UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Audit of the NLRB
Fiscal Year 2009 Financial Statements

Report No. OIG-F-14-10-01

December 2009

INSPECTOR GENERAL

NATIONAL LABOR RELATIONS BOARD

NATIONAL LABOR RELATIONS BOARD

WASHINGTON, DC 20570

December 11, 2009

I hereby submit the Audit of the National Labor Relations Board's (NLRB) Fiscal Year (FY) 2009 Financial Statements, Report No. OIG-F-14-10-01. The audit was required by the Accountability of Tax Dollars Act of 2002. On November 5, 2009, we transmitted Carmichael, Brasher, Tuvell & Company's (CBTC) audit opinion, which was included in the Agency's FY 2009 Performance and Accountability Report. This document is the Office of Inspector General's comprehensive report on our efforts related to auditing the Agency's financial statements and includes the audit report, Management Letter, NLRB's financial statements and related notes, and management's responses to both the audit report and Management Letter.

The Accountability of Tax Dollars Act of 2002 requires that the NLRB prepare and submit to the Congress and the Director of the Office of Management and Budget (OMB) an audited financial statement. We contracted with CBTC to perform the audit. The objectives of the audit were to issue an opinion on the fair presentation of the principal financial statements, obtain an understanding of the Agency's internal controls, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

The audit was conducted by CBTC in accordance with Government Auditing Standards issued by the Comptroller General of the United States and OMB Bulletin No. 07-04, Audit Requirements for Federal Financial Statements. The audit results were:

- The financial statements present fairly, in all material respects, the financial condition and activity of the NLRB as of and for the years ending September 30, 2008 and 2009.

- No material weaknesses in controls over financial reporting were identified. The objective of the audit, however, was not to provide assurance on internal control or on the effectiveness of the NLRB's internal control. Because of inherent limitations in internal control, misstatements due to error or fraud; losses; or noncompliance may nevertheless occur and not be detected. Consequently, an opinion on the effectiveness of NLRB's internal control was not provided.

- The Agency did not adhere to the *bona fide* needs rule (31 U.S.C. § 1502) when the Division of Administration purchased $250,000 of postage on September 29, 2009. No other instances of noncompliance with laws and regulations that would be reportable under U.S. generally accepted government auditing standards or OMB audit guidance were found. Providing an opinion on compliance with laws and regulations, however, was not an objective of the audit and, accordingly, such an opinion was not expressed.

A Management Letter, included on page 5 of this report, identified one area where management could improve controls. This area involved non-compliance with the *bona fide* needs rule. An additional area, involving the receipt of the SAS 70 report from the host of the Agency's general support system networks, was identified during the audit and was corrected by management.

CBTC's independent auditors' report did not include any recommendations for corrective action. CBTC's Management Letter contained one finding with two recommendations. The Management Letter also provided information on the status of prior year recommendations.

Management disagreed with the *bona fide* needs finding and agreed with one of the two recommendations. Comments on the audit report and Management Letter are presented in their entirety as appendixes to this report.

We appreciate the efforts, cooperation, and professionalism of the Agency's staff in completing this yearlong audit.

David P. Berry
Inspector General

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INDEPENDENT AUDITORS' REPORT

To David P. Berry, Inspector General
National Labor Relations Board

The Accountability of Tax Dollars Act of 2002 made the National Labor Relations Board (NLRB) subject to the annual financial statement reporting requirements of the Chief Financial Officers Act of 1990, which requires agencies to report annually to Congress on their financial status and any other information needed to fairly present the agencies' financial position and results of operations.

The objectives of the audit are to express an opinion on the fair presentation of NLRB's principal financial statements, obtain an understanding of the Agency's internal control, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

We have audited the balance sheets of NLRB as of September 30, 2009 and 2008, and the related consolidated statements of net cost, changes in net position, and budgetary resources for the years then ended.

NLRB's management is responsible for preparing the financial statements in conformity with accounting principles generally accepted in the United States of America; establishing, maintaining, and assessing internal controls over financial reporting; preparing the Management's Discussion and Analysis (MD&A); and complying with laws and regulations.

Our responsibility is to express an opinion on the Fiscal Year (FY) 2009 and 2008 financial statements of NLRB based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 3 to the financial statements, NLRB has adopted Statement of Federal Financial Accounting Standards (SFFAS) 31, *Accounting for Fiduciary Activities*, which states fiduciary activities are no longer to be reported on the financial statements but are required to be reported on schedules in the notes to the financial statements. The previous year's financial statements have not been restated in accordance with paragraph 9 of SFFAS 31 because comparative information is not required.

OPINION ON FINANCIAL STATEMENTS

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net position of NLRB, as of September 30, 2009 and 2008; and the net cost, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

REPORT ON INTERNAL CONTROL

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of its internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control or on the effectiveness of NLRB's internal control. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. Consequently, we do not provide an opinion on the effectiveness of NLRB's internal control.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control was for the limited purpose described above and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above. However, we identified certain other matters in internal control that came to our attention during our audit which we communicated in writing to management and those charged with governance.

We considered NLRB's internal control over Required Supplementary Information (RSI) by obtaining an understanding of the Agency's internal control, determining whether these internal controls had been placed in operation, assessing control risk, and performing tests of controls as required by OMB Bulletin No. 07-04. The objective of our audit was not to provide assurance on these internal controls. Accordingly, we do not provide an opinion on such controls.

REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to NLRB. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

Our tests of compliance with certain provisions of laws and regulations discussed in the preceding paragraph disclosed the following instance of noncompliance required to be reported under U. S. generally accepted government auditing standards and OMB audit guidance.

> NLRB did not adhere to the *bona fide* needs rule (31 U.S.C. § 1502) when NLRB's Division of Administration purchased $250,000.00 of postage on September 29, 2009. The postage purchase was not necessary to meet the need of FY 2009 nor was it necessary to avoid a disruption of the NLRB's operations. The amount of postage purchased at year end was unreasonable and was therefore excessive.
>
> **U. S. Code, Title 31, Section 1502(a)** states "The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law."

Except as noted above, our tests of compliance with selected provisions of laws and regulations disclosed no other instances of noncompliance that would be reportable under U. S. generally accepted government auditing standards or OMB audit guidance.

Providing an opinion on compliance with laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

OTHER ACCOMPANYING INFORMATION

Our audit was conducted for the purpose of forming an opinion on the financial statements of NLRB taken as a whole. The accompanying financial information is not a required part of the financial statements.

