

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Regional Office Casehandling Efficiency

Report No. OIG-AMR-50-06-01

March 2006

INSPECTOR GENERAL



NATIONAL LABOR RELATIONS BOARD

WASHINGTON, DC 20570

March 16, 2006

I hereby submit an audit on *Regional Office Casehandling Efficiency*, Report No. OIG-AMR-50-06-01. This audit was conducted to evaluate the efficiency of Regional Office casehandling processes in unfair labor practice and representation cases. This included evaluating case processing timeliness.

We did not identify inefficiencies in the processes used by the four Regional Offices visited. Cases were processed in compliance with Agency policy and the Regional Offices visited followed best practices identified in Agency guidance. Our analysis of mean processing times did not identify bottlenecks or a systemic problem. Unfair labor practice and representation cases were generally processed in a timely manner.

In two Regional Offices, the initial contact with the parties was not documented in a significant number of cases. We did not include a recommendation related to this finding because the issue was already addressed by an internal report based on the internal quality control review process.

Most of the 11 unfair labor practice case and 16 representation case data elements tested were generally accurate. Some data elements had an error rate we consider significant. We did not include a recommendation related to this finding because the criteria regarding proper data input is clear and the Agency recently implemented improvements to its data integrity program.

An exit conference was held on February 8, 2006, with representatives of the Division of Operations-Management. A draft report was sent to the Division of Operations-Management Associate General Counsel on February 17, 2006. The Associate General Counsel's response had no comment on the report.

A handwritten signature in black ink, appearing to read "Jane E. Altenhofen".

Jane E. Altenhofen
Inspector General

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Memorandum from the Associate General Counsel, Division of
Operations-Management, "Regional Office Casehandling Efficiency
OIG-AMR-50," dated March 9, 2006

BACKGROUND

The National Labor Relations Board (NLRB or Agency) administers the principal labor relations law of the United States, the National Labor Relations Act (NLRA) of 1935, as amended. The NLRA is generally applied to all enterprises engaged in interstate commerce, including the United States Postal Service, but excluding other governmental entities as well as the railroad and airline industries. The Fiscal Year (FY) 2006 appropriation authorizes 1,840 full-time equivalents that are located at Headquarters, 51 field offices throughout the country, and 3 satellite offices for administrative law judges. NLRB received an appropriation of \$252,268,000 for FY 2006, less an across-the-board rescission of 1 percent, leaving a net spending ceiling of \$249,745,320.

The primary function of the NLRB is the effective and efficient resolution of unfair labor practice charges (C cases) and representation petitions (R cases) filed voluntarily under the NLRA by individuals, employers, or unions. The Agency does not initiate these charges or petitions, but only acts on those brought before it. The charges and petitions are received and processed by the Agency's 51 field offices.

When a C case is filed, the field office conducts an investigation to determine whether the allegation that a violation of the NLRA occurred has merit. If the field office determines that the charge lacks merit, the charge will be dismissed if it is not withdrawn by the charging party. If the field office finds that the charge has merit, it will seek a voluntary settlement. If a settlement is not reached, a complaint is issued and a hearing before an administrative law judge is scheduled. Settlement is still pursued after the hearing is scheduled.

When a field office receives a representation petition, it is immediately docketed and the field office determines if a question concerning representation affecting commerce exists. If the field office determines that a petition calling for an election should be processed, the field office attempts to secure an election agreement. These agreements address issues such as the time and place of the election and the appropriate unit. If an agreement cannot be reached, the field office conducts a hearing and the Regional Director issues a decision directing an election or dismissing the petition. After either an election agreement or a decision directing the election, the field office will conduct an election and issue a certification of representative or certification of results. The field offices also administratively investigate, hold hearings, and issue decisions on petitions regarding the placement of employees in a unit.

In FY 2005, the Agency received 24,276 C cases and 5,151 R cases. During FY 2005, the median time to issue a complaint was 93 days, and the median time to proceed to an election from the filing of a petition was 38 days.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of this audit was to evaluate the efficiency of Regional Office casehandling procedures in C cases and R cases. This included evaluating case processing timeliness. We evaluated C cases from the receipt of the charge through the beginning of the hearing before an administrative law judge and R cases from receipt to the final Regional Office disposition. Our scope included C cases in which a Regional determination occurred during FY 2005 and R cases received during FY 2005.

