples: cases with a complaint; and cases without a complaint (non-complaint). We then selected samples based on data elements that were common to all complaint and non-complaint cases. Additionally, we selected samples for data elements that were not common to all complaint and non-complaint cases. Similarly to C cases, we selected a sample for data elements common to all R cases and other samples for data elements not common to all R cases. Using GAO's Financial Audit Manual, we used a 90 percent confidence rate, a 10 percent tolerable rate, and a 5 percent expected deviation rate to generate the following random sample sizes:

	SAMPLE	POPULATION SIZE (UNIVERSE)	SAMPLE SIZE TESTED
C Cases			
COMMON DATA ELEMENTS	C Cases (Non-Complaint)	14,712	78
	C Cases (Complaint)	1,623	77
NON-COMMON ELEMENTS	Informal Settlement	1,241	77
	Compliance Specifications	15	15
	Pre-Complaint Settlements	5,020	78
	Post-Complaint Settlements	819	77
R CASES			
COMMON DATA ELEMENTS	R Case Common Data Elements	1,672	77
NON-COMMON ELEMENTS	Pre-Election Hearings	144	56
	Pre-Election RD Decisions	167	58
	Elections	929	77
	Post-Election Hearings	29	29
	Post-Election RD Decisions	23	23

To determine the accuracy, we compared the NxGen data to the supporting documentation from the case file for each

case tested. The results of our tests can be projected to the populations of C cases and R cases tested.

We also performed analytical tests to determine if the NxGen data was complete by identifying missing cases, duplicate cases, and illogical case sequences. To determine whether data was entered into NxGen timely, we compared the date filed, date closed, and the disposition date from supporting documentation to the date that was entered into NxGen.

To perform Regional Office testing, we identified reports used to determine Regional Office performance. Using those reports, we identified the Regional Offices with potential data accuracy issues. Four Regional Offices were selected based on the average number of days cases were processed from filing to disposition. The following criteria was used to select Regional Offices for review: Region with low data errors and a low filing to disposition rate; Region with high data errors and a low filing to disposition rate; Region with high data errors and a high filing to disposition rate; and Region with low data errors and a high filing to disposition rate. We selected statistically valid random samples to test the data accuracy of the four Regions selected. Based on GAO's Financial Audit manual, we used a 90 percent confidence rate, a 10 percent tolerable rate, and a 5 percent expected deviation rate that resulted in the following sample sizes:

REGIONAL OFFICES: CATEGORIZED	POPULATION SIZE (UNIVERSE)	SAMPLE SIZE TESTED
Region with low data errors and a low filing to disposition rate	423	74
Region with high data errors and a low filing to disposition rate	726	76
Region with high data errors and a high filing to disposition rate;	643	75
Region with low data errors and a high filing to disposition rate	533	75

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We interviewed Agency officials, judgmentally selected PAR measures and highlights for review, independently generated and reviewed NxGen data to determine whether or not there were any discrepancies reported in the FY 2020 PAR.

We reviewed the Government Accountability Office's (GAO) Standards for Internal Control in the Federal Government (Standards), dated September 2014, to identify the relevant internal control standards. We evaluated the internal control policies and procedures to determine whether they met the GAO Standards and evaluated the effectiveness of the internal controls.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards during the period from October 2020 through August 2021. The standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS

We found that 12 of the 20 C case data elements and 4 of the 29 R case data elements tested were inaccurate and unreliable in that they had an error rate that exceeded 10 percent. We also determined the disposition date element for both C and R cases and the R case closed date were not being entered in NxGen in a timely manner. Based on this testing, we determined that 12 statistics provided in the PAR are based in whole or part on NxGen data elements were inaccurate and unreliable. We also found that the methodology used by the Agency to report its ULP charge merit statistic was misleading. Overall, we found that the Division of Operations-Management lacks a proper internal control environment for NxGen data accuracy.

DATA ACCURACY

The Agency is responsible for maintaining records of its activities. The GAO's internal control standards state that

transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. Also, management should design processes to ensure that transactions are completely and accurately recorded. For an NLRB case, the transactions would be significant milestones in the case. These standards apply to the entire process of a C or R case from the initiation of the case through the final Agency action.

The NLRB uses NxGen to record case processing data. That data can then be used to track the activity of the Agency from the progress of an individual case to Agencywide performance in the PAR. The NxGen system can also be used to generate case management reports that are then used by the General Counsel, through the Division of Operations-Management, to manage case processing in the individual Regional Offices.

