

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Audit of the NLRB

Fiscal Year 2008 Financial Statements

Report No. OIG-F-13-09-01

December 2008

INSPECTOR GENERAL



NATIONAL LABOR RELATIONS BOARD

WASHINGTON, DC 20570

December 16, 2008

I hereby submit the Audit of the National Labor Relations Board's (NLRB) Fiscal Year (FY) 2008 Financial Statements, Report No. OIG-F-13-09-01. The audit was required by the Accountability of Tax Dollars Act of 2002. On November 12, 2008, we transmitted Carmichael, Brasher, Tuvell & Company's (CBTC) audit opinion, which was included in the Agency's FY 2008 Performance and Accountability Report. This document is the Office of Inspector General's comprehensive report on our efforts related to auditing the Agency's financial statements and includes the audit report, management letter, NLRB's financial statements and related notes, and management's responses to both the audit report and management letter.

The Accountability of Tax Dollars Act of 2002 requires that the NLRB prepare and submit to the Congress and the Director of the Office of Management and Budget (OMB) an audited financial statement. We contracted with CBTC to perform the audit. The objectives of the audit were to issue an opinion on the fair presentation of the principal financial statements, obtain an understanding of the Agency's internal controls, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

The audit was conducted by CBTC in accordance with Government Auditing Standards issued by the Comptroller General of the United States and OMB Bulletin No. 07-04, Audit Requirements for Federal Financial Statements. The audit results were:

- The financial statements present fairly, in all material respects, the financial condition and activity of the NLRB as of and for the years ending September 30, 2007 and 2008.
- No material weaknesses in controls over financial reporting were identified. The objective of the audit, however, was not to provide assurance on

internal control or on the effectiveness of the NLRB's internal control. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. Consequently, an opinion on the effectiveness of NLRB's internal control was not provided.

- The Agency did not comply with the Federal Acquisition Regulation (FAR) when it entered into contracts totaling \$111,002 with two vendors who were not registered in the Central Contractor Registration prior to the date of the award. This resulted in two invalid obligations being recorded against the FY 2008 appropriation. No other instances of noncompliance with laws and regulations that would be reportable under U. S. generally accepted government auditing standards or OMB audit guidance were found. Providing an opinion on compliance with laws and regulations, however, was not an objective of the audit and, accordingly, such an opinion was not expressed.

A management letter, included on page 4 of this report, identified two areas where management could improve controls. Those areas involved non-compliance with the FAR and the incremental funding of contracts.

CBTC's independent auditors' report did not include any recommendations for corrective action. CBTC's management letter contained two findings with two recommendations. The management letter also provided information on the status of prior year recommendations.

Management agreed with the findings in the audit report. Management disagreed that the internal controls were overridden and stated that a personnel problem caused the non-compliance with the FAR. Management agreed to work with the Office of Inspector General to resolve the incremental funding finding. Comments on the audit report and management letter are presented in their entirety as appendixes to this report.

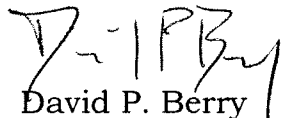

David P. Berry
Inspector General

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APPENDIXES

- A. Memorandum from the Director of Administration, Response to Draft Audit Report – NLRB Fiscal Year 2008 Financial Statements, dated November 12, 2008

- B. Memorandum from the Director of Administration, Comments on Draft Management Letter on Audit of NLRB's FY 2008 Financial Statements, (OIG-F-13-09-01a), dated December 10, 2008

INDEPENDENT AUDITORS' REPORT

To David P. Berry, Acting Inspector General
National Labor Relations Board

The Accountability of Tax Dollars Act of 2002 made the National Labor Relations Board (NLRB) subject to the annual financial statement reporting requirements of the Chief Financial Officers Act of 1990, which requires agencies to report annually to Congress on their financial status and any other information needed to fairly present the agencies' financial position and results of operations.

The objectives of the audit are to express an opinion on the fair presentation of NLRB's principal financial statements, obtain an understanding of the Agency's internal control, and test compliance with laws and regulations that could have a direct and material effect on the financial statements.

We have audited the balance sheets of NLRB as of September 30, 2008 and 2007, and the related consolidated statements of net cost, changes in net position, and budgetary resources for the years then ended.

NLRB's management is responsible for preparing the financial statements in conformity with accounting principles generally accepted in the United States of America; establishing, maintaining, and assessing internal controls over financial reporting; preparing the Management's Discussion and Analysis (MD&A); and complying with laws and regulations.

Our responsibility is to express an opinion on the Fiscal Year (FY) 2008 and 2007 financial statements of NLRB based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

OPINION ON FINANCIAL STATEMENTS

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net position of NLRB, as of September 30, 2008 and 2007; and the net cost, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

REPORT ON INTERNAL CONTROL

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of its internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control or on the effectiveness of NLRB's internal control. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. Consequently, we do not provide an opinion on the effectiveness of NLRB's internal control.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control was for the limited purpose described above and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above. However, we identified certain other matters in internal control that came to our attention during our audit which we communicated in writing to management and those charged with governance.

We considered NLRB's internal control over Required Supplementary Information (RSI) by obtaining an understanding of the Agency's internal control, determining whether these internal controls had been placed in operation, assessing control risk, and performing tests of controls as required by OMB Bulletin No. 07-04. The objective of our audit was not to provide assurance on these internal controls. Accordingly, we do not provide an opinion on such controls.

REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04. We limited our tests of compliance to these provisions and we did not

test compliance with all laws and regulations applicable to NLRB. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

Our tests of compliance with certain provisions of laws and regulations discussed in the preceding paragraph disclosed the following instance of noncompliance required to be reported under U. S. generally accepted government auditing standards and OMB audit guidance.

Federal Acquisition Regulation (FAR) Subpart 4.11 – *Central Contractor Registration (CCR)*

Section 4.1103 of this subpart states that the contracting officer “shall verify that the prospective contractor is registered in the CCR database before awarding a contract or agreement.” On September 30, 2008, the Procurement and Facilities Branch entered into contracts totaling approximately \$111,002 with two vendors for space and design services and training. The contracting officers were aware that these vendors did not have active registrations in the CCR prior to the date of award, as required by the FAR. This resulted in two invalid obligations being recorded against the FY 2008 appropriation.

Except as noted above, our tests of compliance with selected provisions of laws and regulations disclosed no other instances of noncompliance that would be reportable under U. S. generally accepted government auditing standards or OMB audit guidance.

Providing an opinion on compliance with laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

OTHER ACCOMPANYING INFORMATION

Our audit was conducted for the purpose of forming an opinion on the financial statements of NLRB taken as a whole. The accompanying financial information is not a required part of the financial statements.

The other accompanying information included in the MD&A and RSI sections of the Performance and Accountability Report are required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the information. We did not audit the other accompanying information and, accordingly, do not express an opinion or any other form of assurance on it.

This communication is intended solely for the information and use of the management of NLRB, others within the organization, OMB, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

CARMICHAEL, BRASHER, TUVELL & COMPANY, PC

Carmichael, Brasher, Tuvell + Co., P.C.

Atlanta, Georgia
November 6, 2008

MANAGEMENT LETTER

To David P. Berry, Inspector General
National Labor Relations Board

We audited the financial statements (balance sheet, and the related statements of net cost, changes in net position, and statement of budgetary resources, hereinafter referred to as "financial statements") of the National Labor Relations Board (NLRB) as of and for the years ended September 30, 2008 and 2007, on which we issued an unqualified opinion dated November 6, 2008.

