UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General

Memorandum

September 6, 2006

To: Bill Snuggs
Budget Branch Chief

From: Jane E. Altenhofen
Inspector General

Subject: Inspection Report No. OIG-INS-41-06-04: Budget Execution

We initiated this inspection in January 2006 to evaluate the National Labor Relations Board's (NLRB or Agency) actions to effectively implement budget execution, concentrating on identifying funds available for spending at year-end.

For 6 years, Fiscal Year (FY) 1999 through FY 2004, more than $1 million in appropriation, on average, lapsed for each year. A significant and growing portion of those funds was never obligated. In FY 2005, $455,357 was not obligated, the largest amount in any year we reviewed. The amount of funds deobligated after the end of the fiscal year also had an upward trend. The Agency deobligated $1.2 million of the FY 2003 appropriation in the 2 years after the end of the fiscal year compared with $630,000 of FY 1999 funds deobligated in the 5 years after that fiscal year ended.

Amounts were not obligated due to the Agency reserving funds for valid obligations identified after the end of the year and late identification and reallocation of available balances. Deobligations resulted, in part, from the lack of effective monitoring and the untimely adjustment of obligated amounts for updated information.

These funds expired during a period when the Agency implemented cost savings efforts related to casehandling and changes affecting the makeup of the Agency's work force. Cost savings for casehandling efforts included limiting witness travel related to pre-trial preparation and not assigning inexperienced counsel to work with senior counsel as a training exercise when trials were out of town. Work force-related cost saving initiatives included delaying filling vacant positions, Voluntary Early Retirement Program, Voluntary Separation Incentive Program, and Leave Without Pay Program.

SCOPE

We reviewed Federal statutes and Office of Management and Budget (OMB) Circular A-11, Preparation, Submission, and Execution of the Budget (Circular A-11). We also reviewed the NLRB Administrative Policies and Procedures Manual Chapter FIN-1, Budget Planning and Operations, dated May 29, 1992 and updated on May 3, 2006 under the same title as Chapter BUD-1, and interviewed the Chiefs of the Budget Branch (Budget) and Finance Branch (Finance) to identify NLRB's policies and procedures for budget execution.

We performed trend analysis and detailed deobligation transaction testing. The trend analysis included obligation and deobligation activity from FY 1999 through FY 2005 using Standard Form 133, Report on Budget Execution and Budgetary Resources, submitted to the Department of the Treasury, and Standard Form 132, Apportionment and Reapportionment Schedule, submitted to OMB.

We tested 35 deobligations made from FY 2003 through FY 2005 of $10,000 or more that occurred after the fiscal year ended in order to determine whether the items were properly managed. Testing included reviewing the contract or purchase order, evaluating accounting reports, and interviewing the responsible employee.

We conducted this inspection from January through August 2006 at NLRB Headquarters. This review was done in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

BACKGROUND

The budget process consists of formulation, submission, approval, execution, and reporting. Budget execution begins with enactment of the appropriation, obtaining OMB approval of apportionments, and making allotments to Agency components. Allotments are amounts made available by the Agency Budget Chief to allottees. The Agency has four allottees: Board, General Counsel, General Agency, and Information Technology.

Allottees may designate persons or positions as allowance holders to manage allotment subdivisions for a particular program or organizational segment. Funds are allocated to allowance holders based on an operating plan. Allowance holders or their designees also sign documents obligating funds. Execution involves monitoring achievement of the plan and executing changes to provide the best use of funds. Budget is responsible for managing and reporting on Agency budget execution.

RESULTS

Lapsed Appropriations

Each fiscal year the NLRB receives a 1-year appropriation. The authority to make new obligations from an appropriation expires when the fiscal year ends. The amount of the appropriation not obligated by the end of the fiscal year is said to be expired. Expired amounts are available for adjustments to valid obligations made during the appropriation year. After 5 years, the appropriation is cancelled and unavailable for any purpose. Expired and cancelled amounts are jointly referred to as lapsed.

