

**JUSTIFICATION
OF
PERFORMANCE BUDGET
FOR
COMMITTEE ON APPROPRIATIONS**



FISCAL YEAR 2008

NATIONAL LABOR RELATIONS BOARD
Justification of Performance Budget
For the Committee on Appropriations
Fiscal Year 2008

TABLE OF CONTENTS

I. Introduction	3
II. Mission Statement of the NLRB	3
III. Vision Statement.....	3
IV. Major Goals	4
V. Background Information	4
VI. Statutory Structure of the Agency: Role of the Board and General Counsel.....	7
VII. Management Initiatives	10
VIII. External Factors and Agency Goals.....	18
IX. Program Evaluation	21
X. Fiscal Year 2008 Performance Budget	22
XI. Goals of the Strategic Plan and their Relationship to the Performance Budget	27
XII. Performance Measures	33
XIII. Summary of Performance Measures	46
XIV. Board Members and General Counsel.....	51
XV. Other Budget Materials:	52
Appropriation Language	53
Budget Authority and Staffing by Activity.....	54

Budget Authority by Object Class	55
Detail of FTE Employment.....	56
Amounts Available for Obligation.....	57
Appropriations History.....	58
Staffing History.....	60
Major Workload and Output Data.....	61
Program Materials:	62
Exhibit A: Types of NLRB Cases	
Exhibit B: Organization Chart	
Exhibit C: Basic Procedures in ULP Cases	
Exhibit D: NLRB Order Enforcement	
Exhibit E: Outline of Representation Procedures Under Section 9(c)	

NATIONAL LABOR RELATIONS BOARD
Narrative Justification
Of
Appropriations Estimates
Fiscal Year 2008

I. Introduction

This document combines the National Labor Relations Board's (NLRB) budget estimate and Annual Performance Plan (Plan) for FY 2008. The Plan describes the strategies and initiatives the Agency proposes to take in FY 2008 to apply budgetary resources efficiently and effectively to achieve our annual and long-term performance goals under the Government Performance and Results Act (GPRA) of 1993.

The Agency's FY 2008 budget request of \$256.238 million represents an increase of \$6.493 million over the \$249.745 million that would be provided under a year long continuing resolution in FY 2007.

II. MISSION STATEMENT OF THE NLRB

The mission of the NLRB is to carry out the statutory responsibilities of the National Labor Relations Act, the primary federal statute governing labor relations in the private sector, as efficiently as possible, in a manner that gives full effect to the rights afforded to employees, unions, and employers under the Act.

III. VISION STATEMENT

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring employees free choice on union representation and by preventing and remedying statutorily-defined unfair labor practices. We maintain a customer-focused philosophy and a results-oriented way of doing business that best serves the needs of the American people.

IV. MAJOR GOALS

The primary function of the NLRB is the effective and efficient resolution of charges and petitions filed voluntarily under the NLRA by individuals, employers or unions. The two major goals of the NLRB focus on its timeliness and effectiveness in addressing its caseload. The major goals are to:

- Resolve all questions concerning representation promptly
- Investigate, prosecute, and remedy unfair labor practices by employers or unions promptly

V. BACKGROUND INFORMATION

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the National Labor Relations Act, which is the primary federal statute governing labor relations in the private sector.¹ The purpose of the law is to serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees. It seeks to do this by providing orderly processes for protecting and implementing the respective rights of employees, employers, and unions in their relations with one another. The Act embodies a statement of employees' bill of rights, which establishes freedom of association for the purposes of participating in the practice and procedure of collective bargaining. Under the Act, the NLRB has two primary functions: (1) to conduct secret-ballot elections among employees to determine whether the employees wish to be represented by a union², and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions. The mission of the Agency is to carry out these statutory responsibilities as efficiently as possible, in a manner that gives full effect to the rights afforded to employees, unions, and employers under the Act.

The NLRB acts only on those cases brought before it, and does not initiate cases. All proceedings originate from the filing of charges or petitions by employees, labor unions, and private employers who are engaged in interstate commerce. About 30,000 cases are received by the Board through its Regional, Subregional, and Resident Offices each year. Of those, approximately 25,000 are unfair labor practice (ULP) cases and the remaining 5,000 are representation cases, which involve petitions to conduct secret ballot elections. Under the Act's procedures, the General Counsel's staff investigates the 25,000 ULP cases, which results in a finding of no merit—no probable cause to support the charge—about two-thirds of the time. These decisions are made by the Regional Directors, who have been delegated substantive decision-making authority over these cases.

The Agency's determinations to dismiss unfair labor practice charges are of great significance to

¹Major amendments to the Act were enacted in 1947 (the Taft-Hartley Amendments) and in 1959 (the Landrum-Griffin Amendments).

²Exhibit A provides detailed descriptions of the types of cases handled by the Agency.

the public and are an essential part of effectuating the Agency's mission. During the processing of a charge in the Regional Office a full and fair investigation is conducted with all parties having the opportunity to present evidence and statements of position in support of the charge, or in defense of it. If further proceedings are not found to be warranted by the Regional Director, the charging party can request and be provided with a full statement of the reasons. The charging party can then file an appeal of the Director's action with the Office of Appeals of the General Counsel's staff in Washington. If an appeal is filed, the Regional Office investigative file is independently reviewed to determine whether the investigation was complete and the legal conclusion sound.

Because the General Counsel's authority to issue complaint in unfair labor practice cases is unreviewable, if the Regional Director's decision to dismiss the unfair labor practice charge is upheld, the parties know conclusively what their legal rights and obligations are with respect to the dispute underlying the charge. Although the charging party will likely be disappointed by the result, both parties will appreciate that a dismissal puts the matter to rest. This resolution allows the parties to move forward with a better understanding of their respective rights and responsibilities.

Of those cases in which merit is found, approximately 95 percent (96.7 percent in FY 2006) are settled without formal litigation. Cases are settled through the Agency's settlement program by which the parties agree to a remedy and thereby avoid litigation. It has long been the NLRB's belief that all parties are better served if disputes are settled without the need for time-consuming and costly formal litigation.

In addition to its ULP caseload, the NLRB received 3,473 petitions in representation cases, and conducted 2,715 elections in FY 2006. The difference between the number of petitions and the number of elections is explained by a number of factors. In some instances, a case may not proceed to an election when the Board has decided to dismiss the petition because it has determined it does not have jurisdiction over the matter, or because the petitioned for bargaining unit is inappropriate. In other cases, a union may independently decide to withdraw its petition if it feels that it is losing support among the employees. In 88 percent of elections conducted in FY 2006, down slightly from 91 percent in FY 2005, the NLRB was able to negotiate agreements between the parties as to when, where, and who should be involved in the election, thus conserving resources that would otherwise be spent on a hearing. Hearings were required in the remaining 12 percent of these cases.

Public Information Program

One of the critical services provided to employers, unions, and employees is the Agency's Public Information Program. In FY 2006, the Agency's 51 Field Offices received 182,161 public inquiries regarding work place issues. In responding to these inquiries, Board agents spend a considerable amount of time explaining the coverage of the NLRA, accepting charges, or referring parties to other federal or state agencies.

The public can also contact the Agency through a toll-free telephone service designed to provide easy and cost-free access to information to the public. Callers to the toll-free number may listen

to messages recorded in English and Spanish that provide a general description of the Agency's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. In FY 2006, the toll-free telephone service received 68,018 calls, of which 25,849 were connected to Regional Offices for further assistance.

To extend its public services efforts across the Internet, the Agency website, www.nlr.gov, was revised recently to enhance ease of use and effectiveness. Included on the website is a public information "Questions" page which is designed to provide answers to frequently asked questions involving the NLRA and NLRB procedures. Since its inception on February 28, 2005, this new feature has received 1,447,969 visits, 513,799 of which involved inquiries that could be satisfied by answers provided through the site's electronic search system. In addition, Agency personnel provided 12,754 direct email responses to specific inquiries from the public.

The rate of charge acceptance (percent of inquiries from the public in which the contact results in a charge) was approximately 5.2 percent in FY 2006, which is slightly higher than the 4.1 percent rate experienced in FY 2005.

Outreach

The role of the Act, and of the NLRB in enforcing the Act, insofar as it relates to the right of employees to select or reject a collective-bargaining representative are relatively well known. For over 70 years the NLRB has been actively and publicly involved in the protection of employee rights to self-organization, the conduct of secret ballot representation elections, and the enforcement of employer and union obligations to engage in good-faith bargaining. This is the role of the NLRB that is most often the subject of accounts in the press. It is also the role that is featured in communications to employees by unions and employers during organizing campaigns.

Less well known, but of equal stature in the Act, is the protection afforded to employees to engage in "concerted protected activity." This activity, which can be initiated with or without the presence or involvement of a union, is peaceful conduct by or on behalf of two or more employees for "mutual aid or protection," as described in Section 7 of the Act. For example, employees have the right to join together and approach their employer to request higher wages, to question work loads, or otherwise to deal with their employer about terms and conditions of employment. Under the Act, an employer cannot lawfully discipline employees for raising such demands or complaints. As with union activity, employees not only have the right to engage in such activity, but they also have the right to decline to engage in this activity without fear of retribution.

In an effort to inform working Americans fully about all their rights under the National Labor Relations Act, including their rights with regard to concerted protected activity, the General Counsel has initiated an expansion of the agency's outreach program. Traditionally under this program, NLRB field and headquarters personnel meet with members of the labor-relations communities in their geographic areas to discuss NLRB procedures and developments in the law. These contacts are usually with labor lawyers representing both unions and management, labor organizations and business groups. Among these contacts are those with the American Bar

Association and State and local bars and local chapters of the Labor and Employment Relations Association. Under the General Counsel's new initiative, NLRB agents will expand the scope of their outreach activities.

Independently or in partnership with other organizations such as the Equal Employment Opportunity Commission, NLRB agents are initiating contact with schools, community groups, churches, business organizations, and others to make information about the NLRB available to individual workers. Brochures, model speeches and other materials to facilitate outreach are available to NLRB agents on the Agency's intranet. Our Regional Directors will be operating under revised performance plans that will include specific goals with respect to the outreach activities they conduct. In addition, a new feature of the NLRB website, www.nlr.gov, will soon be added to advertise a speaker's bureau to permit individuals and groups to request that a NLRB representative address gatherings to present information about the Agency. Our agents will respond to these requests and speakers will be assigned, as appropriate.

We estimate that when the General Counsel's initiative is fully instituted, 70 agents in the agency's 51 field offices will dedicate 1 month per year to outreach activities, for a total of about 6 Agency FTE devoted to outreach.

VI. STATUTORY STRUCTURE OF THE AGENCY: ROLE OF THE BOARD AND THE GENERAL COUNSEL

The NLRB's authority is divided by law and by delegation between the five-member National Labor Relations Board ("the Board") and the General Counsel, all of whom are appointed by the President, subject to confirmation by the Senate.³ To carry out their respective functions, described below, the Board and the General Counsel maintain a headquarters in Washington, D.C. The Agency also maintains a network of Regional or "Field" offices, each of which is under the direction of a Regional Director⁴, and three satellite Judges' offices.

The NLRA assigns separate and independent responsibilities to the Board and the General Counsel in the prevention and remedying of unfair labor practices. This division of authority between the Board and the General Counsel is reflected in the Agency's operations, thereby affecting the Strategic and Annual Performance Plans. An explanation of this division of authority between the Board and the General Counsel will help to provide an understanding of the Agency's operations.

Unfair Labor Practice Proceedings⁵

Unfair labor practices are remedied through adjudicatory procedures under the NLRA in which

³ As of August 2006, there were five Board Members, with three confirmed Members and two recess appointees. The General Counsel's position is filled with a confirmed appointee.

⁴ Exhibit B is an organization chart of the Agency.

⁵ Exhibit C is a chart on ULP case processing.

the Board and the General Counsel have independent functions. The role of the General Counsel is to investigate ULP charges filed by individuals and organizations and, if there is reason to believe that a charge has merit, to issue and prosecute a complaint against the charged party unless settlement is reached. With some exceptions, a complaint that is not settled or withdrawn is tried before an administrative law judge, who issues a decision, which may be appealed by any party to the Board through the filing of exceptions. The Board acts in such matters as a quasi-judicial body, deciding cases on the basis of the formal trial record according to the statute and the body of case law that has been developed by the Board and the federal courts.

