

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



FISCAL YEAR 2016

FY 2016 OMB Budget Submission – Outline

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FY 2016 OMB Budget Submission

I. FOREWORD

While case intake has decreased slightly, additional resources are needed because of comprehensive and complex case matters, which are sometimes attributable to external factors. Among these factors are ongoing nationwide efforts to improve the wages and working conditions of workers in the retail and fast food industries; the increased prevalence and evolving tools of technology and social media leading to handbook provisions and workplace rules concerning their use; expanded use of mandatory arbitration clauses in employment matters; bankruptcies; and difficult questions concerning single, joint, and successor employer relationships (e.g., franchisor/franchisee), supervisory status, and defining employees covered under the NLRA (e.g., college athletes, graduate students, undocumented workers). The Agency anticipates these trends will continue throughout FY 2016. Thus, the requested funding will be used to provide more resources and training in order to be able to handle all cases more efficiently.

II. MISSION STATEMENT

The National Labor Relations Board's mission is to protect workplace democracy and the rights of employees, unions and employers under the National Labor Relations Act ("NLRA" or "Act"), in order to promote commerce and strengthen the Nation's economy.

III. AGENCY ROLE AND FUNCTIONS

The NLRB is an independent federal Agency created by Congress in 1935 to administer and enforce the NLRA, the primary federal statute governing labor relations in the private sector. The purpose of the law is to serve the public interest by reducing interruptions in commerce caused by conflict between employers and employees. Over 5.7 million private sector employers fall within the Agency's jurisdiction. The Act contains an employees' bill of rights, which establishes freedom of association for the purposes of participating in collective bargaining. Under the Act, the NLRB has two primary functions: (1) to prevent and remedy statutorily defined unfair labor practices (ULPs) by employers and labor organizations and (2) to conduct secret-ballot elections among employees to determine whether they wish to be represented by a labor organization.

The five members of the National Labor Relations Board ("the Board"), as well as the General Counsel, are appointed by the President and subject to confirmation by the Senate. The Board and the General Counsel are located in the Agency's headquarters in Washington, D.C., and the

Agency also has a network of Regional (“Field”) offices, each under the direction of a Regional Director, and three satellite offices for Administrative Law Judges.

To fulfill the Agency’s first primary function, the General Counsel has responsibility for: investigating charges of unfair labor practices filed by employees, labor organizations or employers; approving withdrawals or dismissing non-meritorious cases; and facilitating settlements or issuing complaints in meritorious cases. Typically, Regional Directors, who are delegated the responsibility to investigate the cases, find about one-third of charges filed to be meritorious.

In connection with its second primary function, the Agency enforces the right of employees to choose whether or not to be represented by a labor organization. Representation cases are initiated by the filing of a petition -- by employees, labor organizations, or employers. The Agency evaluates the petition and, if appropriate, conducts an election to determine if employees wish to have a labor organization as their collective bargaining representative. Thereafter, the Agency addresses challenges and/or objections to the election, if filed, and ultimately issues a certification of representation or of election results.

IV. APPROPRIATIONS LANGUAGE

FY 2016

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, and other laws, [\$274,224,000]

\$278,000,000: 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, and as amended by the Labor-Management Relations Act, 1947, and as defined in section 3(f) of the Act of June 25, 1938, 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.

(Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2015.)

V. OVERVIEW OF THE FY16 BUDGET REQUEST

The NLRB budget request for FY 2016 of \$278.0 million will fund the Agency’s statutory mission for the resolution of labor disputes through investigation, settlement, litigation, adjudication, education, and compliance. This mission relies primarily on skilled and experienced professional employees; accordingly, approximately 80 percent of the requested funding (\$228 million) will pay for annual staff compensation (salaries and benefits); 10 percent (\$24.5 million) is required for rent, security, and other facility and property expenses for fifty NLRB offices around the country; and the remaining 10 percent (\$25.5 million) is allocated among all other operating costs and activities. These other costs and activities include, but are not limited to: information technology development, acquisition and maintenance; unified communications systems involving telephony, data and video; court reporting; case-related travel; witness fees; interpreters; maintenance of legal research collections; training; and compliance with government-wide statutory and regulatory mandates.

