

VII. MANAGEMENT INITIATIVES

President's Management Initiatives

The section below discusses how the President's management initiatives and several separate, internal initiatives help the Agency meet its performance goals.

Workforce Planning

The NLRB has always sought to operate effectively by efficient management of its human resources. The need to make the most judicious use of existing human resources and to attract qualified staff is critical to the Agency, as by the end of FY 2007, 44 percent of GS 13-15 supervisors and 78 percent of Senior Executive Service (SES) members in the Agency will be eligible to retire.

The NLRB workforce is spread throughout the country, with about 500 employees located in the Washington, D.C. headquarters, and the remaining staff located in 32 Regional Offices, 3 Subregional Offices, 16 Resident Offices, and 3 satellite judges offices nationwide. Through its Regional Office field structure, the Agency provides the public with easy access to and direct contact with case-handlers and decision-makers.

The ability of the Agency to continue to achieve its mission and meet performance goals in such a dynamic environment was facilitated by an Agency-wide workforce assessment that was completed in FY 2004. The assessment resulted in a five-year plan, the objective of which, in keeping with the President's Management Agenda (PMA), is to use workforce planning and

restructuring to make the NLRB more citizen-centered and ensure that the Agency has the diverse workforce –the right people, with the right skills, in the right places – to effectively accomplish its mission.

As a part of this Workforce Plan, a new initiative to increase the skills of Agency supervisors, managers, and executives was implemented. Additionally, new training initiatives were developed to enhance the skills of the professional and support staff.

Programs were also created to train managers (through details to other offices) in areas other than where they are assigned. These programs broaden managers' knowledge and skills, facilitate cross-training, and enhance Agency flexibility, efficiency and effectiveness. As a result of these initiatives, the Agency now offers the following:

- Management Development Program – includes training for new supervisors
- Trial training
- Training on Compliance-related topics
- Weekly videoconference training for targeted groups of Field employees
- Support staff skills and organizational training
- Training materials developed by Agency professionals on developing areas of Board law or procedures

In FY 2006, the Agency also took steps to implement an entry-level professional recruitment program, which will allow the Agency to better compete for entry-level applicants and plan its workforce hiring needs.

In addition, the NLRB is improving business processes by exploring new uses of technology in the workplace. For instance, the Office of Appeals has converted to an electronic format for investigative case files. Also, a new pilot project by Operations-Management, Division of Judges, and Office of the Chief Information Officer (OCIO) was implemented in September 2005 to test electronic solutions for moving electronic case files between Field Offices and Headquarters Offices. The results of this pilot will guide the Agency toward an enterprise-wide, e-case management solution.

Competitive Sourcing

Further, in accordance with the PMA, the Agency has utilized competitive sourcing and direct conversion outsourcing opportunities to the fullest extent possible. Managers have reviewed public and private competitions of commercial activities to enhance cost efficiencies and program performance. As a result, under the Federal Activities Inventory Reform Act, in the past year, the OCIO increased the number of positions it identifies as commercial by 8 percent. Further, in FY 2004, the Division of Administration outsourced the mailroom operations. Other opportunities for competitive sourcing are being explored within the Agency.

Budget and Performance Integration

The NLRB's annual GPRA Performance Plan is integrated into our budget request to form the basis of our Performance Budget. Section XI (page 27) of this document includes a discussion

on the relationship between the GPRA goals and measures, and the amount of resources, both FTE and dollars, that are devoted to them.

The NLRB strengthens budget and performance linkages by establishing a direct, vertical relationship between the performance plans of individual executives in its Regional and Headquarters offices and the performance goals for their programs, goals which are derived from the Agency's broader strategic goals. Agency goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency.

Improved Financial Performance

The Agency upgraded its financial system to the Department of Interior's National Business Center's (NBC) Momentum system in FY 2004. This system has provided better web-based functionality, and improved integration with other systems. Currently, Momentum is integrated with the Federal Personnel and Payroll System, providing for more efficient payroll processing. Additionally, Momentum will be fully integrated with the Agency's new E-travel compliant travel manager system, E²Solutions, which is scheduled to be fully implemented in FY 2007. The improved integration of these systems will enhance financial reporting capabilities, facilitate more efficient and effective program and administrative performance, and enable continued compliance with the Chief Financial Officers Act of 1990.

The cost for Momentum totals about \$1 million annually. NBC is scheduled to upgrade our system in FY 2008, at an estimated additional cost of about \$800,000.