In planning and performing our audit, we considered NLRB's internal control over financial reporting by obtaining an understanding of the design effectiveness of its internal controls, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget's (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, but not for the purpose of expressing an opinion on the effectiveness of NLRB's internal control. We have not considered the internal control structure since the date of our report.

During our audit, we noted certain matters involving the internal control structure and other operational matters that are presented in this letter for your consideration. These issues and related recommendations have been discussed with the appropriate members of NLRB's management and are intended to improve the internal control structure or result in operating efficiencies. NLRB's written responses to these matters identified in our audit have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

We reviewed all four open recommendations made in the prior years' management letters (three items from 2007 and one 2006 item) and determined the status of corrective actions for each. Of the four open recommendations, three are considered partially complete and one has been completed and closed; however, NLRB's written responses to the previous years' management letter comments have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

The report is intended for the information and use of the management of NLRB, the Office of Inspector General (OIG), others within the organization, OMB, and the U.S. Congress, and is not intended to be and should not be used by anyone other than those specified parties.

CARMICHAEL BRASHER TUVELL & COMPANY

Carmichael, Brasher, Tuvell + Co., P.C.

November 6, 2008

#1 Non-compliance with the Federal Acquisition Regulation (FAR)

Condition

On September 30, 2008, the Procurement and Facilities Branch (Procurement) entered into separate contracts with two vendors for space and design services and training. Neither vendor was registered in the Central Contractor Registration (CCR) prior to the date of award, as required by the FAR. Due to this non-compliance, the two contracts and related obligations under the Fiscal Year (FY) 2008 appropriation were invalid. The Agency subsequently deobligated the funds and reobligated funds under replacement contracts that continued to use FY 2008 funding. In doing so, the Agency determined that the contracting officer acted in good faith when executing the original contracts.

Cause

Management overrode the controls that were designed to ensure that procurements are in compliance with the FAR. Two subordinate contracting officers refused to sign the procurement action, in part, because of the CCR status of the contractors. The Agency's legal counsel advised that the procurement action with a contractor could not be completed until the contractor was properly registered in the CCR. An outside firm that provides research assistance to Procurement advised that the only exception to the CCR registration requirement is for an "unusual or compelling need."

Effect

The internal control environment was degraded and the ability to rely on those controls to protect the Agency's assets is diminished.

Criteria

U.S. Code

Section 3512 of title 31 requires agencies to establish systems of internal accounting and administrative controls to provide agency management with reasonable assurance that the agency obligations are in compliance with applicable law and properly accounted for and recorded.

GAO Standards for Internal Control in the Federal Government, dated November 1999

Management and employees should establish and maintain an environment throughout the organization that sets a positive and supportive attitude toward internal control and conscientious management. One factor affecting the control environment is the integrity and ethical values maintained and demonstrated by management and staff. Agency management plays a key role in providing leadership in this area, especially in setting and maintaining the organization's ethical tone, providing guidance for proper behavior, removing temptations for unethical behavior, and providing discipline when appropriate.

Recommendation

We recommend that the Director of Administration inform contracting officers of the continued need for strong internal controls to ensure compliance with the FAR.

Management's Response

Management stated that internal controls were not overridden and a personnel problem caused the non-compliance with the CCR contractor registration requirement in the FAR. Management further described their response in an October 30, 2008, memo to NLRB OIG that we had previously considered. Management also stated that it contacted an outside firm, Acquisition Solutions, which advised them the CCR contractor issue described above is considered an exception to the FAR clause under the "unusual and compelling need" umbrella.

CBTC'S Assessment of Management's Response

CBTC reviewed management's response and continues to recommend that the Director of Administration inform contracting officers of the continued need for strong internal controls to ensure compliance with the FAR. A follow-up review will be performed during the FY 2009 audit.

#2 Incremental Funding

Condition

NLRB contracted with FC Business Systems, a service provider for NLRB's critical systems and Web services, on October 1, 2007. Due to its nature as a non-severable services contract, an FY 2008 obligation should have been recorded for the full amount of \$643,278 on the effective date of the contract. Instead, NLRB incrementally funded the contract through the 2nd quarter of FY 2008. The following modifications to the contract show the incremental funding of the original contract:

#	Date	Purpose	Performance Period	Total Award	Amount Obligated
Original	10/1/07	Initial contract for Web maintenance service	10/1/07 – 9/30/08	\$643,277.88	\$0
Mod #1	10/25/07	Obligate funds through 11/16/07	10/1/07 – 9/30/08	\$643,277.88	\$78,052.16
Mod #2	11/20/07	Increase total contract amount and obligation by \$3,997.76	10/1/07 – 9/30/08	\$647,275.64	\$82,049.92
Mod #3	12/3/07	Increase obligation through 12/14/07 (by \$57,823.20)	10/1/07 – 9/30/08	\$647,275.64	\$139,873.12
Mod #4	1/16/08	Increase contract amount by \$16,990.48	10/1/07 – 9/30/08	\$664,266.12	\$139,873.12
Mod #5	2/12/08	Increase obligation by \$330,943.09; decrease total contract award by \$193,449.91	10/1/07 – 9/30/08	\$470,816.21	\$470,816.21
Mod #6	5/7/08	Increase contract value and obligated funding by \$98,168.40	10/1/07 – 9/30/08	\$568,984.61	\$568,984.61

The contract contains the FAR clause to make the agreement contingent on receiving funding for the fiscal year. At the time the contract was initially signed by the contracting officer, however,

the Agency had received funding through a Continuing Resolution (CR), so that contingency had been met.

Generally, a CR will cover a limited period of time, such as a month or a calendar quarter, to allow agencies to continue to operate at a certain level of funding. The limited period of availability, however, does not affect the amount of money appropriated and does not authorize an agency to incrementally record an obligation.

Cause

According to the contract modifications, the contract was funded incrementally because the Agency was operating under a CR.

Effect

The failure to record the entire FC Business Systems obligation once the contract was entered into understated NLRB's SF-133 reporting for the first quarter of FY 2008. Budgetary reports showing current obligation status were understated for the same period, which would lead Agency managers to believe that they had more funds available than they actually had. This increased the risk of an Anti-Deficiency Act violation.

Criteria

U.S. Code

Section 1501 of title 31 requires agencies to record an obligation when documentary evidence exists of "a binding agreement between an agency and another person (including an agency)."

Section 3512 of title 31 requires agencies to establish systems of internal accounting and administrative controls to provide agency management with reasonable assurance that the agency obligations are in compliance with applicable law and properly accounted for and recorded.

Recommendation

We recommend that the Director of Administration remind contracting officers to be diligent in identifying non-severable service contracts and that incrementally recording the funding for such contracts is improper.

Management's Response

Management stated that it is a government-wide practice to fund contracts incrementally based on continuing resolutions. Management also stated operating under continuing resolutions introduces budgetary complications and they will continue to explore and consider legal justification for handling this in an alternate manner and will work with the NLRB OIG to resolve this finding.

CBTC'S Assessment of Management's Response

CBTC reviewed management's response and acknowledges that management agreed to work with NLRB OIG to resolve this finding. A follow-up review will be performed during the FY 2009 audit.

#3 Prior Year Recommendations

Open Prior Year Management Letter Recommendations

Four prior year management letter recommendations were open during FY 2008. As shown in the table below, the Agency completed corrective action on one of them.