VI. FUNDING LEVEL

National Labor Relations Board				
(Dollars in Thousands)				
Detail	FY 2014 Enacted	FY 2015 Enacted	FY 2016 Performance Budget	Difference +/- FY 2015
Annual Appropriation	\$274,224	\$274,224	\$278,000	+\$3,776
Agency FTEs	1,610	1,610	1,640	+30

VII. PROGRAM ACTIVITIES AND CHANGES

FY 2016

Difference +/-

Field Investigations

(\$228 million, 1,306 FTE)

+\$3.8 million/ +30 FTE

The NLRB currently has 26 Regional offices and 24 satellite offices as a result of restructuring over the last three years. Internal restructuring efforts continue to be successful in evenly

distributing case intake among geographically-disbursed Regions, while still providing prompt and high quality casehandling.

Regional Office personnel investigate all charges of unfair labor practices filed by employees, labor organizations or employers. 23,092 charges were filed in FY 2014. As referenced previously, approximately two-thirds of all charges filed are found not to have merit and are dismissed, if not voluntarily withdrawn.

In the event of a dismissal, the charging party is entitled to appeal that decision to the Office of Appeals, which will determine whether the investigation was complete and the legal conclusion sound. If so, the case is closed; if not, a complaint will issue if the case is not settled. With regard to cases involving new or novel issues or theories, or those involving national significance, the Regional Offices seek legal advice from staff in the Division of Advice. Further, if there are serious violations requiring immediate relief because obtaining a remedy in due course would be too late to effectuate the purposes of the Act, the Regional Offices will petition a U.S. District Court in certain cases under Section 10(l) of the Act and will seek guidance from the Injunction Litigation Branch of the Division of Advice in cases under Section 10(j) of the Act. If the General Counsel believes that injunctive relief under Section 10(j) of the Act is warranted, s/he will seek authorization from the Board to institute court proceedings.

As of September 30, 2014, the General Counsel sought and the Board authorized pursuit of injunctive relief in 38 cases. In order to pursue matters in the courts, Regional staff must be familiar with the current local court rules all around the country.

As to the approximately one-third of cases found to be meritorious, the Agency strives to achieve voluntary settlements in order to avoid costly and time-consuming litigation and obtain quick resolution of workplace conflicts between employees and employers. The Agency's settlement program is very successful: about 90-95 percent of meritorious unfair labor practice cases are resolved without litigation. The Agency issued 1,216 complaints in FY 2014. The remaining unresolved cases are litigated before an Administrative Law Judge, who issues a decision and recommended order that can be appealed to the Board. If the Board finds a violation of the Act and the respondent does not voluntarily comply, the General Counsel will seek to enforce compliance with the Board order through the courts. The General Counsel will also defend the Board's order in court, should the respondent seek review. The General Counsel may also initiate contempt or injunctive proceedings after a Board order issues. In some cases, while the case is in litigation, the respondent's financial status can change, which requires Agency personnel to be trained in bankruptcy laws and the Federal Debt Collection Procedures Act of 1990.

As to representation cases, the Regional Offices process petitions on behalf of the General Counsel 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. The Board ultimately may determine contested matters, such as the appropriateness of the bargaining unit and rule on any challenges or objections to the conduct of an election. 2,677 representation cases were filed and 1,646 elections were conducted in FY 2014.

The merit, settlement, litigation and appeal rates for cases handled by the Agency tend to be constant over time. Further, while the number of cases can be accurately counted, those raw numbers do not reflect the reality of casehandling since the cases vary greatly in the amount of time and effort Agency staff must devote to prevent and remedy unfair labor practices and resolve questions concerning representation. The NLRB also tracks the total time taken to resolve a case through the investigation, prosecution, and compliance stages. This process also includes capturing the timeliness and quality of case processing. The Agency prides itself on meeting its quality and timeliness goals, notwithstanding the substantial time and resources many cases require.