We interviewed staff in the Division of Operations-Management (Operations-Management or OM) and in four Regional Offices to identify casehandling processes. We reviewed laws, regulations, and Agency guidance related to Regional Office casehandling procedures. Agency guidance included the NLRB Casehandling Manual and Operations-Management and General Counsel (GC) memoranda that provided best practices and cost saving instructions. These interviews and detailed testing were used to determine whether the four Regional Offices were following Agency policy, best practices, and cost saving instructions. We also reviewed these processes to determine whether additional efficiencies could be identified.

In each Region visited, we selected random samples of 30 C cases and 20 R cases. We also tested C cases in which a hearing was held. These cases were selected in addition to those in the random samples because they are important cases included in our scope that occur infrequently and were not selected by the random sample.

For each case selected, we obtained data from the case file that we used to calculate the mean (average) length of time between critical case processing events to determine whether bottlenecks existed and whether the timely processing of interim steps had an effect on the overall case processing time. We also tested 11 C case data elements and 16 R case data elements to verify the accuracy of the information in the Case Activity Tracking System (CATS). The universe of C cases and R cases is shown as an attachment to this report.

We interviewed staff in Operations-Management and the four Regional Offices visited to learn about the Information Officer Program. We obtained and analyzed data from CATS related to this program to identify efficiencies that could be gained.

This audit was performed in accordance with generally accepted government auditing standards during the period of October 2005 through February 2006 at NLRB Headquarters in Washington, D.C. and the following Regional Offices: Region 2 – New York, Region 11 – Winston-Salem, Region 13 – Chicago, and Region 32 – Oakland.

FINDINGS

We did not identify inefficiencies in the processes used by the four Regional Offices visited. Cases were processed in compliance with the NLRB Casehandling Manual and the Regional Offices visited followed best practices identified in Agency guidance. Our analysis of mean processing times did not identify bottlenecks or a systemic problem with case processing.

C CASES

GC Memorandum 95-15, Lightening the Regional Office Workload, dated August 25, 1995, established the Impact Analysis approach to case prioritization and management. Impact Analysis classifies cases into three categories based on relative priority. The Impact Analysis timeframes to dispose of C cases, as set forth in GC Memorandum 00-06, are 7 weeks for Category III cases, 9 weeks for Category II cases, and 12 weeks for Category I cases. Cases that are not disposed of within this timeframe are considered "overage." Cases that do not meet the Impact Analysis timeframes for reasons outside the Regional Office's control are not considered overage.

C cases were generally processed in a timely manner. Procedures varied some between the Regional Offices because they adapted Agency-wide guidance to their particular operating environment.

Processing times varied as a result of the specifics of the cases reviewed. Also, times for interim tasks did not have a direct correlation with overall processing times. We believe, however, that promoting timely processing of interim tasks is a sound business practice. The average time to process interim tasks and overall disposition in the C cases tested are shown below.

C Case Processing Times

	R-2	R-11	R-13	R-32
Average days from receipt to:				
Sending letters to the parties	5.1	0.4	1.3	0.9
Initial contact with charging party	8.5	13.6	5.3	8.6
Charging party affidavit				
Category III	20.9	37.0	8.3	7.3
Category II	21.6	34.1	13.9	23.3
Category I	NA	37.3	NA	NA

C Case Dispositions

	R-2	R-11	R-13	R-32
Average Days to Disposition				
Category III (49 days)	70.4	81.5	45.6	26.3
Category II (63 days)	61.7	69.6	36.1	60.6
Category I (84 days)	34.0	71.3	NA	NA
Percentage of cases disposed of during the month due	97	87	100	100

Charges Sent To Parties

The NLRB Casehandling Manual states that immediately upon docketing of a charge, a written acknowledgement of the filing is sent to the charging party. The manual also notes that the Regional Office serves a copy of the charge on the charged party upon docketing.