Prior Year Recommendation	Current Year Status
FY 2006 Management Letter Implement the recommendations summarized in INDR No. 5-2006. These related to information technology (IT) security vulnerabilities.	Partially complete. Two of 15 planned actions remain open.
FY 2007 Management Letter Ensure that IT personnel with security-related duties receive the training required by NLRB's ITSEAT policy. If sufficient funding is not available, free IT training should be pursued.	Partially complete. Automation Staff Assistants in Regional Offices have not received training.
Bring Agency passwords into conformance with the Agency's policy.	Partially complete. Migration to West Coast server solution still pending.
Develop and implement controls to monitor expenditures and obligations.	Complete.

PRINCIPAL FINANCIAL STATEMENTS

National Labor Relations Board

Balance Sheet

As of September 30, 2008 and 2007

(in dollars)

	FY 2008	FY 2007
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 24,894,658	\$ 22,594,083
Investments, Net (Note 3)	4,349,913	3,196,740
Advances (Note 4)	968	11,291
Total Intragovernmental	29,245,539	25,802,114
Accounts Receivable, Net (Note 5)	43,450	37,731
Advances (Note 4)	-	20,969
General Property, Plant and Equipment, Net (Notes 6 and 10)	8,910,658	5,993,887
Total Assets	\$ 38,199,647	\$ 31,854,701
Liabilities:		
Intragovernmental:		
Accounts Payable (Note 7)	\$ 999,354	\$ 1,247,449
Employer Contributions and Payroll Taxes	1,658,122	1,355,674
FECA Liability (Notes 8 and 10)	930,545	977,895
Total Intragovernmental	3,588,021	3,581,018
Accounts Payable	2,737,933	4,220,506
Estimated Future FECA Liability (Notes 8 and 10)	1,666,412	2,506,988
Accrued Payroll and Benefits	7,255,123	6,009,836
Accrued Annual Leave (Notes 8 and 10)	13,687,550	13,216,335
Backpay Settlement Due to Others (Notes 8 and 9)	7,338,443	3,680,543
Custodial Liability (Notes 8 and 9)	96,366	401,903
Total Liabilities	\$ 36,369,848	\$ 33,617,129
Net position:		
Unexpended Appropriations	9,160,197	8,907,172
Cumulative Results of Operations (Note 10)	(7,330,398)	(10,669,600)
Total Net Position	1,829,799	(1,762,428)
Total Liabilities and Net Position	\$ 38,199,647	\$ 31,854,701

The accompanying notes are an integral part of these statements.

National Labor Relations Board
Statement of Net Cost
For the Periods Ended September 30, 2008 and 2007
(in dollars)

	FY 2008	FY 2007
Program Costs:		
Resolve Representation Cases		
Total Gross Cost	\$ 42,766,870	\$ 43,589,206
Resolve Unfair Labor Practices		
Total Gross Cost	218,126,327	222,055,844
Other		
Gross Costs	102,764	58,765
Less: Earned Revenue	102,764	58,765
Total Net Cost - Other	-	-
Net Cost of Operations (Note 11)	\$ 260,893,197	\$ 265,645,050

The accompanying notes are an integral part of these statements.

National Labor Relations Board
Statement of Changes In Net Position
For the Periods Ended September 30, 2008 and 2007
(in dollars)

	Consolidated Total FY 2008	Consolidated Total FY 2007
Cumulative Results of Operations:		
Beginning Balance	\$ (10,669,600)	\$ (16,235,540)
Correction of Errors (Note 13)	-	1,689,486
Beginning Balance, as adjusted	(10,669,600)	(14,546,054)
Budgetary Financing Sources:		
Appropriations-used	249,805,059	253,749,692
Other Financing Sources (Non-Exchange):		
Imputed Financing Costs (Note 14)	14,427,340	15,778,464
Loss on Disposal of Assets	-	(6,652)
Total Financing Sources	264,232,399	269,521,504
Net Cost of Operations	(260,893,197)	(265,645,050)
Net Change	3,339,202	3,876,454
Cumulative Results of Operations (Note 10)	(7,330,398)	(10,669,600)
Unexpended Appropriations:		
Beginning Balance	8,907,172	11,859,346
Budgetary Financing Sources:		
Appropriations-received	256,238,000	251,507,470
Appropriations-used	(249,805,059)	(253,749,692)
Recissions & Cancelled Appropriations	(6,179,916)	(709,952)
Total Budgetary Financing Sources	253,025	(2,952,174)
Total Unexpended Appropriations	9,160,197	8,907,172
Net Position	\$ 1,829,799	\$ (1,762,428)

The accompanying notes are an integral part of these statements.

National Labor Relations Board
Statement of Budgetary Resources
For the Periods Ended September 30, 2008 and 2007
(in dollars)

	FY 2008	FY 2007
Budgetary Resources:		
Unobligated balance, brought forward, October 1:	\$ 5,360,240	\$ 5,028,944
Recoveries of prior year unpaid obligations	704,286	1,032,460
Budget authority:		
Appropriations (Note 15)	256,238,000	251,507,470
Spending authority from offsetting collections:		
Earned		
Collected	173,502	248,439
Subtotal	256,411,502	251,755,909
Permanently not available (Note 15)	(6,179,916)	(709,952)
Total Budgetary Resources (Note 16)	\$ 256,296,112	\$ 257,107,361
Status of Budgetary Resources:		
Obligations incurred:		
Direct	251,582,616	251,688,356
Reimbursable	102,764	58,765
Subtotal (Note 16)	251,685,380	251,747,121
Unobligated balance:		
Apportioned (Note 16)	543,715	276,311
Unobligated balance not available	4,067,017	5,083,929
Total Status of Budgetary Resources (Note 16)	\$ 256,296,112	\$ 257,107,361
Change in Obligated Balance:		
Obligated balance, brought forward, October 1	16,348,138	18,395,138
Obligations incurred, net	251,685,380	251,747,121
Gross Outlays	(250,130,201)	(252,761,661)
Recoveries of prior year unpaid obligations, actual	(704,286)	(1,032,460)
Obligated balance, net, end of period	\$ 17,199,031	\$ 16,348,138
Net Outlays:		
Gross outlays	250,130,201	252,761,661
Offsetting collections	(173,502)	(248,439)
Net Outlays	\$ 249,956,699	\$ 252,513,222

The accompanying notes are an integral part of these statements.

NOTES TO PRINCIPAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The National Labor Relations Board (NLRB) is an independent Federal agency established in 1935 to administer the National Labor Relations Act (NLRA). The NLRA 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. The NLRB's jurisdiction includes the U.S. Postal Service (other government entities, railroads, and airlines are not within the NLRB's jurisdiction). The NLRB seeks to serve the public interest by reducing interruptions in commerce caused by industrial strife. The NLRB 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, 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 (ULP), by either employers, unions, or both. The NLRB's authority is divided both by law and delegation. The five-member Board (Board) primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel investigates and prosecutes ULP 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.

B. Basis of Accounting and Presentation

These financial statements have been prepared to report the financial position, net cost, changes in net position, and budgetary resources of the NLRB as required by the Accountability of Tax Dollars Act of 2002. These financial statements have been prepared from the books and records of the NLRB in accordance with accounting principles generally accepted in the United States of America (GAAP), and the form and content requirements of the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*, revised as of June 03, 2008. GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal Government. While the statements have been prepared from the books and records of the NLRB in accordance with GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. These financial statements present proprietary and budgetary information.