The NLRB, like other Federal agencies, is experiencing high retirement losses, and therefore, continues to take aggressive steps to retain a sufficient corps of well-qualified employees. The FY 2016 funding will support these efforts, which include aggressive recruiting and hiring from a diverse pool of applicants, cross training, succession planning, and overlap that fosters the transfer and preservation of institutional knowledge of highly experienced subject matter experts. The development and training of labor attorneys involves shadowing experienced attorneys and examiners in the various stages of the investigation process, observing trials, participating in mock trials and moot courts, extensive legal writing training, and familiarity with the impact of Board decisions and Court decisions. On average, this process takes three to five years. The goal is to hire an additional 20-25 attorneys and field examiners that will be distributed across the Agency.

As a result of the FY 2014 Financial Statement Audit and Agency Inspector General audits, the Agency received findings that identified opportunities for improvement in business operation/processes, internal controls, and staffing levels and expertise. The analysis of the processes immediately identified that additional staffing was needed in specific areas with specialized expertise in our OCFO and Division of Administration. These additional 5-10 FTEs will support the development, implementation, and sustainment of improved business processes supporting mission critical functions.

ALJ Hearings

(\$13 million, 98 FTE)

+\$0 Thousand / 0 FTE

If not settled, meritorious charges are litigated before the Agency's Administrative Law Judges (ALJs), who travel around the country to conduct hearings and render decisions and recommended orders. Those decisions and recommended orders are then sent to the Board for

review and issuance of a final Board decision and order. Some of these cases proceed to the Division of Enforcement, which attempts to obtain compliance with the Board order, and some proceed to the Contempt, Compliance and Special Litigation Branch for contempt or other post-enforcement proceedings.

Board Adjudication

(\$27 million, 149 FTE)

+\$0 Thousand / 0 FTE

In an unfair labor practice case, a judge's decision becomes a Board order if no exceptions are filed. About 30 percent of ALJ decisions become Board orders or are complied with voluntarily. The remaining cases, with exceptions filed, require a Board decision. In representation cases, Regional Directors initially decide the issues by Board delegation. The Board itself may decide representation issues on referral from Regional Directors or by granting a request for review of a Regional Director's decision. The Board may also rule on objections and challenges in election cases.

Securing compliance with Board orders

(\$9 million, 81 FTE)

+\$0 Thousand / 0 FTE

Since Board orders are not self-enforcing, if the respondent does not voluntarily comply with the Board's order involving unfair labor practices, the Board, through the Division of Enforcement, seeks enforcement of a Board's decision and order or defends a challenged Board decision and order through the Courts of Appeals, and sometimes the Supreme Court.

Inspector General

(\$1 million, 6 FTE)

\$0 Thousand / 0 FTE

The amount of \$1,055,000 for the Office of Inspector General (OIG) was submitted by the Inspector General and was included in this request without change. The amount includes payroll salaries and benefits, \$9,000 for training of OIG personnel, \$160,000 for the Agency's Financial Statement Audit contract, and \$2,632 for support of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The Inspector General certified to the Chairman that the budget estimate and request would satisfy the training requirements for the Inspector General's office for FY 2016, and any resources necessary to support the CIGIE.

VIII. MANAGEMENT INITIATIVES

Public Affairs and Information Program

The Office of Public Affairs was created in 2009 to ensure that the Agency communicates effectively with the public and a diverse group of stakeholders. In 2014, the Office of Public

Affairs was consolidated with the Agency's congressional and intergovernmental affairs program to create the Congressional and Public Affairs Office ("CPAO").

This office promotes broader awareness of workers' rights protected under the NLRA and the services the Agency provides to workers, employers and unions to guarantee those rights. The NLRB believes it is of utmost importance to provide the public with information, guidance and access to resources regarding rights and responsibilities under the Act, and to develop ways to most effectively communicate such information.

The Agency continues to be a strong proponent of efforts to educate the general public, including developing programs with other agencies and organizations, such as the Equal Employment Opportunity Commission and the Department of Labor. For example, the NLRB recently entered into a program with the United States Department of Labor, Occupational Safety and Health Administration ("OSHA"). OSHA agreed to notify all complainants who file an untimely whistleblower charge of their right to file a charge with the NLRB. These joint programs help leverage resources to best serve the public.