For our data accuracy testing, we reviewed the management reports and selected data elements that were relied upon to generate the reports and statistical data. To ensure that we had a sufficient number of cases in the samples tested, we created two universes of cases – one for C cases where the charges were dismissed and another for C cases that resulted in the issuance of a complaint. We also divided the data elements in groups based upon whether the element was in every case or only in a subset of cases. See Appendix B for the definitions of the data elements tested.

To determine the error rate, we compared the data as shown in the NxGen data element field to the documentation in the NxGen case files. If the data did not match the documentation or the documentation was not in the case files, the data was categorized as an error.

C Cases

Common Data Elements

There are several data elements that are common to every C case that are used as a basis for measuring the Regional Office productivity. Some of the elements are obvious, such as the date the charge is filed or the date a case is closed. Less obvious elements are implemented dates and action disposition. The implemented date is the date the final allegation in a charge is resolved through the action

dispositions which would be one of the following: complaint, settlement, withdrawal, deferral, referral to the Division of Advice, or dismissal. Because most cases are resolved without issuing a complaint, we divided the cases into non-complaint and complaint groups to ensure that we had a sufficient number of complaint cases in our testing.

The common data elements that we tested are generally used to measure the Regions performance based on the initiatives in GC 19-02, Reducing Case Processing Time. Under GC 19-02, in FY 2020, the Regions had 81 days to process a charge from the date filed to the implemented date.

Non-Complaint C Cases

We tested seven data elements that are common to all non-complaint C cases. We identified five data elements that had an error rate above the tolerable rate of 10 percent. The results of that testing are shown in the table below:

Data Element Tested (Non-Complaint)	Data Element Matches Documentation in Case File					
	Yes	Percent	No	No Documentation	Total Errors	Percent
Date Filed	40	51	6	32	38	49
Date Closed	56	72	12	10	22	28
Closed Reason	72	92	4	2	6	8
Implemented Date	66	85	12	0	12	15
Action Disposition	77	99	1	0	1	1
Investigation Action Determination	54	69	6	18	24	31
Potential 10(j)	23	29	3	52	55	71

We also observed the following:

- For the 32 no documentation Date Filed instances, we found that although the charge sheet was in the file, it lacked a proper date and time stamp. This finding is particularly significant in that many charge sheets with appropriate documentation were filed electronically and the date and time was included as part of the filing process;

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- For the Date Closed, we observed that the supporting documentation was lacking because the appropriate closing document was missing from the case files. For the errors, we observed that the date in the date closed data element was from a document that was not the appropriate supporting documentation; and

- We observed inconsistencies in the way the Potential 10(j) data element was documented including some forms that indicated that a 10(j) determination was made by check mark but not indicating the actual determination.

Complaint C Cases

For the C cases with a complaint issued, we tested the same seven common data elements. We identified five data elements above the tolerable rate of 10 percent. The results of that testing are shown in the tables below:

Data Element Tested (Complaint)	Data Element Matches Documentation in Case File					
	Yes	Percent	No	No Documentation	Total Errors	Percent
Date Filed	47	61	4	26	30	39
Date Closed	60	78	15	2	17	22
Closed Reason	74	96	3	0	3	4
Implemented Date	58	75	17	2	19	25
Action Disposition	77	100	0	0	0	0
Investigation Action Determination	49	64	13	15	28	36
Potential 10(j)	28	36	4	45	49	64

We observed the same general issues with the complaint C cases as we did with the non-complaint C cases.

Unique Data Elements

As part of the data accuracy testing, we also tested six data elements that were not common to all complaint or non-complaint C cases.

We found that two of the six data elements tested had error rates greater than the 10 percent tolerable rate. The results of the testing are shown in the table below:

		Data Element Matches Documentation in Case File				
Data Element Tested	**Yes**	**Percent**	**No**	**No Documentation**	**Total Errors**	**Percent**
Informal Settlement Agreement Action Determination (Bilateral/Unilateral)	75	97	0	2	2	3
Pre-Complaint Settlement Action Disposition	78	100	0	0	0	0
Pre-Complaint Settlement Action Disposition Date	69	88	7	2	9	12
Post-Complaint Settlement Action Disposition	76	99	1	0	1	1
Post-Complaint Settlement Disposition Date	66	86	10	1	11	14
Compliance Specification Date	14	93	1	0	1	7