For 6 years, FY 1999 through FY 2004, more than $1 million, on average, lapsed each year. A significant and growing portion of those funds were never obligated. In FY 2005, $455,357 was not obligated, the largest amount in any year we reviewed. The amount of funds deobligated after the fiscal years ended also had an upward trend. The Agency deobligated $1.2 million of the FY 2003 appropriation in the 2 years after the end of the fiscal year compared with $630,000 of FY 1999 funds deobligated in the 5 years after that fiscal year ended.

The combined unobligated and deobligated amounts for FY 1999 to FY 2005, as of September 30, 2005, are shown in the following table. The line in the table below titled "Adjustments" is the sum of two line items on the SF 133. One item represents increases in obligations after the year-end and the other represents amounts received after the end of the fiscal year occurring until the appropriation expires.

Unobligated and Deobligated Appropriations

	1999	2000	2001	2002	2003	2004	2005
Appropriation ($ millions)	$184.451	$205.717	$216.438	$226.450	$237.429	$242.633	$249.860
Not Obligated	124,544	305,172	255,386	338,949	435,844	392,805	455,357
Deobligated In:							
2005		157,222	40,059	32,713	371,234	618,550	
2004	5,423	49,199	721,567	334,847	842,703		
2003	33,939	118,144	150,444	633,400			
2002	98,012	404,075	184,589				
2001	146,239	280,510					
2000	368,551						
Adjustments	(22,555)	(110,936)	(234,146)	(631,304)	51,808	(271,455)	
Total Deobligated	629,609	898,214	862,513	369,656	1,265,745	347,095	0
Lapsed	$754,153	$1,203,386	$1,117,899	$708,605	$1,701,589	$739,900	$455,357
Status	Cancelled	Cancelled	Expired	Expired	Expired	Expired	Expired

Unobligated Funds

The Antideficiency Act prohibits an agency from obligating more than its appropriation. To avoid a violation of that act, the Agency reserves appropriated funds. The amount to leave unobligated as reserve for potential unrecorded or incorrectly recorded obligations and contingencies is at the discretion of Agency management. Agency policy does not identify how to determine the reserve. The Budget Chief stated that Agency records indicate that reserves have not been recorded in the operating plan and there is no need to do so. Additionally, the Agency has been able to rely on savings generated from normal attrition and plans on amounts that were estimated too high outweighing amounts estimated too low.

The Budget Chief said that the goal for FY 2005 was to reserve $250,000 to $400,000 of the Agency's appropriation. In keeping with past practice, the FY 2005 appropriation was fully allocated throughout the Agency’s operating plan and a reserve was not identified. The operating plan is prepared by Budget and reportedly approved by the Chairman and the General Counsel. Documentation of this approval, although requested, was not provided.

Reserving $400,000 or more may not be necessary. We think factors that should be considered in determining the reserve amount include the inherent risk of the Agency environment, strength of internal controls, and experience with Antideficiency Act violations. Because approximately 90 percent of the Agency’s annual costs are payroll and facilities related items, the inherent risk of significant unexpected budgetary requirements is low. Additionally, Federal Managers' Financial Integrity Act assessments and financial statement audits have not identified material deficiencies related to budget execution.

The Budget Chief stated that even though 80 percent of the budget is devoted to personnel costs, risks exist - particularly at year-end. Included in the risks are 21 employees whose lump sum leave payments would exceed $50,000, 2 of which would exceed $125,000. Other risks include untimely information from Government and private contractors that result in upward adjustments to obligations.

The amount of NLRB appropriations not obligated has generally increased, and the amount unobligated for FY 2005, $455,357, was the highest of any year in our review. This occurred even though the Budget and Finance Chiefs meet with allowance holder representatives during the year and in September to assess the status of the budget which includes identifying amounts not needed that can be reallocated for other purposes. For example, meetings during FY 2005 were held on October 14, 2004, and on January 12, April 13, July 14, and September 15 in 2005, to assess the status of the budget. The Budget Chief noted that the Finance Chief visits each allowance holder's representative frequently to prompt them to review their reports and obligations and submit any necessary deobligations prior to the end of the fiscal year. Such meetings, however, have not been sufficient to prevent funds from lapsing. Nevertheless, the Budget Chief stated that the Agency did a great job last year, leaving only $455,357 unobligated from a budget of almost $250 million.