The other accompanying information included in the MD&A and RSI sections of the Performance and Accountability Report are required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the information. We did not audit the other accompanying information and, accordingly, do not express an opinion or any other form of assurance on it.

This communication is intended solely for the information and use of the management of NLRB, others within the organization, OMB, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

CARMICHAEL, BRASHER, TUVELL & COMPANY, PC

Carmichael, Brasher, Tuvell + Co., P.C.

Atlanta, Georgia
November 4, 2009

MANAGEMENT LETTER

To David P. Berry, Inspector General
National Labor Relations Board

We audited the financial statements (balance sheet, and the related statements of net cost, changes in net position, and statement of budgetary resources, hereinafter referred to as "financial statements") of the National Labor Relations Board (NLRB) as of and for the years ended September 30, 2009 and 2008, on which we issued an unqualified opinion dated November 4, 2009.

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of its internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget's (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control. We have not considered the internal control structure since the date of our report.

During our audit, we noted certain matters involving the internal control structure and other operational matters that are presented in this letter for your consideration. These issues and related recommendations have been discussed with the appropriate members of NLRB's management and are intended to improve the internal control structure or result in operating efficiencies. NLRB's written responses to these matters identified in our audit have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

We reviewed all five open recommendations made in the prior years' management letters (two items from 2008, two items from 2007 and one 2006 item) and determined the status of corrective actions for each. Of the five open recommendations, two are considered partially complete and three have been completed and closed; however, NLRB's written responses to the previous years' management letter comments have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

The report is intended for the information and use of the management of NLRB, the Office of Inspector General, others within the organization, OMB, and the U.S. Congress, and is not intended to be and should not be used by anyone other than those specified parties.

CARMICHAEL BRASHER TUVELL & COMPANY

Carmichael, Brasher, Tuvell + Co., P.C.

November 4, 2009

#1 Non-compliance with the *Bona Fide* Needs Rule

Condition
NLRB purchased postage totaling $250,000 on 9/29/09 for postage meters at NLRB Headquarters and in field offices that could not be justified as a *bona fide* need of Fiscal Year (FY) 2009. Based on a report showing Agencywide postage meter balances as of 10/23/09, the Agency's postage meters had sufficient postage to extend usage well into FY 2010 even before the 2009 year-end advance. Offices were provided postage without considering their needs, and we estimate that some of those offices may have enough postage to last more than 1 year. We determined that the postage purchase was not necessary to avoid a disruption of the NLRB's operations and was therefore unreasonable and excessive.

Cause
NLRB lacks a formal, documented process for identifying and assessing its postage needs during the year. The methodology for determining the funding for postage was based on funding availability, prior purchase history, and other factors, but did not entail an evaluation of either the postage available or needed. Management acknowledged the postage purchase was intended to meet FY 2010 needs.

Effect
NLRB's FY 2009 obligations were overstated by $250,000. Because the postage purchased at year-end was not based on the actual needs of the Agency for FY 2009, the Agency was not in compliance with the *bona fide* needs rule, U.S. Code, Title 31, Section 1502(a).

Criteria
U. S. Code, Title 31, Section 1502(a) states "The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law."

Recommendation
We recommend that the NLRB's Director of Administration:

1) Deobligate $250,000 of postage advanced from FY 2009 funds and re-obligate the postage advance using FY 2010 funds.

2) Develop and implement procedures to monitor postage that would ensure that purchases and distribution to the field offices would only be made when needed.

Management's Response
Management disagreed with the first recommendation. Management cited a number of factors on which the postage advance was based that they stated were consistent with Agency history and sound business practice. They noted that the process of deobligating funds from 1 year and re-obligating to the next year is administratively difficult.

Management acknowledged the second recommendation and stated that they would work to develop a documented process for determining the appropriate level of funding for the postage meters.

CBTC'S Assessment of Management's Response

CBTC has reviewed management's response and continues to recommend that the Director Administration deobligate $250,000 of postage advanced from FY 2009 funds and re-obligate the postage advance using FY 2010 funds.

CBTC notes that the difficulty of performing the recommended transaction is not a sound justification for continued non-compliance with the *bona fide* needs rule. We also note that in their response management did not address whether the needs of offices were actually assessed, to what extent the existing approximate balance of $170,947 on postage meters was considered, or how $250,000 in additional postage was actually a need of FY 2009.

CBTC acknowledges management's willingness to develop and implement documented procedures to determine the appropriate level of funding for Agency postage meters in the future. A follow-up review will be performed during the FY 2010 audit.

#2 Prior Year Recommendations

Open Prior Year Management Letter Recommendations

Five prior year management letter recommendations were open during FY 2009. As shown in the table below, the Agency completed corrective action on three of them.

Prior Year Recommendation	Current Year Status
FY 2006 Management Letter	
Implement the recommendations summarized in INDR No. 5-2006. These related to information technology (IT) security vulnerabilities.	Partially complete.
FY 2007 Management Letter	
Ensure that IT personnel with security-related duties receive the training required by NLRB's ITSEAT policy. If sufficient funding is not available, free IT training should be pursued.	Partially complete.
Bring Agency passwords into conformance with the Agency's policy.	Complete.
FY 2008 Management Letter	
Inform contracting officers of the continued need for strong internal controls to ensure compliance with the FAR.	Complete.
Remind contracting officers to be diligent in identifying non-severable service contracts and that incrementally recording the funding for such contracts is improper.	Complete.

PRINCIPAL FINANCIAL STATEMENTS

National Labor Relations Board Balance Sheet As of September 30, 2009 and 2008 *(in dollars)*	FY 2009	FY 2008
Assets:		
Intragovernmental:		
Fund balance with Treasury (Note 2)	$ 27,295,075	$ 24,894,658
Investments, net (Note 3)	–	4,349,913
Advances (Note 4)	276,086	968
Total Intragovernmental	27,571,161	29,245,539
Accounts receivable, net (Note 5)	36,307	43,450
General property, plant and equipment, net (Note 6 and 10)	10,180,286	8,910,658
Total Assets	$ 37,787,754	$ 38,199,647
Liabilities:		
Intragovernmental:		
Accounts payable (Note 7)	1,439,222	$ 999,354
Employer contributions and payroll taxes	1,888,037	1,658,122
FECA liability (Note 8 and 10)	785,013	930,545
Other	151,222	–
Total Intragovernmental	4,263,494	3,588,021
Accounts payable:	$ 5,311,634	$ 2,737,933
Estimated future FECA liability (Note 8 and 10)	2,511,450	1,666,412
Accrued payroll and benefits	8,089,841	7,255,123
Accrued annual leave (Note 8 and 10)	14,691,885	13,687,550
Backpay settlement due to others (Note 3, 8 and 9)	–	7,338,443
Custodial liability (Note 8 and 9)	–	96,366
Total Liabilities	$ 34,868,304	$ 36,369,848
Net position:		
Unexpended appropriations	10,691,205	9,160,197
Cumulative results of operations (Note 10)	(7,771,755)	(7,330,398)
Total Net Position	2,919,450	1,829,799
Total Liabilities and Net Position	$ 37,787,754	$ 38,199,647

The accompanying footnotes are an integral part of these financial statements.

