

XI. GOALS OF THE STRATEGIC PLAN AND THEIR RELATIONSHIP TO THE PERFORMANCE BUDGET

As noted previously in this document, the Agency revised its six-year Strategic Plan in June 2007. In so doing, we retained our goals, but replaced the previous measures with three new, overarching, outcome-based measures to gauge performance for the period FY 2007 – FY 2012. These new measures were first implemented during the fourth quarter of FY 2007. Please note that the old measures will also continue to be used as internal guides to further assess performance.

Historically, the NLRB has always been a top performer, meeting over 76 percent of its targets from FY 2004 to FY 2006. The Agency has been able to sustain this high level of performance through the judicious, efficient, and effective use of our appropriations. We fully expect to continue this level of performance under these new measures.

These goals and measures are described below.

Goals and Strategies

GOAL NO. 1: Resolve questions concerning representation promptly

OBJECTIVES:

The NLRA recognizes and expressly protects the right of employees to freely and democratically determine, through a secret ballot election, whether they want to be represented for purposes of collective bargaining by a labor organization. In enforcing the Act, the Agency does not have a stake in the results of that election. It merely seeks to ensure that the process used to resolve such questions allows employees to express their choice in an open, un-coerced atmosphere. The NLRB strives to give sound and well-supported guidance to all parties and to the public at large with respect to representation issues. Predictable, consistent procedures and goals have been established to better serve our customers and avoid unnecessary delays. The Agency will process representation cases promptly in order to avoid unnecessary disruptions to commerce and minimize the potential for unlawful or objectionable conduct.

The objectives are to:

- A. Encourage voluntary election agreements by conducting an effective stipulation program.
- B. Conduct elections promptly.
- C. Issue all representation decisions in a timely manner.
- D. Afford due process under the law to all parties involved in questions concerning union representation.

STRATEGIES:

1. Give priority in timing and resource allocation to the processing of cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public.
2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
4. Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.
5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases, e.g. super-panels.
6. Ensure that due process is accorded in representation cases by careful review of

Requests for Review, Special Appeal and Hearing Officer Reports, and where appropriate, the records in the cases.

7. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
8. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

Measure #1: The percentage of representation cases resolved within 100 days of filing the election petition

GOAL #2: Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly

OBJECTIVES:

Certain conduct by employers and labor organizations leading to workplace conflict has been determined by Congress to burden interstate commerce and has been declared an unfair labor practice under Section 8 of the National Labor Relations Act. This goal communicates the Agency's resolve to investigate charges of unfair labor practice conduct fairly and expeditiously. Where violations are found, the Agency will provide such remedial relief as would effectuate the policies of the Act, including, but not limited to, ordering reinstatement of employees; ensuring that employees are made whole, with interest; directing bargaining in good faith; and ordering a respondent to cease and desist from the unlawful conduct. The Agency will give special priority to resolving disputes with the greatest impact on the public and the core objectives of the Act. These objectives are to:

- A. Conduct thorough unfair labor practice investigations and issue all unfair labor practice decisions in a timely manner.
- B. Give special priority to disputes with the greatest impact on the public and the core objectives of the Act.
- C. Conduct effective settlement programs.
- D. Provide prompt and appropriate remedial relief when violations are found.
- E. Afford due process under the law to all parties involved in unfair labor practice disputes.

STRATEGIES:

1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in unfair labor practice matters and the rights and obligations of employers, employees, unions, and the Board under the Act.
2. Evaluate the quality of unfair labor practice casework regularly to provide the best possible service to the public.
3. Utilize impact analysis to provide an analytical framework for classifying unfair labor practice cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.
4. Share best practices in the processing of unfair labor practice cases to assist regions in resolving unfair labor practice issues promptly and fairly.
5. Emphasize the early identification of remedy and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.
6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.
7. Emphasize and encourage settlements as a means of promptly resolving unfair labor practice disputes at all stages of the case-handling process.
8. Identify and utilize alternative decision-making procedures to expedite Board decisions in unfair labor practice cases.
9. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
10. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

Measure #2: The percentage of unfair labor practice (ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge

Measure #3: The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge

Relationship of Budget to GPRA Goals

The charts below show the relationship between the budget, GPRA goals and the related performance measures for each goal. Agency overhead costs, including administrative support costs, were distributed by the percentage of attributed direct costs to that goal and measure. The discussion below the charts reviews the Strategic Plan’s goals, objectives, and strategies, and discusses their relationship to the performance measures contained in the Annual Performance Plan. In addition, each current performance measure in the Annual Performance Plan, including background information and performance targets, will be discussed.

Measure 1, the performance measure associated with Goal 1, focuses on the total time taken to resolve a representation case, from beginning to end, including both the General Counsel and Board sides. Elections result from petitions filed by unions, employees or employers seeking a secret ballot determination as to whether a majority of employees wish union representation. Included in this measure are withdrawals, dismissals, settlements, hearings, and elections, which occur in the Field. Additionally, aggrieved parties may also request a review of Regional decisions by the Board in Washington, DC.

Goal 2 relates to Measures 2 and 3, which address the timely resolution of ULP cases, including time spent by both the General Counsel and Board sides. On a yearly basis, there are more than 5 times as many ULP cases as representation cases, usually involving more complicated issues for Regions to address.

Goal 1—Resolve all questions concerning representation promptly.

	FY 2007 Actual		FY 2008 Post-Rescission		FY 2009 President’s Request	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #1: Percentage of representation cases resolved within 100 days of filing the election petition	293	\$ 42.4	279	\$ 42.5	283	\$44.0
Subtotal, Goal 1	293	\$ 42.4	279	\$ 42.5	283	\$44.0

Goal 2—Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly.

	FY 2007 Actual		FY 2008 Post-Rescission		FY 2009 President's Request	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #2: Percentage of ULP charges resolved by withdrawal, by dismissal, or by closing on compliance with a settlement or Board order of Court judgment within 120 days of the filing of the charge	958	\$139.4	917	\$139.5	931	\$145.5
Measure #3: Percentage of meritorious ULP cases closed on compliance within 365 days of the filing of the ULP charge	478	\$69.7	459	\$69.8	466	\$73.1
Subtotal, Goal 2	1,436	\$209.1	1,376	\$209.3	1,397	\$218.6
Total, Goals 1 & 2:	1,729	\$251.5	1,655	\$251.8	1,680	\$262.6

As the measures are discussed, it should be noted that it is difficult for an Agency such as the NLRB to measure “outcomes” in the sense intended by the authors of the Government Performance and Results Act. In the representation case area, for instance, the Agency does not control or seek to influence the results of elections, but strives instead to ensure the rights of employees to freely and democratically determine, through a secret ballot election, whether they wish to be represented by a labor organization. If the Agency concludes that all of the necessary requirements for the conduct of an election have been met, it will either direct an election or approve the parties’ agreement to have an election. The performance measure the Agency has established for the conduct of elections is objective and is not dependent on the results of the election. The true outcome of properly conducted elections is employees, employers and unions voluntarily and freely exercising their statutory rights as set out in the NLRA.

The same difficulty is inherent in any attempt to define “outcomes” in the prevention of unfair labor practice conduct. The aim of the Agency is to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. In the absence of a mechanism to accurately gauge “labor peace” or the impact of Agency activities among a range of variables influencing that goal, the NLRB has established the two performance measures noted above. In particular, the timeliness and quality of case processing, from the filing of an unfair labor practice charge to the closing of a case upon compliance with a litigated or agreed-to remedy, are the focus of the performance measures.