Budget reallocated approximately $3.2 million between allowance holder accounts in September 2005 (Attachment 1). These reallocations included significant reductions in allowance accounts for the Division of Operations-Management (Operations-Management) and the Procurement and Facilities Branch (Procurement), however, about $75,000 remained in each account that was not obligated by year-end. The reallocation added $2.4 million to the Information Technology allowance holder on the last day of the fiscal year. More than $42,000 of this amount was not obligated and the validity of a $758,875 obligation made on September 30, 2005, has been questioned because it related to services to be provided solely in FY 2006.

The reallocation of funds was not completed until September 30, 2005. The reallocation of these amounts so late in the year did not allow adequate time for proper procurement planning, execution, and obligation processing.

Management said that they had been in contact with OMB earlier in the month to request the reapportionment and notified the budget examiner to expect another apportionment later in the month when more current information was available. Budget stated that they were told to wait until that information was available and make their entire request at one time. The Budget Chief said that the appropriate people were made aware of the potential availability of funds and were asked to proceed accordingly.

Since the reallocation did not occur until September, the identification of amounts for reallocation should have been more precise. Because Budget did not maintain documentation to support the analysis performed or the basis for the reallocation of funds, we were not able to determine the cause of the lack of precision.

An example of this lack of precision is shown in the amount of unobligated compensation and benefits. Despite Board Member staffs being similar in size, after the reallocation one Board Member had $5,887 in unobligated compensation and benefits while another Member only had $1,807. The Division of Administration, with 103 full-time equivalents (FTE), had $3,187 in unobligated compensation and benefits, but the Division of Enforcement Litigation, with 109 FTE, had $13,396. Operations-Management field operations, with 1,284 FTE, had $18,454 in unobligated compensation and benefits. Another indicator of a lack of precision is the ratio of unobligated compensation versus benefits, each of which is recorded using a different object class. Agency-wide, employee benefits were 23 percent of compensation. The ratio of unobligated benefits to compensation for allowance holders after the reallocation ranged from less than 1 percent to 201 percent.

The following schedule shows amounts that were not obligated in FY 2005 by object class.

Object Class	**Amount**
Travel	$132,147
Rent, Communication and Utilities	93,643
Compensation and benefits	80,861
Contract Services	81,771
Other	66,935
Total	$455,357

Other significant unobligated balances by office included $72,763 for rent, communication, and utilities in Procurement; $62,110 for travel in Operations-Management-Headquarters; $35,019 for contract services in the Library and Administrative Services Branch; and $19,700 for the transportation of things in field offices.

The Budget Chief disagreed that a lack of precision existed. He said that balances in Board Member accounts were purposely left to cover the Board's share of the reserve. The same strategy was followed of intentionally leaving balances for salary and benefits in other divisions. As money was moved at year-end, unobligated balances no longer matched traditional ratios.

Deobligations after Year-End

FIN-1 requires prompt recording of all financial transactions affecting NLRB's appropriation. Recording transactions includes adjusting recorded amounts when an estimate was used and actual cost or a better estimate becomes known.

Deobligations made after year-end of obligations for FY 1999 through FY 2004 have been between $347,095 and $1,265,745, an average of $728,805. Deobligations can occur because precise information regarding the obligation is not known before the end of the year in which the obligation is made, or because Agency management did not diligently monitor obligated amounts.

Four of the 35 deobligations tested resulted in the Agency having obligated $66,979 more than was needed to ultimately pay for the items or services purchased. In these instances, the Agency used a reasonable method of determining the obligation, but information providing precise amounts was not available before the year-end. For example, the Agency obligated $160,000 on September 11, 2003, for carpet and paint work. The amount of the obligation was based on an estimate provided by the General Services Administration. The Agency was actually billed $105,061 for this work, and the remaining $54,939 was deobligated in FY 2004.