The Balance Sheet presents agency assets and liabilities, and the difference between the two, which is the agency net position. Agency assets include both entity assets—those which are available for use by the agency—and non-entity assets—those which are managed by the agency but not available for use in its operations. Agency liabilities include both those covered by budgetary resources (funded) and those not covered by budgetary resources (unfunded).

The Statement of Net Cost presents the gross costs of programs less earned revenue to arrive at the net cost of operations for both programs and for the agency as a whole.

The Statement of Changes in Net Position reports beginning balances, budgetary and other financing sources, and net cost of operations, to arrive at ending balances.

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. Recognition and measurement of budgetary information reported on this statement is based on budget terminology, definitions, and guidance in OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, dated June 2008.

The Fiscal Year (FY) 2010 Budget of the United States (also known as the President's Budget) with actual numbers for FY 2008 was not published at the time that these financial statements were issued. The President's Budget is expected to be published in March 2009 and will be available from the United States Government Printing Office. There are no differences in the actual amounts for FY 2007 that have been reported in the FY 2009 Budget of the United States and the actual numbers that appear in the FY 2007 Statement of Budgetary Resources.

OMB financial statement reporting guidelines for FY 2008 require the presentation of comparative financial statements for all of the principal financial statements. The NLRB is presenting comparative FY 2008 financial statements for the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources, and these statements have been prepared in accordance with GAAP.

The financial statements should be read with the realization that they are for a component of the United States Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources and legal authority to do so.

The accounting structure of Federal agencies is designed to reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

The budgetary accounting principles, on the other hand, are designed to recognize the obligation of funds according to legal requirements, which in many cases is prior to the occurrence of an accrual based transaction. The recognition of budgetary accounting transactions is essential for compliance with legal constraints and controls over the use of Federal funds.

The information as presented on the Statement of Net Cost is based on the programs below:

Representation Cases are initiated by the filing of a petition by an employee, a group of employees, an individual or labor organization acting on their behalf, or in some cases by an employer. The petitioner requests an election to determine whether a union represents, or in some cases continues to represent, a majority of the employees in an appropriate bargaining unit and therefore should be certified as the employees' bargaining representative. The role of the Agency is to investigate the petition and, if necessary, conduct a hearing to determine whether the employees constitute an appropriate bargaining unit under the NLRA. The NLRB must also determine which employees are properly included in the bargaining unit, conduct the election if an election is determined to be warranted, hear and decide any post-election objections to the conduct of the election and, if the election is determined to have been fairly conducted, to certify its results.

ULP Cases are initiated by individuals or organizations through the filing of a charge with the NLRB. If the NLRB Regional Office believes that a charge has merit, it issues and prosecutes a complaint against the charged party, unless settlement is reached. A complaint that is not settled or withdrawn is tried before an administrative law judge (ALJ), who issues a decision, which may be appealed by any party to the Board. The Board acts in such matters as a quasi-judicial body, deciding cases on the basis of the formal trial record according to the law and the body of case law that has been developed by the Board and the Federal courts.

C. Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides the NLRB with authority to use funds from the U.S. Treasury (Treasury) to meet operating expense requirements. The NLRB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the Treasury.

Budgetary accounting measures appropriation and consumption of budget/spending authority or other budgetary resources and facilitates compliance with legal constraints and controls over the use of Federal funds. Under budgetary reporting principles, budgetary resources are consumed at the time of purchase. Assets and liabilities, which do not consume current budgetary resources, are not reported, and only those liabilities for which valid obligations have been established are considered to consume budgetary resources.

Transactions are recorded on an accrual accounting basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash.

D. Financing Sources

The NLRB receives funds to support its programs through annual appropriations. These funds may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual service costs).

For accounting purposes, appropriations are recognized as financing sources (appropriations used) at the time expenses are accrued. Appropriations expended for general property, plant and equipment are recognized as expenses when the asset is consumed in operations (depreciation and amortization).

E. Fund Balance with the Treasury

The NLRB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by the Treasury. The Agency's records are reconciled with those of Treasury. The fund balances with the Treasury are primarily appropriated funds that are available to pay current liabilities and to finance authorized purchases. Funds with the Treasury represent the NLRB's right to draw on the Treasury for allowable expenditures. In addition, funds held with the Treasury also include escrow funds that are not appropriated but are backpay funds that are the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

See Note 2 for additional information on Fund Balance with Treasury.

F. Investments, Net

The NLRB invests funds in Federal Government securities for backpay that are held in the escrow account at Treasury. These funds held in Treasury are not appropriated funds. Backpay is the standard Board remedy whenever a violation of the NLRA has resulted in a loss of employment or earnings.

The Federal Government securities include marketable Treasury market-based securities issued by the Federal Investment Branch of the Bureau of Public Debt. Market-based securities are Treasury securities that are not traded on any securities exchange, but mirror the prices of marketable securities with similar terms.

It is expected that Investments will be held until maturity; therefore they are valued at cost and adjusted for amortization of discounts, if applicable. The discounts are recognized as adjustments to interest income, utilizing the straight-line method of amortization for short-term securities (i.e., bills). Investments, redemptions, and reinvestments are controlled and processed by the Department of the Treasury.

There exists a signed Memorandum of Understanding (MOU) between the NLRB and the Treasury establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

See Note 3 for additional information on Investments, Net.

G. Advances

Advances consist of amounts advanced by the NLRB for the transit subsidy program, United States Postal Service for penalty mail, and for commercial payment system for postage.

See Note 4 for additional information on the Advances.

H. Accounts Receivable, Net of Allowance for Doubtful Accounts

Accounts Receivable primarily consists of health benefit premiums due the NLRB from agency employees. Accounts receivable are stated net of allowance for doubtful accounts. The allowance is estimated based on an aging of account balances, past collection experience, and an analysis of outstanding accounts at year-end.

See Note 5 for additional information on Accounts Receivable.

I. General Property, Plant and Equipment

General property, plant and equipment consist primarily of telephone systems, computer hardware, and software. The Agency has no real property.

General property, plant and equipment with a cost of \$15,000 or more per unit is capitalized at cost and depreciated using the straight-line method over the useful life. Other property items are expensed when purchased. Expenditures for repairs and maintenance are charged to operating expenses as incurred. The useful life for this category is 5 to 12 years. There are no restrictions on the use or convertibility of general property, plant and equipment.

Internal Use Software. Internal use software (IUS) includes purchased commercial off-the-shelf software (COTS), contractor-developed software, and software that was internally developed by Agency employees. IUS is capitalized at cost if the acquisition cost is \$100,000 or more. For COTS software, the capitalized costs include the amount paid to the vendor for the software; for contractor-developed software it includes the amount paid to a contractor to design, program, install, and implement the software. Capitalized costs for internally developed software include the full cost (direct and indirect) incurred during the software development stage. The estimated useful life is 2 to 5 years for calculating amortization of software using the straight-line method.

Internal Use Software in Development. Internal use software in development is software that is being developed, but not yet put into production. At the time the software is moved into production, the costs will be moved into the IUS account described above. The NLRB is currently undertaking a major software development project called the Next Generation Case Management System (NxGen) that will replace a number of case tracking systems with one enterprise-wide system. NxGen will support the President's Management Agenda, such as for e-Gov, e-Filing, e-FOIA, and public Web-based access to NLRB data. This project is a multiple year undertaking in which various portions of the system will be rolled out as they are developed. The overall cost of this project is expected to exceed \$7 million.