Regional Offices

Based upon our testing results above, we ranked the Regional Offices by data error rates within the samples. We then selected random samples of cases from four Regions: a Region with a low data error rate and a low filing to disposition rate, a Region with a high data error rate and a low filing to disposition rate, a Region with low a data error rate and a high filing to disposition rate, and a Region with a high data error rate and a high filing to disposition rate. The results of testing the data elements related to the case disposition are in the table:

Regional Office Ranking	Data Element Tested	Data Element Matches Documentation in NxGen Case File					
		Yes	Percent	No	No Documentation	Total Errors	Percent
Region with low data error rates and low filing to disposition rate	**Date Filed**	38	51	14	22	36	49
	Action Disposition	74	100	0	0	0	0
	Implemented Date	72	97	2	0	2	3
Region with high data error rates and low filing to disposition rate	**Date Filed**	52	68	6	18	24	32
	Action Disposition	74	97	2	0	2	3
	Implemented Date	72	95	4	0	4	5
Regions with Low data error rates and high filing to disposition rate	**Date Filed**	48	64	5	22	27	36
	Action Disposition	75	100	0	0	0	0
	Implemented Date	45	60	29	1	30	40
Region with high data error rates and high filing to disposition rate	**Date Filed**	33	44	4	38	42	56
	Action Disposition	75	100	0	0	0	0
	Implemented Date	58	77	17	0	17	23

Without regard to the performance of a Regional Office, we generally found high percentage errors for the date filed data element. We did, however, observe a higher error rate for Implemented Date data element for the high filing to disposition rate Regions. The error rates across the Regions are indicative that Regions are not consistent with following the Agency-wide policies and procedures.

R Cases

Common Data Elements

We tested nine data elements that we considered to be common to all R cases. We identified three data elements above the tolerable rate of 10 percent. The result of our testing is shown in the table below:

Data Element Tested (R Case Common Data Elements)	Data Element Matches Documentation in Case File					
	Yes	Percent	No	No Documentation	Total Errors	Percent
Date Filed	31	40	16	30	46	60
Petition Action Type	77	100	0	0	0	0
Bargaining Status	36	47	20	21	41	53
Date Closed	75	97	2	0	2	3
Closed Reason	76	99	1	0	1	1
Action Disposition	76	99	1	0	1	1
Disposition Date	71	92	6	0	6	8
Investigation Action Determination	59	77	14	4	18	23
Suspended/Blocked	73	95	4	0	4	5

When reviewing the supporting documentation for the data elements, we observed the following:

- As with the C cases, the petitions that lacked documentation of the date filed, were missing a date/time stamp to document when it was received by the Regional Office; and

- For Bargaining Status, there appeared to be multiple different types of errors without any singular cause; this may be an indication that the guidance is not clear.

Unique Data Elements

As part of the data accuracy testing, we generated five samples to test 20 data elements that were not common to all R cases.

For the samples of Pre-election Hearings, Pre-election RD Decisions, Elections, Post-election Hearings, and Post-election RD Decisions, with the exception of the data element HO Decision Disposition Date, the data elements tested were generally accurate:

	Data Element Matches Documentation in Case File					
Data Element Tested	Yes	Percent	No	No Documentation	Total Errors	Percent
Action Disposition (Hearing)	56	100	0	0	0	0
Hearing Session Closed Date (Pre-Election)	55	98	1	0	1	0
Hearing Action Type (Pre-Election)	56	100	0	0	0	0
Action Disposition (RD Decision)	58	100	0	0	0	0
Disposition Date (RD Decision)	58	100	0	0	0	0
Action Determination (Direct Election (DDE) or Dismiss (DOR))	55	95	3	0	3	5
Action Type (Pre-Election)	58	100	0	0	0	0
Election Held Date	75	97	2	0	2	3
Number of Eligible Voters	74	96	2	1	3	4
Valid Votes Against Labor Org.	76	99	0	1	1	1
Valid Votes For Labor Org.	75	97	1	1	2	3
Majority Votes Cast For Labor Org (WON/LOSS)	76	99	0	1	1	1
Election Mode: (Mail, Manual, Mixed)	77	100	0	0	0	0
HO DECISION ACTION TYPE	28	100	0	0	0	0%
HO DECISION DISPOSITION DATE	25	89	3	0	3	11
TALLY DATE	27	96	1	0	1	4
TALLY TYPE	28	100	0	0	0	0
RD DECISION DATE	23	100	0	0	0	0
RD ACTION DETERMINATION	22	96	1	0	1	4
RD ACTION TYPE	23	100	0	0	0	0

TIMELINESS

The GAO Standards state that transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition,

management should design control activities so that all transactions are completely and accurately recorded.