CPAO also supports the Board and General Counsel's initiatives by developing resource materials, news releases and announcements. In addition, it ensures that all congressional and intergovernmental communications are managed efficiently and effectively. This is increasingly important as the Agency continues to look at ways to work with other agencies to best serve the public.

In FY 2016, the Agency will continue its efforts to inform the public about the NLRB's work through an enhanced public website, news releases and announcements, social media, resource materials, and regular contact with the public. Currently, the Agency has more than 28,000 email subscribers, along with 12,000 Facebook friends, and more than 6,000 Twitter followers, who receive updated Agency information on a regular basis.

The NLRB public website is critical to the public information program. More resources will be focused on improving the website, expanding the use of social media, and developing additional digital resource materials. CPAO anticipates developing and incorporating videos into the public website, as well as continuing to update it with relevant case and operational information for maximum transparency. It is also improving the NLRB's mobile app and is exploring other modes of external communication to educate the public. In addition, the Agency is considering increased transactional functionality on the website, by adding more documents to the case page "docket" for public viewing, increasing the availability of e-filing, increasing e-issuance, and ultimately enhancing self-service mechanisms with more capability to search, make queries and generate reports. The FY 2016 funding request will allow the Agency to increase transparency and improve customer service, as well as to educate the public about workplace rights under the NLRA.

In addition, the request will allow for better coordination with Regional web editors to ensure that Regional Offices receive support in developing digital resource materials for external publication. The Office plans to develop web trainings for Regional web editors to ensure consistency across Regional Office sites. The focus on developing digital media resources will complement the Agency's existing Public Information Program where board agents provide information directly to individuals or organizations that contact the Agency seeking assistance.

CPAO also arranges presentations on the NLRB and U.S. labor laws to more than a dozen foreign delegations each year and has expanded the Agency's initiative of working with academics developing materials and projects that are useful for teaching concepts about the NLRA in schools. The NLRB will continue efforts to engage with foreign embassies/ministries/consulates and finalize letters of agreement ("LOAs") or memoranda of understanding (MOUS) for the education of workers and business owners. The Agency currently has national LOAs with Mexico, Ecuador and the Philippines, as well as some local agreements involving Regional offices, who provide materials and otherwise educate those communities. To have workers and their employers and representatives fully aware of their statutory rights and obligations helps promote industrial peace and economic stability, which is the Agency's Congressional mandate.

Furthermore, Senior Agency officials participate in speaking engagements at law schools, practitioner symposiums, American Bar Association conferences, Society of Human Resources Management and Chamber of Commerce events, and worker advocacy group events.

Next Generation Case Management (NxGen) Program

In FY 2015, the Agency will complete the consolidation of 11 separate legacy case tracking systems into an integrated enterprise case management solution. For FY 2016 and beyond, the Agency developed and is executing a plan to improve the user experience for this critical program using Oracle's OpenUI, HTML5, and Apache SOLR, including expanding browser choice and mobile device access to the NxGen system. Additionally, the Agency is working to deliver the system's functionality via a set of independent applications, or apps, that each provide separate services for different functions. While the separate apps are linked into and remain a part of the enterprise system, they enable efficient performance of the functions that employees need the most to get their particular jobs done. For example, it enables an Agency Field Attorney to view the document case file while in a hearing, or an Information Officer to enter a public inquiry via an app, without accessing the "full" system.

In FY 2016, the NxGen program will undergo considerable change, as its foundation is directly linked to the Agency's efforts to migrate its technical infrastructure to a hybrid cloud environment. Likewise, the Agency's unified communications efforts will afford a significant expansion of NxGen functionality, including integrated audio, video, and real-time collaboration

across the enterprise and with constituents. This will result in reduced paperwork, facilitate telework and remote access to information, and expedite the issuance of decisions.