See Note 6 for additional information on General Property, Plant and Equipment, Net.

J. Non-Entity Assets

Assets held by the NLRB that are not available to the NLRB for obligation are considered non-entity assets. The NLRB holds non-entity assets for backpay.

See Notes 9 and 17 for additional information on Non-Entity Assets.

K. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. However, no liability can be paid by the NLRB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriation will be enacted. Also, liabilities of the NLRB arising from other than contracts can be abrogated by the Government, acting in its sovereign capacity.

L. Liabilities Not Covered by Budgetary Resources

Liabilities represent the amount of monies or other resources that are likely to be paid by the NLRB as the result of a transaction or event that has already occurred. Liabilities not covered by budgetary resources result from the receipts of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity.

Federal Employees Workers' Compensation Program.

The Federal Employees Workers' Compensation Program (FECA) provides income and medical cost protection to covered Federal civilian employees injured on the job, to employees who have incurred work-related occupational diseases, and to beneficiaries of employees whose deaths are

attributable to job-related injuries or occupational diseases. The FECA program is administered by Department of Labor (DOL), which pays valid claims and subsequently seeks reimbursement from the NLRB for these paid claims.

The FECA liability consists of two components. The first component is based on actual claims paid by DOL but not yet reimbursed by the NLRB. The NLRB reimburses DOL for the amount of the actual claims as funds are appropriated for this purpose. There is generally a 2- to 3-year time period between payment by DOL and reimbursement by the NLRB. As a result, the NLRB recognizes a liability for the actual claims paid by DOL and to be reimbursed by the NLRB.

The second component is the estimated liability for future benefit payments as a result of past events. This liability includes death, disability, medical, and miscellaneous costs. The NLRB determines this component annually, as of September 30, using a method that considers historical benefit payment patterns.

The NLRB uses the methodology of reviewing the ages of the claimant on a case-by-case basis (because of the small number of claimants) to evaluate the estimated FECA liability. The determination was made to use the life expectancy of claimants of 80 and 84 years for male and female, respectively.

See Note 8 for additional information on the FECA liability.

Other

Accrued annual leave represents the amount of annual leave earned by the NLRB employees but not yet taken.

See Note 10 for additional information on Annual Leave.

M. Contingencies

The criteria for recognizing contingencies for claims are:

1. a past event or exchange transaction has occurred as of the date of the statements;
2. a future outflow or other sacrifice of resources is probable; and
3. the future outflow or sacrifice of resources is measurable (reasonably estimated).

The NLRB recognizes material contingent liabilities in the form of claims, legal action, administrative proceedings and suits that have been brought to the attention of legal counsel, some of which will be paid by the Treasury Judgment Fund. It is the opinion of management and legal counsel that the ultimate resolution of these proceedings, actions, and claims will not materially affect the financial position or results of operations.

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported; where no cost is more likely than any other, the lowest possible cost in the range is reported. This item will normally be paid from appropriated funds.

See Note 18 for additional information on Contingencies.

N. Unexpended Appropriations

Unexpended appropriations represent the amount of the NLRB's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated or is unobligated and has not lapsed, been rescinded, or withdrawn.

O. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned by employees and is included in personnel compensation and benefit costs. Each year, the balance in the accrued annual leave liability account is adjusted to reflect current pay rates. Annual leave earned but not taken, within established limits, is funded from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

See Note 10 for additional information on Annual Leave.

P. Life Insurance and Retirement Plans

Federal Employees Group Life Insurance (FEGLI) Program.

Most NLRB employees are entitled to participate in the FEGLI Program. Participating employees can obtain "basic life" term life insurance, with the employee paying two-thirds of the cost and the NLRB paying one-third. Additional coverage is optional, to be paid fully by the employee. The basic life coverage may be continued into retirement if certain requirements are met. The Office of Personnel Management (OPM) administers this program and is responsible for the reporting of liabilities. For each fiscal year, OPM calculates the U.S. Government's service cost for the post-retirement portion of the basic life coverage. Because the NLRB's contributions to the basic life coverage are fully allocated by OPM to the pre-retirement portion of coverage, the NLRB has recognized the entire service cost of the post-retirement portion of basic life coverage as an imputed cost and imputed financing source.

Retirement Programs.

The NLRB employees participate in one of two retirement programs, either the Civil Service Retirement System (CSRS), a defined benefit plan, or the Federal Employees Retirement System (FERS), a defined benefit and contribution plan. On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most NLRB employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, could elect to either join FERS and Social Security or remain in CSRS. Employees covered by CSRS are not subject to Social Security taxes, nor are they entitled to accrue Social Security benefits for wages subject to CSRS. The NLRB contributes a matching contribution equal to 7 percent of pay for CSRS employees.

FERS consists of Social Security, a basic annuity plan, and the Thrift Savings Plan. The Agency and the employee contribute to Social Security and the basic annuity plan at rates prescribed by law. In addition, the Agency is required to contribute to the Thrift Savings Plan a minimum of 1 percent per year of the basic pay of employees covered by this system and to match voluntary employee contributions up to 3 percent of the employee's basic pay, and one-half of contributions between 3 percent and 5 percent of basic pay. For FERS employees, the Agency also contributes the employer's share of Medicare. The maximum amount of base pay that an employee

participating in FERS may contribute to the Thrift Savings Plan is \$16,500 in calendar year (CY) 2009 to this plan.

Employees belonging to CSRS may also contribute up to \$16,500 of their salary in CY 2009 and receive no matching contribution from the NLRB. The maximum for catch-up contributions for CY 2009 is \$5,500. For CY 2009, the regular and catch-up contributions may not exceed \$22,000. The sum of the employees' and the NLRB's contributions are transferred to the Federal Retirement Thrift Investment Board.

OPM is responsible for reporting assets, accumulated plan benefits, and unfunded liabilities, if any, applicable to CSRS participants and FERS employees government-wide, including the NLRB employees. The NLRB has recognized an imputed cost and imputed financing source for the difference between the estimated service cost and the contributions made by the NLRB and covered CSRS employees.

The NLRB does not report on its financial statements FERS and CSRS assets, accumulated plan benefits, or unfunded liabilities, if any, applicable to its employees. Reporting such amounts is the responsibility of OPM. The portion of the current and estimated future outlays for CSRS not paid by the NLRB is, in accordance with Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the Federal Government, included in the NLRB's financial statements as an imputed financing source.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits and the FEGLI programs are reported by OPM rather than the NLRB.

SFFAS No. 5, Accounting for Liabilities of the Federal Government, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future, and provide these factors to the Agency for current period expense reporting. Information was also provided by OPM regarding the full cost of health and life insurance benefits.

In FY 2008, the NLRB, utilizing OPM provided cost factors, recognized \$6,688,767 of pension expenses, \$7,711,245 of post-retirement health benefits expenses, and \$27,328 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$14,427,340 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

In FY 2007, the NLRB, utilizing OPM provided cost factors, recognized \$6,741,060 of pension expenses, \$9,009,924 of post-retirement health benefits expenses, and \$27,480 of post-retirement life insurance expenses, beyond amounts actually paid. The NLRB recognized offsetting revenue of \$15,778,464 as an imputed financing source to the extent that these intragovernmental expenses will be paid by OPM.

See Note 14 for additional information on Imputed Financial Costs.

