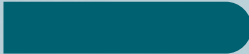



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Office of Inspector General



SEMIANNUAL 
REPORT



APRIL 1, 2011 – SEPTEMBER 30, 2011

TABLE OF CONTENTS

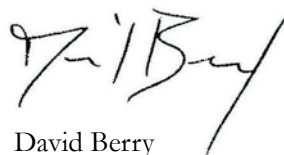
Executive Summary	1
Agency Profile	2
Office of Inspector General	4
Audit Program	5
Investigations Program	9
Legislation, Regulations and Policy	11
Liaison Activities	12
Information Required by the Act	13
Reports by Subject Matter	14
Appendix	17

EXECUTIVE SUMMARY

I hereby submit this Semiannual Report for the period April 1, 2011 – September 30, 2011. 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, one inspection report, and completed the quality system review for the audit organization of the Office of Inspector General, Equal Employment Opportunity Commission. As a result of the inspection, we identified \$44,274 questioned costs. In the investigation program, the Office of Inspector General processed 145 contacts, initiated 11 cases, and closed 6 cases. Our investigative efforts resulted in an indictment, a removal, and a resignation. One case was referred for prosecution.

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



David Berry
Inspector General
October 31, 2011

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.

Left to right:
Brian Hayes, Craig Becker,
Chairman Wilma B. Liebman,
Mark Gaston Pearce.



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.

For this reporting period, the Board consisted of Chairman Wilma B. Liebman and Members Craig Becker, Brian Hayes, and Mark Gaston Pearce. On August 27, 2011, Chairman Liebman's term ended. The President designated Member Pearce to succeed Member Liebman as Chairman. Acting General Counsel Lafe Solomon continued to serve in that position during the reporting period.

During this reporting period, the NLRB operated under a Continuing Resolution that provided funding at a level of \$282,833,200.

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 \$1,082,800 for FY 2011 operations, of which \$221,900 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 and one inspection report. The OIG also completed the quality system review for the audit organization of the Office of Inspector General, Equal Employment Opportunity Commission. As a result of the inspection, we identified \$44,274 in questioned costs.

Reports Issued

We issued **Audit Report OIG-AMR-64-11-02, *Case Processing Costs***, on April 7, 2011. The audit was conducted to determine case processing costs by the Regional Offices and identify potential cost savings. The scope of our review was all cases that were processed and all expenses that occurred in FY 2009.

We reviewed the operations of the offices in the Regions and analyzed the Agency's expenses to allocate the expenses to specific Regions. We also assessed the productivity of each Region by using the Agency's method of assigning cases a value based upon the "impact analysis" category. To compare Regions, we divided the operating expenses by the total case value to determine a "production unit" cost.

To ensure a complete assessment of the Region's productivity, we compiled and summarized data related to the resolution of cases and staffing of each Region; and we categorized the cases by the distance of the charging party from the Regional Office.

Our analysis of this data demonstrated that Regions with larger caseloads generally achieve an efficiency that is not obtained by Regions with smaller caseloads. We also found that Regions with multiple offices and more than 1,000 active cases generally had a lower cost per production unit than Regions with a single office.

We recommended that the Division of Operations-Management achieve greater efficiencies in its Regional operations by consolidating offices

and eliminating positions in overstuffed Regions by attrition. We also recommended relocating offices in high rent urban office districts to locations that offer lower lease costs when the relocation will result in cost savings.

The Division of Operations-Management commented that the Acting General Counsel is committed to ensuring that the Regional Office structure meets future case processing needs and is as efficient as possible. The comments also stated that they did not believe that offices should be consolidated based upon case intake alone, but that they should also consider staffing levels, travel costs, and fluctuation in case intake.

We issued **Audit Report OIG-AMR-65-11-03, *Purchase Cards***, on September 30, 2011. This audit was conducted to determine whether the NLRB's purchase card program was operated in accordance with applicable laws, regulations, and Agency policies; and whether controls were sufficient to prevent or detect waste, fraud, and abuse. Our scope was purchase card activity during FY 2010.