Three of the four Regional Offices visited were expeditious in sending charges to the parties. Region 2 took on average 5.1 days to send the letters with the charge to the parties. For 11 of the 30 cases (36.7 percent), the Region took 1 week or longer, with a maximum of 12 days to send the charge to the parties. Staff in Region 2 said that possible reasons for the delay were an increase in charges at a particular time and staffing issues. They also acknowledged that charges should be sent right away.

Initial Contact with Charging Parties

The NLRB Casehandling Manual states that at the earliest possible date, consistent with other casehandling priorities, the Board agent should contact the charging party by telephone. The manual also notes that the Board agent should maintain a record of the agent's activities and contacts in the case file.

In three Regional Offices visited, the Board agent contacted the charging party within an average of 9 days of the filing of the charge. Region 11 took, on average, nearly 2 weeks to contact the charging parties. In 15 of the cases (50 percent), the charging party contacts were within 1 week, but the time to contact the charging party in 4 cases was 62, 62, 34, and 31 days. Each of these cases was a Category II case, which means that the Region should dispose of the case within 63 days.

Region 11 stated that in cases where a questionnaire is not sent to the parties the agent is expected to make contact with the charging party as time permits based on a prioritization of caseload. They added that no time frame for when this should be done exists.

R CASES

The NLRB FY 2005 Performance and Accountability Report includes a performance measure to hold elections within 42 median days of filing a petition.

R Cases were generally processed in a timely manner. Most cases that took longer to process were the result of the R case being blocked by a related C case. Best practices, such as faxing the petitions to the parties on the same day and setting hearings for between 10 and 14 days after the filing of a petition, were utilized. In two Regional Offices, the initial contact with the parties was not documented in a significant number of cases.

The Regional Offices visited were generally assigning the cases and sending the petition and notice of hearing on the date of filing and contacting the parties in an expeditious manner. Regional Offices visited met time targets in the majority of cases. Even when the processes varied between Regional Offices, no inefficiencies were detected. For example, the four Regional Offices assigned R cases differently. In Region 11, the Assistant to the Regional Director assigns cases on a rotating basis. In Region 13, R cases are assigned to any team supervisor based on team availability. Region 2 utilizes one supervisor whose team handles the R cases. Region 32 has one Board agent who monitors all R cases. Each process appeared to work for the Regional Office, as reflected in the casehandling times below. Processing times that appear to indicate less timely processing of actions were due to case specific situations that are identified below the table.

R Case Processing Times

	R-2	R-11	R-13	R-32
Average days from receipt to:				
Sending petition to the parties	0.3	0.3	1.3	0.5
Sending notice of hearing	0.2	Same day	2.4	0.5
Initial contact with employer	2.6	2.3	4.0	2.3
Initial contact with petitioner	2.7	10.4	4.6	3.4
Election agreement	14.5	15.4	12.4	24.0
Election held	37.5	43.7	55.6	48.6
Median days from receipt to election	36.5	40	38	42

In some Regional Offices, cases with extremely long, but justifiable, times skewed the results.

- In Region 13, the maximum time from receipt to sending the Notice of Hearing was 25 days. This was for a unit clarification case, which has a

lower priority than other R cases. Removing the effect of this case, the average dropped from 2.4 to 1.1 days; this is consistent with the other Regional Offices.

- In Region 11, the maximum time from receipt to contact with the petitioner was 112 days. This case was blocked by a C case. Removing this case from the calculation results in the average dropping from 10.4 days to 2.6 days.
- In Region 32, the maximum time from receipt to an election agreement was 127 days. This case was blocked by a C case. Removing this case from the calculation resulted in the average dropping from 24 days to 14.6 days.
- Three of the four Regional Offices did not, on average, hold an election within 42 days of receiving the petition. In each case, the results were skewed by either a blocked case or a case with a longer time lag due to the nature of the case. Removing these cases resulted in all four Regions holding elections within an average of 42 days. All four Regions met the goal of holding elections in 42 median days.

Documentation

The NLRB Casehandling Manual states that the Board agent should make the first phone call regarding a petition as soon as possible after the filing, mail service and, if possible, facsimile service of the petition, preferably no later than the following day. The manual further states that information elicited in the investigation should be incorporated into the case file.