Q. Operating Leases

The NLRB has no capital lease liability or capital leases. Operating leases consist of real and personal property leases with the General Services Administration (GSA). Regarding NLRB's

building lease, the GSA entered into a lease agreement for the NLRB's rental of building space. The NLRB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. The NLRB is not legally a party to any building lease agreements, so it does not record GSA-owned properties. The real property leases are for NLRB's Headquarters and field offices and the personal property leases are for GSA cars.

See Note 12 for additional information on Operating Leases.

R. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the NLRB's operations since inception.

S. Use of Management Estimates

The preparation of the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make certain estimates and assumptions that directly affect the results of reported assets, liabilities, revenues, and expenses. Actual results could differ from these estimates.

T. Tax Status

The NLRB as an independent Board of the Executive Branch, a Federal agency, is not subject to federal, state, and local taxes, and, accordingly, no provision for income tax is recorded.

U. Comparative Data

Comparative data for the prior year have been presented for the principal financial statements and their related notes.

Note 2. Fund Balance With Treasury

Treasury performs cash management activities for all Federal agencies. The net activity represents Fund Balance with Treasury. The Fund Balance with Treasury represents the right of the NLRB to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2008, and September 30, 2007, consists of the following:

Fund Balance with Treasury by Fund Type:

(in thousands)	FY 2008 Entity Assets	Non- Entity Assets	Total	FY 2007 Entity Assets	Non- Entity Assets	Total
General Funds	\$ 21,810		\$ 21,810	\$ 21,708	-	\$ 21,708
Escrow Funds		\$ 3,085	\$ 3,085	-	\$ 886	\$ 886
Total Fund Balance with Treasury	\$ 21,810	\$ 3,085	\$ 24,895	\$ 21,708	\$ 886	\$ 22,594

The status of the fund balance may be classified as unobligated available, unobligated unavailable, and obligated but not yet distributed. Unobligated available funds, depending on budget authority, are generally available for new obligations in current operations. The unavailable balance includes amounts appropriated in prior fiscal years which are not available to fund new obligations. The obligated but not yet disbursed balance represents amounts designated for payment of goods and services ordered but not yet received or goods and services received for which payment has not yet been made.

Obligated and unobligated balances reported for the status of Fund Balance with Treasury do not agree with obligated and unobligated balances reported on the Statement of Budgetary Resources because the Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts.

Status of Fund Balance with Treasury as of September 30, 2008, and September 30, 2007, consists of the following:

Fund Balance with Treasury by Availability:

(in thousands)	FY 2008	FY 2007
Unobligated Balance		
Available	\$ 544	\$ 258
Unavailable	4,067	5,102
Obligated balance not yet disbursed	17,199	16,348
Non-budgetary fund balance with Treasury	3,085	886
Totals	\$ 24,895	\$ 22,594

Note 3. Investments, Net

Investments in Treasury Securities:

The NLRB invests backpay funds that are authorized by the Regional Compliance Officers and other management officials in market-based Treasury securities issued by the Federal Investment Branch of the Bureau of Public Debt.

The maturity value of the investment as of September 20, 2008 was \$4.4 million as compared to \$3.2 million as of September 30, 2007.

There exists a signed MOU between the NLRB and Treasury establishing the policies and procedures that the NLRB and the Treasury agree to follow for investing monies in, and redeeming investments held by, the deposit fund account in Treasury.

Investments as of September 30, 2008, and September 30, 2007, consist of the following:

Investment Value at Investment Market Value

(in thousands)	Investment Type	Value at Maturity	Investment Net	Market Value Disclosure
FY 2008				
Treasury Securities	Marketable	\$ 4,358	\$ 4,350	\$ 4,350
FY 2007				
Treasury Securities	Marketable	\$ 3,239	\$ 3,197	\$ 3,197

The discount on the marketable securities as of September 20, 2008, and September 30, 2007, amounted to \$8 and \$42, respectively (in thousands).

Note 4. Advances

Intragovernmental

Intragovernmental Advances to the United States Postal Service (USPS) as of September 30, 2008 were \$968 and \$11,291 as of September 30, 2007.

Commercial

Advances to Others of \$-0- as of September 30, 2008, and \$20,969 as of September 30, 2007, represent advances to a commercial vendor for postage.

Note 5. Accounts Receivable, Net

The FY 2008 intragovernmental accounts receivable is zero and the FY 2007 amount was also zero:

(in thousands)	FY 2008	FY 2007
With the public		
Accounts receivable	\$ 45	\$ 40
Allowance doubtful accounts	(2)	(2)
Accounts receivable-net	\$ 43	\$ 38

Note 6. General Property, Plant and Equipment, Net

General property, plant and equipment consist of that property which is used in operations and consumed over time. The table below summarizes the cost and accumulated depreciation for general property, plant and equipment.

Depreciation expense for the years ended September 30, 2008, and September 30, 2007 was \$1,462,108 and \$505,669, respectively.

(in thousands) FY 2008	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	\$ 1,866	\$ 1,239	\$ 627
Internal Use Software	5,038	2,354	2,684
Internal Use Software in Development	5,600	-	5,600
Totals	\$ 12,504	\$ 3,593	\$ 8,911

(in thousands) FY 2007	Asset Cost	Accumulated Depreciation/ Amortization	Net Asset Value
Equipment	\$ 1,609	\$ 902	\$ 707
Internal Use Software	3,654	1,230	2,424
Internal Use Software in Development	2,863	-	2,863
Totals	\$ 8,126	\$ 2,132	\$ 5,994

Note 7. Intragovernmental Accounts Payable

These accounts payable are with our Federal trading partners of whom the largest amounts are with the General Services Administration (GSA).

Note 8. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The custodial liability represents amounts collected from the public for court costs, freedom of information requests and other miscellaneous amounts that must be transferred to the Treasury. The composition of liabilities not covered by budgetary resources as of September 30, 2008, and September 30, 2007, is as follows:

(in thousands)	FY 2008	FY 2007
Intragovernmental:		
FECA-Unfunded	\$ 931	\$ 978
Total Intragovernmental	931	978
Estimated Future - FECA	1,666	2,507
Accrued Annual Leave	13,688	13,216
Backpay Settlement Due to Others	7,338	3,681
Custodial Liability	96	402
Total Liabilities not covered by budgetary resources	23,719	20,784
Total Liabilities covered by budgetary resources	12,651	12,833
Total Liabilities	\$ 36,370	\$ 33,617

Note 9. Non-Entity Assets

Non-entity assets, restricted by nature, consist of miscellaneous receipt accounts and Backpay Settlement Due to Others. These amounts represent cash collected and accounts receivable (net of allowance for doubtful accounts). The miscellaneous receipts represent court costs, freedom of information requests and closed out backpay cases that must be transferred to the Treasury. The Backpay Settlement Due to Others represents monies to be disbursed to discriminatees at a later date. The composition of non-entity assets as of September 30, 2008, and September 30, 2007, is as follows:

(in thousands)	FY 2008	FY 2007
Non-entity assets		
Intragovernmental		
Fund Balance with Treasury	\$ 96	\$ 402
Total Intragovernmental	\$ 96	\$ 402
Backpay Settlement Due to Others	7,338	3,681
Total Non-entity assets	\$ 7,434	\$ 4,083
Entity Assets	30,766	27,772
Total Assets	\$ 38,200	\$ 31,855

Note 10. Cumulative Results of Operations

(in thousands)	FY 2008	FY 2007
FECA paid by DOL	\$ (348)	\$ (444)
FECA - Unfunded	(931)	(978)
Estimated Future FECA	(1,666)	(2,507)
Accrued Annual Leave	(13,688)	(13,216)
General Property, Plant & Equipment, Net	8,911	5,994
Other	392	481
Cumulative Results of Operations	\$ (7,330)	\$(10,670)

Note 11. Intragovernmental Costs and Exchange Revenue

For the intragovernmental costs, the buyer and seller are both Federal entities. The earned revenue is the reimbursable costs from other Federal entities. The NLRB provided administrative law judges' services to other Federal entities. There is no exchange revenue with the public.