Congress created the position of General Counsel in its current form in the Taft-Hartley amendments of 1947. At that time, it gave the General Counsel sole responsibility -- independent of the Board -- to investigate charges of unfair labor practices, and to decide whether to issue complaints with respect to such charges. The Board, in turn, acts independently of the General Counsel in deciding ULP cases.

As noted earlier, the General Counsel's decision to prosecute or not is unreviewable. A decision to dismiss a charge after full investigation is, in many respects, a resolution of that labor dispute.

Under Section 10(l) of the Act, when a Region's investigation of a charge yields reasonable cause to believe that a union has committed certain specified unfair labor practices such as a work stoppage or picketing with an unlawful secondary objective, the Regional Officer or Regional Attorney is *required*, on behalf of the Board, to seek an injunction from a U.S. District Court to halt the alleged unlawful activity. Section 10(j) of the Act provides that where the General Counsel has issued a complaint alleging that any other type of unfair labor practice has been committed, by a union or by an employer, the Board *may* direct the General Counsel to institute injunction proceedings if it determines that immediate interim relief is necessary to ensure the efficacy of the Board's ultimate order.

If the Board finds that a violation of the Act has been committed, the role of the General Counsel thereafter is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation.⁶ Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. The statute provides that any party (other than the General Counsel) may seek review of the Board's decision in the U.S. Courts of Appeals. In addition, if a party refuses to comply with a Board decision, the Board itself must petition for court enforcement of its order. In court proceedings to review or enforce Board decisions, the General Counsel represents the Board and acts as its attorney. Also, the General Counsel acts as the Board's attorney in contempt proceedings and when the Board seeks injunctive relief under Section 10(e) and (f) after the entry of a Board order and pending enforcement or review of proceedings in circuit court.

Representation Proceedings⁷

⁶ Exhibit D is a chart on NLRB Order Enforcement

⁷ Exhibit E is a chart on representation case processing.

In contrast to ULP proceedings, representation proceedings conducted pursuant to the Act are not adversarial proceedings. 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 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 in such cases is to investigate the petition and, if necessary, to conduct a hearing to determine whether the petition-for unit of employees constitutes an appropriate bargaining unit under the Act. The NLRB must also determine which employees are properly included in the bargaining unit and therefore eligible to vote, 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.

In the processing of representation cases, the General Counsel and the Board have shared responsibilities. The Regional Offices, which are under the day-to-day supervision of the General Counsel, process representation petitions and conduct elections on behalf of the Board. As a result, the General Counsel and the Board have historically worked together in developing procedures for the conduct of representation proceedings. Although the Board has ultimate authority to determine such matters as the appropriateness of the bargaining unit and to rule on any objections to the conduct of an election, the Regional Directors have been delegated authority to render initial decisions in representation matters, which are subject to Board review.

Compliance Cases

In order to obtain compliance with the NLRB's Orders and Settlement Agreements, staff must follow up to ensure that the results of the processes discussed above are enforced. Staff must be prepared to work with employees whose rights have been violated to calculate backpay, work with respondents when terminated employees are entitled to reinstatement or having their records expunged in unlawful disciplinary actions, or monitor the bargaining process when the Board has ordered the parties to bargain. Noncompliance or disputes on findings may require additional hearings or actions by the judicial system.

Further, at times the financial status of the respondent has changed during the period the case has been litigated. These changes may require more and more sophisticated litigation in bankruptcy and federal district courts pursuant to the Federal Debt Collection Procedures Act of 1990. As the Agency has been required to engage in this complex litigation, considerable staff resources have been devoted not only to the actual litigation, but also towards preparing and training staff to represent the Agency in these forums.

Administrative Functions

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency, with the exception of the administrative law judges, who are under the general supervision of the Board; the Agency solicitor; and the attorneys who serve as counsel to the Board Members. The Board has also delegated to the General Counsel general supervision over the administrative functions of the Agency and over the officers and employees in the

Regional Offices.

Under the General Counsel, the Division of Operations-Management has responsibility for the administration of the NLRB's Field offices. Approximately 70 percent of the Agency's staff, or about 1,243 of the 1,789 FTE utilized in FY 2006, is employed in the field, where all ULP charges and representation petitions are initially filed. Currently, the Field offices include 32 Regional Offices, 3 Subregional Offices, and 16 Resident Offices.

Effect of Division of Authority on GPRA Plans

The General Counsel and the Board share a common goal of ensuring that the Act is fully and fairly enforced on behalf of all those who are afforded rights under the Act, but the division of authority mandated by the Act necessarily means that the two branches of the Agency will have separate objectives and strategies for achieving objectives relating to those aspects of their statutory functions which are uniquely their own. The statutory framework in the processing of ULP cases separates the prosecutorial functions of the General Counsel from the adjudicatory functions of the Board. The Board and the General Counsel do work together in developing one comprehensive Strategic Plan and Annual Performance Plan.

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.

VIII. EXTERNAL FACTORS AND AGENCY GOALS

Various external factors can affect each goal, objective, and performance measure contained in the NLRB's Strategic and Annual Performance Plans. These factors include the following:

Budget

The FY 2008 request totals \$256.238 million, with an estimated Agency FTE of 1,725. The requested funding will provide the resources necessary to cover the staffing, space requirements, information technology, and other activities critical to handling the Agency's caseload, and ensuring continued integration and tracking of budget and performance. As approximately 80 percent of the Agency's total budget is devoted to personnel costs, budget shortfalls can have a direct impact on staffing resources, and the ability to facilitate case handling. Our goals assume the level of funding set forth in the President's Budget request.

Case Intake

Several additional factors could inhibit or facilitate the Agency's effectiveness in accomplishing the goals set out in these plans. As noted, the Agency does not control the number of cases filed. However, any event or issue that affects labor, and that, in turn, can spur potential union organizing, can result in an increase in caseload. In the past two years, the increased focus on immigration reform, and the formation of the Change to Win labor federation, are two such factors that could result in an increase in case intake.

The effects of the immigration reform debate could lead to more organizing efforts, as employees and employers are mobilized, and become more proactive about asserting their respective positions. This was evident in FY 2006, as thousands of workers demonstrated openly, many of them for the first time, while the topic of immigration was being debated publicly.

The immigrant workforce is already showing signs of becoming more organized and active, affiliating itself with mainstream labor organizations as necessary to advance its interests. In fact, in August 2006, the AFL-CIO and National Day Laborer Organizing Network signed an agreement with the aim of strengthening the ability of the labor movement and worker centers to promote and enforce the workplace rights of the workers served by both organizations, including immigrant workers.

Further, the policies of the Change to Win labor federation, a federation of seven international labor unions that severed their affiliation with the AFL-CIO, could also directly affect Agency caseload. At its founding convention, the federation adopted a constitution that devotes 75 percent of per capita dues to organizing. With federation leaders focusing on bringing large numbers of new workers into the labor movement, case intake could increase in the next few years.

Immigration reform, greater AFL-CIO focus on the immigrant workforce, and the formation of Change to Win, could affect Agency caseload. This has already occurred, in fact, as Change to Win actively supported immigrant workers during the demonstrations in April – May 2006. This, in turn, resulted in about 30 unfair labor practice charges being filed by Change to Win and others, contesting discharges and discipline of employees, allegedly for their participation in these demonstrations. Most of these charges have been closed with settlements or withdrawals, but a number remain under investigation. These alliances and activities may be a harbinger of increasing activity among the immigrant worker population resulting in an increase in the filing of unfair labor practice charges.

Further, labor organizations are engaging in more non-traditional organizing campaigns, including organizing across employer lines, e.g. janitorial organizing drives in major cities. It is anticipated that these campaigns will result in more litigation before the Agency, as unit issues, bargaining responsibilities, and jurisdictional issues may arise.

Additional factors that could affect our intake and the complexity of our work include: public perceptions about unionization and the role of the Agency, employment trends, stakeholder strategies, the globalization of the economy, industrial economic trends, corporate reorganizations, and the level of labor-management cooperation efforts.

An unexpected large increase in our intake or in the complexity of issues we handle may result in increased backlogs and delays in processing cases. Over the past seven years, case intake has fluctuated, decreasing from FY 1999 to FY 2000, increasing in FY 2001 and FY 2002, and then decreasing in recent years. In FY 2005, intake for ULP cases decreased from 26,883 cases in FY 2004 to 24,736. Representation case intake, however, increased from 4,897 cases in FY 2004, to 5,151 in FY 2005. In FY 2006, ULP cases totaled 22,921, and representation cases were 3,473.

Based on current trends, total ULP and representation cases are estimated to total about 29,500 in FY 2007, and remain at that level in FY 2008. Of that total, ULP cases are estimated to be about 25,000, while representation cases are expected to total 4,500.

It is essential that we maintain our outstanding record in protecting employee free choice by means of timely secret ballot elections. Congress and certain members of the public have

expressed concerns about the NLRB election process. Complaints have been made by some about what they perceive to be unwarranted delays in our elections. As our performance measures indicate, however, these assertions are unfounded. This budget request assures that we will continue to have the trained professional and support staff as well as the other resources necessary to maintain the enviable record that has been the hallmark of the NLRB since 1935.

Settlements

Currently, of those cases in which merit is found, approximately 95 percent (96.7 percent in FY 2006) are settled without formal litigation. Cases are settled through the Agency's settlement program by which the parties agree to a remedy and thereby avoid time-consuming and costly litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP and representation cases, the settlement rate is not subject to the Agency's control. Disputes cannot always be resolved informally or in an expeditious manner. Parties may conclude that litigation serves their legitimate or tactical interests. The Agency's procedures provide for administrative hearings, briefs and appeals. When the process becomes formal and litigation takes over, Agency costs increase. Every one percent drop in the settlement rate costs the Agency more than \$2 million. Therefore, maintaining high settlement rates promotes performance, efficiency, and cost savings.

Presidential Appointees

Another factor outside the control of the Agency is the timely confirmation of Presidential appointees. The assigned caseload of individual Board members rises and decisions in difficult or controversial cases may be delayed due to vacancies on the five-member Board. As the then General Accounting Office pointed out in a 1991 analysis of Board production, Board member vacancies and turnover are the primary reason for delays in issuance of Board decisions. For example, from December 16, 2004 through September 30, 2005, the Board had three members, which affected the ability of the Board to achieve caseload reduction goals during the year. The lack of a full-Board complement and the learning curve for new appointees can decrease Board productivity and prevent the Board from meeting its performance goals.

With the confirmation of two members in August 2006, the Agency now has a full five-member Board, comprising three confirmed Members and two recess appointees. One confirmed Member's term expires in December 2007, and the two recess appointees' terms will last until confirmation or adjournment of Congress in FY 2007. The General Counsel's position is filled by a confirmed appointee. The chart below shows the appointment and term expiration dates of the current Board members and General Counsel.

BOARD MEMBERS AND GENERAL COUNSEL

	<u>Appointed</u>	<u>Term Expiration</u>
Robert J. Battista Chairman	12/17/02	12/16/07
Wilma B. Liebman Member	8/14/06	8/27/11
Peter C. Schaumber Member	8/14/06	8/27/10
Peter N. Kirsanow Member	1/04/06	Recess Appointment ⁸
Dennis P. Walsh Member	1/17/06	Recess Appointment
Ronald Meisburg General Counsel	8/14/06	8/13/10

IX. PROGRAM EVALUATION

The NLRB evaluates whether programs are achieving their GPRA and other performance targets through a variety of techniques and mechanisms. The five-member Board tracks the status of its GPRA cases (usually its oldest) on a monthly basis to determine performance against yearly goals. A committee comprising top management officials reviews monthly performance data to determine the status of Agency workload and performance and discuss the need to adjust Agency resources, if necessary. Field data is available through CATS, the Agency's case management system. The management committee also reviews highlights of performance data prepared by NLRB divisions and offices on a monthly basis.

GPRA performance data prepared for the annual performance report is reviewed and evaluated by Agency management officials. Additionally, when pertinent to the conduct of ongoing audit activities, the Inspector General will review performance measures to consider their appropriateness.

Further, the General Counsel has had an evaluation program in place for many years to assess the performance of its Regional operations. The Quality Review program of the Division of Operations-Management reviews ULP, representation, and compliance case files on an annual basis to ensure that they are processed in accordance with substantive and procedural requirements, and that the General Counsel's policies are implemented appropriately. Those reviews have assessed, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's priorities in the areas of representation cases, Impact Analysis prioritization of cases, and compliance with Agency decisions. Additionally, personnel from the Division of Operations-Management review all complaints issued in the Regions to ensure that pleadings are correct and supported, and conduct site visits during which they evaluate Regional case handling and administrative procedures. Also, a field and

⁸ Appointments for Members Kirsanow and Walsh will last until confirmation or adjournment of Congress in late fall 2007.

