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FEDERAL LABOR RELATIONS AUTHORITY



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT

TO THE CONGRESS

Covering the Period
APRIL 1, 1994 through SEPTEMBER 30, 1994



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF THE INSPECTOR GENERAL

WASHINGTON, D.C. 20424

October 26, 1994

The Honorable Phyllis N. Segal
Chair
Federal Labor Relations Authority
607 14th Street N.W
Washington, DC 20424-0001

Dear Chair Segal:

I have respectfully enclosed the Semiannual Report of the Inspector General for the six-month period ending September 30, 1994, as required by Section 5 of the Inspector General Act of 1978, as amended. The Act requires each Agency Head to transmit this report and certain other statistical tables required by law, along with any comments you may wish to make, to the appropriate committees or subcommittees of the Congress within thirty days of its receipt.

This is the office's tenth report and the first since I temporarily assumed the position of Acting Inspector General on May 23, 1994. As you are aware, my detail expires at the end of October at which time I will return to my regular position as Deputy Inspector General of the Corporation for National and Community Service. During my brief period of service to the Authority, I have found both a positive and cooperative relationship between the OIG and all organizational elements. I believe that this office is, and will continue to be, an effective means to ensure the efficiency and effectiveness of all agency operations.

I have appreciated your support and the cooperation of all of the Authority's employees in achieving the accomplishments identified for this reporting period. It has been my pleasure to serve the Authority over the last five months. I can assure you that this office looks forward to working with you and your staff in the future as you shape the Authority's policies throughout the term of your appointment.

Sincerely,

Joseph M. Suszko
Acting Inspector General

FEDERAL LABOR RELATIONS AUTHORITY

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FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO THE CONGRESS
APRIL 1, 1994 - SEPTEMBER 30, 1994

EXECUTIVE SUMMARY

This is the tenth semiannual report issued by the Office of the Inspector General (OIG) at the Federal Labor Relations Authority (FLRA). This report, submitted pursuant to Section 5 of the Inspector General Act of 1978 (Pub. L. 95-452), as amended by the Inspector General Act Amendments of 1988 (Pub. L. 100-504), summarizes the major activities and accomplishments of the Office during the period April 1, 1994 through September 30, 1994.

As defined in the above statutes, the mission of the OIG is to prevent and detect fraud, waste and abuse in agency programs and operations. At the same time, the OIG is charged with promoting economy, efficiency, and effectiveness in the same areas. The activities of the Office are planned to meet those objectives.

AUDITS.

During this period, the OIG initiated a major operational audit of the Authority's Unfair Labor Practice hearing process, issued three management letters -- one of which is currently waiting a Comptroller General opinion -- and followed up on three significant outstanding recommendations. In addition, the OIG received a favorable peer review report issued by another OIG, and began efforts to develop a five-year strategic plan to be completed during fiscal year 1995.

INVESTIGATIONS.

Seven investigative cases were carried over from the previous reporting period. One remains open and six were investigated to closure. One of the six closed investigations involved an 18 month effort that was forwarded to the Department of Justice and resulted in a declination to prosecute.

One new case was opened and investigated to closure during this period. It involved an allegation of misconduct by an Authority employee who resigned prior to the issuance of the OIG report.

INTRODUCTION AND BACKGROUND

The Federal Labor Relations Authority (FLRA), an independent entity within the Executive Branch, was created to oversee the labor-management relations program of the Federal Service and provides leadership in establishing policies and guidance regarding labor-management relations in the Federal Service. It administers Title VII of the Civil Service Reform Act of 1978, the Federal Service Labor-Management Relations Statute (5 U.S.C. §§ 7101-7135) (the Statute). The Statute protects the rights of employees of the Federal Government to bargain collectively and to participate through labor organizations of their own choosing in decisions affecting many conditions of their employment. The FLRA ensures compliance with the statutory rights and obligations of Federal agencies, Federal employees, and the labor organizations that represent Federal employees in their dealings with Federal agencies. The agency is composed of the Authority, the Office of the General Counsel, and the Federal Service Impasses Panel.

The Authority is composed of three full-time members appointed for 5-year terms by the President with the advice and consent of the Senate. One Member is designated by the President to serve as the Chairman of the Authority and is the chief executive and administrative officer of the agency. The Chairman and members adjudicate cases brought before them pursuant to the provisions of the Federal Service Labor-Management Relations Statute. The Authority is empowered by the Statute to determine the appropriateness of units for labor organization representation and to supervise and conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit. The Authority also prescribes criteria relating to the granting of consultation rights, and resolves disputes based on unfair labor practices, negotiability issues and arbitration awards.