The requested FY 2016 funding will be used to continue the construction of an adaptable and scalable data warehouse with multiple “data marts” for real-time case management analytics. This big data platform will empower both internal users and the public by providing near real-time data analysis, predictive analytics, and interactive visualizations on structured and unstructured data. Internally, the data marts will improve the timeliness of reports, with updates made in the system being reflected in the reports within five minutes. It also will support ad hoc reporting by staff. Externally, the Agency’s first public data mart will provide constituents and researchers with ready access to all FOIA-able data from the NxGen system within 24 hours of entry.

Administrative Systems Modernization

The requested FY 2016 funding will support the continued build-out of the Office 365 SharePoint service catalog, which includes the automation and streamlining of Agency administrative processes through web-based forms workflow for routing and approval, secure data storage in Microsoft Azure, and dynamic reporting. With the completion of the Headquarters relocation and replacement of the Agency's network in FY 2015, there will be a need for alternative technologies to reduce paperwork and support mobility, telework, and alternate work schedules.

This funding will also support the modernization of legacy administrative systems and continued deployment and implementation of cloud technologies for collaboration through document management, social networking, and streaming media services. This will empower Agency employees with the tools they need to support the mission regardless of geographic location. FY 2016 efforts continue to support the migration and clean-up of unstructured data from the Agency shared drives into secure cloud storage to reduce operational inefficiencies, risks and information technology management and maintenance.

Unified Communications and Mobility

In FY 2015, the Agency will begin executing a plan to consolidate existing data, voice, video and wireless networks into a future state telephony, video and network architecture. The Agency will begin with deployment to all Field Offices, enhancing communications functionality and taking advantage of consolidated networks and mobile services to lower costs and increase services. This modern unified communications platform and network will empower Agency personnel to communicate with voice, video, and data from all locations including the office, at home and on the road.

Combined with the investments in NxGen, Office 365, infrastructure consolidation and the widespread deployment of laptops, this new communications platform will increase the mobility, efficiency, and timeliness of work products and staff productivity, and support the Agency's increased telework efforts. After the initial investments in FY 2015 and FY 2016 for network and end-user equipment, the Agency expects total network services costs to be in line with the current separate allocations for data, voice, and video networks, and expects the enhanced services to demonstrably improve both mission and administrative efficiencies.

IX. ATTACHMENTS

Attachment 1 - Amounts Available for Obligation

Amounts Available for Obligation

(Dollars in Thousands)

	FY 2014 ACTUAL	FY 2015 ENACTED	FY 2016 REQUEST
Appropriation	\$274,224	\$274,224	\$278,000
Total Estimated Obligations	\$274,224	\$274,224	\$278,000

Attachment 2 - Budget Authority by Object Class

Budget Authority by Object Class (Dollars in Millions)

	FY 2014 ACTUAL	FY 2015 ENACTED	FY 2016 REQUEST
Personnel Compensation	165	170	181
Personnel Benefits	44	46	47
Sub-Total Personnel Compensation	209	216	228
Travel and Transportation of Persons	2	2	2
Rent, Utilities, Phone Postage	34	26.4	24.5
Printing and Publications	.2	.2	.2
Contractual Services, Training, IT, Security and Other Services	27	23.2	20.9
Supplies and Materials	1	.4	.4
Equipment and Furniture	1	6	2
Sub-Total Direct Budget Authority	65.2	58.2	50
TOTAL BUDGET AUTHORITY	274.2	274.2	278.0

Attachment 3 - Major Workload and Output Data

	FY 2014 ACTUAL	FY 2015 ESTIMATE	FY 2016 ESTIMATE
1. Regional Offices			
Unfair Labor Practice (ULP) Cases	20,415	20,450	20,475
Representation Cases	2,677	2,750	2,825
Regional Directors Decisions	240	265	290
Elections Conducted	1,646	1,700	1,750
2. Administrative Law Judges			
Hearings Closed	186	200	210
Decisions Issued	219	238	241
3. Board Adjudication			
Contested Board ULP Decisions Issued	205	225	225
Contested Representation Election Decisions Issued	43	55	66
4. General Counsel - Washington			
Advice Cases	575	565	567
Appeals Cases	1,664	1,670	1,680
Enforcement Briefs Filed	13	68	94
Enforcement Cases Dropped or Settled	112	48	72
Enforcement Consent/Summary	43	70	70