Two Regional Offices did not have the initial contact with the petitioner in the case files. Region 11 did not have documentation of contact with the petitioner in the case file in 2 of 20 cases (10 percent). Region 13 did not have documentation of contact with the petitioner in 3 of 20 cases (15 percent).

We did not include a recommendation related to this finding because the issue was already addressed by an internal report based on the internal quality control review process.

TRAVEL AND ALTERNATE INVESTIGATIVE TECHNIQUES

OM Memorandum 05-07, Casehandling Cost Saving Instructions for Fiscal Year 2005, dated October 19, 2004, extended the use of the cost savings measures instituted in the preceding fiscal year by OM Memorandum 04-30, Casehandling Cost Saving Instructions, dated February 20, 2004. OM Memorandum 04-30 states that each Regional Office should continue to manage Regional travel, clustering travel assignments for Board agents and

avoiding non-essential travel while ensuring that appropriate alternative investigative techniques are employed in lieu of travel. OM Memorandum 05-100 continues these instructions for FY 2006.

Region 2 and Region 13 are geographically compact and require little travel. Region 32 has most of its cases in the area of the Regional Office, but has some areas to which it must travel. Region 11 is the most geographically dispersed Region that we visited. The Regional Offices that have travel use different techniques to manage travel, but both appear to make business sense.

Region 32 discusses travel during supervisor meetings to identify areas that agents need to travel to and determine whether some of this travel could be combined. Combining travel, however, is dependent on the timing of cases. Region 11 coordinates travel by dividing the Region into 5 geographic areas and assigning a field examiner to each area. Category III cases, which require travel, are assigned to the examiner in that area. These assignments are rotated every 75 days.

One of the alternate investigative techniques is the use of telephone affidavits in Category I and most Category II cases. This saves time and travel costs. Region 2 and Region 13, which are geographically compact, obtained affidavits in person. Region 32 obtained some telephone affidavits for lower priority cases where distance was a factor. Region 11 made the greatest use of telephone affidavits, consistent with a geographically disbursed Region.

DATA ACCURACY

C Cases

Of the 11 data elements tested, only one Regional Office had 1 data element with an error rate equal to or greater than 10 percent, a rate we consider significant. Region 13 recorded an incorrect closing date for 8 of the 33 C cases tested (24.2 percent). Two closed cases did not have a closing date and the errors in the remaining six cases were between 3 days and 7 days. In five of these cases, the Region used the end of the appeal period as the closing date in dismissed cases. OM Memorandum 03-100, Uniform Procedures for Entering Disposition/Closing Dates in CATS, dated August 4, 2003, states that the closing date will be 21 days after the date of the dismissal letter, if no appeal is filed.

R Cases

Of the 16 data elements tested, 5 data elements had a number of errors that we consider significant. Each Regional Office visited had at least one data

element with significant data errors. The errors ranged from 1 day to 59 days. The results are shown below.

R Case Data Accuracy

	R-2		R-11		R-13		R-32	
	No.	%	No.	%	No.	%	No.	%
Date election agreement approved	2	10	1	5	1	5	0	0
Date election held	0	0	3	15	0	0	1	5
Date certification of results or representative	1	5	0	0	2	10	0	0
Closing date	0	0	0	0	4	20	2	10
Closing stage	0	0	0	0	4	20	1	5

We did not include a recommendation related to this finding because the criteria regarding proper data input is clear and the Agency recently implemented improvements to its data integrity program.

ATTACHMENT

Universe of Transactions Available for Testing

C Cases

	Cases with Determination	Sample Size
Region 2	1,200	38
Region 11	495	33
Region 13	1,146	33
Region 32	769	33

R Cases

	Cases Filed	Sample Size
Region 2	149	20
Region 11	49	20
Region 13	203	20
Region 32	133	20

APPENDIX

UNITED STATES GOVERNMENT
National Labor Relations Board
Division of Operations-Management



Memorandum

March 9, 2006

TO: Jane E. Altenhofen, Inspector General

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Regional Office Casehandling Efficiency
OIG-AMR-50

We have reviewed the draft report regarding Regional Office Casehandling Efficiency and have no comments on any aspect of the report. Thank you for the opportunity to review and comment on the draft.



R. A. S.

cc: Beth Tursell, DAGC