Overall, the NLRB has a purchase card program that streamlines the acquisition process for goods and services while providing controls that are sufficient to prevent fraud and abuse. We did, however, find areas of administrative controls that

could be improved upon. These areas primarily relate to documenting procedures, monitoring transactions, and the use of priority vendors.

We made five recommendations that we believe will assist in managing the purchase card program and strengthen its internal controls.

Management provided comments to the draft report that generally acknowledged the findings and recommendations. Management, however, did not concur with our finding regarding training of card holders and approving officials. Management disagreed with our recommendation that the Acquisitions Management Branch coordinate with the Facilities and Property Branch to provide guidance to purchase card holders related to maintaining records for and disposition of non-consumable property purchases.

We issued **Inspection Report No. OIG-INS-62-11-03, *Transit Subsidy***, on June 29, 2011. The inspection was conducted to evaluate the controls over the NLRB's transit subsidy program. The scope of the inspection was the NLRB's transit subsidy program at Headquarters, to include transit subsidy transactions during FY 2010 and participants in the transit subsidy program who separated from the Agency between April 1, 2009 and September 30, 2010.



When we reviewed the applications, we found that (1) the Agency did not maintain applications as required or employees were not submitting the application; and (2) the applications that were available for review did not always reflect the current benefit that an employee was receiving. As a result of not having all the applications available for review and allowing transit subsidy participants to receive a benefit greater than that stated on the application, we identified \$39,963 in unsupported costs for FY 2010.

We also found that the Agency did not have an adequate process to remove former employees from the transit subsidy program. Between April 1, 2009 and September 30, 2010, we found that 31 of those employees were not removed from

the Agency's transit subsidy benefit program after separation. We also identified \$4,311 in transit subsidy benefits that were paid to individuals who were not eligible to participate in the transit subsidy or who were required to, but did not, return unused transit subsidy benefits after separation from the NLRB.

We completed the **Quality System Review** (peer review) for the audit organization of the Office of Inspector General, Equal Employment Opportunity Commission. Federal audit organization can receive a rating of *pass*, *pass with deficiencies*, or *fail*. Our report stated that the Office of Inspector General, Equal Employment Opportunity Commission, received a rating of *pass*.

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. One recommendation remains open.

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

Audit of the NLRB Fiscal Year 2007 Financial Statements, OIG-F-12-08-01, was issued on December 17, 2007, and we reached agreement with management on that date. The final open recommendation was implemented during this reporting period.

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 one of the six recommendations made in the report.

Official Time for Union Activities, OIG-AMR-63, 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. Management implemented one of the three recommendations made in the report.

Audit of the NLRB Fiscal Year 2009 Financial Statements, OIG-F-14-10-01, was issued on December 11, 2009. We did not reach agreement with management on a recommendation to deobligate \$250,000 of postage advance from FY 2009 funds and re-obligate the postage advance using FY 2010 funds. During this reporting period, we closed the recommendation.

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. *The investigations resulted in an indictment, a removal, and a resignation. A case was also referred for prosecution.*

Case Workload		Contacts Processed	
Open (4/1/2011)	11	Received	145
Initiated	11	Initiated Investigation	2
Closed	6	Opened Case — Referred to Agency	0
Open (9/30/2011)	16	Non-Investigative Disposition	143

Investigative Highlights

- Investigated a matter involving fraud upon an outside entity and false statements by an employee. In a prior reporting period, the employee resigned. During this reporting period, the employee was indicted in the Eastern District of Virginia on nine counts of wire fraud. OIG-I-440
- Investigated and substantiated an allegation that an employee misappropriated property of

another. The employee resigned during the course of the investigation. OIG-I-462

- Investigated and substantiated an allegation that an employee in an attorney position was not authorized to practice law and provided false statements to the NLRB regarding that status. This matter was referred for prosecution. The matter was also referred to the employee’s State Bar. The employee resigned as a result of a separate proceeding that did not involve the OIG. OIG-I-456
- Investigated and substantiated an allegation that an employee improperly released non-public procurement information. In a prior reporting period, an investigative report was issued. During this reporting period, the employee was removed from employment. OIG-I-443



- Investigated and substantiated allegations involving abuse of managerial discretion and false statements by two employees. Management officials are in the process of considering what, if any, disciplinary action is appropriate. OIG-I-452

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 145 Hotline contacts, of which 16 were telephone calls or walk-ins and 129 were in writing. Two contacts resulted in the initiation of an OIG investigation.