Technology and E-Government Advances

To support its mission and goals, the NLRB is committed to the development and continued maintenance of a mainstream information architecture and infrastructure that utilizes current technological advances to support program and administrative efforts. The Agency's Information Technology (IT) initiatives support its broader efforts to improve productivity and provide greater transparency. These initiatives, consistent with the Expanding Electronic Government element of the President's Management Agenda, focus on citizen-centered and results-oriented principles.

During the past year, the NLRB launched major information technology initiatives that are part of the Agency's implementation of the President's Management Agenda. These initiatives fall under three major categories: (1) Next Generation Case Management; (2) Improved Web Site with Citizen-centered Portal; and (3) Infrastructure Modernization and Consolidation. These initiatives are designed to:

- Improve the productivity of the Agency's case management process.
- Transform the way the NLRB does business with the public; make its case processes more transparent; and provide more information to its customers in a timely matter.
- Standardize the Agency's electronic case management systems on enterprise applications.
- Optimize internal NLRB case processing by providing NLRB employees with

- uncomplicated access to the tools, data and documents they require.
- Provide Agency-wide electronic case records and document management to improve:
 - Case flow
 - Capability to provide electronic court filings
 - Access to documents.
 - Reduce the paperwork burden on individuals, governments, businesses, labor unions, universities, and other organizations.

Next Generation Case Management (NGCM)

As noted above, the NLRB's authority is divided by law and delegation. The five-Member Board serves in a quasi-judicial capacity and decides cases based on formal records in unfair labor practice (ULP) and representation (R) case proceedings. The General Counsel of the NLRB has a separate statutory role under Section 3(d) of the Act to investigate and prosecute ULP cases before the Board and other authority as delegated by the Board.

The vision for the Next Generation Case Management (NGCM) project is to build an enterprise-wide, common case management platform using the latest technologies for interfacing with the public and managing cases across NLRB's offices in an automated, efficient and transparent way. The NGCM project will enable the NLRB to replace or optimize manual, paper-based processes and "stovepipe" legacy systems with a standards-based solution leveraging Commercial Off-The-Shelf (COTS) tools and a Service-Oriented Architecture (SOA) approach.

To build a solid foundation for NGCM, the NLRB recognizes that pursuant to Section 5123.5 of the Clinger-Cohen Act we will analyze the missions of the Agency and, based on the analysis, revise our mission-related and administrative processes as appropriate to utilize new technologies. Likewise, the new technologies need to be carefully selected to ensure that they align with NLRB's current and anticipated business needs and government regulations. The NLRB desires to develop an Enterprise-level, Agency-wide solution to satisfy the needs of all its offices. The system will be based on open industry standards with "data mart" capabilities.

NGCM eventually will replace the various case tracking systems presently deployed at the NLRB, with the exception of the recently developed Judicial Case Management System (JCMS), which will become part of the enterprise solution.

Improved Web Site with Citizen-centered Portal

The National Labor Relations Board continues to deliver results through the adoption of electronic government management principles and best practices for the implementation of information technology in accordance with the President's Management Agenda. The NLRB is focused on providing timely and accurate information to the citizens and government decision-makers while ensuring security and privacy.

The NLRB recognizes a high priority need to offer publicly available case information to case participants, citizens, and employees based on their specific needs, rather than using a "one-size-fits-all" model for information distribution. As importantly, the Office of the Chief Information

Officer (OCIO) understands the significance of three technology trends:

- An emphasis on enterprise architecture and the need to harmonize IT investments across the Agency;
- The dominance of the Web platform and the desire within enterprises to work from a common Web application development and information platform; and
- The transition to a more componentized, Service-Oriented Architecture (SOA) which utilizes a common platform for services to be integrated.

Historically, agencies developed and/or invested in technologies that were internally focused rather than citizen-centered. Building a portal-based public interface is one component of the long-term unified case management vision: to be able to provide better services, more efficient case handling, greater transparency, and continue to improve quality. This important step will provide a gateway for the public, including participants in NLRB cases, the Agency and existing systems to communicate with one another in the course of transacting business, as well as offering FOIA-able documents online to the general public.

With this system in place the Agency will be poised to migrate legacy systems to a common platform seamlessly without interrupting the services we are currently providing. The NLRB Portal Project will offer a self-service solution to citizens so they might obtain, maintain, and share information. Having a broader group review case data will mitigate risks associated with inaccurate or incomplete data in our internal case processing systems.

These business requirements and technology trends converge in an enterprise portal solution. The goal of implementing a portal solution is to provide NLRB stakeholders a single point of entry for all content and processes that can be accessed from the public facing web site. This portal solution will provide a solid foundation for a long term technology strategy.