Operations-Management Committee reviews all administrative law judge and Board Decisions constituting a significant loss, in order to assess the quality of litigation. Moreover, the Region's performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities, is incorporated into the Regional Director's annual performance appraisal.

In addition to the evaluation of Regional Office activities discussed above, the Office of the General Counsel monitors the litigation success rate before the Board and before district courts with regard to injunction litigation. The success rate before the Board has been approximately 80 percent and before the district courts it has been 85-90 percent. The Division of Operations-Management regularly reviews case decisions in order to determine the quality of litigation. Similarly, the Agency keeps abreast of its success rate before circuit courts of appeals and analyzes case decisions in order to ensure quality in its litigation. Other branches and offices, such as the Office of Appeals, Division of Advice, Contempt Litigation and Compliance Branch, and Office of Representation Appeals, provide valuable insight and constructive feedback on the performance and contributions of Field Offices. Moreover, top Agency management meets regularly with relevant committees of the American Bar Association regarding their members' experiences practicing before the NLRB.

X. FISCAL YEAR 2008 PERFORMANCE BUDGET

The FY 2008 budget request of \$256.238 million is formulated on the following assumptions:

- FY 2008 case intake will remain at projected FY 2007 levels – 25,000 unfair labor practice charges, and 4,500 representation cases
- Planned performance goals under GPRA will be met
- Efforts will continue to reduce the inventory of ULP cases in the Regional Offices
- The President's Management Agenda will be supported by funding Agency investment programs that are essential to maintaining productivity, efficacy and efficiency, including employee development and information technology
- The possibility that GSA will relocate NLRB headquarters to a new building

Funding Profile

The \$256.238 million requested will fund essential staffing, space requirements, long term investments in IT, and employee development needs.

The NLRB's mission – the resolution of labor disputes through investigation, settlement, advocacy and adjudication – relies primarily on skilled and experienced professional employees; accordingly, most of the Agency's budget is dedicated to personnel costs. In FY 2008, an estimated \$203.5 million or 79 percent of the Agency's budget will go for employee pay and

benefits. The second largest expense, space rent and associated security costs, is estimated to total \$30.9 million in FY 2008, or about 12 percent of the requested funding. The remaining 9 percent will be allocated among all other operating costs and activities critical to meeting and supporting the Agency’s mission and management objectives, including IT development, acquisition and maintenance; providing transcripts of formal hearings; covering statutory fees, travel reimbursements and, increasingly, paying for interpreters for witnesses; maintaining current legal research collections; and complying with government-wide statutory and regulatory mandates. (Please note that the above allocation of resources would be adjusted if GSA relocates the NLRB headquarters office. Such a move would cost about \$5-6 million. At this writing, a final decision is pending, as GSA continues negotiations with current building management.)

The following table places the FY 2008 performance budget request in the context of resources received or anticipated over the FY 2006 through FY 2008 timeframe:

	FY 2006 Actual	FY 2007 CR Level	FY 2008 Performance Budget
Funding Level (000s)	\$249,745	\$249,745	\$256,238
Agency FTE	1,790	1,755	1,725
Backlog⁹ of ULP Cases	100	100	200

The requested funding of \$256.238 million constitutes an increase of \$6.493 million over the year long CR funding level of \$249.745 million anticipated for FY 2007. The estimated Agency FTE is 1,725, a decrease of 30 from the FY 2007 projected FTE level of 1,755. Our goal will be to achieve this reduction through attrition and continuation of the conservative hiring practices employed in fiscal years 2006 and 2007. Technological improvements and other management initiatives as described in Section VII will also enhance efficiency. Furloughs will be utilized if these measures do not produce the requisite savings. At current case intake levels, it is not anticipated that this FTE reduction will affect attainment of our performance goals.

Budget Oversight

The NLRB prides itself on being an extremely effective steward of taxpayer dollars. As such, we have conserved funds and maximized our spending flexibility over the years, by imposing strict hiring controls in all offices; restructuring and streamlining our workforce to either eliminate higher graded positions, or fill them at lower grades; consolidating space so as to reduce rental costs; and cutting back on IT, travel, and other case handling and support costs. While increased fuel and rental costs have offset, somewhat, these efforts, they have still enabled us to cover our normal requirements, while continuing to serve our constituents at a high level,

⁹ Number of cases pending above a base caseload of 3,600.

maintain labor peace, and achieve our GPRA goals. Listed below are cost-cutting actions that we plan to continue in fiscal years 2007 and 2008:

- Actions to conserve and better manage resources, such as:
 - consolidated case handling travel; and
 - higher standards for discretionary travel
- Reduced number of conferences and seminars
- Various administrative and human capital management measures, such as the Voluntary Early Retirement Program (VERA), leave without pay program (LWOP), and 120 – 150 day hiring lag for most vacancies.

Performance

Through our judicious and efficient use of resources, combined with a decrease in case intake, the Agency has been able to reduce its backlog, while also cutting its FTE.

The normal pipeline of unfair labor practice situations pending in the regions is 3,600, which includes the normal cycle of cases pending preliminary investigation. Cases in the inventory may range from the newly filed to those that have been in process many months. Depending on its classification under Impact Analysis (see page 15), the target disposition period for a case is from 7 to 12 weeks. A pending caseload in the regions above the 3,600 figure is generally considered overage and, therefore, is defined by the Agency as its “backlog.”

The backlog had reached 1,046 in FY 2003, but due to the resources provided, and the workforce planning and information technology initiatives described in Section VII, the Agency was able to reduce the backlog to about 100 cases at the end of FY 2006. Assuming Agency funding as per this request and the CR level in FY 2007, along with a stable case intake, the backlog is expected to remain at about 100 cases in FY 2007, and increase to 200 in FY 2008.

During this same time period, the Agency will have reduced its FTE from 1,874 in FY 2003 and 1,888 in FY 2004, to 1,725 in FY 2008 – a decrease of 163 FTE. Enhanced workforce planning, improvements in information technology, and decreases in case intake, have enabled the Agency to absorb this reduction, while maintaining a backlog of about 100 cases. Additional FTE cuts below this level, however, could lead to a significant increase to the backlog, and hurt the Agency’s ability to meet its GPRA goals, particularly its traditionally high settlement rate of about 95%. As mentioned, previously, every one percent drop in the settlement rate costs over \$2 million.

Given a staffing level of 1,725 FTE, an approximate ULP case intake of 25,000 cases, and the learning curve of new field staff, it is estimated that the backlog will total about 200 cases by the end of FY 2008. The Agency is committed to maintaining a reduced backlog. In FY 2008, we will continue to manage our resources so as to maximize efficiency, continue to improve processes, and minimize any impact to the backlog.

BUDGET PROGRAM ACTIVITIES

The following is a discussion of the Program and Financing section of the budget that illustrates obligations by program activity. The figures below reflect essentially a flat line budget for FY 2008, with increases to cover compensation, space rent, and systems-related contractual costs.

\$ Millions	FY 2006 Actual	FY 2007 CR Level	FY 2008 Request
Field investigation	\$200	\$200	\$205
ALJ hearing	13	13	13
Board adjudication	24	24	24
Securing compliance with Board orders	12	12	13
Internal review	1	1	1
Total	\$250	\$250	\$256

Field Investigation

The FY 2008 budget request of \$256.238 million is based on an estimated intake level of 25,000 ULP cases and 4,500 representation cases. Staffing in the Regions comprises approximately 70 percent of total Agency FTE, and this ratio will be maintained in FY 2008.

The initial processing and disposition of new case filings in the Field drives the intake for other stages of the case handling pipeline. Approximately one-third of the cases dismissed by the Regional Directors based on a lack of merit are appealed to the Office of Appeals. The meritorious charges, if not settled, go onto the administrative law judges' trial calendar and from there a portion are appealed to the Board for final decision. Some cases proceed to the Enforcement Division for Appellate Court review, and some of those may proceed to contempt or other post-enforcement proceedings. While cases are winnowed out at every stage of the pipeline, the rates tend to be constant over time. The primary indicator of overall caseload throughout the process is the rate at which the Field processes new filings.

At the FY 2008 requested level of \$256.238 million and 1,725 FTE, the number of situations pending is expected to increase slightly from 3,700 cases at the end of FY 2007, to 3,800 cases at the end of FY 2008.

Administrative Law Judges Hearing

The requested funding anticipates that the number of hearings and judicial decisions issued in the Judges Division will remain relatively stable in fiscal years 2007 and 2008. The number of cases pending an administrative law judge decision is expected to remain stable at about 45 cases during this same period. (See table, page 61)

Board Adjudication

The number of pending ULP cases at the Board decreased from 384 at the end of FY 2005, to 317 at the end of FY 2006, and is expected to remain at the 300 level in FY 2007 and FY 2008. This assumes that case intake remains at the current level, and that the Agency will have a full Board and staff in FY 2008. A full five-member Board is essential to decide cases on a timely basis and to continue to reduce the Board backlog.

Regarding GPRA goals, over the years the Board has worked very hard at meeting the case handling goals that have been set in the Agency's Strategic Plan and Annual Performance Plan. The Board has taken steps to focus on overage cases, facilitating the processing of new cases, and increasing emphasis on streamlining case processing procedures. However, Board member vacancies over the past few years have affected efforts to achieve caseload reduction goals. With the confirmation of two members in August 2006, the Agency now has a full five-member Board, comprising three confirmed Members and two recess appointees. One confirmed Member's term expires in December 2007, and the two recess appointees' terms will last until confirmation or adjournment of Congress in FY 2007. These factors—lack of a full-Board complement and new recess appointees—have an effect on performance goals. As always, having a full complement of members increases the Board's ability to achieve its GPRA goals.

Securing Compliance with Board Orders

Once the Board has decided a case, the next step in the process is to secure full compliance with Board Decisions and orders. The decisions and orders of the Board require either voluntary compliance or enforcement in the courts. A substantial portion of the Field FTE will be devoted to seeking voluntary compliance, while at Headquarters, resources will be allocated to the Division of Enforcement Litigation to continue to seek enforcement of Board orders in the courts. The Agency estimates that the number of cases pending compliance and court litigation will increase slightly between FY 2007 and FY 2008, as the Board deals with a number of "lead" cases currently pending decision. When those decisions are released, other cases involving similar or related issues will be released soon thereafter, resulting in a spike in Board decisional output, in Appellate Court enforcement work, and in compliance work in the regions.

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

Please note that the Agency's current Strategic Plan and accompanying performance measures, as described below, cover the years FY 2000 – FY 2006. They are being reviewed, and some goals/measures will be revised for FY 2007 – FY 2012. The revisions will, where appropriate, set more ambitious targets.

In terms of overall performance, the NLRB has met about 70 percent of its targets in each of the past three fiscal years. The Agency has been able to sustain this high level of performance through the judicious, efficient, and effective use of our appropriations.

Goals and Strategies

GOAL NO. 1: Resolve questions concerning representation promptly

OBJECTIVES:

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

The objectives are to:

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

STRATEGIES:

1. Give priority in timing and resource allocation to the processing of cases that implicate the core objectives of the Act and are expected to have the greatest impact on the public.
2. Evaluate the quality of representation casework regularly to provide the best possible service to the public.
3. Give sound and well-supported guidance to the parties, and to the public at large, on all representation issues.
4. Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.
5. Identify and utilize alternative decision-making procedures to expedite Board decisions in representation cases, e.g. super-panels.
6. Ensure that due process is accorded in representation cases by careful review of Requests for Review, Special Appeal and Hearing Officer Reports, and where appropriate, the records in the cases.
7. Analyze and prioritize the critical workforce skill needs of the Agency and address these needs through training and effective recruitment in order to achieve Agency goals.
8. Provide an information technology environment that will provide NLRB employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

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

OBJECTIVES:

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

respondent to cease and desist from the unlawful conduct. The Agency will give special priority to resolving disputes with the greatest impact on the public and the core objectives of the Act. These objectives are to:

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

STRATEGIES:

1. Take proactive steps to disseminate information and provide easily accessible facts and information to the public about the Board's jurisdiction in unfair labor practice matters and the rights and obligations of employers, employees, unions, and the Board under the Act.
2. Evaluate the quality of unfair labor practice casework regularly to provide the best possible service to the public.
3. Utilize impact analysis to provide an analytical framework for classifying unfair labor practice cases in terms of their impact on the public so as to differentiate among them in deciding both the resources and urgency to be assigned to each case.
4. Share best practices in the processing of unfair labor practice cases to assist regions in resolving unfair labor practice issues promptly and fairly.
5. Emphasize the early identification of remedy and compliance issues and potential compliance problems in merit cases; conduct all phases of litigation, including settlement, so as to maximize the likelihood of obtaining a prompt and effective remedy.
6. Utilize injunctive proceedings to provide interim relief where there is a threat of remedial failure.
7. Emphasize and encourage settlements as a means of promptly resolving unfair labor practice disputes at all stages of the case-handling process.
8. Identify and utilize alternative decision-making procedures to expedite Board

decisions in unfair labor practice cases.