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 13 legislative proposals that would amend the National Labor Relations Act and impact the programs and operations of the Agency:

- H.R. 1976, Job Protection Act
- H.R. 2040, National Right-to-Work Act
- H.R. 2118, Would amend the NLRA with respect to authority to enjoin State laws that are preempted by or conflict with such Act
- H.R. 2153, Truth in Employment Act of 2011
- H.R. 2335, Tribal Labor Sovereignty Act of 2011
- H.R. 2587, Protecting Jobs from Government Interference Act
- H.R. 2833, Employee Workplace Freedom Act

- H.R. 2854, Employer Free Choice Act
- H.R. 2926, National Labor Relations Reorganization Act of 2011
- H.R. 2978, Protecting American Jobs Act
- S. 964, Job Protection Act
- S. 1425, Fair Representation in Elections Act of 2011
- S. 1523, Protecting Jobs from Government Interference Act

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.

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 (GAO), with a view toward avoiding duplication and ensuring effective coordination and cooperation.

Although we had no activity during this reporting period that required coordination with the GAO, we did receive a Comptroller General Decision regarding the use of FY 2010 funds for FY 2011 training and court reporting expenses. This decision is the result of a request made by the OIG following the audit of the FY 2010 financial statements. The decision stated that FY 2010 funds could be used for the court reporting expenses, but not the training expenses. The citation for the decision is B-321296.

INFORMATION

REQUIRED BY THE ACT

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) One case was 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 OIG audit program was initiated during this reporting period, but a report was not issued prior to the end of the reporting period. The peer review of the audit program is being conducted by the National Credit Union Administration OIG. The prior peer review of the OIG's audit program was last completed in February 2009 by the Federal Trade Commission's OIG. 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 completed a peer review of the Equal Employment Opportunity Commission OIG's audit program. All recommendations from the prior peer review had been implemented.

REPORTS BY

SUBJECT MATTER

Subject Matter and Title	Questioned Costs	Unsupported Costs	Ineligible Costs	Funds To Be Put To Better Use
Field Investigations Case Processing Costs OIG-AMR-64-11-02	0	0	0	0
General Administration Purchase Cards OIG-AMR-65-11-03	0	0	0	0
General Administrative Transit Subsidy OIG-INS-62-11-03	\$44,274	\$39,963	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	1	\$915,374	0
B. Which were issued during the reporting period	1	\$44,274	\$39,963
Subtotals (A+B)	2	\$959,648	\$39,963
C. For which a management decision was made during the reporting period	2	\$959,648	\$39,963
(i) Dollar value of disallowed costs	2	\$43,311	0
(ii) Dollar value of costs not disallowed	2	\$916,337	\$39,963
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	1	\$915,374
B. Which were issued during the reporting period	0	0
Subtotals (A+B)	1	\$915,374
C. For which a management decision was made during the reporting period	1	\$915,374
(i) Dollar value of recommendations that were agreed to by management	1	\$39,000
(ii) Dollar value of recommendations that were not agreed to by management	1	\$876,374
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



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

System Review Report

February 6, 2009

David P. 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 Office of Inspector General (NLRB OIG) in effect for the year ended September 30, 2008. 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 audit engagements and administrative files to test for conformity with professional standards and compliance with the NLRB OIG's system of quality control. The audit engagements selected included all audits performed during Fiscal Year 2008. 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.

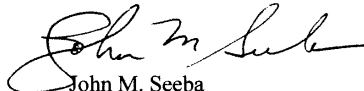
In performing our review, we obtained an understanding of the system of quality control for the NLRB OIG's audit organization. In addition, we tested compliance with the NLRB OIG's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of 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.

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.

This report identifies the NLRB OIG office 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, 2009, 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.



John M. Seeba
Inspector General

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National Labor Relations Board**

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