National Labor Relations Board Statement of Net Cost For the Periods Ended September 30, 2009 and 2008 *(in dollars)*	FY 2009	FY 2008
Program Costs:		
Resolve Representation Cases		
Total Gross Cost	$ 45,368,125	$ 42,766,876
Resolve Unfair Labor Practices		
Total Gross Cost	$231,417,384	$218,126,32[illegible]
Other:		
Gross Costs	132,918	102,764
Less: Earned Revenue	132,918	102,764
Total Net Cost – Other		
Net Cost of Operations (Note 11)	$ 276,785,509	$ 260,893,197

The accompanying footnotes are an integral part of these financial statements.

National Labor Relations Board
Statement of Changes In Net Position
For the Periods Ended September 30, 2009 and 2008

(in dollars)

	FY 2009	FY 2008
Cumulative Results of Operations:		
Beginning Balance	$ (7,330,398)	$ (10,669,600)
Budgetary Financing Sources:		
Appropriations-used	260,063,478	249,805,059
Other Financing Sources (Non-Exchange):		
Imputed financing costs (Note 13)	16,280,674	14,427,340
Total Financing Sources	276,344,152	264,232,399
Net Cost of Operations	(276,785,509)	(260,893,197)
Net Change	(441,357)	3,339,202
Cumulative Results of Operations (Note 10)	(7,771,755)	(7,330,398)
Unexpended Appropriations:		
Beginning Balance	9,160,197	8,907,172
Budgetary Financing Sources:		
Appropriations-received	262,595,000	256,238,000
Appropriations-used	(260,063,478)	(249,805,059)
Recissions & cancelled appropriations	(1,000,514)	(6,179,916)
Total Budgetary Financing Sources	1,531,008	253,025
Total Unexpended Appropriations	10,691,205	9,160,198
Net Position	$ 2,919,450	$ 1,829,799

The accompanying footnotes are an integral part of these financial statements.

National Labor Relations Board
Statement of Budgetary Resources
For the Periods Ended September 30, 2009 and 2008

(in dollars)

	FY 2009	FY 2008
Budgetary Resources:		
Unobligated balance, brought forward, October 1:	$ 4,610,732	$ 5,360,240
Recoveries of prior year unpaid obligations	840,433	704,286
Budget authority:		
Appropriations (Note 14)	262,595,000	256,238,000
Spending authority from offsetting collections:		
Earned	–	–
Collected	216,802	173,502
Subtotal	262,811,802	256,411,502
Permanently not available (Note 14)	(1,000,514)	(6,179,916)
Total Budgetary Resources (Note 15)	**$267,262,453**	**$ 256,296,112**
Status of Budgetary Resources:		
Obligations incurred:		
Direct	$262,958,149	$251,582,616
Reimbursable	132,735	102,764
Subtotal (Note 15)	$263,090,884	$251,685,380
Unobligated balance:		
Apportioned (Note 15)	336,774	543,715
Unobligated balance not available	3,834,795	4,067,017
Total Status of Budgetary Resources	**$267,262,453**	**$256,296,112**
Change in Obligated Balance:		
Obligated balance, brought forward, October 1:	$ 17,199,031	$ 16,348,138
Obligations incurred, net	263,090,884	251,685,380
Gross Outlays	(256,477,197)	(250,130,201)
Recoveries of prior year unpaid obligations, actual	(840,433)	(704,286)
Obligated balance, net, end of period:	**$ 22,972,285**	**$ 17,199,031**
Net Outlays:		
Gross outlays	256,477,197	250,130,201
Offsetting collections	(216,802)	(173,502)
Net Outlays	$256,260,395	$249,956,699

The accompanying footnotes are an integral part of these financial statements.

NOTES TO PRINCIPAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA 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. The NLRB's jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within the NLRB's jurisdiction). The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. The NLRB 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, 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 (ULP), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP 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.

B. Basis of Accounting and Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position, and budgetary resources of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the books and records of the NLRB in accordance with accounting principles generally accepted in the United States of America (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements, revised as of June 10, 2009*. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the federal government. While the statements have been prepared from the books and records of the NLRB in accordance with GAAP for federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. These financial statements present proprietary and budgetary information.

The Balance Sheet presents agency assets and liabilities, and the difference between the two, which is the agency net position. Agency assets include both entity assets —those which are available for use by the agency—and non-entity assets —those which are managed by the agency but not available for use in its operations. Agency liabilities include both those covered by budgetary resources (funded) and those not covered by budgetary resources (unfunded). Effective for period beginning after September 30, 2008, the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 1F, Fiduciary Activites, for additional information.

The Statement of Net Cost presents the gross costs of programs less earned revenue to arrive at the net cost of operations for both programs and for the Agency as a whole.

The Statement of Changes in Net Position reports beginning balances, budgetary and other financing sources, and net cost of operations, to arrive at ending balances.

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. Recognition and measurement of budgetary information reported on this statement is based on budget terminology, definitions, and guidance in OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget, dated August 2009.*

The Agency is required to be in substantial compliance with all applicable accounting principles and standards established, issued, and implemented by the FASAB, which is recognized by the American Institute of Certified Public Accountants (AICPA) as the entity to establish GAAP for the federal government. The Federal Financial Management Integrity Act (FFMIA) of 1996 requires the Agency to comply substantially with (1) federal financial management systems requirements, (2) applicable federal accounting standards, and (3) the U.S. Government Standard General Ledger at the transaction level.

The fiscal year (FY) 2011 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2009 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in February 2010 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2008 that have been reported in the FY 2010 Budget of the United States and the actual numbers that appear in the FY 2008 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2009 require the presentation of comparative financial statements for all of the principal financial statements. The NLRB is presenting comparative FY 2009 financial statements for the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources, and these statements have been prepared in accordance with generally accepted accounting principles.