As with improvements to the Web site and the addition of the Portal, the Board's e-Filing project increases the capability of the public to transact business with the Agency online. Beginning in June 2003, the Board developed an E-Filing project, which enabled the public to file documents online. In January 2005 this program was expanded to include all documents in all cases before the Board. The Agency is now expanding the E-Filing program to the General Counsel, Judges Division and the Office of Appeals. This new capability will be integrated and released simultaneously with the new web site and portal.

Infrastructure Modernization and Consolidation

In FY 2005, the NLRB developed and began implementation of an ambitious plan to modernize and consolidate its IT infrastructure. The Agency issued Request for Quotes ("RFQ") and awarded contracts for commercial collocation hosting, monitoring, managed services, and file server consolidation, consistent with the Agency's Enterprise Architecture (EA) design.

Each of the Agency's 51 Regional, Sub-regional, or Resident Offices throughout the United States and Puerto Rico presently operates network servers to support mission critical applications. The Agency is developing a unified network architecture, based on standard

Internet technologies and hosted by a commercial services provider. By modernizing and consolidating the infrastructure in such a manner, the NLRB will be able to maintain survivability by providing redundancy, disaster recovery, consolidated storage and robust interconnection with offices of the NLRB and the public. In addition, the Agency will be able to take advantage of advances in technology of local and wide area networks, high-availability computing, information lifecycle management, enterprise software, and communications systems, thereby maintaining the highest level of computer data processing service to the NLRB staff and the public.

The Infrastructure Modernization and Consolidation program:

- Is foundational to the aforementioned projects and all IT investments planned by the Agency.
- Is a core component of the Agency's designed viable and executable contingency plan for the continuity of operations (COOP).
- Provides a viable and consistently-available option for employees in telecommuting-eligible positions who desire workplace flexibility.
- Improves the Agency's capability to integrate IT security into our enterprise architecture processes.
- Enables the OCIO to benchmark our IT organization against other possible service providers.

Other Agency Management Initiatives

Prioritization of Cases—Impact Analysis

In addition to the President's management initiatives discussed above, several longstanding management initiatives and programs increase the NLRB's effectiveness and improve its ability to achieve performance goals and objectives. A case management system called Impact Analysis, adopted in FY 1996 to streamline case management in the Regional Offices, has reformed case processing at the Agency. Impact Analysis provides a uniform framework for the prioritization of cases and insures that those cases having the greatest impact upon the NLRB's customers receive the promptest and highest level of attention. The Impact Analysis system allows for the measurement of the NLRB's effectiveness in handling the most important cases and moves away from the Agency's more traditional approach of measuring effectiveness exclusively based on the numbers of cases processed, regardless of their significance in the labor relations community.

Through the Impact Analysis approach, the cases that now receive the most immediate attention are those where the alleged unlawful activity is having a demonstrable impact on the public through disruptions of business activities or would affect significantly a large number of employees or high percentage of the workforce in a smaller business. Under Impact Analysis, a case involving a remedial bargaining order affecting an entire unit of employees or the systematic abuse by a union of an exclusive hiring hall would command greater priority and Agency resources than would a charge involving a claim by an individual regarding his or her union's failure to process an individual grievance.

The Impact Analysis model consists of three categories of cases, with Category III being the cases of the highest impact and Category I the lowest. Cases can be recategorized during the investigative stage, if warranted. Generally, about 33 percent of unfair labor practice cases fall in Category III, about 62 percent in Category II, and 5 percent in Category I. Impact Analysis time goals for processing an unfair labor practice charge from the filing of the charge, through investigation and implementation of a Regional determination, through the issuance of a complaint or dismissal or withdrawal, are different for each of the three categories.

The current time targets are 7 weeks for Category III cases, 9 weeks for Category II, and 12 weeks for Category I, and it is anticipated that they will remain at these levels in fiscal years 2007 and 2008. Our experience and success in achieving these goals is reported in Section XII, Performance Measures, Goal 2, measures 2 and 10.

We constantly review performance against our Impact Analysis time targets to determine whether our goals can be adjusted to better serve the public. The types of cases handled under each category can be changed if staffing is found to be sufficient to permit greater expedition in case handling. An adjustment in case assignment was last accomplished in FY 2003, resulting in a class of cases receiving higher priority, and thus requiring their processing more quickly, without sacrificing quality. The NLRB will again be reviewing the Impact Analysis process this year, and, if appropriate, make modifications.