Nine of the 35 deobligations tested were related to permanent change of station (PCS) moves. These resulted in the Agency obligating $169,950 more than was ultimately used to pay for the moves. The cost of a PCS move is difficult to precisely estimate, particularly the costs associated with selling and purchasing a residence and the related income tax. Also, the settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested can occur up to 2 years after reporting for duty at the new duty station. This time may be extended up to an additional 2 years for reasons beyond the employee's control and acceptable to the Agency. This makes it unlikely that refined numbers would be available to deobligate a significant amount of funds before the appropriation expired.

The procedure used to estimate these items is to ask the employee the expected sales price of their residence and the planned purchase price of their new residence. Based on this information, Finance applies a standard rate related to each transaction and the related taxes. Finance has not evaluated historical data to determine whether the factors used in the estimates could be refined.

The Budget Chief stated that a historical analysis would not be useful given the volatility of the real estate market combined with the significant time lag to submit claims. We believe an analysis might identify ways to improve the accuracy of the estimates.

Twenty-two of the 35 deobligations tested resulted in the Agency obligating $653,206 more than was necessary to pay for goods or services purchased. All of these were cost reimbursement agreements. Most of these deobligations after year-end were due to ineffective monitoring of obligations by allowance holders. This occurred despite the Finance Chief visiting allowance holder representatives to remind them to review reports, verify obligated balances, and submit timely and accurate deobligation reports. In many instances, the exact cause for the lost funds was not known because documentation was not available and the responsible officials no longer work for the Agency. Some examples of ineffective monitoring are shown below.

- $80,758 was deobligated in FY 2004 from a purchase order for voice mail services. This was the entire amount obligated on September 9, 2003. The Agency decided the services were not needed.

- $28,000 was deobligated in FY 2005 from a cost reimbursement interagency agreement for printing of decisions and orders. This was the entire amount obligated in FY 2004. No printing was ordered. The agreement was not monitored when the manager was on extended sick leave.

- $31,875 was deobligated in FY 2003 from a cost reimbursement interagency agreement for commercial telephone toll charges. This amount was obligated on July 23, 2002. Amounts previously obligated were sufficient to pay the charges.

- $11,162 was deobligated in FY 2003 from a cost reimbursement interagency agreement for a training videotape. A total of $18,000 had been obligated on July 25, 2002. Although the work was completed in FY 2002, follow-up was not performed to obtain the $6,838 actual cost information before the fiscal year ended.

- $30,834 was deobligated in FY 2004 from a cost reimbursement interagency agreement for child care services. A total of $40,000 had been obligated in FY 2003. Information was not available on the cause for this deobligation due to Agency personnel retirements and inadequate records.

- $80,933 was deobligated in FY 2005 from a cost reimbursement help desk support contract. A total of $2,684,955 was obligated for work during FY 2004. Records were not available to explain the cause for the excess obligation and the manager retired.

Regulation

The Antideficiency Act requires that each agency head prescribe, by regulation, a system of administrative control of funds, also called a fund control system. Circular A-11 states that these regulations should be reviewed periodically to determine whether improvements should be made. At a minimum, agencies should review systems whenever OMB issues revised guidance on budget execution, an agency is reorganized, or when staff from an agency has violated the Antideficiency Act.

The Agency has not published regulations regarding its fund control system. The Agency's system of funds control is described in BUD-1, an internal policy document.

Management disagreed with our suggestion to publish regulations because BUD-1 establishes a system of funds control. Describing this system in an internal document does not meet the requirement identified in the Antideficiency Act to have a published regulation. Regulations required by the Antideficiency Act must be approved by OMB. The Agency's internal documents are not normally reviewed or approved by OMB.