The financial statements should be read with the realization that they are for a component of the United States Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources and legal authority to do so.

The accounting structure of federal agencies is designed to reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

The budgetary accounting principles, on the other hand, are designed to recognize the obligation of funds according to legal requirements, which in many cases is prior to the occurrence of an accrual based transaction. The recognition of budgetary accounting transactions is essential for compliance with legal constraints and controls over the use of federal funds.

The information as presented on the Statement of Net Cost is based on the programs below:

Representation Cases are initiated by the filing of a petition by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents, or in some cases continues to represent, a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency is to investigate the petition and, if necessary, conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the NLRA. The NLRB must also determine which employees are properly included in the bargaining unit, conduct the election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election and, if the election is determined to have been fairly conducted, to certify its results.

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. If the NLRB Regional Office believes that a charge has merit, it issues and prosecutes a complaint against the charged party, unless settlement is reached. A complaint that is not settled or withdrawn is tried before an administrative law judge (ALJ), who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial body, deciding cases on the basis of the formal trial record according to the law and the body of case law that has been developed by the Board and the federal courts.

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the U.S. Treasury (Treasury) to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the Treasury.

Budgetary accounting measures appropriation and consumption of budget/spending authority or other budgetary resources and facilitates compliance with legal constraints and controls over the use of federal funds. Under budgetary reporting principles, budgetary resources are consumed at the time of purchase. Assets and liabilities, which do not consume current budgetary resources, are not reported, and only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

Transactions are recorded on an accrual accounting basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

D. Financing Sources

The NLRB receives funds to support its programs through annual appropriations. These funds may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual service costs).

For accounting purposes, appropriations are recognized as financing sources (appropriations used) at the time expenses are accrued. Appropriations expended for general property, plant and equipment are recognized as expenses when the asset is consumed in operations (depreciation and amortization).

E. Fund Balance with the Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by the Treasury. The agency's records are reconciled with those of Treasury. The fund balances with the Treasury are primarily appropriated funds that are available to pay current liabilities and to finance authorized purchases. Funds with the Treasury represent the NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with the Treasury also include escrow funds that are not appropriated but are backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. Effective for the period beginning after September 30, 2008, the cash received and the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 1F, Fiduciary Activities, for further explanation.

See Note 2 for additional information on Fund Balance with Treasury.

F. Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and investment, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. Fiduciary cash and other assets are not assets of the Federal Government. Beginning in FY 2009, fiduciary activities will no longer be recognized on the proprietary financial statements, but they are required to be reported on schedules in the notes to the financial statements. (see SFFAS No. 31, Accounting for Fiduciary Activities).

The fiduciary funds collected by NLRB and held in escrow accounts with the Treasury are funds that are not appropriated but are backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. The NLRB invests funds in federal government securities for backpay that are held in the escrow account at Treasury. Effective for the period beginning after September 30, 2008, the cash received and the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 3, Fiduciary Activities.

The federal government securities include Treasury market-based securities issued by the Federal Investment Branch of the Bureau of the Public Debt. Market-based securities are Treasury securities that are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms.

It is expected that Investments will be held until maturity; therefore they are valued at cost and adjusted for amortization of discounts, if applicable. The discounts are recognized as adjustments to interest income, utilizing the straight-line method of amortization for short-term securities (i.e., bills). Investments, redemptions, and reinvestments are controlled and processed by the Department of the Treasury.

There exists a signed Memorandum of Understanding (MOU) between the NLRB and the Treasury establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

See Note 3 for additional information on Fiduciary Activities.

G. Advances

Advances consist of amounts advanced by the NLRB for the transit subsidy program, United States Postal Service for penalty mail and for commercial payment system for postage.

See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of health benefit premiums due the NLRB from Agency employees. Accounts receivable are stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year end.

See Note 5 for additional information on Accounts Receivable.

I. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, computer hardware and software. The Agency has no real property.

General property, plant and equipment with a cost of $15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. Other property items are expensed when purchased. Expenditures for repairs and maintenance are charged to operating expenses as incurred. The useful life for this category is five to twelve years. There are no restrictions on the use or convertibility of general property, plant and equipment.

Internal Use Software. Internal use software (IUS) includes purchased commercial off-the-shelf software (COTS), contractor-developed software, and software that was internally developed by Agency employees. IUS is capitalized at cost if the acquisition cost is $100,000 or more. For COTS software, the capitalized costs include the amount paid to the vendor for the software; for contractor-developed software it includes the amount paid to a contractor to design, program, install, and implement the software. Capitalized costs for internally developed software include the full cost (direct and indirect) incurred during the software development stage. The estimated useful life is two to five years for calculating amortization of software using the straight-line method.

Internal Use Software in Development. Internal use software in development is software that is being developed, but not yet put into production. At the time the software is moved into production the costs will be moved into the IUS account described above. The NLRB is currently undertaking a major software development project called the Next Generation Case Management System (NxGEN) that will replace a number of case tracking systems with one enterprise-wide system. NxGEN will support the President's Management Agenda, such as for e-Gov, E-Filing, e-FOIA, and public Web-based access to NLRB data. This project is a multiple year undertaking in which various portions of the system will be rolled out as they are developed. The overall cost of this project is expected to exceed $7 million.

See Note 6 for additional information on General Property, Plant and Equipment, Net.

J. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets.

See Note 9 for additional information on Non-Entity Assets.

K. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by the NLRB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriation will be enacted. Also, liabilities of the NLRB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

L. Liabilities Not Covered by Budgetary Resources

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity.

Intragovernmental
The U.S. Department of Labor (DOL) paid Federal Employees Compensation Act (FECA) benefits on behalf of the NLRB which had not been billed or paid by the NLRB as of September 30, 2009 and 2008, respectively.

Federal Employees Workers' Compensation Program.
The Federal Employees Workers' Compensation Program (FECA) provides income and medical cost protection to covered federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by DOL, which pays valid claims and subsequently seeks reimbursement from the NLRB for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by DOL but not yet reimbursed by the NLRB. The NLRB reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a two- to three-year time period between payment by DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by DOL and to be reimbursed by the NLRB.

The second component is the estimated liability for future benefit payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. The NLRB determines this component annually, as of September 30, using a method that considers historical benefit payment patterns.