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

Relationship of Budget to GPRA Goals

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

Under Goal 1, most of the measures are related to Field activities pertaining to the timely holding of representation elections. Elections result from a union wishing to represent certain employees of an employer or employees wishing to decertify the recognized or certified union. Included in the consolidated measure of "disposing or holding elections" shown below are withdrawals, dismissals, settlements, hearings, and elections. Aggrieved parties may request a review of Regional decisions by the Board in Washington, DC. Board adjudication related to the review of representation cases, is the second measure under Goal 1 below.

Goal 2 relates primarily to the measures in the GPRA plan used in determining the timely resolution of ULP cases. On a yearly basis, there are five times the number of ULP cases as representation cases, usually involving more complicated issues for Regions to address.

Goal 1—Resolve all questions concerning representation promptly.

Dispose of or hold elections—includes GPRA performance measures for resolving elections, such as "issue certifications in representation cases within 60 median days of filing of petition, hold elections within 42 median days of filing of petition, and achieve voluntary election agreements for 85 percent of the petitions filed."

Board Adjudication—includes the Board measures on reviewing Regional Director decisions in holding elections and issuing decisions on contested certification cases.

	FY 2006 Actual		FY 2007 CR Level		FY 2008 President's Request	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
1. Dispose of or hold elections	263	\$36.7	258	\$36.7	253	\$37.7
2. Board adjudication	39	5.5	39	5.5	38	5.6
Subtotal	302	\$42.2	297	\$42.2	291	\$43.3

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

Investigate, settle or otherwise resolve ULP cases—includes the GPRA measures resolving ULP cases, such as “achieve informal resolution of ULP cases within a median time of 70 days, and settle 95 percent of meritorious ULP charges consistent with established standards.”

Conduct hearings and issue ALJ decisions—includes performance measure “issue ALJ decisions within 62 median days from receipt of briefs or submissions.”

Board adjudication of appealed ALJ decisions—includes the GPRA Board measure that aims to “decide 90% of ULP decisions pending for over 16 months.”

	FY 2006 Actual		FY 2007 CR Level		FY 2008 President's Request	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
1. Investigate, settle or otherwise resolve ULP cases	1,269	\$177.1	1,244	\$177.0	1,223	\$181.6
2. Conduct hearings and issue ALJ decisions	89	12.4	87	12.4	86	12.8
3. Board adjudication of appealed ALJ decisions	130	18.1	127	18.1	125	18.5
Subtotal	1,488	\$207.6	1,458	\$207.5	1,434	\$212.9
Total, Goals 1 & 2:	1,790	\$249.8	1,755	\$249.7	1,725	256.2

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

The same difficulty is inherent in any attempt to define “outcomes” in the prevention of unfair labor practice conduct. The aim of the Agency is to prevent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of this aim is labor peace. In the absence of a mechanism to accurately gauge “labor peace” or the impact of Agency activities among a range of variables influencing that goal, the NLRB has established a number of objective standards to measure its performance in this area. In particular, the timeliness and quality of case processing at various stages, from the filing of an unfair labor practice charge to the closing of a case upon compliance with a litigated or agreed-to remedy, are the focus of the performance measures. The settlement rate for unfair labor practice cases, found after a full investigation to warrant further administrative action, is another key indicator of Agency success in handling the case workload.

XII. PERFORMANCE MEASURES

GOAL #1: RESOLVE ALL QUESTIONS CONCERNING REPRESENTATION PROMPTLY

1. Issue certifications in representation cases within 60 median days of filing of petition.

BACKGROUND:

This measure was first implemented in FY 2003. An employer, labor organization, or a group of employees may file a petition in a NLRB Regional Office requesting an election to determine whether a majority of employees in an appropriate bargaining unit wish to be represented by a labor organization. When a petition is filed, the Agency works with the parties toward a goal of reaching a voluntary agreement regarding the conduct of an election. If a voluntary agreement is not possible, the parties present their positions and evidence at a formal hearing. The NLRB Regional Director issues a decision after review of the transcript of the hearing and the parties' legal argument, either dismissing the case, or directing an election. If the parties in the case disagree with the Regional Director's decision, they may appeal that decision to the Board for review. Prompt elections are desirable because an expeditious determination affords employers, employees, and unions a more stable environment and promotes the adjustment of industrial disputes. This measure reflects the number of median days from the filing of a petition to the date of certification. Certification is the issuance of a document by the NLRB certifying the results of the election. This measure includes approximately 200 post-election cases, about 100 of which are appealed to the Board.

FY 2002	FY 2003	FY 2004	FY 2005
53 median days	52 median days	53 median days	53 median days
FY 2006	FY 2007 Target	FY 2008 Target	
54 median days	60 median days	60 median days	

2. Hold 90 percent of all representation elections within 56 days of filing of a petition.

BACKGROUND:

An employer, labor organization, or a group of employees may file a petition in a NLRB Regional Office requesting an election to determine if a majority of employees wish to be represented by a labor organization for the purpose of collective bargaining. When a petition is filed, the Agency works with the parties toward a goal of reaching a voluntary agreement on the conduct of an election. If a voluntary agreement is not possible, the parties present their positions and evidence at a formal hearing. After review of the transcript of the hearing and the parties' legal argument, the Regional Director issues a decision, either dismissing the case, or directing an election. If the parties to the case disagree with the Regional Director's decision, they may appeal that decision to the Board for review. Prompt elections are desirable because an expeditious determination affords both employers and unions a more stable environment and promotes the adjustment of industrial disputes.

FY 2002	FY 2003	FY 2004	FY 2005
90.7% of elections held w/in 56 days	92.5% of elections held w/in 56 days	93% of elections held w/in 56 days	94.2% of elections held w/in 56 days
FY 2006	FY 2007 Target	FY 2008 Target	
94% of elections held w/in 56 days	90% of elections held w/in 56 days	90% of elections held w/in 56 days	

3. Hold elections within 42 median days of filing petition.

BACKGROUND:

This measure is very similar to the previous one, but it was added as a measure for FY 2003 to provide additional perspective and dimension to this part of the case handling process. As described previously, an employer, labor organization, or a group of employees may file a petition in a NLRB Regional Office requesting an election to determine if a majority of employees wish to be represented by a labor organization for the purpose of collective bargaining. When a petition is filed, the Agency works with the parties toward a goal of reaching a voluntary agreement on the conduct of an election. If a voluntary agreement is not possible, the parties present their positions and evidence at a formal hearing. After review of the transcript of the hearing and the parties' legal argument, the Regional Director issues a decision; either dismissing the case, or directing an election. If the parties to the case disagree with the Regional Director's decision, they may appeal that decision to the Board for review. Prompt elections are desirable because an expeditious determination affords both employers and unions a more stable environment and promotes the adjustment of industrial disputes.

FY 2002	FY 2003	FY 2004	FY 2005
41 median days	40 median days	39 median days	38 median days
FY 2006	FY 2007 Target	FY 2008 Target	
39 median days	42 median days	42 median days	

4. Issue 85 percent of all post-election reports within 100 days from the date of the election, or in the case of objections, from the date they are filed.

BACKGROUND:

After the NLRB conducts an election to resolve a representation case, a union may be certified if it receives a majority of the votes cast, or the results may be certified if no Union received a majority of the ballots. In elections where a party objects to the outcome of the election or challenges are posed to the eligibility of a determinate number of voters, the Board's post-election procedures offer the parties an opportunity to present their evidence and arguments. If the parties involved file objections to the election, and there is merit to their objections, a second election is ordered. Post-election determinations by the Regional Director or a hearing officer about election results can be appealed to the Board, thus lengthening the time to determination. This performance measure establishes a goal for the Regions to issue 85 percent of post-election reports within 100 days of the election in cases involving challenged ballots and within 100 days of the filing of objections to the election.

FY 2002	FY 2003	FY 2004	FY 2005
82% within 100 days	85.7% within 100 days	92.1% within 100 days	90.5% within 100 days
FY 2006	FY 2007 Target	FY 2008 Target	
94.4% within 100 days	85% within 100 days	85% within 100 days	

5. Achieve voluntary representation election agreements for 85 percent of the petitions filed.

BACKGROUND:

When a petition to hold an election is filed, the Regional Director conducts an investigation and, if necessary, will hold a hearing. However, it is the NLRB's goal to encourage employers and unions to enter voluntary agreements to hold elections in order to avoid the time and cost involved in a formal hearing. It is the NLRB's goal to obtain voluntary election agreements not less than 85 percent of the time.

FY 2002	FY 2003	FY 2004	FY 2005
87.2%	88.5%	89%	91.1%
FY 2006	FY 2007 Target	FY 2008 Target	
88.2%	85%	85%	

6. Issue all test-of-certification decisions in an 80 day median from filing of charge by FY 2008.

BACKGROUND:

If after an election is held, an employer refuses to bargain with the union certified by the election, and the union files a charge, the Board must render what is called a test-of-certification decision. This procedure is the only statutorily approved method by which an employer can appeal a Board decision in an election case. Because all relevant legal issues should have been litigated during the phase of the case leading to the election itself, this test-of-certification decision can be rendered without a hearing and in a summary proceeding brought by the General Counsel before the Board. The Agency has an 80 day median goal for rendering a Board decision in these cases.

FY 2002	FY 2003	FY 2004	FY 2005
135 median days	114 median days	83 median days	118 median days
FY 2006	FY 2007 Target	FY 2008 Target	
100 median days	90 median days	80 median days	

7. Decide 90 percent of representation cases pending at the Board for more than 12 months.

BACKGROUND:

Once a representation election has been held and the NLRB Regional Director has determined the results of the election, any of the parties involved may appeal the Regional Director's decision to the Board. If the decision of the Regional Director is appealed, the Board reviews the election and certification occurs after the Board decision. The Board's goal is to dispose of 90 percent of all representation cases that have been pending before it for more than 12 months.

FY 2002	FY 2003	FY 2004	FY 2005
90% of cases pending over 18 months	67% of cases pending over 12 months	65% of cases pending over 12 months	57% of cases pending over 12 months
FY 2006	FY 2007 Target	FY 2008 Target	
78% of cases pending over 12 months	90% of cases pending over 12 months	90% of cases pending over 12 months	

8. Conduct quality reviews in 100 percent of the Regional Offices each year.

BACKGROUND:

The NLRB is not only concerned about how quickly cases move through its pipeline but also the quality of the case handling. This issue of quality control is critical to the Agency and its stakeholders, and its importance is emphasized and reaffirmed by this performance goal. The General Counsel's Division of Operations-Management randomly selects Regional case files for quality review. The quality review process referred to in this performance measure is conducted in all 32 of the NLRB's Regional Offices and reviews case files that would not otherwise be seen by Headquarters managers.

FY 2002	FY 2003	FY 2004	FY 2005
100% of regions	100% of regions	100% of regions	100% of regions
FY 2006	FY 2007 Target	FY 2008 Target	
100% of regions	100% of regions	100% of regions	

GOAL #2: INVESTIGATE, PROSECUTE AND REMEDY CASES OF UNFAIR LABOR PRACTICES BY EMPLOYERS OR UNIONS PROMPTLY

1. Achieve informal resolution of unfair labor practice cases within a median time of 70 days by FY 2008.

BACKGROUND:

This is an overarching measure that is designed to cover a larger piece of the case handling pipeline and all of the NLRB divisions and offices that are involved in the case handling process. Current performance measures primarily look at the impact that individual Agency branches have on case handling timeframes. After an individual, employer, or union files an unfair labor practice charge, a Regional Director evaluates it for merit and decides whether or not to issue a complaint. Complaints not settled or withdrawn are litigated before an administrative law judge, whose decision may be appealed to the Board. This measure covers the time from the filing of the charge through informal resolution, which disposes of 90 percent of all cases, but does not include any cases litigated before administrative law judges and appeals to the Board.