We did not identify criteria regarding the definition of "timeliness" as it relates to NxGen data entries. When we asked Operations-Management about the criteria for timeliness of NxGen data entry, they stated that they were unaware of any criteria, and that the data should be entered as close to the real-time as possible or within 1-2 days. We, therefore, used 1-2 working days as our timeliness standard.

Using the Common Data Elements samples for C Cases and R cases, we tested the timeliness of NxGen entries for the Date Filed, Disposition Date, and Date Closed. The results are shown in the table below.

	C Cases				R Cases			
	Timely	Percent	Untimely	Percent	Timely	Percent	Untimely	Percent
Date Filed	71	91.03	7	8.97	77	100	0	0
Date Closed	59	75.64	19	24.36	61	79.22	16	20.78
Disposition Date	75	96.15	3	3.85	58	75.32	17	22.08

For the testing results above, we observed the following:

- The longest time to enter the Date Filed in a C case was 23 working days;

- For the Date Closed in our C case timeliness testing, we determined that all of the untimely cases were dismissals that were not appealed. Staff in Operations-Management stated that dismissals that are not appealed, are not closed in NxGen until the end of the appeal period, which is 2 weeks after the dismissal date. For 16 cases, the date closed was entered into NxGen more than 2 weeks beyond the 2 weeks waiting period after the dismissal date, with a maximum of 296 working days after the dismissal date;

- For the Date Closed in an R case, the maximum delay noted during our testing was 139 working days; and

- For the Disposition Date reviewed during our timeliness testing, two R cases did not have NxGen documentation.

The maximum time noted during our testing that the Agency entered a Disposition Date was 290 working days for a C case and 131 working days in an R case.

COMPLETENESS

GAO's standards for Assessing Data Reliability describes the reliability of data to be applicable for audit purposes and are sufficiently complete and accurate. The standards define completeness as "the extent to which relevant data records and fields are present and sufficiently populated."

For our completeness testing, we reviewed the FY 2020 C and R case intake reports to determine whether there were gaps in the case sequential numbers. We observed 130 case numbers (0.74 percent) were missing from the case intake report; we considered this immaterial.

We observed 75 gaps caused by case numbers being used by cases either before or after the scope period. These were caused by cases not being docketed on the day they were received. We also observed 91 cases filed on or after 7 working days from the previous filing date. One charge was docketed 38 working days after the charge was received and was only docketed after the charging party requested withdrawal of the charge.

We were unable to determine whether the list of cases was complete, because we were unable to identify charges or petitions that may not have been processed.

EFFECT OF DATA ERRORS

The NxGen data is used to measure the Agency's performance and provide other statistical information reported in the annual PAR. For the data elements we tested, we created the following chart to show how those elements impacted the PAR's data:

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FY 2020 PAR LANGUAGE	DATA ELEMENT TESTED	ERROR PERCENT
STATISTICAL HIGHLIGHTS		
78.8% of ULP charges resolved within 365 days (graphic statistic)	Date Filed	44
	Implemented Date	20
90.7% of all initial election conducted within 56 days of filing the petition	Date Filed	60
	Election Held Date	3
Initial elections in union representation cases were conducted in a median of 28.4 days from filing the petition	Date Filed	60
	Election Held Date	3
CASEHANDLING HIGHLIGHTS		
During FY 2020, the public filed 15,869 ULP charges of which **35.2 percent were found to have merit**	Date Filed	44
	Investigation Action Determination	34
1,695 petitions to conduct secret-ballot elections in which workers in appropriate units select or reject unions to represent them in a collective bargaining with their employers	Petition Action Type	0
18 petitions for elections in which workers voted on whether to rescind existing union-security agreements	Petition Action Type	0
2 Number of petitions received seeking amendment	Petition Action Type	0
38 petitions seeking clarification of an existing bargaining unit	Petition Action Type	0
11 WH (wage and hour) cases	Petition Action Type	0
Regional Office Settlement rate was 96%	Implemented Date	20
	Investigation Action Determination	34
The Regional Office settlement rate was 96 percent this past FY, **resolving over 4,666 cases prior to issuing complaint**	Action Disposition	1
	Implemented Date	20
The Regional Office settlement rate was 96 percent this past FY, **resolving over 570 cases post-complaint**	Action Disposition	1
	Implemented Date	20
PERFORMANCE MEASURES		
Goal 1, Initiative 1, Measure 1: Realize a 5% annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement, or issuance of complaint	Date Filed	44
	Implemented Date	20
	Action Disposition	1
	Investigation Action Determination	34