SUGGESTIONS

We suggest that the Budget Chief:

1. Implement a policy to determine and document the amount of funds to be held in reserve commensurate with the inherent risk and the internal control environment.

2. Implement a policy to document analysis performed during the year by Budget and allowance holders with special attention to cost reimbursable contracts.

3. Work with the Finance Chief to evaluate the methodology used to determine obligations for household moves.

4. Make allowance holders aware of the need for special attention on cost reimbursement contracts to ensure the accuracy of the obligation amount and to timely update that amount for changes in contract cost.

5. Develop and publish regulations regarding the Agency's system of funds control.

Management Comments and OIG Response

Management provided extensive comments on our draft report disagreeing with many of our conclusions and all suggestions and strongly believes that the reserve should not be reduced. We integrated their comments as appropriate throughout this report. We believe our suggestions should be considered as possible ways to improve the budget process.

Throughout the response, management referred to OMB guidance that recommended the reserve be .5 percent of the appropriation. No such policy or advice exists in written OMB guidance and Budget was unable to provide a basis for the reserve amount during the course of our review. The Director of Administration said the .5 percent was guidance from a prior OMB budget examiner given to the former NLRB Budget Officer more than 10 years ago. The current

OMB budget examiner for NLRB said that no upper or lower reserve threshold exists and that the amount is left to the Agency's discretion.

Management repeatedly emphasized that the reserve percentage never exceeded .18 percent. They further stated that, under generally accepted practices, reserves can range up to 2 percent. We believe that the goal should not be to maintain the reserve at a certain percentage level. The reserve should be risk based and set at the minimum level sufficient to cover unanticipated obligations.

We made several suggestions to either develop or evaluate procedures to determine or document items impacting budget execution and provide additional guidance to allowance holders. Management concluded that enough guidance was provided. We believe the number of deobligations that occurred after the end of the fiscal year that resulted in a significant amount of funds lapsing indicates a need for additional procedures and guidance.

cc: Board
General Counsel
Gloria J. Joseph, Director of Administration

ATTACHMENT 1

REALLOCATIONS BY ALLOWANCE HOLDER
During September FY 2005

Allowance Holder	August 2005	September 2005	Change	Total Unobligated
Decreased				
Member	$2,811,591	$2,788,991	$22,600	$5,021
Member	2,530,343	2,287,343	243,000	4,921
Member	2,721,139	2,586,039	135,100	4,421
Member	2,603,939	2,514,039	89,900	5,023
Chairman	3,156,139	3,017,639	138,500	7,812
Judges	9,846,959	9,700,858	146,101	22,935
Inspector General	1,127,924	1,110,324	17,600	4,853
Chief Information Officer	3,440,000	3,328,000	112,000	5,286
General Counsel	2,387,600	2,372,600	15,000	3,625
Administration	9,327,528	9,095,689	231,839	16,853
Operations-Management – HQ	134,191,890	133,675,547	516,343	75,396
Operations-Management – Field	3,319,000	3,166,124	152,876	74,354
Advice	5,034,184	4,992,284	41,900	1,979
Enforcement Litigation	12,856,172	12,686,811	169,361	15,280
Equal Employment Opportunity	29,000	14,000	15,000	4,106
Employee Development	1,131,000	1,011,000	120,000	1,410
Security	142,000	64,000	78,000	8,783
Procurement & Facilities	32,214,368	32,032,768	181,600	78,902
Human Resources	2,168,500	1,859,800	308,700	9,670
Claims & Indemnity	277,526	79,526	198,000	5,268
Previously Unallotted	269,440	0	269,440	
Total	$231,586.242	$228,383,382	$3,202,860	$355,898
Increased				
Executive Secretary	$5,284,614	$5,383,414	$98,800	$18,071
Library & Administrative Services	2,501,700	3,205,760	704,060	39,229
Information Technology	10,600,000	13,000,000	2,400,000	42,159
Total	$18,386,314	$21,589,174	$3,202,860	$99,459
Total Budget	$249,972,556*	$249,972,556*		$455,357
*includes reimbursables				