The General Counsel of the Federal Labor Relations Authority is appointed by the President, with the advice and consent of the U.S. Senate, for a term of five years. The General Counsel has independent authority to investigate all unfair labor practice charges pursuant to the Federal Service Labor-Management Relations Statute, the Panama Canal Act, and the Foreign Service Act. Working through Regional Directors in seven regional offices, the General Counsel issues and prosecutes complaints after conducting investigations and obtaining evidence on the charges. Parties are subsequently eligible to appeal to the General Counsel when a Regional Director declines to issue a complaint. The Regional Directors also have delegated authority from the Authority Members to investigate representation petitions, supervise representation elections, and certify to the parties the results of such elections.

The Statute provides that the Federal Service Impasses Panel shall be composed of a Chairman and at least six other members who are appointed by the President from among individuals who are familiar with Government operations and knowledgeable in labor-management relations. The role of the Panel is to resolve impasses between Federal agencies and unions representing Federal employees arising from negotiations over conditions of employment. If bargaining between the parties and mediation assistance, usually from the Federal Mediation and Conciliation Service (FMCS), proves unsuccessful, the Panel, as an entity within the FLRA, has the authority under section 7119 of the Statute to recommend procedures or provide direct assistance to the parties using appropriate methods for resolution of the impasse. If these efforts do not lead to a settlement, the Panel may take whatever action it deems necessary to resolve the impasses. The Panel also has jurisdiction to resolve disputes under the Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. Section 6120, et seq. (Compressed Work Schedules Act) where an agency refuses to establish a flexible or compressed work schedule or decides to terminate one.

The Foreign Service Act of 1980 created a statutory labor-management relations program covering Foreign Service employees in the U.S. Information Agency, the Agency for International Development, and the Departments of State, Agriculture and Commerce. The Act is similar in many respects to the Federal Service Labor-Management Relations Statute. The Act established the Foreign Service Labor Relations Board within the FLRA. The Board administers the Act and is composed of three Members. The Board has no separate staff; the staff of the Authority provides support for the Board. The General Counsel of the FLRA investigates alleged unfair labor practices and prosecutes unfair labor practice complaints.

In fiscal year 1994, the Federal Labor Relations Authority had an authorized total of 245 full-time equivalent positions and a total appropriation of \$21.3 million. The majority of the Authority's personnel are located in Washington, D.C. The General Counsel maintains Regional Offices in Boston, Washington, Atlanta, Dallas, Denver, Chicago and San Francisco. Sub-Regional Offices are located in New York, Philadelphia, Cleveland and Los Angeles.

ROLE OF THE OFFICE OF THE INSPECTOR GENERAL

The Office of the Inspector General (OIG) at the Federal Labor Relations Authority was established pursuant to Pub. L. 100-504, the Inspector General Act Amendments of 1988, which amended Pub. L. 95-452, the Inspector General Act of 1978. The Office was formally established on March 24, 1989, and the first Inspector General was appointed on September 25, 1989. The Inspector General reports directly to the Chair.

As set forth in the authorizing legislation, the Office of the Inspector General is to:

- Conduct and supervise audits and investigations relating to the programs and operations of the FLRA.**
- Provide leadership and coordination, and recommend policies which: (1) promote economy, efficiency and effectiveness in agency programs and operations; and (2) prevent and detect fraud and abuse in those same areas.**
- Keep the Chair and the Congress fully informed regarding problems and deficiencies, as well as the necessity for and the progress of corrective action.**

The Office of the Inspector General at the FLRA is presently staffed at three (3) positions: an Acting Inspector General, a Senior Auditor, and an Inspection Assistant. For Fiscal year 1994, the OIG's total Office budget was \$274,000. This budget included \$10,000 for the OIG to augment its own audit endeavors by contracting with private independent CPA firms. Such contracted audits are governed by the same stringent standards and guidelines which apply to IG performed audits.

AUDIT ACTIVITY

The Office of Inspector General has issued three management letters and initiated a major program audit of the Authority's procedures for issuing unfair labor practice decisions during the period. We expect to issue the audit report in the next reporting period. The office also followed up on three significant outstanding audit recommendations from the prior semiannual report that are not yet fully implemented by management.

Completed Management Letters.

The following is a description of the management letters issued during this period.

"POLICY AND ADMINISTRATIVE ISSUES REQUIRING IMMEDIATE ACTION" DATED AUGUST 8, 1994.