FY 2020 PAR LANGUAGE	DATA ELEMENT TESTED	ERROR PERCENT
Goal 1, Initiative 1, Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision	Implemented Date	20
Goal 1, Initiative 2, Measure 1: Realize a 5% annual decrease in the average time required to resolve unfair labor practice charges through withdrawal, dismissal, settlement, or issuance of complaint	Date Filed	44
	Implemented Date	20
	Action Disposition	1
Goal 1, Initiative 2, Measure 2: Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision	Implemented Date	20
Goal 2, Initiative 1, Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition.	Date Filed	60
	Date Closed	3

Because we are reviewing the data reported in the PAR, we also reviewed the data to determine if there were any errors in the Agency's calculations or in the methodology used to determine how the measures and highlights were calculated. Given the number of data elements that were missing supporting documentation, we were not able to verify that the PAR data was accurate. Nevertheless, when we recalculated the measures and statistic using the NxGen data, apart from one measurement, we did not find any material errors. For the statistic reporting charges with merit, we found that that PAR overstated the following result:

FY 2020 PAR LANGUAGE	OIG RECALCULATION	Variance
During FY 2020, the public filed 15,869 ULP charges of which 35.2 percent were found to have merit.	15.1 percent	20.1 percent

When reviewing the underlying data, we determined that the Agency counted cases with non-Board adjustments as "merit" cases. Non-Board adjustments are agreements

between the parties that result in the withdrawal of the charge. In many instances, the Agency counted cases that were resolved with a non-Board adjustment as a "merit" case without making a separate merit determination. We did find, however, that there were at least 328 instances where the Agency counted a case as having merit because of a non-Board adjustment when in fact there had been a "no merit" determination. There are many reasons why a charged party might offer a charging party something as a non-Board adjustment without regard to whether there is merit to a charge. The Agency's merit statistic is inflated, and as a result the statistic is misleading.

EVALUATION OF INTERNAL CONTROLS

To test the effectiveness of the internal controls related to NxGen, we used GAO's internal control standards and created an Internal Control matrix. Based on our Internal Control matrix (Appendix A), we found that Operations-Management did not have a system of internal controls to ensure that NxGen data is accurate, timely, complete, and of quality.

Data Integrity Surveys

Memorandum OM 13-50 (NxGen), *NxGen Data Integrity Checks*, discusses the need for Regional Offices to conduct data integrity checks by running certain reports quarterly and submitting a NxGen Data Integrity survey. Regional Offices are required to run data integrity reports every quarter to identify errors; update NxGen data to correct any errors identified; and fill out a survey to verify that reports were generated and reviewed for errors.

We reviewed data integrity surveys submitted by the Regional Offices during FY 2020. We observed that none of the Regional Offices submitted a survey response for all four quarters. Also, two Regional Offices did not submit a response for any quarter. Therefore, the Agency's internal controls over data integrity was not operating as intended.

RECOMMENDATIONS

To address the findings related to data accuracy findings above, we make the following recommendations:

1. Develop and implement a quality review process at the local Regional Office level that includes review of the data at key points during the case life cycle;

2. Develop and implement internal controls related to the timely entry of NxGen data;

3. Develop and implement a standard methodology for documenting data in the NxGen case file;

4. Develop and implement a training program that focuses on NxGen data quality controls and processes. This program should include new employee NxGen orientation, periodic refresher training, and supervisory data quality review; and

5. Either develop an appropriate explanation of the current methodology to calculate the merit statistic in the PAR or calculate the merit determination rate using the NxGen merit data element.

GAO - Standards	Conclusion	Results
Management of Human Capital: Effective management of an entity's workforce, its human capital, is essential to achieving results and an important part of internal control. Only when the right personnel for the job are on board and are provided the right training, tools, structure, incentives, and responsibilities is operational success possible.	**MEETS**	The Agency created positions known as NxGen Program Assistants to assist NxGen personnel. The Agency maintains a library of past training available to all employees. NxGen users are notified of updates.
Segregation of duties: Management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets so that no one individual controls all key aspects of a transaction or event.	**MEETS**	The OCIO sets access and privilege controls in NxGen based on position roles assigned by Operations-Management. Operations-Management created and maintains the NxGen Work Assignment Suggestions guidance that provides tasks based on the positions.