(in thousands)	FY 2008	FY 2007
Resolve Representation Cases		
Intragovernmental Costs	\$ 8,474	\$ 8,497
Costs with the Public	34,293	35,092
Total Net Cost - Resolve Representation Cases	\$ 42,767	\$ 43,589
Resolve Unfair Labor Practices		
Intragovernmental Costs	\$ 42,869	\$ 42,980
Costs with the Public	175,257	179,076
Total Net Cost - Resolve Unfair Labor Practices	\$ 218,126	\$ 222,056
Other		
Intragovernmental Costs	\$ 103	59
Less: Intragovernmental Earned Revenue	103	59
Total Net Cost - Other	\$ -	\$ -
Net Cost of Operations	\$ 260,893	\$ 265,645

Note 12. Operating Leases

GSA Real Property. Most of NLRB's facilities are rented from the GSA, which charges rent that is intended to approximate commercial rental rates. The terms of NLRB's occupancy agreements (OA) with GSA will vary according to whether the underlying assets are owned by GSA or another Federal agency or rented by GSA from the private sector. The NLRB has OAs with GSA, which set forth terms and conditions for the space the Agency will occupy for an extended period of time. Included within the OAs are 120 to 180 day notification requirements for the Agency to release space. For purposes of disclosing future operating lease payments in the table below, Federally owned leases are included in years 2009 through 2013.

Rental expenses for operating leases for the year ended September 30, 2008 were \$27,288,522 for Agency lease space and \$2,319,835 for Agency building security. For FY 2007 the operating lease costs were \$27,713,149 and the Agency building security portion was \$1,777,993.

(in thousands) Fiscal Year	GSA Real Property
2009	\$ 28,057
2010	28,920
2011	29,643
2012	30,385
2013	31,457
After 5 Years	-
Total Future Lease Costs	\$ 148,462

Note 13. Correction of Errors

In FY 2007, Management discovered a mistake in accounting principles for FY 2006 and prior years. Specifically, IUS was expensed but should have been capitalized.

The cumulative effect of the change on prior periods has no material affect on the previous overall financial statements.

This correction of errors was reported on the Statement of Changes in Net Position for FY 2007 and consists of the following:

(in thousands)	
Capitalization of software previously expensed	\$ 2,785
Depreciation expense for above capitalized software	(1,046)
Net correction of errors	\$ 1,689

Note 14. Imputed Financing

OPM pays pension and other future retirement benefits on behalf of Federal agencies for Federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of Federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. Expenses of the NLRB paid or to be paid by other Federal agencies at September 30, 2008 and 2007 consisted of:

(in thousands)	FY 2008	FY 2007
Office of Personnel Management:		
Pension expenses	\$ 6,689	\$ 6,741
Federal employees health benefits	7,711	9,010
Federal employees group life insurance program	27	27
Total Imputed Financing	\$14,427	\$15,778

Note 15. Appropriations Received

The NLRB received \$256,238,000 and \$251,507,470 (net of rescission) in warrants for the fiscal years ended September 30, 2008, and 2007, respectively. The rescission for FY 2008 was \$4,476,478 and in FY 2007 the funds were already subtracted from the appropriation when it was received. The amount shown on the Statement of Budgetary Resources under caption "Permanently not available" for FY 2008 includes the rescission and the amount of \$1,703,438 for the cancelled appropriation for FY 2003. For FY 2007, the amount shown was the cancelled appropriation for FY2002 for the amount of \$709,952.

Note 16. Statement of Budgetary Resources

The Statement of Budgetary Resources provides information about how budgetary resources were made available as well as their status at the end of the period. It is the only financial statement exclusively derived from the entity's budgetary general ledger in accordance with budgetary accounting rules that are incorporated into GAAP for the Federal Government. The total Budgetary Resources of \$256,296,112 as of September 30, 2008 and \$257,107,361 as of September 30, 2007, includes new budget authority, unobligated balances at the beginning of the year, spending authority from offsetting collections, recoveries of prior year obligations, and permanently not available. The NLRB's unobligated balance available at September 30, 2008 was \$543,715 and at September 30, 2007 was \$276,311.

Apportionment Categories of Obligations Incurred. NLRB's obligations incurred as of September 30, 2008 and September 30, 2007 by apportionment Category A and B are shown in the following table. Category A apportionments distribute budgetary resources by fiscal quarters and Category B apportionments typically distribute budgetary resources by activities, projects, objects, or a combination of these categories.

(in thousands) FY 2008	Apportioned		Not Subject to Apportionment	Total
	Category A	Category B		
Obligations Incurred:				
Direct	\$ 241,013	\$ 10,569		\$ 251,582
Reimbursable	103	-		103
Total Obligations Incurred	\$ 241,116	\$ 10,569		\$ 251,685

(in thousands) FY 2007	Apportioned		Not Subject to Apportionment	Total
	Category A	Category B		
Obligations Incurred:				
Direct	\$ 240,306	\$ 11,382		\$ 251,688
Reimbursable	59	-		59
Total Obligations Incurred	\$ 240,365	\$ 11,382		\$ 251,747

Note 17. Backpay Checks Held in the NLRB Regional Offices

The NLRB may use backpay as a remedy to settle a ULP. The backpay may be disbursed by three different methods: (1) the respondent prepares the backpay and disburses it directly to the discriminatee(s); (2) the respondent prepares the backpay and gives the check(s) to an NLRB Regional Office to deliver to the discriminatee(s); and (3) the respondent makes the backpay payable to the NLRB, who deposits the check and then issues Treasury checks to the discriminatee(s).

This footnote identifies the number (in units) and dollar value (in thousands) of checks that are received in the Regional Offices that are made payable to discriminatees. The NLRB has a fiduciary type of responsibility to safeguard these checks until they are successfully disbursed to the discriminatee(s). It should be noted that it might take months to successfully deliver the backpay.

(in thousands)	FY 2008		FY 2007	
	Number	Amount	Number	Amount
Checks on Hand, Beginning of Period	231	\$ 106	353	\$ 161
Checks Received	6,139	17,580	6,903	23,323
Less: Checks Distributed	6,055	17,471	7,025	23,378
Net Change in Checks on Hand	84	109	(122)	(55)
Checks on Hand at End of Period	315	\$ 215	231	\$ 106

Note 18. Contingencies

The NLRB is a party to several threatened or pending litigation claims. NLRB management believes that all the claims have a remote possibility of a cost to the Agency. The Agency has and will continue to vigorously contest these claims. In the opinion of NLRB's management, the ultimate resolution of pending litigation will not have a material effect on NLRB's financial statements.

Note 19. Obligations

In FY 2008, obligations totaling \$111,002 for space planning and design services, and program planning are currently under review by NLRB management and the Office of Inspector General. The ultimate outcome of this matter cannot presently be determined. In the opinion of NLRB's management, the ultimate resolution would not have a material effect on the NLRB's financial statements.

