

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL
REPORT

OCTOBER 1, 2011 – MARCH 31, 2012

TABLE OF CONTENTS

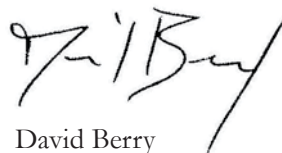
Executive Summary	1
Agency Profile	2
Office of Inspector General	4
Audit Program	5
Investigations Program	9
Legislation, Regulations and Policy	11
Liaison Activities	12
Information Required by the Act	13
Reports by Subject Matter	14
Appendix	17

EXECUTIVE SUMMARY

I hereby submit this Semiannual Report for the period October 1, 2011 – March 31, 2012. This report summarizes the major activities and accomplishments of the Office of Inspector General of the National Labor Relations Board and its submission is in accordance with the Inspector General Act of 1978, as amended. Section 5 of the Inspector General Act requires that the Chairman transmit this report to the appropriate committees or subcommittees of the Congress within 30 days of its receipt.

In the audit program, the Office of Inspector General issued two audit reports, conducted the annual review required by the Federal Information Security Management Act, issued a memorandum identifying the Agency's top management and performance challenges, and issued a memorandum documenting our review of the Agency's reporting under the Improper Payments Information Act. As a result of the audit program, we identified \$113,120 in questioned costs. In the investigation program, the Office of Inspector General processed 142 contacts, initiated 7 cases, and closed 3 cases. Our investigative efforts resulted in a conviction, two separations, a counseling, and alternative discipline in lieu of two suspensions. Two matters were referred for prosecution.

I appreciate the support of all Agency employees in achieving the accomplishments set forth in this report.



David Berry
Inspector General
April 30, 2012

AGENCY PROFILE

The National Labor Relations Board (NLRB or Agency) is an independent Federal agency established in 1935 to administer the National Labor Relations Act. The National Labor Relations Act 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. NLRB jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within NLRB's jurisdiction).

The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. It 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, the 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, by either employers or unions.

NLRB authority is divided by law and delegation. The five-member Board primarily acts as a quasi-



judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes unfair labor practices 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.



Standing left to right:
Sharon Block and Terence Flynn
Seated left to right:
Brian Hayes, Mark Gaston Pearce
and Richard Griffin

The Board consists of the Chairman and four Members who are appointed by the President with the advice and consent of the Senate. Board Members serve staggered terms of 5 years each. The General Counsel is also appointed by the President with the advice and consent of the Senate and serves a term of 4 years.

At the beginning of this reporting period, the Board consisted of Chairman Mark Gaston Pearce and Members Craig Becker and Brian Hayes. On January 3, 2012, Member Becker's appointment ended. On January 4, 2012, the White House announced recess appointments of Sharon Block, Terence Flynn, and Richard Griffin to Board Member positions. Acting General Counsel Lafe Solomon continued to serve in

that position during the reporting period.

The NLRB's Fiscal Year (FY) 2012 appropriation is \$278,833,000 less a 0.189 percent rescission.

NLRB Headquarters is located at 1099 14th Street, NW, Washington, DC. In addition to the Headquarters building, employees are located in 51 field offices throughout the country. Three satellite offices for the administrative law judges are located in Atlanta, San Francisco, and New York City. Since October 2, 2000, field offices have included 32 Regional Offices, 16 Resident Offices, and 3 Subregional Offices.

Additional information about the NLRB can be found at www.NLRB.gov.

OFFICE OF INSPECTOR GENERAL

NLRB established the Office of Inspector General (OIG) pursuant to the 1988 amendments to the Inspector General Act of 1978 (IG Act).

Resources

The OIG received an allocation of \$1,058,700 for FY 2012 operations, of which \$191,800 was for contract services. In addition to the Inspector General, the OIG consists of a Counsel/Assistant Inspector General for Investigations, an Assistant Inspector General for Audits, three auditors, and a staff assistant.



AUDIT PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate audits relating to program operations of the Agency. During the reporting period, the OIG issued two audit reports, conducted the annual review required by the Federal Information Security Management Act, issued a memorandum identifying the Agency's top management and performance challenges, and reported to Congress and the Office of Management and Budget (OMB) documenting our review of the Agency's reporting under the Improper Payments Information Act. The audit of the NLRB's FY 2011 Financial Statements identified \$113,120 in questioned costs.