GAO - Standards	Conclusion	Results
Controls over information processing: A variety of control activities are used in information processing. Examples include edit checks of data entered; accounting for transactions in numerical sequences; comparing file totals with control accounts; and controlling access to data, files, and programs.	**PARTIALLY MEETS**	The Agency published and implemented various control activities for information processing. These include: • Information Quality Guidelines; • NxGen data integrity checks (OM 13-50); • NxGen Quality Review checklist); and • NxGen Best Practices. Based on our testing, we determined that the guidelines have not been adequately implemented. For example, for the C case data elements tested, 12 of the 20 data elements (60 percent) have error rates greater than 10 percent. For the R case data elements tested, 4 of the 29 data elements (14 percent) have error rates greater than 10 percent.
Proper execution of transaction: Transactions are authorized and executed only by persons acting within the scope of their authority. This is the principal means of assuring that only valid transactions to exchange, transfer, use, or commit resources are initiated or entered into. Management clearly communicates authorizations to personnel.	**DOES NOT MEET**	Agency documentation does not explicitly state who is authorized to approve or enter information into NxGen. Operations-Management created and maintains the NxGen Work Assignment Suggestions that provides tasks based on the positions. For example, the Regional Director Secretary is responsible for entering the determination for Investigation Actions.

GAO - Standards	Conclusion	Results
Accurate and timely recording of transactions: Transactions are promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. In addition, management designs control activities so that all transactions are completely and accurately recorded.	**DOES NOT MEET**	Regions have their own systems in place for docketing. According to Agency Management, there is no time criteria for entering data in NxGen. Some Regions utilize the "target dates tab" in NxGen to keep track of case/action due dates, although they are not required to do so. We found for C cases 8 "date" data elements tested were inaccurate. For R Cases, 2 "date" data elements tested were inaccurate. We also found that for C cases, 1 of the 3 data elements tested (33 percent) were not entered timely into NxGen in greater than 10 percent of the cases tested. For R Cases, 2 of the 3 (67 percent) data elements tested were not entered timely into NxGen in greater than 10 percent of the cases tested.
Access restrictions to and accountability for resources and records: Management limits access to resources and records to authorized individuals, and assigns and maintains accountability for their custody and use. Management may periodically compare resources with the recorded accountability to help reduce the risk of errors, fraud, misuse, or unauthorized alteration.	**MEETS**	The OCIO sets access and privilege controls in NxGen based on roles assigned by Operations-Management. The OCIO maintains audit logs for NxGen actions.

GAO - Standards	Conclusion	Results
Appropriate documentation of transactions and internal control: Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.	**PARTIALLY MEETS**	We identified numerous instances of transactions that were not documented in the case files. Management has documented policies and procedures that addresses NxGen entries and data elements; however, those policies and procedures are not complete. For example, policies and procedures do not address criteria for critical requirements of the system, such as timeliness and the definition of the implemented date.
Management designs appropriate types of control activities for the entity's internal control system. There are two main types of control activities: general and application control activities. Section 11.07 describes general controls and Section 11.08 describes application controls.	**MEETS**	The Agency has published and implemented various control activities for information processing. These include: • Information Quality Guidelines; • NxGen data integrity checks (OM 13-50) • NxGen Quality Review checklist ; and • NxGen Best Practices.
Management designs control activities over the information technology infrastructure to support the completeness, accuracy, and validity of information processing by information technology. Management continues to evaluate changes in the use of information technology and designs new control activities when these changes are incorporated into the entity's information technology infrastructure. Management also designs control activities needed to maintain the information technology infrastructure.	**MEETS**	NxGen incorporates the Agency's LAN/WAN controls. NxGen requires users to have logged on the Agency's LAN/WAN via an Agency computer to access NxGen Access is limited based on an individual's role.

GAO - Standards	Conclusion	Results
Management documents in policies the internal control responsibilities of the organization.	**MEETS**	The Agency's internal controls over data integrity are documented in policies and manuals.
Management periodically reviews policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks. If there is a significant change in an entity's process, management reviews this process in a timely manner after the change to determine that the control activities are designed and implemented appropriately.	**MEETS**	The Agency's policies and procedures show documentation of being updated.
Management designs a process that uses the entity's objectives and related risks to identify the information requirements needed to achieve the objectives and address the risks.	**MEETS**	The NxGen system has reports that support the case management process based on the strategic goals.
Management obtains relevant data from reliable internal and external sources in a timely manner based on the identified information requirements. Reliable internal and external sources provide data that are reasonably free from error and bias and faithfully represent what they purport to represent.	**DOES NOT MEET**	We found that many data elements had an error rate greater than the 10 percent. For example, for the C case data elements tested, 12 of the 20 data elements (60 percent) have error rates greater than the 10 percent deviation rate. For the R case data elements tested, 4 of the 29 data elements (14 percent) have error rates greater than the 10 percent deviation rate.
Management processes the obtained data into quality information that supports the internal control system.	**DOES NOT MEET**	
Management communicates quality information down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and supporting the internal control system. In these communications, management assigns the internal control responsibilities for key roles.	**DOES NOT MEET**	