The NLRB uses the methodology of reviewing the ages of the claimant on a case-by-case basis (because of the small number of claimants) to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 80 and 84 years for male and female, respectively.

See Notes 8 and 10 for additional information on the FECA liability.

Other
Accrued annual leave represents the amount of annual leave earned by the NLRB employees but not yet taken.

See Notes 8 and 10 for additional information on Annual Leave.

M. Contingencies

The criteria for recognizing contingencies for claims are:
1. a past event or exchange transaction has occurred as of the date of the statements;
2. a future outflow or other sacrifice of resources is probable; and
3. the future outflow or sacrifice of resources is measurable (reasonably estimated).

The NLRB recognizes material contingent liabilities in the form of claims, legal action, administrative proceedings and suits that have been brought to the attention of legal counsel, some of which will be paid by the Treasury Judgment Fund. It is the opinion of management and legal counsel that the ultimate resolution of these proceedings, actions and claims, will not materially affect the financial position or results of operations.

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported; where no cost is more likely than any other, the lowest possible cost in the range is reported. This item will normally be paid from appropriated funds.

See Note 16 for additional information on Contingencies.

N. Unexpended Appropriations

Unexpended appropriations represent the amount of the NLRB's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated or is unobligated and has not lapsed, been rescinded, or withdrawn.

O. Annual, Sick, and Other Leave

Annual and Sick Leave Program.
Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Annual leave earned but not taken, within established limits, is funded from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

See Note 10 for additional information on Annual Leave.

P. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program. Most of NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain "basic life" term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met. The Office of Personnel Management (OPM) administers this program and is responsible for the reporting of liabilities. For each fiscal year, OPM calculates the U.S. Government's service cost for the post-retirement portion of the basic life coverage. Because the NLRB's contributions to the basic life coverage are fully allocated by OPM to the pre-retirement portion of coverage, the NLRB has recognized the entire service cost of the post-retirement portion of basic life coverage as an imputed cost and imputed financing source.

Retirement Programs.
The NLRB employees participate in one of two retirement programs, either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees Retirement System (FERS), a defined benefit and contribution plan. On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most the NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS. The NLRB contributes a matching contribution equal to 7 percent of pay for CSRS employees.

FERS consists of Social Security, a basic annuity plan, and the Thrift Savings Plan. The Agency and the employee contribute to Social Security and the basic annuity plan at rates prescribed by law. In addition, the Agency is required to contribute to the Thrift Savings Plan a minimum of 1 percent per year of the basic pay of employees covered by this system and to match voluntary employee contributions up to 3 percent of the employee's basic pay, and one-half of contributions between 3 percent and 5 percent of basic pay. For FERS employees, the Agency also contributes the employer's share of Medicare. The maximum amount of base pay that an employee participating in FERS may contribute is $16,500 in calendar year (CY) 2010 to this plan. Employees belonging to CSRS may also contribute up to $16,500 of their salary in CY 2010 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2010 is $5,500. For CY 2009, the regular and catch-up contributions may not exceed $22,000. The sum of the employees' and the NLRB's contributions are transferred to the Federal Retirement Thrift Investment Board.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employees government-wide, including the NLRB employees. The NLRB has recognized an imputed cost and imputed financing source for the difference between the estimated service cost and the contributions made by the NLRB and covered CSRS employees.

The NLRB does not report on its financial statements FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. Reporting such amounts is the responsibility of OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the federal government, included in the NLRB's financial statements as an imputed financing source.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS No. 5, Accounting for Liabilities of the Federal Government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future, and provide these factors to the agency for current period expense reporting. Information was also provided by OPM regarding the full cost of health and life insurance benefits.

In FY 2009, the NLRB, utilizing OPM provided cost factors, recognized $7,086,193 of pension expenses, $9,166,430 of post-retirement health benefits expenses, and $28,051 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $16,280,674 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

In FY 2008, the NLRB, utilizing OPM provided cost factors, recognized $6,688,767 of pension expenses, $7,711,245 of post-retirement health benefits expenses, and $27,328 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of $14,427,340 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

See Note 13 for additional information

Q. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (GSA). Regarding NLRB's building lease, the GSA entered into a lease agreement for the NLRB's rental of building space. The NLRB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, so it does not record GSA-owned properties. The real property leases are for NLRB's Headquarters and Regional Offices and the personal property leases are for GSA cars.

See Note 12 for additional information on Operating Leases.

R. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the NLRB's operations since inception.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

T. Tax Status

The NLRB, as an independent Board of the Executive Branch, a federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

U. Comparative Data

Comparative data for the prior year have been presented for the principal financial statements and their related notes.

NOTE 2. FUND BALANCE WITH TREASURY

Treasury performs cash management activities for all federal agencies. The net activity represents Fund Balance with Treasury. The Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2009 and September 30, 2008 consists of the following:

Fund Balance with Treasury by Fund Type:

(in thousands)	FY2009 Entity Assets	Non-Entity Assets	Total	FY2008 Entity Assets	Non-Entity Assets	Total
General Funds	$ 27,144		$ 27,144	$ 21,810		$ 21,810
Escrow Funds		151	151		3,085	3,085
Total Fund Balance with Treasury	$ 27,144	$ 151	$ 27,295	$ 21,810	$ 3,085	$ 24,895

Effective for the period beginning after September 30, 2008, the cash received and held in escrow for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 1 F, Fiduciary Activities, for further explanation.

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior fiscal years, which are not available to fund new obligations. The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received but for which payment has not yet been made.

Obligated and unobligated balances reported for the status of Fund Balance with Treasury do not agree with obligated and unobligated balances reported on the Statement of Budgetary Resources because the Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts.

Status of Fund Balance with Treasury as of September 30, 2009 and September 30, 2008 consists of the following:

Fund Balance with Treasury by Availability:

(in thousands)	FY 2009	FY 2008
Unobligated Balance		
Available	$ 337	$ 544
Unavailable	3,835	4,067
Obligated balance not yet disbursed	22,972	17,199
Non-budgetary fund balance with Treasury	151	3,085
Totals	$ 27,295	$ 24,895

NOTE 3. FIDUCIARY ACTIVITIES

Effective for the period beginning after September 30, 2008, the cash received and the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 1F, Fiduciary Activities, for further explanation.

Backpay funds are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings. NLRB holds these funds in an escrow account with Treasury and invests the funds that are authorized by the Regional Compliance Officers and other management officials in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of Public Debt.