Reports Issued

We issued Audit Report OIG-F-16-12-01, **Audit of the NLRB Fiscal Year 2011 Financial Statements**, on December 14, 2011. The audit, performed by an independent public accounting firm, found that the NLRB's FY 2011 Financial Statements were fairly stated, and no material weaknesses in controls over financial reporting were identified. Although no material weaknesses were identified, two instances involving noncompliance with laws and regulations were reported.

In a Management Letter issued as part of the financial statement audit process, the following

noncompliance with laws and regulations were identified:

- The Agency did not adhere to the recording statute or the bona fide needs rule when it obligated \$113,120 without a binding agreement for information technology advisory services using FY 2011 funds for services that were not received until FY 2012.
- The Agency accepted and paid for telecommunication services after the period of performance expired without exercising the option for the next period of performance.

The Management Letter contained recommendations to address the instances of noncompliance

with laws and regulations. The Management Letter also provided information on the status of prior years recommendations.

In their comments to the Management Letter, the Chairman and Acting General Counsel stated that they agreed with the findings and recommendations and they identified actions that have been taken, as well as those that remain to be completed, on the current and prior years recommendations.

We issued Audit Report OIG-AMR-67-12-01, **Internal Controls in the Office of Equal Employment Opportunity**, on January 9, 2012. The audit was conducted to determine whether controls in the NLRB's Office of Equal Employment Opportunity were designed and implemented in a manner that ensures that its mission is accomplished. The scope of our review was the 41 cases pending in the NLRB's equal employment opportunity process during FY 2010.

We found that the Office of Equal Employment Opportunity did not have sufficient internal controls. The Office of Equal Employment Opportunity did not have documented procedures related to the accuracy or quality of its investigative work or for the reports that are issued to the Equal Employment Opportunity Commission. Our review also found that the Office of Equal

Employment Opportunity did not consistently meet the regulatory time limits associated with the processing and investigation of complaints. After comparing the case files to the case processing database, we concluded that the data was not reliable and that there was not sufficient control procedures in place to assure database accuracy/completeness given the errors and missing cases identified. We also found errors in the reports issued to the Equal Employment Opportunity Commission. We made several recommendations to improve the internal control environment.

Based on our review of the investigative procedures, interviews with Agency personnel, and comments of the Equal Employment Opportunity Commission's Office of Federal Operations, we recommended that the Office of Equal Employment Opportunity develop new investigative procedures that provide for the "prompt, fair and impartial processing" of complaints in accordance with the Equal Employment Opportunity Commission's regulations and policies.

The Office of Equal Employment Opportunity provided comments to the draft report stating general agreement with the findings and recommendations, with the exception of those related to the maintenance of the complaint files.



The Acting Director also stated that the Office of Equal Employment Opportunity is committed to its statutory mission to effectuate equal employment opportunity principles at the NLRB.

We completed the **Federal Information Security Management Act of 2002** annual review of information security programs. The OIG review was primarily accomplished as part of the audit of the FY 2011 financial statements. On November 15, 2011, the Chairman submitted reports from the Inspector General and the Chief Information Officer to OMB.

We issued a memorandum identifying the Agency's **Top Management and Performance Challenges** on October 14, 2011. The OIG developed a list of what it considers to be the most serious management and performance challenges facing the NLRB. The challenges are:

1. Manage in the current political environment;

2. Manage the NLRB's human capital;
3. Implement the Next Generation Case Management System and seize opportunities to create more productive and efficient procedures and organizations;
4. Manage the Agency's financial resources;
5. Manage the Agency's procurement process to ensure compliance with the Federal Acquisition Regulation;
6. Manage the Agency's information technology resources in a manner that achieves efficiency and security;
7. Maintain the Agency's institutional knowledge; and
8. Implement audit findings in a timely manner.

On March 1, 2012, we complied the provisions of the **Improper Payments Information Act (IPIA)**, as amended by the **Improper Payments Elimination and Recovery Act**, and reported to

Congress and OMB documenting our review of the Agency's improper payment reporting in the Agency's Performance and Accountability Report, and accompanying materials, to determine if the Agency is in compliance with IPIA. The NLRB stated in its Performance and Accountability Report that it does not make program payments as described in IPIA and that it has no information to report with respect to erroneous program payments. Our report to Congress and OMB stated that we concurred with that determination.