Streamlined Board Case Processing

The Board has adopted the methods and procedures recommended by a three-year study, "Guide to Streamlined Case Processing," that has led to the use of expedited case processing procedures. Under the Board's "Super Panel" procedure, a panel of three Board Members meets each week to hear cases that involve issues that lend themselves to quick resolution without written analysis by each Board Member's staff. Staff counsel attending the Super Panel session present the Board Members with a draft decision that can be approved "on the spot." The net result is that the case is issued immediately after the Super Panel meeting, avoiding intermediate levels of review. This avoids delays in conducting representation elections and deciding the merits of objections.

The streamlining guide also encourages the use of "speed team" subpanels. In this process, the assigned originating Board Member identifies cases involving straightforward issues that, with the agreement and early involvement of the other two panel members, can be drafted and circulated quickly, without the need for detailed, time-consuming memoranda.

Other procedures adopted include the sharing of legal memoranda among the different Board Member staffs, shortening the length of legal memoranda, the use of a "focus list" of cases targeted for issuance, and the use of case "advocates."

Alternative Dispute Resolution (ADR) Pilot

In December 2005, the NLRB created a pilot "alternative dispute resolution" (ADR) program to assist the parties in settling ULP cases pending before the Board on exceptions to decisions

issued by the Agency's administrative law judges. The pilot ADR program will run for a two-year period. If successful, it will be implemented permanently.

The Board established this pilot ADR program in response to the success experienced by other federal agencies and the federal courts in settling contested cases through ADR, as well as the success of the NLRB's own settlement judge program at the trial level. A successful ADR intervention in a case pending before the Board on exceptions to an administrative law judge's decision will resolve the contested matter. The Board will be able to cease its deliberations on the case and the Board Members and their staffs will be freed to turn their attention to other matters. In addition, as approximately 10 percent of Board decisions generate court of appeals litigation, resolution of the matter through ADR obviates the need for such additional litigation and the commitment of Agency resources to its prosecution. Finally, disputes over compliance details often generate additional investigation and litigation after the merits litigation before the Board and courts. Resolution of the matter through the ADR process invariably includes the settlement of those compliance details as well – for example reinstatement and backpay – making further proceedings before the Agency unnecessary.

Participation in the program is voluntary, and a party who enters into settlement discussions under the program may withdraw its participation at any time. The Board will provide the parties with an experienced neutral, usually an NLRB administrative law judge, to facilitate confidential settlement discussions to explore resolution options that serve the parties' interests. Where feasible the settlement conferences will be held in person, but some conferences may be held telephonically. The Board will stay further processing of the ULP case for 60 days from the first meeting with the neutral or until the parties reach a settlement, whichever occurs first. Extensions of the stay beyond the 60 days may be granted by the neutral only with the agreement of all parties.

To date, 34 cases have been set for mediation. Of these cases, 14 have settled and 6 cases are still in the mediation process. The remaining 14 cases did not settle, and were returned to the Board for issuance of a decision. To support the ADR process, the Agency plans to commit about three FTE to this program.

First Contract Bargaining

A critical responsibility of the NLRB is to conduct prompt and fair representational elections to resolve questions concerning representation – whether employees will be represented by a labor union for purposes of collective-bargaining. The General Counsel has highlighted the ancillary responsibility of the Agency to consider promptly and fairly ULP charges that, following the certification of a labor organization as the bargaining representative of a group of employees, an employer has failed or refused to bargain in good faith. First contract bargaining is the fruition of the free choice that employees have made for collective bargaining. That free choice needs to be enforced by protecting the collective bargaining process that employees chose. Initial contract bargaining constitutes a critical stage of the negotiation process because it forms the foundation for the parties' future labor-management relationship. And when employees are bargaining for their first collective bargaining agreement, they are highly susceptible to unfair labor practices intended to undermine support for their freely chosen bargaining representative.

In this regard, NLRB records indicate that in the initial period after election and certification, charges alleging that employers have refused to bargain are meritorious in more than a quarter of all newly-certified units (28 percent). Moreover, of all charges alleging employer refusals to bargain, almost half occur in initial contract bargaining situations (49.65 percent). In addition, half of the Section 10(j) injunction cases which deal with unfair labor practices that undermine incumbent unions involve parties bargaining for first contracts.

In order to ensure that bargaining rights secured by the free choice of employees through NLRB elections are meaningful, the General Counsel has required that the investigation of unfair labor practice charges dealing with first contract bargaining receive a prompt and thorough investigation in the Regional Offices. He also has required the consideration of special remedies if those charges are found to have merit. These special remedies could include Section 10(j) injunctions and the use of the contempt process to further monitor compliance with court enforced Board actions.