There exists a signed Memorandum of Understanding (MOU) between the NLRB and the U.S. Treasury (Treasury) establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

Schedule of Fiduciary Activity

(As of September 30, 2009 and 2008)

(in thousands)	FY 2009	FY 2008
Fiduciary net assets, beginning of the year	$ 7,338	$ 3,680
Fiduciary revenues	15,388	15,229
Investment earnings	7	34
Disbursements to and on the behalf of beneficiaries	(18,862)	(11,605)
Increase (Decrease) in fiduciary net assets	($ 3,467)	$ 3,658
Fiduciary net assets, end of year	$ 3,871	$ 7,338

Fiduciary Net Assets

(As of September 30, 2009 and 2008)

(in thousands)	FY 2009	FY 2008
Fiduciary Assets		
Cash and cash equivalents	$ 1,487	$ 2,988
Investments	2,384	4,350
Fiduciary Liabilities		
Less: Liabilities	–	–
Total Fiduciary net assets	$ 3,871	$ 7,338

NOTE 4. ADVANCES

Intragovernmental

Intragovernmental Advances to the United States Postal Service (USPS) for September 30, 2009 were $261,437 and $968 for September 30, 2008. The remainder of the balance for FY 2009 was with the Department of Transportation for the transit subsidy.

NOTE 5. ACCOUNTS RECEIVABLE, NET OF ALLOWANCES FOR DOUBTFUL ACCOUNTS

The FY 2009 intragovernmental accounts receivable is zero and the FY 2008 amount was also zero:

(in thousands)	FY 2009	FY 2008
With the public		
Accounts receivable	$ 38	$ 45
Allowance doubtful accounts	(2)	(2)
Accounts receivable-net	$ 36	$ 43

NOTE 6. GENERAL PROPERTY, PLANT AND EQUIPMENT, NET

General property, plant and equipment consist of that property which is used in operations and consumed over time. The table below summarizes the cost and accumulated depreciation for general property, plant and equipment.

Depreciation expense for the years ended September 30, 2009 and September 30, 2008 was $1,211,053 and $1,462,108 (in dollars), respectively.

(in thousands) FY 2009	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	$ 1,854	$ 1,543	$ 311
Internal Use Software	5,038	3,178	1,860
Internal Use Software in Development	8,009	-	8,009
Totals	$ 14,901	$ 4,721	$ 10,180

(in thousands) FY 2008	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	$ 1,866	$ 1,239	$ 627
Internal Use Software	5,038	2,354	2,684
Internal Use Software in Development	5,600	-	5,600
Totals	$ 12,504	$ 3,593	$ 8,911

NOTE 7. INTRAGOVERNMENTAL ACCOUNTS PAYABLE

These accounts payables are with our federal trading partners of whom the largest amounts are with the General Services Administration (GSA).

NOTE 8. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents amounts collected from the public for court costs, freedom of information requests and other miscellaneous amounts that must be transferred to the Treasury. Effective for period beginning after September 30, 2008, the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 3, Fiduciary Activities, for additional information.

The composition of liabilities not covered by budgetary resources as of September 30, 2009 and September 30, 2008, is as follows:

(in thousands)	FY 2009	FY 2008
Intragovernmental:		
FECA-Unfunded	$ 785	$ 931
Total Intragovernmental	785	931
Estimated Future – FECA	2,511	1,666
Accrued Annual Leave	14,692	13,688
Backpay Settlement Due to Others	–	7,338
Custodial Liability	–	96
Total Liabilities not covered by budgetary resources	17,988	23,719
Total Liabilities covered by budgetary resources	16,880	12,651
Total Liabilities	**$ 34,868**	**$ 36,370**

NOTE 9. NON-ENTITY ASSETS

Non-Entity assets, restricted by nature, consist of miscellaneous receipt accounts. These amounts represent cash collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court costs and freedom of information requests that must be transferred to the Treasury. The backpay settlement due to others represents monies to be disbursed to discriminatees at a later date. Effective for period beginning after September 30, 2008, the investments made for backpay funds will not be recognized on the balance sheet of any federal entity. A note disclosure is still required to provide information about its fiduciary activities. See Note 3, Fiduciary Activities, for additional information.

The composition of non-entity assets as of September 30, 2009 and September 30, 2008, is as follows:

(in thousands)	FY 2009	FY 2008
Non-entity assets		
Intragovernmental:		
Fund Balance with Treasury	$ 151	$ 96
Total Intragovernmental	$ 151	$ 96
Backpay Settlement Due to Others	–	7,338
Total Non-entity assets	$ 151	$ 7,434
Entity assets	$37,637	30,766
Total Assets	**$37,788**	**$38,200**

NOTE 10. CUMULATIVE RESULTS OF OPERATIONS

(in thousands)	FY 2009	FY 2008
FECA paid by DOL	$ (305)	$ (348)
FECA – Unfunded	(785)	(931)
Estimated Future FECA	(2,511)	(1,666)
Accrued Annual Leave	(14,692)	(13,688)
General Property, Plant & Equipment, Net	10,180	8,911
Other	341	392
Cumulative Results of Operations	**$ (7,772)**	**$ (7,330)**

NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

For the intragovernmental costs, the buyer and seller are both federal entities. The earned revenue is the reimbursable costs from other federal entities. The NLRB provided administrative law judges' services to other federal entities. There is no exchange revenue with the public.

(in thousands)	FY 2009	FY 2008
Resolve Representation Cases		
Intragovernmental Costs	$ 8,839	$ 8,474
Costs with the Public	36,529	34,293
Total Net Cost - Resolve Representation Cases	**$ 45,368**	**$ 42,767**
Resolve Unfair Labor Practices		
Intragovernmental Costs	$ 44,720	$ 42,869
Costs with the Public	186,697	175,257
Total Net Cost - Resolve Unfair Labor Practices	**$ 231,417**	**$ 218,126**
Other		
Intragovernmental Costs	$ 133	$ 103
Less: Intragovernmental Earned Revenue	133	103
Total Net Cost - Other	**$ 0**	**$ 0**
Net Cost of Operations	**$ 276,785**	**$ 260,893**

NOTE 12. OPERATING LEASES

GSA Real Property. Most of NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of NLRB's occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA or another federal agency or rented by GSA from the private sector. The NLRB has OAs with GSA, which sets forth terms and conditions for the space the Agency will occupy for an extended period of time. Included within the OAs are 120 to 180 day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, federally-owned leases are included in years 2010 through 2014.