Audit Follow-up

Agreed upon actions were not completed within 1 year on seven audit reports.

Audit of the NLRB Fiscal Year 2006 Financial Statements, OIG-F-11-07-01, was issued on December 14, 2006, and we reached agreement with management on June 14, 2007. The final open recommendation was implemented during this reporting period.

Continuity of Operations, OIG-AMR-55-07-03, was issued on September 18, 2007, and we reached agreement with management on that date. Two of the three recommendations have been implemented.

Office of the Chief Information Officer Procurement Functions, OIG-AMR-57-08-01, was issued on March 14, 2008, and we reached

agreement with management on that date. Six of the seven recommendations have been implemented.

Laptop Computer Accountability and Security, OIG-AMR-59-09-01, was issued on February 27, 2009, and we reached agreement with management on that date. Management implemented three of the six recommendations made in the report.

Official Time for Union Activities, OIG-AMR-62-10-01, was issued on December 11, 2009, and we reached agreement with management on that date. Management implemented one of the four recommendations made in the report.

Financial Remedies and Other Settlement Terms, OIG-AMR-63-10-02, was issued on September 10, 2010, and we reached agreement with management on that date. The final open recommendations were implemented during this reporting period.

Audit of the NLRB Fiscal Year 2010 Financial Statements, OIG-F-15-11-01, was issued on December 15, 2010, and we reached agreement with management on March 9, 2011. Three of the five recommendations remain open.

INVESTIGATIONS PROGRAM

The Inspector General is to provide policy direction for and is to conduct, supervise, and coordinate investigations relating to the programs and operations of the Agency. During this reporting period, the investigations resulted in a conviction with a sentence of confinement and \$128,153 in restitution, two separations, a counseling, and alternative discipline in lieu of two suspensions. Two cases were referred for prosecution.

Case Workload		Contacts Processed	
Open (10/1/2011)	16	Received	142
Initiated	7	Initiated Investigation	0
Closed	3	Opened Case — Referred to Agency	0
Open (3/31/2012)	20	Non-Investigative Disposition	142

Investigative Highlights

Investigated a matter involving fraud upon an outside entity and false statements by an employee. During this reporting period, the employee was convicted in the Eastern District of Virginia of nine counts of wire fraud. The employee was sentenced to a prison term of 18 months and to pay restitution of \$128,153. OIG-I-440

Investigated two matters involving the Board. The investigative reports were provided to the appropriate Congressional oversight committees. OIG-I-467 and OIG-I-468

Investigated an allegation that a supervisor was eavesdropping on an employee engaged in protected activity and issued a report substantiating the misconduct. The supervisor was counseled. OIG-I-462

Investigated a senior employee for travel card abuse. The employee retired after the OIG interview. The investigation was closed during this reporting period. OIG-I-461

Initiated an investigation of an employee for false statements and travel card abuse. Prosecution was declined. The employee resigned after receiving notification of the



investigation. The investigation was closed during this reporting period. OIG-I-470

Investigated an employee for travel card abuse and issued a report substantiating the misconduct. The employee agreed to undergo financial counseling and 2 days of leave without pay in lieu of a 2-day suspension as an alternative form of discipline. OIG-I-457

Investigated an employee for travel card abuse and issued a report substantiating the misconduct. The employee agreed to undergo financial counseling in lieu of a 2-day suspension as an alternative form of discipline. OIG-I-458

Investigated an employee for travel card abuse and issued a report substantiating the misconduct. Management is considering appropriate disciplinary action. OIG-I-460

Initiated an investigation of improper processing of Freedom

of Information Act (FOIA) requests. Although we found that the allegation was not substantiated and closed the investigation, we determined that the FOIA process should be audited and placed the matter in the annual audit plan. OIG-I-465

Hotline

Employees and members of the public with information on fraud, waste, and abuse are encouraged to contact the OIG. A log of calls to a nationwide toll-free number or the office numbers and a log of mail, e-mail, and facsimile messages are maintained. All information received, regardless of the method used, is referred to as Hotline contacts. Hotline contacts are analyzed to determine if further inquiry or action is warranted.

During this reporting period, the OIG received 142 Hotline contacts, of which 23 were telephone calls or walk-ins and 119 were in writing.