GAO - Standards	Conclusion	Results
Management establishes a baseline to monitor the internal control system. The baseline is the current state of the internal control system compared against management's design of the internal control system.	**MEETS**	The Agency's internal controls over data integrity are documented in policies and manuals and are used as a baseline to monitor the internal controls of the NxGen system.
Management performs ongoing monitoring of the design and operating effectiveness of the internal control system as part of the normal course of operations. Ongoing monitoring includes regular management and supervisory activities, comparisons, reconciliations, and other routine actions.	**PARTIALLY MEETS**	Regional Offices are required to run data integrity reports every quarter. Regions are required to report that information to Operations-Management. We found that two Regions did not submit responses to the survey for data integrity during FY 2020. We also found that no Region submitted a survey for every quarter during FY 2020.
Management evaluates and documents the results of ongoing monitoring to identify internal control issues.	**PARTIALLY MEETS**	Management is not requiring the Regions to meet the requirement.
Personnel report internal control issues through established reporting lines to the appropriate internal and external parties on a timely basis to enable the entity to promptly evaluate those issues.	**MEETS**	Personnel report internal control issues through the Regional NxPert, Program Analysts, and NxGen Analysts in OCIO. There is also a suggestion box that allows users to submit questions and to recommend improvements to NxGen.

Data Element	Agency Definition
Date Filed	**The date the charge or petition is received by the Regional Office.**
Date Closed	**The date the C or R case was closed.** C Case: The date the Regional Director approved the withdrawal, dismissal, or letter to parties closing a case on compliance. If the appeal was denied, the Region should close the case as of the date of the denial letter; R Case - An R Case is closed by: Certification of Representative or Certification of Results; Withdrawal of petition; Dismissal of the petition prior to hearing with no request for review or with request for review denied by the Board; RD Decision and Order dismissing the petition with no request for review or with the request for review denied; or Board Decision and Order dismissing the petition.
Closed Reason	**The reason the case closed, such as a withdrawal or dismissal.** C Case: The Regions are to make appropriate data entries in the closing fields: Withdrawal Non-Adjusted, Withdrawal Adjusted, Dismissed Non-Adjusted, Dismissed-Adjusted, and Informal Settlement; R Case: The Regions are to make appropriate data entries in the closing fields: Amended Certification (AC), Certific. of Representative, Certification of Results, Unit Clarification (UC), Withdrawal Non-Adjusted, Dismissed Non-adjusted.
Action Disposition (C and R cases)	**Primary activities related to NLRB processes.** There are approximately 30 Actions that occur in C and R Case processing, including Regional Determination, Withdrawal, Dismissal, Settlement, Deferral , Complaints, ALJ, and Board Actions. As a case is processed, it moves from Action to Action. Thus, a C or R case start with a Regional Determination Action (Investigation Action), then move to another Action.
Disposition Date (C and R cases)	**The date a C or R case Action was resolved or disposed of.**

Data Element	Agency Definition
Investigation Action Determination –	**The Regional determination made for the entire case.** For C cases, the determination can be one of the following: (Merit, No Merit, Partial Merit, Defer, Partial Defer/Merit, Partial Defer/No Merit, No Determination). For R cases, the Investigation Action determination can be either a Question Concerning Representation (QCR) where an election is held, or No QCR if there will not be an election.
Implemented Date (C Cases)	**The date the final allegation was disposed of.** If there are multiple allegations, the implemented date is the date the last of the allegations is disposed of; the Regional Office sending a case to Advice is equivalent to a disposition; and if a case goes to Advice, the implemented date is the date the case went to Advice.
Potential 10(j) (C Cases)	**At the start of a case, a 10(j) determination is made if there is threat of remedial failure.**
Action Determination (Informal Settlement) (C Cases)	**The Regional determination made for an Informal Settlement action (Bilateral or Unilateral).** A "Bilateral" informal settlement agreement is entered into by both the charged and charging party and approved by the Regional Director or Administrative Law Judge. A "Unilateral" if the informal settlement agreement is entered into by the charged party but not the charging party, and approved by a Regional Director or ALJ.
Compliance Specification Date	**The date the Compliance Specification issued.** When any compliance requirement of a Board order or court judgment case is disputed, such as the amount of backpay due, the Region may issue a compliance specification to seek to liquidate backpay or to compel specific compliance actions.
Action Type (R cases)	**The type of action for an R case.** A petition can take the form of various action types: RC, RM, RD, UD, UC, and AC.
Bargaining Status	Bargaining status: Existing contract, None, Organizational Campaign, Seeking Initial Contract or Seeking Successor Contract