Rental expenses for operating leases as of September 30, 2009 were $27,793,326 for Agency lease space and $2,260,673 for Agency building security. For FY 2008 the operating lease costs were $27,888,552 and the Agency building security portion was $2,319,835.

Fiscal Year (in thousands)	GSA Real Property
2010	$ 28,490
2011	29,202
2012	29,933
2013	30,681
2014	31,448
After 5 Years	-
Total Future Lease Costs	**$ 149,754**

NOTE 13. IMPUTED FINANCING

OPM pays pension and other future retirement benefits on behalf of federal agencies for federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other federal agencies at September 30, 2009 and 2008 consisted of:

(in thousands)	FY 2009	FY 2008
Office of Personnel Management:		
Pension expenses	$ 7,086	$ 6,689
Federal employees health benefits	9,166	7,711
Federal employees group life insurance program	28	27
Total Imputed Financing	**$16,280**	**$14,427**

NOTE 14. APPROPRIATIONS RECEIVED

The NLRB received $262,595,000 and $256,238,000 in warrants for the FYs ended September 30, 2009 and 2008, respectively. The amount shown on the Statement of Budgetary Resources under caption "Permanently not available" for FY 2009 was the cancelled appropriation for FY 2004 for the amount of $1,000,514. For FY 2008, the total amount $4,476,478 for a rescission in FY 2008 and $1,703,438 for the cancelled appropriation for FY 2003.

NOTE 15. STATEMENT OF BUDGETARY RESOURCES

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated GAAP for the Federal Government. The total Budgetary Resources of $267,262,453 as of September 30, 2009 and $256,296,112 as of September 30, 2008, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations and permanently not available. The NLRB's unobligated balance available at September 30, 2009 was $336,774 and at September 30, 2008 was $543,715.

Apportionment Categories of Obligations Incurred.
NLRB's obligations incurred as of September 30, 2009 and September 30, 2008 by apportionment Category A and B is shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects or a combination of these categories.

(in thousands)	Apportioned		Not Subject to Apportionment	
FY 2009	**Category A**	**Category B**		**Total**
Obligations Incurred:				
Direct	$ 248,686	$ 14,272		$ 262,958
Reimbursable	133			133
Total Obligations Incurred	$ 248,819	$ 14,272		$ 263,091

(in thousands)	Apportioned		Not Subject to Apportionment	
FY 2008	**Category A**	**Category B**		**Total**
Obligations Incurred:				
Direct	$ 241,013	$ 10,569		$ 251,582
Reimbursable	103			103
Total Obligations Incurred	$ 241,116	$ 10,569		$ 251,685

NOTE 16. CONTINGENCIES

The NLRB is a party to several threatened or pending litigation claims. NLRB management believes that all the claims listed have a remote possibility of a cost to the Agency. The Agency has and will continue to vigorously contest these claims. In the opinion of NLRB's management, the ultimate resolution of pending litigation will not have a material effect on NLRB's financial statements.

NOTE 17. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

For the Month Ended September 30, 2009 and 2008

(in thousands)	FY 2009	FY 2008
Resources Used to Finance Activities		
Current Year Gross Obligations	$ 263,091	$ 251,685
Budgetary Resources from Offsetting Collections:		
Spending Authority from Offsetting Collections		
Earned	–	–
Collected	(217)	(174)
Recoveries of Prior Year Unpaid Obligations	(840)	(703)
Other Financing Resources:		
Imputed Financing Sources	16,280	14,427
Total Resources Used to Finance Activity	$ 278,314	$ 265,235
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources not in the Net Cost of Operations:		
Change in Undelivered Orders	(1,970)	(1,003)
Current Year Capitalized Purchases	(2,481)	(4,379)
Components of the Net Cost of Operations which do not Generate or Use Resources in the Reporting Period		
Revenues without Current Year Budgetary Effect:		
Other Financing Sources Not in the Budget	(16,280)	(14,427)
Costs without Current Year Budgetary Effect:		
Depreciation and Amortization	1,211	1,462
Future Funded Expenses	859	424
Imputed costs	16,280	14,427
Bad Debt Expense	2	5
Other Expenses Not Requiring Budgetary Resources	850	(851)
Net Cost of Operations	$ 276,785	$ 260,893

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum

TO: David P. Berry
Inspector General

FROM: Gloria Joseph
Director of Administration

DATE: November 4, 2009

SUBJECT: Response to Audit Report – NLRB Fiscal Year 2009 Financial Statements

We have reviewed the Audit Report submitted by Carmichael Brasher Tuvell & Company (Carmichael) and are pleased that the FY 2009 audit of the NLRB's financial statements has resulted in an unqualified opinion with no recommendations for corrective actions. Per your memo dated November 4, 2009, you indicated that, as part of my response, I could comment on other aspects of the report. My comments follow below.

While the audit did result in an unqualified opinion, Carmichael did note in its audit report its conclusion that the NLRB was noncompliant with the *bona fide* needs rule (31 U.S.C. §1502) when it purchased on September 29, 2009, $250,000 in postage. I disagree with this conclusion.

It has been the practice of the Agency to add funds to the postage account toward the end of the fiscal year. This year was no different in that regard. In determining the amount of postage to be added at the end of fiscal year 2009, the following factors were considered: The amounts added in previous years; possible mail ballot elections in the field; the possibility of a postage increase; and funding availability.

Moreover, in addition to the factors noted above, which would be variables in any year, we also considered the impact of an impending expansion of the Board, which historically increases the Agency's workload and which, in turn, has a direct and predictable impact on the administrative services in support of that workload.

Accordingly, a figure of $250,000 appearing as a planned expenditure in late FY 2009 for mail metering in FY 2010, even absent the other factors, appeared to be reasonably justified as a *bona fide* need and was, as a category of expenditure, entirely routine. In making this decision, managers in the Division of Administration drew upon their experience, past practice, and the anticipation of the effect of external factors outside of their control in making an informed decision about the appropriate level of funding of postage in FY 2010. While I appreciate the auditors' perspective on the issue, I believe that management's actions were prudent and consistent with sound business practice.

If you have any questions, please do not hesitate to contact me.

cc: Board
General Counsel

APPENDIX B

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum

TO: David P. Berry
Inspector General

FROM: Gloria Joseph,
Director of Administration

DATE: December 2, 2009

SUBJECT: Comments on Draft Management Letter on Audit of NLRB's FY 2009 Financial Statements (OIG-F-14-10-01a)

This is in response to your memorandum dated November 24, 2009 in which you requested comments on the draft Management Letter covering the audit of the Agency's FY 2009 financial statements.