Most Hotline contacts are from members of the public seeking help on an employment-related problem or issues outside OIG and/or Agency jurisdiction. As appropriate, the OIG refers those Hotline contacts to an NLRB Regional Office; local, state, or Federal agencies; or private resources to provide assistance.

LEGISLATION, REGULATIONS AND POLICY

The responsibilities and duties of an OIG include reviewing existing and proposed legislation and regulations relating to the programs and operations of its agency and making recommendations in the semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the agency or the prevention and detection of fraud and abuse in such programs and operations.

Legislation

During this reporting period, there were 10 legislative proposals introduced in Congress that would amend the National Labor Relations Act or otherwise impact the programs and operations of the Agency:

- H.R. 3094, Workforce Democracy and Fairness Act;
- H.R. 3487, Job Creation Act of 2011;
- H.R. 3991, Keep Employees Emails and Phones Secure Act;
- H.J.Res. 103, Congressional disapproval of the representation election rule;
- S. 1666, Employer Free Speech Act;
- S. 1720, Jobs Through Growth Act;

- S. 1843, Representation Fairness Restoration Act;
- S. 2168, Re-empowerment of Skilled and Professional Employee and
- Construction Tradesworkers Act;
- S. 2173, National Right-to-Work Act; and
- S.J.Res. 36, Congressional disapproval of the representation election rule.

The impact of these proposals on the NLRB and its programs has been the subject of extensive debate.

Regulations

The Counsel to the Inspector General is an advisory member of the Agency's Rules Revision Committee that develops changes to the Agency's procedural regulations.

LIAISON ACTIVITIES

The Inspector General is to recommend policies for, and is to conduct, supervise, or coordinate relationships between the Agency and other Federal agencies, state and local governmental agencies, and non-governmental entities. The Inspector General is to give particular regard to the activities of the Comptroller General of the United States. Similarly, we encourage OIG staff members to participate in Agency programs and activities.

Inspector General Community

The Inspector General is a member of the Council of the Inspectors General on Integrity and Efficiency. This organization consists of Inspectors General at the Federal Government's departments and agencies.

The Assistant Inspector General for Audits, or designated auditors, participated in the Federal Audit Executive Council, Financial Statement Audit Network, and the Interagency Fraud and Risk Data Mining Group. The Counsel to the Inspector General participates in the Council of Counsels to Inspectors General.

Government Accountability Office

The IG Act states that each Inspector General shall give particular regard to the activities of the Comptroller General of the United States, as head of the Government Accountability Office, with a view toward avoiding duplication and ensuring effective coordination and cooperation.

During this reporting period, we initiated an investigation based upon a referral from the Government Accountability Office.

INFORMATION

REQUIRED BY THE ACT

Certain information and statistics based on the activities accomplished during this period are required by section 5(a) of the IG Act to be included in the semiannual reports. These are set forth below:

Section 5(a)

(1), (2), (7) OIG did not identify significant problems, abuses or deficiencies relating to the administration of programs. For the purpose of this section, we used the definition of significant as set forth in the Federal Managers' Financial Integrity Act.

(3) Corrective action has been completed on all significant recommendations that were described in the previous semiannual reports.

(4) Two cases were referred to prosecutorial authorities.

(5) No reports were made to the Board that information or assistance requested by the Inspector General was unreasonably refused or not provided.

(6) A listing by subject matter is located on page 14.

(8), (9) One report issued during this period had questioned costs. *See Table 1.*

(10) There are no audit reports issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period.

(11) No significant revised management decisions were made during the reporting period.

(12) There are no significant management decisions with which I am in disagreement.

(13) There is no information to report under the requirements of section 05(b) of the Federal Financial Management Improvement Act of 1996.

(14) (15) A peer review of the audit program was conducted by the National Credit Union Administration OIG. The peer review report was issued on October 31, 2011. A copy of the peer review report is at the appendix. There were no recommendations. The OIG's investigative program is not subject to the peer review requirement.

(16) The OIG did not conduct a peer review of any other entities during this reporting period.