This letter related to one of the agency's three major organizations -- the Federal Services Impasses Panel. Our review covered certain administrative operations of the Panel, including: pay, telephone calls, and time and attendance approvals. We made five recommendations relating to these areas.

Three of the recommendations involved Panel pay and centered on one major issue of whether Panel members were being underpaid. According to the statutory language in the agency's autonomy legislation and prior U. S. Comptroller General decisions, Panel members, who are similar to part-time employees, are apparently to be paid on a full-time basis for any part of a day worked. However, the agency's annual appropriation language appears inconsistent with the former criteria. The Panel has requested a formal legal opinion on the issue from the U.S. Comptroller General.

"FLRA EMPLOYEE USE OF STATE TAX EXEMPTION FORMS WHILE IN TRAVEL STATUS" DATED JUNE 16, 1994.

We found that the agency and its employees were incurring approximately \$3,400 in extra travel costs annually from the failure to utilize hotel tax exempt certificates from the eight states that accept them. Approximately half of these costs were absorbed by the agency and the other half by the traveler when their travel costs plus hotel taxes exceeded the authorized per diem levels. We recommended that agency travelers be alerted about those states (or localities) that allow the tax exemptions and that the agency obtain a supply of related tax exempt certificates for issuance to its employees.

"EMPLOYEE FECA DISABILITY CASE" DATED MAY 27, 1994.

Upon a request from agency management, we reviewed the case file on an agency employee who has been receiving temporary total disability compensation and medical payments under the Federal Employees' Compensation Act (FECA). We found the case file lacked certain information and contained questions that needed clarification from the U.S. Department of Labor's Office of Workers Compensation Program. We made a total of seven recommendations to help management resolve these issues.

Prior Report Significant Recommendations.

In our prior Semiannual report, we indicated our intent to issue a management letter detailing specific issues and suggest steps to resolve three previously reported significant audit recommendations--relating to computer security--that have not yet been fully implemented. Other priorities prevented us from working with management on these issues. However, we have recently met with responsible agency officials and anticipate resolution during the next reporting period.

INVESTIGATIVE ACTIVITY

We opened one new investigation and closed seven investigative cases during this reporting period. Another case--carried over from the prior reporting period--remains open.

Our major investigative activities for this reporting period are summarized as follows:

Allegations of Improper Conduct by An Agency Official.

We completed an investigation resulting from a hotline complaint concerning an agency official who was alleged to be involved in criminal fraud, misconduct, and other ethical infractions. Our initial investigation resulted in the referral of the case to the Department of Justice (DOJ). We completed the investigation under the direction of the Public Integrity Section of DOJ's Criminal Division. The investigative effort extended over an eighteen month period and resulted in the employee's termination. Federal prosecution has been declined.

False Statements Made by An Agency Employee.

We investigated allegations that an employee in headquarters was providing false employment confirmations for an individual to obtain credit from a variety of local vendors. We substantiated the allegation and the employee resigned prior to the issuance of the OIG's investigative report and anticipated disciplinary action by the agency.

Alleged Improper Conduct Within an Operating Unit of the Agency.

Allegations concerning multiple instances of unethical and improper conduct by senior officials of an independent operating element of the agency were investigated. We found no evidence of fraud or criminal wrongdoing, but made several recommendations for administrative improvements.

Alleged Mishandling of a Labor Charge Made to the Agency.

As a result of a Congressional referral, an allegation was made concerning an independent operating unit's purported mishandling of several labor charges made to the agency. We are investigating this matter and anticipate closure during the next reporting period.

Receipt of Hotline Complaints.

During this reporting period, we received five separate complaints through the OIG's hotline. Three were reviewed and forwarded to other Federal entities, one requires additional information from the source, and one will be evaluated and investigated, if necessary, as OIG resources become available.

OTHER OIG ACTIVITY

Participation In The Executive Council On Integrity And Efficiency.

The Executive Council on Integrity and Efficiency (ECIE), was established by Executive Order in 1992 to coordinate and implement Government-wide activities to combat fraud, waste and abuse in Federal programs and operations. The FLRA's Inspector General is a member of the ECIE and participates in activities and monthly meetings conducted by that organization. The FLRA Inspector General also participated in the ECIE Inspectors General annual training conference in Potomac, Maryland.

Peer Review Evaluation.

As required for all Inspectors General by the Inspector General Act of 1978, our Office underwent a peer review of its compliance with the General Accounting Office's *Government Auditing Standards*. The review was conducted by another ECIE Inspector General Office.

The review found that our audit operations were in full compliance with the *Government Auditing Standards*.