FY 2002	FY 2003	FY 2004	FY 2005
82 median days	68 median days	61 median days	60 median days
FY 2006	FY 2007 Target	FY 2008 Target	
59 median days	70 median days	70 median days	

2. Resolve 90 percent of unfair labor practice cases within established Impact Analysis time frames.

BACKGROUND:

NLRB has created a system, Impact Analysis, to prioritize the processing of unfair labor practice cases based on their public impact and how closely they relate to the Agency's core mission. This Impact Analysis system has been used to classify cases into three categories, with Category III being the highest priority. Usually Category III cases involve significant issues, large-scale labor unrest, or high economic impact. NLRB has set goals for the number of days within which a disposition should be reached for each category, beginning on the day a ULP charge is filed. If a disposition on the case has not been reached within that timeframe it is considered "overage" — for Category III the standard is 49 days (seven weeks), for Category II, 63 days (nine weeks) and for Category I, 84 days (12 weeks). NLRB's goal is to reduce the percentage of overage cases in each category to the lowest possible percentage, and reach and maintain a 90 percent level for all categories. Cases, which cannot be processed within the time lines established under the Impact Analysis program for reasons that are outside the control of the Regional Office, are not considered to be overage.

	FY 2002	FY 2003	FY 2004	FY 2005
Cat. III	92.9%	95.7%	96.8%	97.6%
Cat. II	93.3%	97.3%	98.4%	98.7%
Cat. I	94.0%	99.3%	99.5%	99.5%

	FY 2006	FY 2007 Target	FY 2008 Target	
Cat. III	98.3%	90%	90%	
Cat. II	99.1%	90%	90%	
Cat. I	99.5%	90%	90%	

3. Settle 95 percent of meritorious unfair labor practice charges consistent with established standards.

BACKGROUND:

Once a Regional Director has determined an unfair labor practice charge has merit, it is scheduled for a hearing date before an administrative law judge. However, the pursuit of a settlement by the NLRB begins immediately. Litigation is a costly process for the parties as well as the government, and the Agency has consistently focused on settlements to ensure efficient use of its own resources, obtain timely and effective remedies, and reduce the cost of litigation for the parties. Successive General Counsels have pursued an aggressive settlement program to ensure that the Agency is utilizing its resources in the most efficient manner possible. For every 1 percent increase in the settlement rate, the NLRB avoids more than \$2 million in costs to the Agency per year. The NLRB attributes this high settlement rate to several activities at the Regional level - a careful charge acceptance procedure, thorough investigations, careful merit determinations, and an active settlement program. The settlement rate is also attributable to a high success rate for the General Counsel during litigation.

FY 2002	FY 2003	FY 2004	FY 2005
93.7%	92.8%	96.1%	97.2%
FY 2006	FY 2007 Target	FY 2008 Target	
96.7%	95%	95%	

4. Open hearings within 120 median days from the issuance of complaint.

BACKGROUND:

When an unfair labor practice complaint is found to have merit by a Regional Director, a date for a hearing before an Administrative Law Judge is scheduled. As part of its mission to provide decisions promptly, the Agency aims to shorten the median number of days between the setting of a hearing date when a formal complaint is filed and the opening of a hearing. Delays mean witnesses may be harder to locate, and their memories and thus their testimony may become less reliable. In addition, delays may result in parties becoming more intransigent in their positions and less likely to settle.

The wording of this measure reflects an adjustment that has been made to this measure beginning in FY 2002. Through FY 2001, this measure focused on the time elapsed from the issuance of a complaint to the close of a hearing. The change has been made to the opening of the hearing in order to be consistent with existing NLRB data collection and performance management systems. It also focuses the goal on performance within the Agency’s control. Once a hearing is

opened, many intervening factors can affect the closing date of a hearing.

FY 2002	FY 2003	FY 2004	FY 2005
121 median days	104 median days	101 median days	96 median days
FY 2006	FY 2007 Target	FY 2008 Target	
84 median days	120 median days	120 median days	

5. Issue sustained appeals decisions within 90 median days of receipt of the appeal of the Regional Directors’ dismissal of the charge.

BACKGROUND:

If a Regional Director dismisses an unfair labor practice charge, it can be appealed to the Office of Appeals, which could reverse the Regional Director’s decision with the instruction to issue a complaint, absent settlement. Of the 3,000 cases per year that are appealed, about 2 to 5 percent are reversed by the Office of Appeals. The measure was slightly revised for FY 2005 to reflect median days, instead of a percentage of actual days.

FY 2002	FY 2003	FY 2004	FY 2005
72 % w/in 120 days	63% w/in 110 days	36% w/in 90 days	83 median days
FY 2006	FY 2007 Target	FY 2008 Target	
73 median days	90 median days	90 median days	

6. Achieve a 25 median day case processing time, excluding deferral time, for closing those Advice cases where the General Counsel recommended and the Board authorized Section 10(j) injunction proceedings. Additionally, close 90 percent of these cases within 30 actual days, excluding deferral time, by FY 2008.

BACKGROUND:

In certain unfair labor practice cases, the NLRB Regional Director may request authorization to file an injunction in U. S. District Court to prevent what the Director sees as a practice that will do irreparable harm while the case is being litigated. Regional Directors submit a request for authorization to the Division of Advice. If the General Counsel agrees injunctive relief is

warranted, he asks the Board for authorization to institute injunction proceedings. If the Board approves, the Region files for an injunction in the relevant U.S. District Court. This measure excludes deferral time (time waiting) for Regional Offices to provide additional information about the cases to the Division of Advice that may be needed to present the case to the Board.

This measure was slightly revised for FY 2003. The original measure had a goal of closing 95 percent of Advice cases within 25 days of receipt from Regional Offices. The revised measure focuses on closing all cases, but uses median days as the time factor. Therefore, the data between FY 2002 and FY 2003 in the chart below changes significantly. The second part of the measure (30 days) focuses on actual days as the time factor.

FY 2002	FY 2003	FY 2004	FY 2005
46.2% closed within 25 days	Closed all cases within 30.5 median days	Closed all cases within 25 median days	Closed all cases within 24 median days
53.9% closed within 30 days	50% closed within 30 days	77.3% closed within 30 days	90.9% closed within 30 days
FY 2006	FY 2007 Target	FY 2008 Target	
Closed all cases within 24.5 median days	Close all cases within 25 median days	Close all cases within 25 median days	
86.7% closed within 30 days	90% closed within 30 days	90% closed within 30 days	

7. Issue administrative law judge decisions within 62 median days from the receipt of briefs or submissions after the close of a hearing.

BACKGROUND:

After a Regional Director determines action should be taken on a case, the Regional Director issues a formal complaint and schedules a hearing before an administrative law judge. After presiding over a full-scale hearing, which lasts an average of about three days, the judge usually provides for the subsequent filing of briefs; a small number of cases may be submitted, after trial, on oral argument. The judge then issues a decision. This measure is based from the date of receipt of the briefs or submissions after the close of the hearing to the issuance of the ALJ decision. Although the goal of issuing decisions within 62 median days has been substantially exceeded in FY 2001 and FY 2002, the goal represents a historical standard that is a good indicator of performance without compromising the quality of judges' decisions.

FY 2002	FY 2003	FY 2004	FY 2005
27 median days	33 median days	27 median days	26 median days
FY 2006	FY 2007 Target	FY 2008 Target	
31 median days	62 median days	62 median days	

8. File applications for enforcement within 30 median days from referral by the Regional Director.

BACKGROUND:

After an administrative law judge’s decision is appealed to the Board, the Board considers the case and issues a final order resolving an unfair labor practice (ULP) case. Board orders are not self-enforcing, and therefore, absent voluntary compliance, the Board must secure enforcement of its order by an appropriate U. S. Court of Appeals. The Appellate Court Branch handles all litigation in the courts of appeals seeking review or enforcement of final Board orders. Cases come to the Branch in two ways. A party aggrieved by the Board’s final order may file a petition for review in an appropriate court of appeals. Parties seeking review of Board orders initiate a majority of cases handled in the Branch. No goal has been set for review cases because the courts control the processing of their dockets. The second avenue is referral of the case from the Regional Office, if the Region cannot secure compliance in the period immediately following the Board’s order. Upon referral, a determination is made by the NLRB whether to continue to pursue compliance or to initiate court proceedings by filing an application for enforcement. This measure was modified slightly for FY 2002 and beyond to reflect the median (rather than absolute) number of days required to file all applications for enforcement. This modification is only in the phrasing of the goal, because the previous version of this goal was expressed as 50 percent of applications would be filed within a specified number of days, and was intended to be used as a median.

FY 2002	FY 2003	FY 2004	FY 2005
88 median days	21 median days	28 median days	26 median days
FY 2006	FY 2007 Target	FY 2008 Target	
26 median days	30 median days	30 median days	

9. Decide 90 percent of unfair labor practice cases pending at the Board for over 16 months by FY 2008.

BACKGROUND:

The amount of time unfair labor practice (ULP) cases wait for a Board decision impacts the interests of the parties, and the public. The goal for FY 2005 and beyond was slightly modified to 90 percent of the universe of pending cases to more accurately reflect potential performance and the fact that some unique and complex cases require longer periods to resolve.

FY 2002	FY 2003	FY 2004	FY 2005
53.8% reduction of pending cases over 20 months	46% reduction of pending cases over 18 months	38% reduction of pending cases over 18 months	38.6% reduction of pending cases over 17 months
FY 2006	FY 2007 Target	FY 2008 Target	
46% reduction of pending cases over 17 months	90% reduction of pending cases over 17 months	90% reduction of pending cases over 16 months	

10. Resolve compliance cases within established Impact Analysis guidelines.

BACKGROUND:

After an administrative law judge’s decision is appealed to the Board, the Board considers the case and issues a final order resolving an unfair labor practice (ULP) case. If the respondent refuses to voluntarily comply with the Board’s order, the Board must seek enforcement of its order in an appropriate U. S. Court of Appeals. Ordinarily the Regional Office will attempt to secure compliance in the 30-day period following the Board’s order. If compliance cannot be obtained, the Region will refer the case to the Appellate Court Branch of the Division of Enforcement Litigation.

Regional Directors are responsible for effectuating compliance with administrative law judge’s decisions, Board orders, and court judgments resulting from cases filed in their Regions. The Agency has set goals to ensure the orders that result from its litigation or Board directives are implemented promptly, since the passage of time can reduce the effectiveness of its remedies. The time is measured beginning on the date a decision, order, or judgment is received. Cases which cannot be processed within the time lines established under the Impact Analysis program for reasons that are outside the control of the Regional Office, such as bankruptcy proceedings or other related litigation are not considered to be overage. The following are the current processing time targets: Category III--91 days, Category II—119 days, Category I—147 days.

	FY 2002	FY 2003	FY 2004	FY 2005
Cat. III	95.2% @ 91 days	96.1% @ 91 days	98.1% @ 91 days	97.0% @ 91 days
Cat. II	95.1% @ 119 days	95.4% @ 119 days	95.7% @ 119 days	96.9% @ 119 days
Cat. I	98% @ 147 days	97.3% @ 147 days	97.8% @ 147 days	99.5% @ 147 days
	FY 2006	FY 2007 Target	FY 2008 Target	
Cat. III	97.6% @ 91 days	95% @ 91 days	95% @ 91 days	
Cat. II	98.6% @ 119 days	95% @ 119 days	95% @ 119 days	
Cat. I	99.5% @ 147 days	98% @ 147 days	98% @ 147 days	

11. Conduct quality reviews in 100 percent of the Regional Offices each year.

BACKGROUND:

The National Labor Relations Board is not only concerned about how quickly cases move through its pipeline but the quality level of case handling. The General Counsel's Division of Operations-Management randomly selects case files at the Regional Offices for quality review. The files involve cases that would not otherwise be reviewed by Headquarters management. Quality reviews are conducted in all NLRB Regional Offices each year.