REPORTS BY

SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Funds To Be Put To Better Use
General Administration NLRB Fiscal Year 2011 Financial Statements OIG-F-16-12-01	\$113,120	0	0
General Administration Internal Controls in the Office of Equal Employment Opportunity OIG-AMR-67-12-01	0	0	0

**Table I. Reports With
Questioned Costs**

	Number of Reports	Dollar Value	
		Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the period	0	0	0
B. Which were issued during the reporting period	1	\$113,120	0
Subtotals (A+B)	1	\$113,120	0
C. For which a management decision was made during the reporting period	1	\$113,120	0
(i) Dollar value of disallowed costs	1	\$113,120	0
(ii) Dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0
Reports for which no management decision was made within six months of issuance	0	0	0

Table 2. Reports with Recommendations that Funds be Put to Better Use

	Number of Reports	Funds To Be Put To Better Use
A. For which no management decision has been made by the commencement of the period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A+B)	0	0
C. For which a management decision was made during the reporting period	0	0
(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
Reports for which no management decision was made within six months of issuance	0	0

APPENDIX



National Credit Union Administration

System Review Report

Office of Inspector General

October 31, 2011

To David Berry, Inspector General
National Labor Relations Board

We have reviewed the system of quality control for the audit organization of the National Labor Relations Board (NLRB) in effect for the year ended September 30, 2011. A system of quality control encompasses the NLRB OIG's organizational structure and the policies adopted and procedures established to provide it with reasonable assurance of conforming with *Government Auditing Standards*. The elements of quality control are described in *Government Auditing Standards*. The NLRB OIG is responsible for designing a system of quality control and complying with it to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the NLRB OIG's compliance therewith based on our review.

Our review was conducted in accordance with *Government Auditing Standards* and guidelines established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). During our review, we interviewed NLRB OIG personnel and obtained an understanding of the nature of the NLRB OIG audit organization, and the design of the NLRB OIG's system of quality control sufficient to assess the risks implicit in its audit function. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The engagements selected represented a reasonable cross-section of the NLRB OIG's audit organization, with emphasis on higher-risk engagements. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with NLRB OIG management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG's audit organization. In addition, we tested compliance with the NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the NLRB OIG's policies and procedures on selected engagements. Our review was based on selected tests; therefore, it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it.

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There are inherent limitations in the effectiveness of any system of quality control, and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

Enclosure 1 to this report identifies the offices of the NLRB OIG that we visited and the engagements that we reviewed.

In our opinion, the system of quality control for the audit organization of the NLRB OIG in effect for the year ended September 30, 2011, has been suitably designed and complied with to provide the NLRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Federal audit organizations can receive a rating of *pass*, *pass with deficiencies*, or *fail*. The NLRB OIG has received a peer review rating of *pass*.

In addition to reviewing its system of quality control to ensure adherence with *Government Auditing Standards*, we applied certain limited procedures in accordance with guidance established by the CIGIE related to the NLRB OIG's monitoring of engagements performed by Independent Public Accountants (IPA) under contract where the IPA served as the principal auditor. It should be noted that monitoring of engagements performed by IPAs is not an audit and therefore is not subject to the requirements of *Government Auditing Standards*. The purpose of our limited procedures was to determine whether the NLRB OIG had controls to ensure IPAs performed contracted work in accordance with professional standards. However, our objective was not to express an opinion and accordingly, we do not express an opinion, on the NLRB OIG's monitoring of work performed by IPAs.



William A. DeSarno
Inspector General
National Credit Union Administration

Enclosures

SCOPE AND METHODOLOGY**Scope and Methodology**

We tested compliance with the NLRB OIG audit organization's system of quality control to the extent we considered appropriate. These tests included a review of two of two audit reports issued during the period October 1, 2010, through September 30, 2011. We also reviewed the internal quality control reviews performed by NLRB OIG.

In addition, we reviewed the NLRB OIG's monitoring of engagements performed by IPAs where the IPA served as the principal auditor during the period October 1, 2010, through September 30, 2011. During the period, the NLRB OIG contracted for the audit of its agency's Fiscal Year 2010 financial statements.

We visited the Washington, DC office of the NLRB OIG.

Reviewed Audit Engagements Performed by the NLRB OIG

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-AMR-66	3/23/11	Travel Cards
OIG-AMR-64	4/7/11	Case Processing Costs

Reviewed Monitoring Files of the NLRB OIG for Contracted Engagements

<u>Report No.</u>	<u>Report Date</u>	<u>Report Title</u>
OIG-F-15	12/15/10	Audit Report on the NLRB's Financial Statements for Fiscal Year 2010

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