Note 20. Reconciliation of Net Cost of Operations to Budget

(In thousands)	FY 2008	FY 2007
Resources used to finance activities		
Budgetary Resources Obligated:		
Obligations incurred	\$ 251,685	\$ 251,747
Less: Spending authority from recoveries	(877)	(1,281)
Net obligations	250,808	250,466
Other Resources:		
Imputed financing from costs absorbed by others	14,427	15,778
Loss on abandoned property		(6)
Total resources used to finance activities	265,235	266,238
Resources used to finance items not part of the net cost of operations:		
Change in budgetary resources obligated for goods, services and benefits ordered but not yet provided.	(1,003)	3,284
Resources that fund expenses recognized in prior periods	(887)	(279)
Resources that finance the acquisition of assets	(4,379)	(4,696)
Other adjustments to net obligated resources		220
Total resources used to finance items not part of the net cost of operations	(6,269)	(1,471)
Total resources used to finance the net cost of operations	258,966	264,767
Components of the net cost of operations that will not require or generate resources in the current period:		
Components requiring or generating resources in future periods		
Increase in annual leave liability	471	-
Increase in exchange revenue receivable	(11)	-
Total components requiring or generating resources in future periods	460	-
Components not requiring or generating resources:		
Depreciation	1,462	506
Increase in unfunded worker's comp expense		372
Other	5	
Total components of net cost of operations that will not require or generate resources	1,467	878
Total components of net cost of operations that will not require or generate resources in the current period	1,927	878
Net cost of operations	\$ 260,893	\$ 265,645

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum



TO: David P. Berry
Inspector General

FROM: Gloria Joseph
Director of Administration

DATE: November 12, 2008

SUBJECT: Response to Draft Audit Report – NLRB Fiscal Year 2008 Financial Statements

We have reviewed the Audit Report submitted by Carmichael Brasher Tuvell & Company (Carmichael) and are pleased that the FY 2008 audit of the NLRB's financial statements has resulted in an unqualified opinion with no recommendations or corrective actions. We agree with the findings of the report and have no comments with respect to the report.

If you have any questions, please do not hesitate to contact me.

cc: Board
General Counsel

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Administration
Memorandum



TO: David P. Berry
Inspector General

FROM: Gloria Joseph,
Director of Administration

DATE: December 10, 2008

SUBJECT: Comments on Draft Management Letter on Audit of NLRB's FY 2008
Financial Statements (OIG-F-13-09-01a)

This is in response to your memorandum dated December 2, 2008 in which you requested comments on the draft Management Letter covering the audit of the Agency's FY 2008 financial statements.

With respect to the findings of the report, we have no comments.

In your memo, you requested that we also indicate our agreement or disagreement with each of the letter's findings and recommendations. Our comments regarding the report's recommendations are as follows:

#1 Non-compliance with the Federal Acquisition Regulation (FAR)

We recommend that the Director of Administration inform contracting officers of the continued need for strong internal controls to ensure compliance with the FAR.

The Director of Administration responded in detail to this issue on October 30, 2008. As explained in that memo, management did not override any internal controls. As described extensively in our October 30 response, the real issue in this case was a personnel problem.

A focus on internal controls and solid management practices are a hallmark of the Division of Administration. Management's guidance is, and was explicitly stated to procurement staff during the fourth quarter, to find ways to fulfill the Agency's requirements in a timely manner, following all legal, regulatory, and ethical guidelines. Balanced against these requirements are customer service and time management issues which also must be taken into account during year-end processing. When it appeared that year-end processing might be jeopardized, those individuals who supervise the contracting officers,

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David P. Berry

and who also must keep in the forefront the best interests of the Agency, had to conscientiously impose priorities.

The Agency's legal counsel was more focused on having "meaningful and substantive" discussions with the contractors on September 30th than he was on the CCR issue, the former of which is a presumed requirement per the FAR with which the IG disagrees. This disagreement is indicative of the variations in opinions and judgments in the procurement world. We followed the legal counsel's advice on the "meaningful and substantive" issue and other aspects of the acquisition process for these actions.

Senior management made decisions that were in compliance with the FAR as confirmed by Acquisition Solutions, a contract consulting service to the federal government on contracting issues. Not only did the outside firm, Acquisition Solutions, advise that there is an exception to the FAR clause for an "unusual and compelling need," but it also advised that this type of case comes under the "unusual and compelling" umbrella. The internal control environment was not degraded in any way, and management acted to protect the Agency's assets in the waning hours of the last day of the fiscal year.

#2 Incremental Funding

We recommend that the Director of Administration remind contracting officers to be diligent in identifying non-severable service contracts and that incrementally recording the funding for such contracts is improper.

In our November 14 response to this issue we stated that it is a government-wide practice to fund contracts incrementally based on Continuing Resolutions. Operating under Continuing Resolutions, however, does introduce budgetary complications.

We appreciate the concern expressed on this issue, and, as you know, we have had several substantive discussions with your office on this matter. We will continue to explore how other similarly situated agencies deal with this circumstance, consider their legal justification for handling these matters in an alternative manner, and will thereafter continue our dialogue with your office to try to reach an accord that meets everyone's needs. As you know, this only presents a potential problem during times of short Continuing Resolutions and going forward, if we are fortunate enough to have full appropriations before the start of the fiscal year, or at least long-term Continuing Resolutions, it will not be an issue that has an impact on our operations. Moreover, if we are able

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David P. Berry

to restructure the annual procurement cycle in the manner we have planned, this potential issue will not pose as large a problem even during short Continuing Resolutions.

#3 Prior Year Recommendations

Attached is a memo from the OCIO, Richard Westfield, providing an update on the status of the open recommendations from the FY 2006 and FY 2007 financial audits.

Thank you for the opportunity to comment on the management letter. If you should have any questions, please contact me.

Attachment

cc: The Board
General Counsel
Chief Information Officer

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of the Chief Information Officer

Memorandum

December 8, 2008

To: David P. Berry
Inspector General

From: Richard Westfield
Chief Information Officer

Subject: Management Response to Draft Management Letter on Audit FY 2008 Financial Statements (OIG-F-13-09-01-a).

1. Implement the recommendations summarized in INDR No-5-2006.
 - (a) Monitor every employee workstation use for compliance with agency policy.
 - (b) Restrict access to operating system utilities, such as command prompt and control panel applications, as well as Windows functionality not required by the user's duties.

Management Response: All IT personnel and other designated end users with local admin or system administrator rights have been added to the loglogic audit appliance for monitoring. The next step is for OCIO IT Security to audit and capture logs of user activity when accessing servers. This is scheduled for completion by January 9, 2008.

2. Ensure that IT personnel with security-related duties receive the training required by NLRB's IT SEAT policy (Automation Staff Assistants)

Management Response: Automation Staff Assistants in Regional Offices with IT Security related duties per NLRB's IT SEAT policy requires 8 hours of annual training. OCIO's IT Security Surfboard's web page will provide free IT Security training from companies like Symantec, SANS, TechNet via there webcasts and from bulletins, articles, and Whitepapers. This is scheduled for completion no later that August 15, 2009.

3. Bring Agency passwords into conformance with the Agency's policy.

Management Response: The migration of West Coast servers from Novell to Windows Server 2003 Active Directory is complete. Domain password policy will be tested and implemented no later that January 9, 2009.