FY 2002	FY 2003	FY 2004	FY 2005
100 % of regions	100 % of regions	100 % of regions	100 % of regions
FY 2006	FY 2007 Target	FY 2008 Target	
100 % of regions	100 % of regions	100 % of regions	

XIII. SUMMARY OF PERFORMANCE MEASURES

2008 ANNUAL PERFORMANCE PLAN

Goal #1: Resolve all questions concerning representations promptly	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Measure 1 Issue certifications in representation cases within 60 median days of filing of petition	53 median days	54 median days	60 median days	60 median days
Measure 2 Hold 90% of all representation elections within 56 days of filing of petition	94.2% within 56 days	94% within 56 days	90% within 56 days	90% within 56 days
Measure 3 Hold elections within 42 median days of filing petition	38 median days	39 median days	42 median days	42 median days
Measure 4 Issue 85% of all post-election reports within 100 days from the date of the election, or in the case of objections, from the date they are filed	90.5% within 100 days	94.4% within 100 days	85% within 100 days	85% within 100 days

Goal #1: Resolve all questions concerning representations promptly	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Measure 5 Achieve voluntary election agreements for 85% of petitions filed	91.1%	88.2%	85%	85%
Measure 6 Issue all test of certification decisions in an 80 day median from filing of charge by FY 2008	118 median days	100 median days	90 median days	80 median days
Measure 7 Decide 90% of representation cases pending at the Board for more than 12 months	57% of cases pending over 12 months	78% of cases pending over 12 months	90% of cases pending over 12 months	90% of cases pending over 12 months
Measure 8 Conduct quality reviews in 100% of the Regional Offices each year	100%	100%	100%	100%

Goal #2: Investigate, Prosecute and Remedy Cases of Unfair Labor Practices by Employers or Unions Promptly	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Measure 1 Achieve informal resolution of unfair labor practice cases within a median time of 70 days by FY 2008	60 median days	59 median days	70 median days	70 median days
Measure 2 Resolve 90% of unfair labor practice cases within established Impact Analysis timeframes Targets: Cat III: 49 days Cat II: 63 days Cat I: 84 days	Cat. III: 97.6% Cat. II: 98.7% Cat. I: 99.5%	Cat. III: 98.3% Cat. II: 99.1% Cat. I: 99.5%	Cat. III: 90% Cat. II: 90% Cat. I: 90%	Cat. III: 90% Cat. II: 90% Cat. I: 90%
Measure 3 Settle 95% of meritorious unfair labor practice charges consistent with established standards	97.2%	96.7%	95%	95%
Measure 4 Open hearings within 120 median days from the issuance of a complaint	96 median days	84 median days	120 median days	120 median days

Goal #2: Investigate, Prosecute and Remedy Cases of Unfair Labor Practices by Employers or Unions Promptly	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Measure 5 Issue sustained appeals decisions within 90 median days of receipt of the appeal of the Regional Directors' dismissal of the charge	83 median days	73 median days	90 median days	90 median days
Measure 6 Achieve a 25 median day case processing time, excluding deferral time, for closing those Advice cases where the General Counsel recommended Section 10(j) injunction proceedings. Additionally, close 90% of these cases within 30 actual days, excluding deferral time, by FY 2008	24 median days 90.9% closed within 30 days	24.5 median days 86.7% closed within 30 days	25 median days 90% closed within 30 days	25 median days 90% closed within 30 days
Measure 7 Issue administrative law judge decisions within 62 median days from the receipt of briefs or submissions after the close of a hearing	26 median days	31 median days	62 median days	62 median days

Goal #2: Investigate, Prosecute and Remedy Cases of Unfair Labor Practices by Employers or Unions Promptly	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Measure 8 File applications for enforcement within 30 median days from referral by the Regional Director	26 median days	26 median days	30 median days	30 median days
Measure 9 Decide 90% of unfair labor practice decisions pending at the Board for over 16 months, by FY 2008	38.6% reduction of pending cases over 17 months	46% reduction of pending cases over 17 months	90% reduction of pending cases over 17 months	90% reduction of pending cases over 16 months
Measure 10 Resolve compliance cases within established Impact Analysis guidelines Cat III: 91 days Cat II: 119 days Cat I: 147 days	Cat III: 97.0% Cat II: 96.9% Cat I: 99.5%	Cat III: 97.6% Cat II: 98.6% Cat I: 99.5%	Cat III: 95% Cat II: 95% Cat I: 98%	Cat III: 95% Cat II: 95% Cat I: 98%
Measure 11 Conduct quality reviews in 100% of the Regional Offices each year	100%	100%	100%	100%

XIV. BOARD MEMBERS AND GENERAL COUNSEL

	Appointed	Term Expiration
Robert J. Battista Chairman	12/17/02	12/16/07
Wilma B. Liebman Member	8/14/06	8/27/11
Peter C. Schaumber Member	8/14/06	8/27/10
Peter N. Kirsanow Member	1/4/06	Recess Appointment ¹⁰
Dennis P. Walsh Member	1/17/06	Recess Appointment
Ronald Meisburg General Counsel	8/14/06	8/13/10

¹⁰ Appointments for members Kirsanow and Walsh will last until confirmation or adjournment of Congress in late fall 2007.

XV. OTHER BUDGET MATERIALS

FY 2008
Proposed Changes in Appropriation Language

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$256,238,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

Budget Authority and Staffing by Activity

(Dollars in Thousands)	2006 ACT.	2007 EST.	2008 EST.
Appropriation 1/	\$249,554	\$249,745	\$256,238
Reimbursables	256	16	16
Total Budget Authority	\$249,810	\$249,761	\$256,254

(Dollars in Millions)	FY 2006 ACTUAL		FY 2007 ESTIMATE		FY 2008 ESTIMATE		DIFFERENCE	
	FTE	AMT	FTE	AMT	FTE	AMT	FTE	AMT
Field Investigation	1,413	\$198	1,387	\$198	1,364	\$203	(23)	\$5
Administrative Law								
Judge Hearing	121	13	118	13	116	13	(2)	0
Board Adjudication	164	25	161	26	158	27	(3)	1
Securing Compliance with Board Order	85	12	83	12	81	12	(2)	0
Internal Review (Inspector General)	6	1	6	1	6	1	0	0
Subtotal, Direct Budget Authority	1,789	\$249	1,755	\$250	1,725	\$256	(30)	\$6
Reimbursables 2/	--	0	--	0	--	0	--	\$0
Total Budget Authority	1,789	\$249	1,755	\$250	1,725	\$256	(30)	\$6

1/ The FY 2006 authority excludes the rescission amount of \$2,522,680 as provided under P.L. 109-148.

The FY 2007 authority assumes a year long continuing resolution.

2/ Due to rounding, the reimbursable amounts do not show on the table.

Actual FY 2006 reimbursables = \$255,789 (includes Katrina-related reimbursements from FEMA);

Estimated FY 2007 & FY 2008 reimbursables equals \$16,000.

Budget Authority by Object Class
(Dollars in Millions)

	2006 ACTUAL	2007 ESTIMATE	2008 ESTIMATE
Personnel Compensation:			
Full-time Permanent	161	162	166
Other Than Full-time Permanent	1	1	1
Other Personnel Compensation	0	0	0
Subtotal Personnel Compensation	162	163	167
Civilian Personnel Benefits	37	37	38
Travel and Transportation of Persons	2	3	3
Rental Payments to GSA	27	27	28
Rent, Communications, and Utilities	6	6	6
Other Services	11	11	11
Supplies and Materials	1	1	1
Furniture and Equipment	3	2	2
Subtotal, Direct Budget Authority	249	250	256
Reimbursables	0	0	0
Total Budget Authority 1/	249	250	256

1/ FY 2006 total excludes a rescission amount of \$2,522,680 as provided under P.L. 109-148.

Detail of Full-Time Equivalent Employment

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>ACTUAL</u>	<u>ESTIMATE</u>	<u>ESTIMATE</u>
Executive Level I	0	0	0
Executive Level II	0	0	0
Executive Level III	1	1	1
Executive Level IV	5	5	5
Executive Level V	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>6</u>	<u>6</u>	<u>6</u>
ES	<u>62</u>	<u>62</u>	<u>62</u>
Subtotal	<u>62</u>	<u>62</u>	<u>62</u>
AL-1	1	1	1
AL-2	4	4	4
AL-3	<u>43</u>	<u>42</u>	<u>39</u>
Subtotal	<u>48</u>	<u>47</u>	<u>44</u>
GS/GM-15	204	204	203
GS/GM-14	540	544	533
GS/GM-13	251	246	249
GS-12	84	84	84
GS-11	84	82	81
GS-10	1	0	0
GS-9	68	70	70
GS-8	59	59	59
GS-7	201	188	179
GS-6	86	79	81
GS-5	81	71	60
GS-4	1	2	1
GS-3	9	9	9
GS-2	5	5	5
GS-1	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>1,673</u>	<u>1,640</u>	<u>1,613</u>
Total Permanent Employment On Board, End-of-Year	<u>1,851</u>	<u>1,810</u>	<u>1,810</u>
Full-time Equivalent Usage	<u>1,789</u>	<u>1,755</u>	<u>1,725</u>
Average ES Level	6.00	6.00	6.00
Average ES Salary	\$152,000	\$155,952	\$158,686
Average AL Level	2.88	2.87	2.86
Average AL Salary	\$151,104	\$155,951	\$160,785
Average GS/GM Grade	11.52	11.61	11.66
Average GS/GM Salary	\$80,634	\$83,666	\$87,661

Amounts Available for Obligation
(Dollars in Thousands)

	FY 2006 ACTUAL	FY 2007 ESTIMATE	FY 2008 ESTIMATE
Appropriation 1/	\$249,745	\$249,745	\$256,238
Spending authority from offsetting collections 2/	256	16	16
Lapsed Balance in Prior Year	0	0	0
Total Estimated Obligations	\$250,001	\$249,761	\$256,254

1/ Amount reflected for FY 2006 excludes the rescission amount of \$2,522,680 as provided under P.L.109-148. The FY 2007 appropriation amount assumes a year long continuing resolution.

2/ Offsetting collections are from federal sources for the Fitness Center Program in Washington, the Judges' Reimbursable Detail Program, Interagency Agreements and FEMA.

FY 2006 offsetting collections totaled \$255,789 which included the following:

Fitness Center Program in Washington - \$13,643

Judges' Reimbursable Detail Program - \$74,347

Interagency Agreements - \$515

FEMA - \$168,000

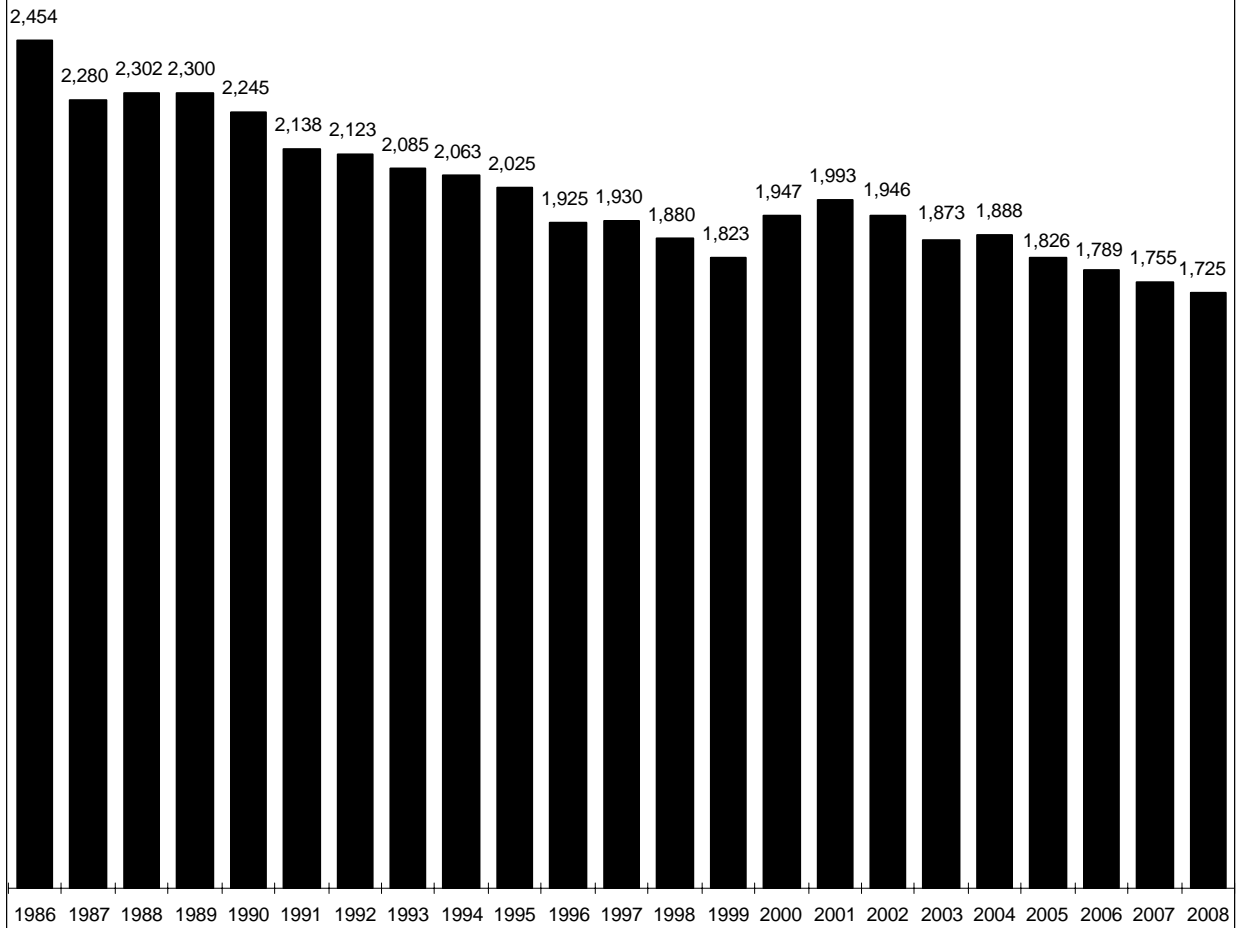
Appropriations History

Year	Estimate to Congress	House Allowance	Senate Allowance	Appropriation or Continuing Authorization
1972	\$48,468,000	\$48,468,000	\$48,468,000	\$48,468,000
1973	\$50,456,000	\$50,456,000	\$50,456,000	\$50,456,000
1974	\$56,057,000	\$56,057,000	\$56,057,000	\$56,057,000
1975	\$63,089,000	\$62,669,000	\$62,669,000	\$62,669,000
1976	\$70,330,000	\$69,292,000	\$69,902,000	\$69,597,000
TQ	\$17,799,000	\$17,517,000	\$17,670,000	\$17,593,000
1977	\$81,336,000	\$80,908,000	\$81,336,000	\$80,908,000
1978	\$92,508,000	\$92,508,000	\$92,508,000	\$92,508,000
1979	\$103,012,000	\$102,762,000	\$102,762,000	\$102,762,000
1980	\$113,873,000	\$112,261,000	\$112,261,000	\$112,261,000
1981	\$119,548,000	\$119,548,000	\$119,548,000	\$118,488,000
1982	\$128,336,000	\$125,959,000	\$120,000,000	\$117,600,000
1983	\$133,000,000	\$126,045,000	\$126,045,000	\$126,045,000
1984	\$134,158,000	\$133,594,000	\$134,158,000	\$133,594,000
1985	\$137,964,000	\$137,964,000	\$137,964,000	\$137,964,000
1986	\$130,895,000	\$134,854,000	\$134,854,000	\$129,055,000
1987	\$130,865,000	\$132,247,000	\$132,247,000	\$132,247,000
1988	\$141,580,000	\$139,019,000	\$139,019,000	\$133,097,000
1989	\$138,647,000	\$138,647,000	\$138,647,000	\$136,983,000
1990	\$140,111,000	\$140,111,000	\$140,111,000	\$140,111,000
1991	\$151,103,000	\$151,103,000	\$151,103,000	\$147,461,000
1992	\$162,000,000	\$162,000,000	\$162,000,000	\$162,000,000
1993	\$172,905,000	\$171,176,000	\$171,176,000	\$169,807,000
1994	\$171,274,000	\$171,274,000	\$171,274,000	\$171,274,000
1995	\$174,700,000	\$173,388,000	\$176,047,000	\$175,721,000
1996	\$181,134,000	\$123,233,000		\$170,266,000
1997	\$181,134,000	\$144,692,000		\$174,661,000
1998	\$186,434,000	\$174,661,000	\$174,661,000	\$174,661,000
1999	\$184,451,000	\$174,661,000	\$184,451,000	\$184,230,000
2000	\$210,193,000		\$205,717,000	\$205,717,000
2001	\$216,438,000	\$205,717,000	\$216,438,000	\$216,438,000
2002	\$221,438,000	\$221,438,000	\$226,438,000	\$226,450,000
2003	\$233,223,000	\$0	\$231,314,533	\$237,428,592
2004	\$243,073,000	\$239,429,000	\$246,073,000	\$244,073,000
2005	\$248,785,000	\$248,785,000	\$250,000,000	\$249,860,000
2006	\$252,268,000	\$252,268,000	\$252,268,000	\$249,745,000
2007	\$249,789,000			\$249,745,000
2008	\$256,238,000			

Appropriations History - Footnotes

- 1 Net \$356,000 rescinded for purchase of furniture, per P.L. 96-304.
- 2 Reflects rescission of \$1,060,000, per P.L. 97-12.
- 3 Total amount available under Continuing Resolutions.
- 4 Reflects reduction of \$3,959,000 for 5% cut in Federal employee pay.
- 5 Reflects \$5,799,000 reduction, per P.L. 99-177
- 6 This amount was subsequently reduced by \$641,000 for an across-the-board appropriation travel reduction.
- 7 Reflects a reduction of 1.2% applied to all discretionary programs, per P.L. 100-436.
- 8 Reflects reduction of 2.41% applied to all discretionary programs, per P.L. 101-517.
- 9 Reflects .8 percent across-the-board reduction applied during conference.
- 10 Reflects government-wide rescission of \$326,000, per P.L. 104-19.
- 11 The Senate Appropriations Committee recommended \$176,047,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 12 Reflects reduction of \$477,000 per two rescissions in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 13 The Senate Appropriations Committee recommended \$170,266,000. However, the full Senate never voted on the Labor/HHS Appropriations bill. Funding was provided through the Omnibus Consolidated Appropriations Act of 1997, (P.L. 104-208).
- 14 Reflects reduction of \$339,000 due to across-the-board reductions in conference per Section 519, P.L. 104-208.
- 15 Reflects reduction of \$221,000, per government-wide rescission (P.L. 106-5).
- 16 The House Appropriations Committee recommended \$174,661,000. However, the full House never voted on the Labor/HHS Appropriations bill. Funding was provided through the Consolidated Appropriations Act for 2000 (P.L.106-113)
- 17 Reflects reduction of \$783,000 due to across-the-board reductions in conference, per P.L. 106-113.
- 18 This total includes a one-time transfer of \$180,000 from the Emergency Response Fund and reflects a rescission amount of \$168,000 as provided under P.L.s 107-117 and 107-206, respectively.
- 19 The Senate bill initially provided for \$238,223,000 and two amendments reduced all discretionary programs by 2.9%.
- 20 This total includes a rescission amount of \$1,440,031 as provided under P.L. 108-199.
- 21 Reflects a .8 percent across-the-board rescission, per P.L. 108-477.
- 22 Reflects a 1 percent across-the-board rescission, per P.L. 109-148.
- 23 As of December 2006, the Labor/HHS Appropriations bill had not been passed by the full House or Senate. Total reflects anticipated year long CR at FY 2006 level.

STAFFING HISTORY



Major Workload and Output Data

	FY 2006 ACTUAL	FY 2007 ESTIMATE	FY 2008 ESTIMATE
1) Regional Offices:			
Unfair Labor Practice (ULP) Cases			
Situations Pending Preliminary			
Investigation at Start of Year	4,105	3,808	3,814
Case Intake During Year	22,922	25,000	25,000
Consolidation of Dispositions	1,926	3,853	3,441
Total ULP Proceedings	21,293	21,141	21,560
Situations Pending Preliminary			
Investigation at End of Year	3,808	3,814	3,813
Representation Cases			
Case Intake During Year	3,473	4,500	4,500
Dispositions	1,845	1,881	1,918
Regional Directors Decisions	344	367	374
2) Administrative Law Judges:			
Hearings Pending at Start of Year	370	300	300
Hearings Closed	247	245	243
Hearings Pending at End of Year	300	300	300
Adjustments After Hearings Closed	0	0	0
Decisions Pending at Start of Year	67	45	47
Decisions Issued	263	258	255
Decisions Pending at End of Year	45	45	45
3) Board Adjudication:			
Contested Board ULP Decisions Issued	324	300	300
Contested Representation Election Decisions Issued	153	145	145
4) General Counsel - Washington:			
Advice Pending at Start of Year	66	109	130
Advice Cases Received During Year	787	781	797
Advice Disposed	744	760	797
Advice Pending at End of Year	109	130	130
Appeals Pending at Start of Year	228	329	301
Appeals Received During Year	2,224	2,172	2,216
Appeals Disposed	2,123	2,200	2,216
Appeals Pending at End of Year	329	301	301
Enforcement Cases Received During Year	180	194	207
Enforcement Briefs Filed	79	90	94
Enforcement Cases Dropped or Settled	49	54	58
Enforcement Consent/Summary	81	83	85