With respect to the findings of the report, as you know, I indicated on November 4, 2009 that I disagreed with Carmichael Brasher Tuvell & Company's (Carmichael & Company) conclusion that the NLRB was non-compliant with the bona fide needs rule when it purchased $250,000 in postage on September 29, 2009. My disagreement with that conclusion remains the same and I do not believe the Agency was non-compliant with the bona fide needs rule in purchasing the amount of postage it did, as management's actions were prudent and consistent with Agency history and sound business practice.

In this regard, there are many decisions and challenges associated with a year-end budget close-out that we make in the interest of the Agency and to maintain basic operations while under Continuing Resolutions (CR). As extended CR's have become more prevalent over the years, it has become standard practice for agencies to fund non-severable activities at the end of a fiscal year that support the mission of an agency through the first quarter of the next fiscal year. For example, whenever possible, we purchase supplies in September of every year to carry us into the next fiscal year. The amount of funding in these cases is necessarily an estimate, based on bona fide need, funding availability, history, anticipated needs, and other factors.

In addition to supplies and other non-severable activities, it is the practice of the Agency to add funds to the postage account toward the end of the fiscal year. This year was no different in that regard. In determining the amount of postage to be added at the end of FY09, the following four factors were considered:

- Amounts added in previous years
- Possible mail ballot elections in the field
- Possibility of a postage increase
- Funding availability

There is no way to predict with certainty how much postage will be needed in any given year, which office will need the most postage, or the pace at which the postage funds will be consumed during the course of the year.

There is always the possibility of mail ballot elections during the first quarter and, because of the impact of the economic climate on the Postal Service's operations, the possibility of a postage increase was also considered. This latter concern was shared by other government agencies, and it was not until October 16, 2009, after a determination about the amount of postage to be added to the meters had been made, that the Library and Administrative Services Branch Chief received an advisory from GSA indicating that the Postal Service would not increase prices for market dominant products.

Taking these variables into account, the intention was to provide enough postage to ensure normal operations at each location for the first quarter of FY10 in line with past practice and to maintain a legitimate inventory at reasonable and historical levels. In view of the fact that the last postal meter advance was on January 14, 2009, an advance of $250,000 in September, or about $4,629 per meter agency-wide was, in management's view, a reasonable step to ensure ongoing operations and to avoid a repeat of a recent incident where the Postal Service held mail associated with a mail ballot election because funds were not available on the meters.

Moreover, in addition to the factors noted above, which would be variables in any year, division management took into account possible changes in the Agency's workload brought about by external factors, including the expected confirmation of three new Board Members, bringing the Board to full strength for the first time in two years. We fully expect that with the installation of the new Board Members, case intake will rise, as it historically has done when a full Board is in place[1]. And, after years of flat budgets, an increase in the appropriation of $21M obviously points to an expectation by OMB and Congress of increased spending in all areas associated with increased case intake, including administrative support programs. Accordingly, a figure of $250,000 appearing as a planned expenditure in late FY09 for mail metering in FY10, even absent the other factors, appeared to be reasonably justified as a bona fide need and was, as a category of expenditure, entirely routine.

Accordingly, we disagree with your conclusion that management's actions were not compliant with the bona fide needs rule.

In your memo, you requested that we also indicate our agreement or disagreement with each of the letter's findings and recommendations. Our comments regarding the report's recommendations are as follows:

Recommendation #1 - Deobligate $250,000 of postage advanced from FY 2009 funds and reobligate the postage advance using FY 2010 funds.

We disagree with this recommendation, for the reasons noted above. Moreover, as stated in my October 30, 2009, response to Ben W. Carmichael of Carmichael & Company, this is not a matter of simply switching an obligation from one year to the next. Instead, it involves the transfer of cash, which would have to be returned. The logistics of this are complicated and would involve Pitney Bowes removing the postage funds from the Agency's 54 regional meters, costing at a minimum, $3,510.00. This would only be the first step, as the rescinded funds would then have to be put back into the central US Postal Service account, and we would then have to work with the US Postal Service to get a refund from the central account.

In addition to the Postal Service piece of this, in determining whether an adjustment to FY09 funding for postage is even feasible, there are three additional areas which would have to be considered in adjusting the expenditure:

[1] During my SAS-99 meeting with the auditors on April 15, 2009, I mentioned the pendency and potential impact of EFCA and the new Board Members on the Agency's workload in discussing the operating environment.

- NLRB's financial accounting system
- External reports to Treasury
- Agency's Performance and Accountability Report

The process to correct the financial accounting system is complicated and potentially could affect the system's data integrity and subsequently affect the FY10 financial and management reports. Also, there are two reports to Treasury that have already been submitted, the SF 224 (Cash Reconciliation) and the FACTSII (Budgetary Trial Balance). Late adjustments to these reports create further complications as Treasury is in the midst of generating government-wide financial statements.

This is a disagreement about how managers exercised their judgment in assessing the organization's needs at the end of the fiscal year. That judgment was exercised to fund an ongoing need. Postage, an asset that is a critical support component of the mission work, is not optional and would have to be funded in any event. In taking the action to purchase postage using FY09 funds, management does not believe any laws were violated or that management's actions impacted the soundness of the Agency's financial statements. Therefore, we see no reason, at this point, to attempt to recover expended funds and then redo the same cash transaction using FY10 funds.

Recommendation #2 - Develop and implement procedures to monitor postage that would ensure that purchases and distributions to field offices were made when needed.

We acknowledge the Inspector General's legitimate concern about the absence of a documented process for determining the appropriate level of funds to post to the mail meters. Accordingly, the managers of the division will codify their procedures used to determine the appropriate level of funds to place on the mail meters and will disseminate the guidance to the appropriate staff. This guidance will take into account the factors noted above and will ensure the amounts maintained on the postage meters are reasonable, while still not running the risk of disruption of operations. A copy of the written procedures will be provided to the Office of the Inspector General once they are drafted and approved.

#3 Prior Year Recommendations

The Chief Information Officer, Bryan Burnett, may provide an update of the two open recommendations which have been partially completed in a separate memorandum.

Thank you for the opportunity to comment on the management letter. If you should have any questions, please contact me.

cc: The Board
General Counsel