Core-Team Member of the IG-NET.

The IG-Net is a computer conference network, sponsored by National Performance Review, for the federal and state Inspector General community. IG-Net is designed to provide easy interchange of information, ideas, and assistance on audit, investigative, and administrative activities within the community. The IG-Net is on the Internet and is open to the public. The Office of Inspector General of the U.S. Department of Justice has installed the IG-Net on Justice's computer facilities and is continuing to develop the Net.

A staff member from our office participates as a core-team member to help in the development of the IG-Net. The staff member helped coordinate the development of a new directory structure for the Net.

OTHER REPORTING REQUIREMENTS

Serious or Flagrant Problems Requiring Reporting Within 7 Days.

No problems requiring such reporting were found during the reporting period.

Access To Information.

The OIG was not denied any information requested during the reporting period.

Significant Recommendations of Prior Semiannual Reports not Implemented.

Three significant recommendations from prior semiannual reports have not been implemented as of the end of this reporting period. See "Prior Report Significant Recommendations" section for details.

Significant Revised Management Decisions.

No significant management decision was revised during the reporting period.

OIG Disagreement With Significant Management Decisions.

The OIG agrees with the management decisions made on the reports issued during the period.

Table I
AUDIT REPORTS
WITH QUESTIONED COSTS

	<u>NUMBER OF REPORTS</u>	<u>QUESTIONED COSTS</u>	<u>UNSUPPORTED COSTS</u>
A. For which no management decision has been made by the commencement of the reporting period.	0	0	
B. Which were issued during the reporting period.	0	0	
Subtotal (A plus B)	0	0	
C. For which a management decision was made during the reporting period.			
(i) dollar value of disallowed costs.	0	0	
(ii) dollar value of costs not disallowed.	0	0	
D. For which no management decision has been made by the end of the reporting period.	0	0	
E. Reports issued prior to the reporting period for which no management decision has been made by the end of the reporting period.	0	0	

Table II

AUDIT REPORTS
WITH RECOMMENDATIONS THAT
FUNDS BE PUT TO BETTER USE

	<u>NUMBER OF REPORTS</u>	<u>DOLLAR VALUE</u>
A. For which no management decision has been made by the commencement of the reporting period.	0	0
B. Which were issued during the reporting period.	0	0
Subtotal (A plus B)	0	0
C. For which a management decision was made during the reporting period.		
(i) dollar value of recommendations that were agreed to by management.	0	0
(ii) dollar value of recommendations that were not agreed to by management.	0	0
D. For which no management decision has been made by the end of the reporting period.	0	0
<hr/>		
E. Reports issued prior to the reporting period for which no management decision has been made by the end of the reporting period.	0	0

GLOSSARY

Management Decision.

A final decision made by management in response to audit report recommendations that may include actions concluded to be necessary or a determination that no action is necessary.

Questioned Costs.

Expenditures questioned by the OIG due to:

-UNSUPPORTED COSTS which involve inadequate documentation.

-DISALLOWED COSTS which involve an alleged violation (concurrent with by Management Decision) of a law, regulation, grant, contract, or other agreement.

-UNNECESSARY OR UNREASONABLE COSTS.

Funds Be Put To Better Use.

The amount of savings estimated by the OIG that could be obtained by implementing report recommendations relating to more efficient management operations.

Final Action.

Completion by management of either all actions necessary to implement report recommendations or a management decision that determines no action is necessary.

GLOSSARY

Significant Recommendations.

According to Section 5(a)3 of the Inspector General Act, the OIG is required to followup and report on the implementation status of all open "significant recommendations" from prior Semiannual reports. The OIG has defined "significant recommendations" as those that pertain to deficiencies that could result in FLRA failure to accomplish mission functions or could result in additional costs or lost funds exceeding \$5,000.

Management Letter.

This document brings to the attention of management any of a broad range of issues and subjects which should be addressed by management but do not require formal audit or investigation. Management letters are generally unplanned and are issued to report on situations found in conjunction with an on-going or completed audit or investigation. They may also be used to expand on previously issued audit report recommendations.

REPORT: FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

TO:

**FLRA's
Office of the Inspector General**

**HOTLINE
800-331-FLRA
(800-331-3572)
Toll Free 24 Hour Answering Service**

or write

**FLRA
Office of the Inspector General
P.O. Box 27488
Washington, D.C. 20038-7488**

**INFORMATION IS CONFIDENTIAL
CALLER CAN BE ANONYMOUS**

However, each caller is encouraged to assist the Inspector General by supplying information as to how they may be contacted for additional information.