XVI. PROGRAM MATERIALS

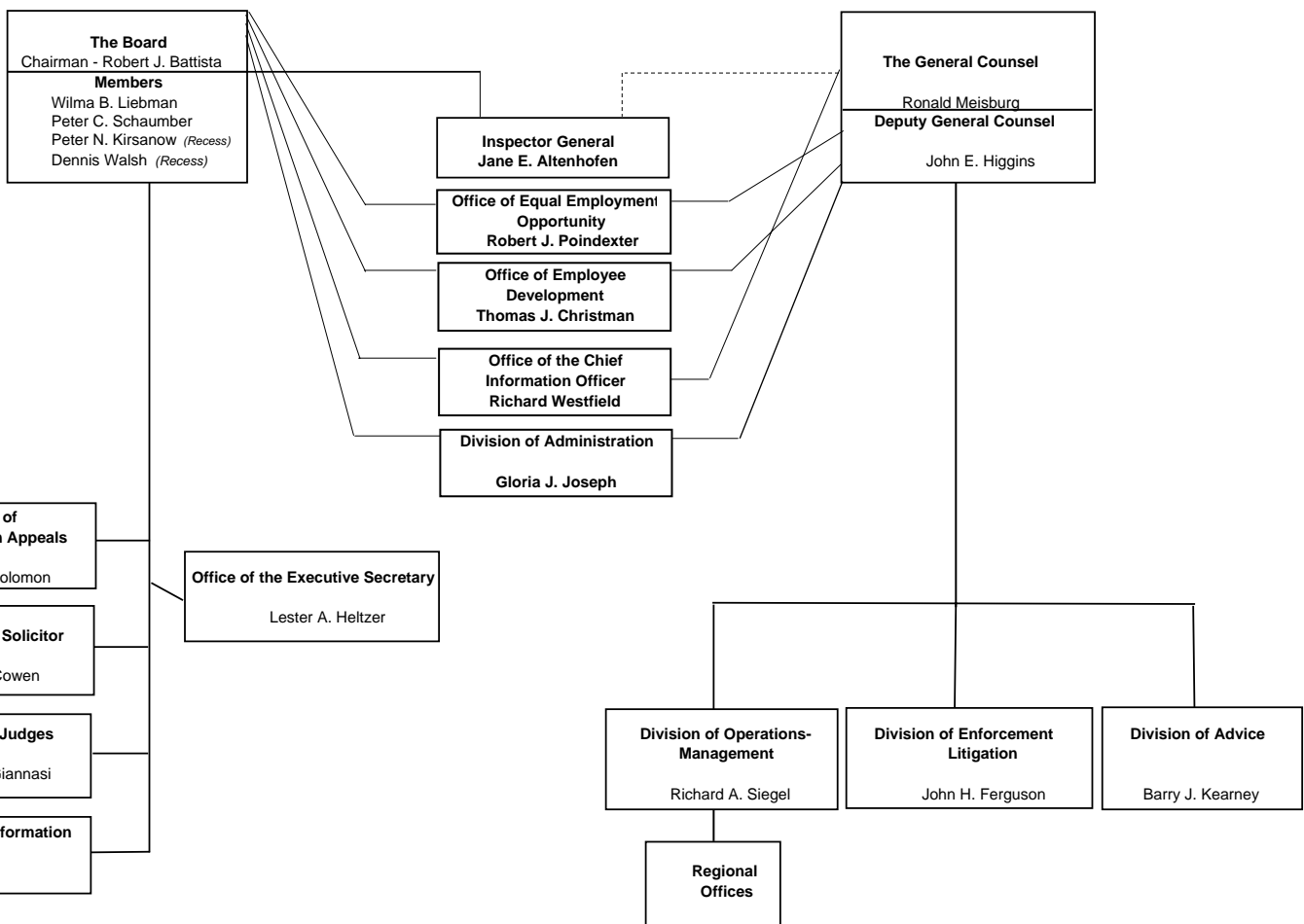
TYPES OF NLRB CASES						
1. CHARGES OF UNFAIR LABOR PRACTICES (C CASES)						
Charges Against Employer		Charges Against Labor Organization				Charge Against Labor Organization and Employer
Section of the Act CA	Section of the Act CB	Section of the Act CC	Section of the Act CD	Section of the Act CG	Section of the Act CP	Section of the Act CE
8(a)(1) To interfere with, restrain, or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).	8(b)(1)(A) To restrain or coerce employees in exercise of their rights under Section 7 (to join or assist a labor organization or to refrain).	8(b)(4)(i) To engage in, or induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or boycott, or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object is:	(C) To force or require any employer to recognize or bargain with a particular labor organization as the representative of its employees if another labor organization has been certified as the representative.	8(g) To strike, picket, or otherwise concertedly refuse to work at any health care institution without notifying the institution and the Federal Mediation and Conciliation Service in writing 10 days prior to such action.	8(b)(7) To picket, cause, or threaten the picketing of any employer where an object is to force or require an employer to recognize or bargain with a labor organization as the representative of its employees, or to force or require the employees of an employer to select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees:	8(e) To enter into any contract or agreement (any labor organization and any employer) whereby such employer ceases or refrains or agrees to cease or refrain from handling or dealing in any product of any other employer, or to cease doing business with any other person.
8(a)(2) To dominate or interfere with the formation or administration of a labor organization or contribute financial or other support to it.	8(b)(1)(B) To restrain or coerce an employer in the selection of its representatives for collective bargaining or adjustment of grievances.	(A) To force or require any employer or self-employed person to join any labor organization or to enter into any agreement prohibited by Section 8 (e).	(D) To force or require any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another trade, craft, or class, unless such employer is failing to conform to an appropriate Board order or certification.		(A) where the employer has lawfully recognized any other labor organization and a question concerning representation may not appropriately be raised under Section 9(c).	
8(a)(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.	8(b)(2) To cause or attempt to cause an employer to discriminate against an employee.	(B) To force or require any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or force or require any other employer to recognize or bargain with a labor organization as the representative of its employees unless such labor organization has been so certified.			(B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or	
8(a)(4) To discharge or otherwise discriminate against employees because they have given testimony under the Act.	8(b)(3) To refuse to bargain collectively with employer.				(C) where picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing; except where the picketing is for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, and it does not have an effect of interference with deliveries or services.	
8(a)(5) To refuse to bargain collectively with representatives of its employees.	8(b)(5) To require of employees the payment of excessive or discriminatory fees for membership.					
	8(b)(6) To cause or attempt to cause an employer to pay or agree to pay money or other things of value for services which are not performed or not to be performed.					
2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)				3. OTHER PETITIONS		
By or in Behalf of Employees		By an Employer	By or in Behalf of Employees		By a Labor Organization or an Employer	
Section of the Act RC	Section of the Act RD	Section of the Act RM	Section of the Act UD	Board Rules UC	Board Rules AC	
9(c)(1)(A)(i) Alleging that a substantial number of employees wish to be represented for collective bargaining and their employer declines to recognize their representative. *	9(c)(1)(A)(ii) Alleging that a substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. *	9(c)(1)(B) Alleging that one or more claims for recognition as exclusive bargaining representative have been received by the employer. *	9(e)(1) Alleging that employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.	Subpart C Seeking clarification of an existing bargaining unit.	Subpart C Seeking amendment of an outstanding certification of bargaining representative.	

* If an 8(b)(1) charge has been filed involving the same employer, these statements in RC, RD, and RM petitions are not required.

Charges filed with the National Labor Relations Board are letter-coded and numbered. Unfair labor practice charges are classified as "C" cases and petitions for certification or decertification of representatives as "R" cases. This chart indicates the letter codes used for "C" cases and "R" cases, and also presents a summary of each section involved.

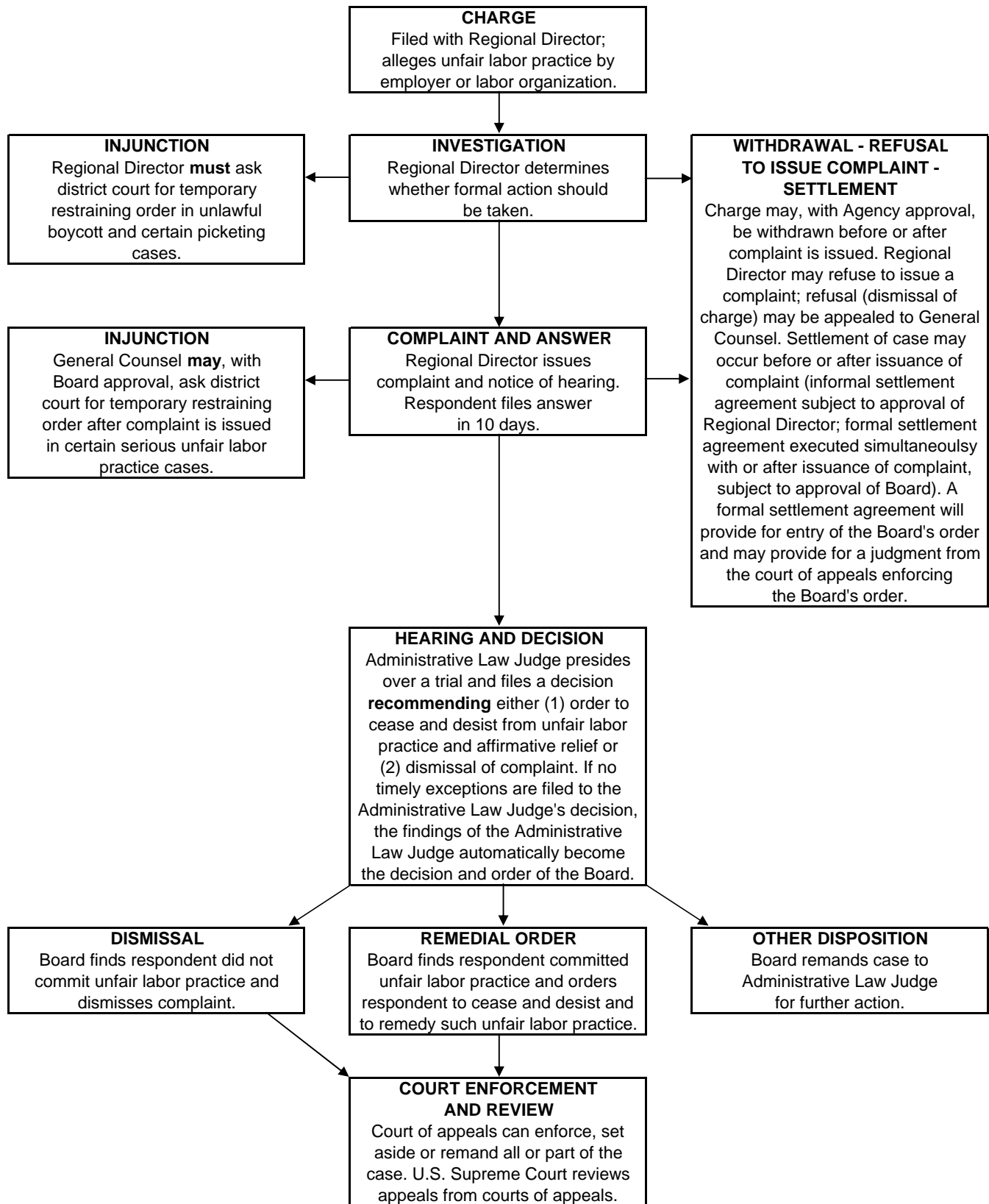
NATIONAL LABOR RELATIONS BOARD

ORGANIZATION CHART



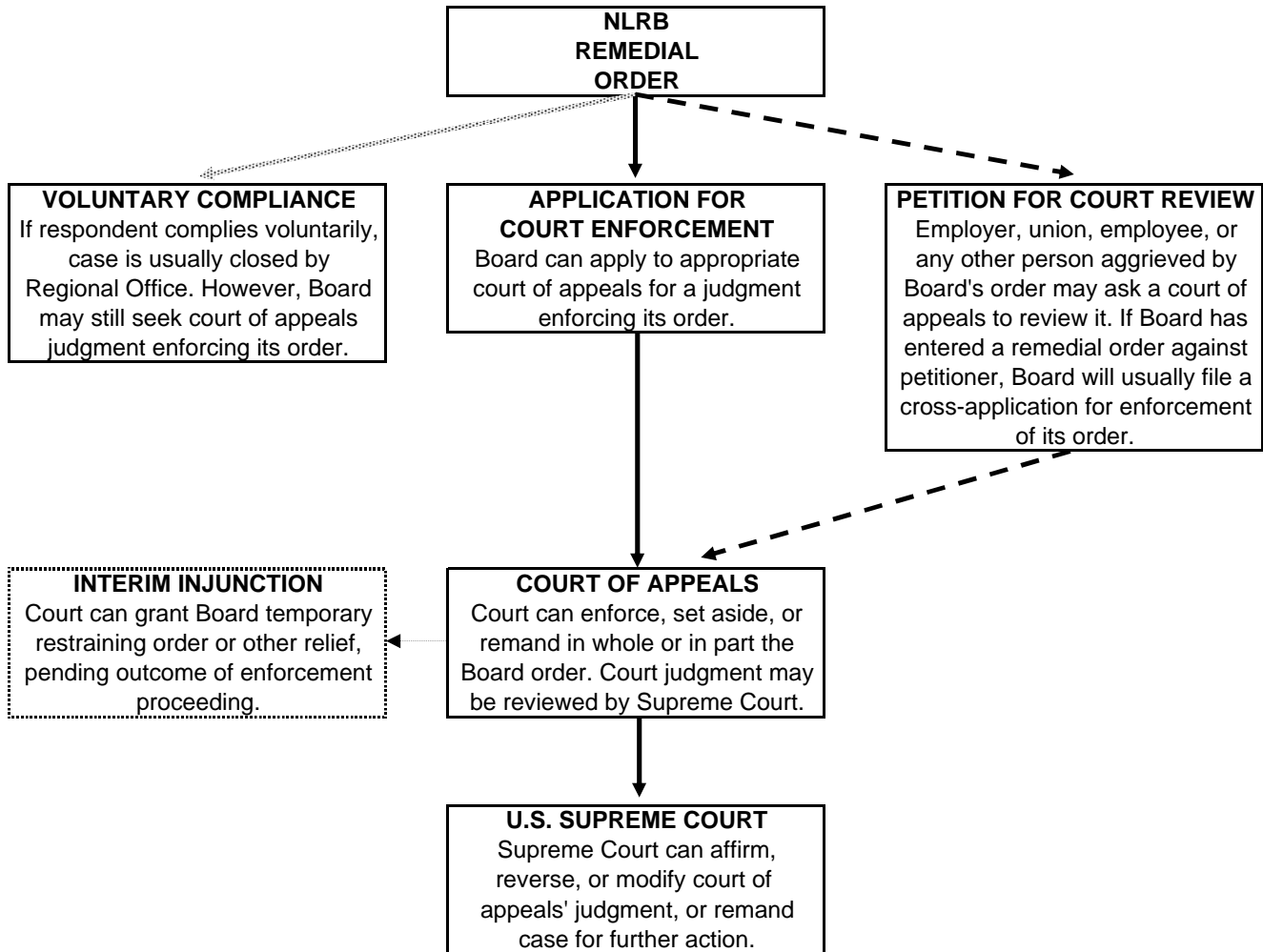
NATIONAL LABOR RELATIONS BOARD
 BASIC PROCEDURES IN UNFAIR LABOR PRACTICE CASES

EXHIBIT C



NLRB ORDER ENFORCEMENT CHART

EXHIBIT D



OUTLINE OF REPRESENTATION PROCEDURES UNDER SECTION 9(c)