Data Element	Agency Definition
Blocked	**Whether a petition is blocked by an unfair labor practice charge.**
Pre/Post-Election Self Certified	**Certifies that certain elections held pursuant to Decisions and Directions of Elections and taking more than 85 days will not be counted in the Region's statistics**. Such cases include, but are not limited to, those in which there are complex issues, numerous classifications in dispute, lengthy hearings, or appeals to the Board.
Hearing Session Closed Date	**The date the hearing closed.**
Election Held Date	**The date the election was held.**
Number of Eligible Voters	**The total count of voters eligible to participate in the election.**
Valid Votes For Labor Org.	**Total votes for the Labor Organization**
Valid Votes Against Labor Org.	**Total votes against the Labor Organization**
Election Mode (Mail, Manual, Mixed)	**The method the election was held (manual, mail, mixed)**.
Tally Date	**The date of the election.**
Tally Type	**The type of election that was held (initial, rerun, run-off).** There are three tally types: 1) Initial – Original election; 2) Rerun – an election is conducted when the original election is a nullity by virtue of its tallied results or because it is set aside, either by the Region, the Board or by agreement of the parties; and 3) Run-off - when there are three or more choices on the ballot, an election in which (after any determinative challenges have been resolved) none of the choices receives a majority of the valid votes cast is considered an inconclusive election.

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Operations-Management

Memorandum

To: David Berry, Inspector General

From: Elizabeth Kilpatrick Assistant General Counsel, Division of Operations-Management

Date: November 12, 2021

Subject: OIG NxGen Data Accuracy Audit Report – OIG-AMR-94

Management Response:

Operations-Management concurs with the report and recommendations. We note that many of the difficulties in documentation can be attributed to staffing deficiencies and pandemic-related telework. Another factor was the reclassification of "key desk" administrative support positions, which resulted in reallocation of the previously established duties and protocols formerly associated with these positions. We anticipate significant hiring of additional administrative support staff, which will ease the burdens placed on Regional offices.

We will take the following steps in response to the report's recommendations:

1. **Develop and implement a quality review process at the local Regional Office level that includes review of the data at key points of the case life cycle.**
   Operations-Management will develop a model review process that includes review of the data entry at key points of the case life cycle. To accommodate local Regional Office process and staffing, Operations will ask Regions to adapt the model process to fit their respective situations and submit their adapted plan to Operations.

2. **Develop and implement internal controls related to the timely entry of NxGen data.**
   Operations will develop a model for timely data entry and will work with Regions to adapt the model to accommodate local staffing capabilities. Regions will be required to submit their adaptations to Operations. We believe this will meet the GAO Standards the Agency currently does not meet. We will also work OCIO and the NxGen development team to automate data entry where feasible.

3. **Develop and implement a standard methodology for documenting data in the NxGen case file.**
   Operations will work with Regions to develop standards for documenting data and will work with Regions on local implementation of these standards. Operations will also work with the Office of General Counsel to determine whether the Agency requires certain data fields (e.g., Bargaining Status and Potential 10(j)) that are difficult to ascertain or document during the docketing process.

4. **Develop and implement a training program that focuses on NxGen data quality controls and processes. This program should include new employee NxGen orientation, periodic refresher training, and supervisory data quality review.**

Operations will develop and implement mandatory training for employees at all levels.

5. **Either develop an appropriate explanation of the current methodology to calculate the merit statistic in the PAR or calculate the merit determination rate using the NxGen data element.** The method of calculating the merit factor statistic has been in place for decades, predating NxGen. Rather than change the methodology, we will develop a more precise explanation. In addition, we will develop and implement training for Regions with respect to data entry of Merit Determination in Non-Board settlements.

We thank the Office of the Inspector General for raising the issues contained in the office and we pledge to work with the Regions and OCIO to develop appropriate solutions.