

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



FISCAL YEAR 2013

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I. Introduction

This document combines the National Labor Relations Board's (NLRB) budget estimates and Annual Performance Plan for FY 2013. The Plan sets strategic goals for the fiscal year, and describes a number of initiatives that will help the Agency to use resources efficiently and effectively, and achieve the annual and long-term performance goals under the Government Performance and Results Act (GPRA) of 1993.

The FY 2013 budget request of \$292.8 million includes \$282.8 million to cover the salaries and expenses associated with annual agency operations, plus \$10 million to cover possible office relocation costs.

Salaries and Expenses: The \$282.8 million will support an estimated 1,665 full-time equivalents (FTE) which will enable the Agency to handle case intake that is projected to remain at FY 2011 levels through FY 2013. The funding will also cover a projected \$700,000 increase in General Services Administration space rent and Federal Protective Service security charges, and inflationary costs associated with information technology, telecommunications, court reporting, case-related travel, and other operational requirements.

Relocation Costs: The lease for the Headquarters building expires in June 2013 and the GSA is projecting about a one-third reduction in space that would result in rent savings of about 30 percent starting in FY 2014. The \$10 million requested would be used solely to offset relocation costs and would not be available for any other purpose.

The request is discussed in further detail in Section X.

II. MISSION STATEMENT

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

III. VISION STATEMENT

The NLRB strives to create a positive labor-management environment for the nation's employees, unions, and employers by assuring that employees have free choice on union representation and by preventing and remedying statutorily-defined unfair labor practices. The Agency maintains a customer-focused philosophy 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 timeliness and effectiveness in addressing caseload. The major goals are to:

- Promptly resolve all questions concerning representation
- Promptly investigate, prosecute, and remedy unfair labor practices by employers or unions

V. 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.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 rights of employees and regulating the respective relationships between employees, their unions and employers. The Act contains 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 they wish to be represented by a union, and (2) to prevent and remedy statutorily defined unfair labor practices by employers and unions.²

The five members of the National Labor Relations Board ("the Board"), as well as the General Counsel, are appointed by the President, subject to confirmation by the Senate. The Board and the General Counsel maintain a headquarters in Washington, D.C., and the Agency also maintains a network of Regional or "Field" offices, each of which is under the direction of a Regional Director³, and three satellite Judges' offices.

All NLRB proceedings originate from the filing of charges or petitions by employees, labor unions, or private employers who are engaged in interstate commerce. In FY 2011, about 25,000 cases were received by the Board through its Regional, Sub-regional, and Resident Offices each year. Of those, approximately 22,000 were unfair labor practice (ULP) charges and the rest were representation cases, a majority of which were petitions to conduct secret ballot elections.

The NLRA assigns separate and independent responsibilities to the Board and the General Counsel: The General Counsel's role is chiefly prosecutorial and the Board's is adjudicative.

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.

³Exhibit B is an organization chart of the Agency.

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 decide whether to issue complaints.⁴ The General Counsel's decision to prosecute or not is unreviewable. Typically, Regional Directors, who are delegated the General Counsel's complaint authority, find support for the charges in about one-third of the filings and dismiss the remaining two-thirds.

In the event of a dismissal, the charging party is entitled to an explanation, and if not satisfied, can appeal the decision to the Office of Appeals of the General Counsel's staff in Washington. The Office of Appeals will review the file to determine whether the investigation was complete and the legal conclusion sound. If the dismissal is upheld, the case is closed; if the appeal is sustained, a complaint is issued.

In those ULP cases where merit is found, (i.e., worthy of prosecution,) either by a Regional Director or by the Office of Appeals, over the past few years, approximately 95 percent were resolved through the Agency's settlement program without formal 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 litigation. A complaint that is not settled or withdrawn is tried before an administrative law judge, who issues a decision, which may be appealed 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.

In those cases in which the Board determines that a violation of the Act has been committed, the role of the General Counsel is to act on behalf of the Board to obtain compliance with the Board's order remedying the violation.⁵ Although Board decisions and orders in ULP cases are final and binding with respect to the General Counsel, they are not self-enforcing. If a party refuses to comply with a Board decision, the Board must petition for court enforcement of its order. In addition, the statute provides that any party aggrieved by a Board decision (other than the General Counsel,) may seek review of the Board's decision in the U.S. Courts of Appeals. 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.

Further, at times the financial status of the respondent changes during the time the case is being litigated. These changes may require 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 preparing and training staff to represent the Agency in these forums.

⁴Exhibit C is a chart on ULP case processing.

⁵Exhibit D is a chart on NLRB Order Enforcement.

The NLRA also authorizes seeking preliminary injunctive relief. Section 10(j) of the Act provides that where the General Counsel has issued a complaint alleging that any type of unfair labor practice has been committed except certain practices specified under Section 10(l), 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. 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.

The Agency's other major responsibility is conducting secret-ballot elections for employees to choose whether or not to be represented by a union.⁶ 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 petitioned-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.

Section 3(d) of the Act assigns to the General Counsel general supervision over all attorneys employed by the Agency (other than the administrative law judges, the Agency Solicitor, and the attorneys who serve as counsel to the Board Members) and over the officers and employees in the Regional Offices. 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 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.

⁶Exhibit E is a chart on representation case processing.

VI. STRATEGIC INITIATIVES

Public Affairs

In FY 2009, the Chairman announced a public affairs initiative to amplify the Agency's outreach efforts. The goal of the initiative is to better communicate to workers and their employers, especially those in the vast number of American workplaces which are not unionized, what the Agency does and what rights the NLRA protects. The Agency also is focusing on new technologies to better align outreach and education strategies with the contemporary workforce and workplace.

In FY 2010 the Agency began to implement this initiative with the creation of a new Office of Public Affairs, (OPA) a three-person office that replaced the Agency's Division of Information. OPA immediately launched an effort to publicize significant work in the regions and at headquarters through news releases, believing that reporting the NLRB's work is the most effective form of outreach. The news releases highlight noteworthy settlements, elections, and complaints, as well as federal injunctions issued at the NLRB's request and important Board decisions. A particular focus is in bringing attention to news from the regions, where all cases begin and 90 percent of cases settle.

The Office also created a Facebook page and Twitter account to reach new audiences and to engage in discussions with the public about the agency's work.

A goal of the Office of Public Affairs is to increase transparency, consistent with the Administration's Open Government Initiative. As part of that effort, the office oversaw the complete redesign of the agency's public website. The new site offers more basic information about the National Labor Relations Act to the general public while continuing to serve labor law professionals. The result has been a marked increase in visits and time spent on the site. The Office also added a charts and data section to the site, which allows visitors to see at a glance trends in elections, complaints, decisions, and other agency work.

In the next year, the Office of Public Affairs will help regional offices build their own web pages on the site, offering more information to local organizations and parties interested in the NLRB's work, including employers and employees. A companion project to improve the agency's intranet is nearing completion, with complete roll-out expected during the next fiscal year. The new intranet will improve internal communications and reduce redundancies by streamlining agency web efforts.

The Office also was engaged in planning and coordinating the Agency's first public hearing in two decades, to take testimony on proposed amendments to pre- and post-election procedures. The two-day hearing in July 2011 was webcast live, representing a first in the Agency's history.

The Office of Public Affairs in FY 2010 created the ability for members of the media and the general public to sign up for email delivery of news releases, announcements of personnel

changes, and weekly summaries of Board decisions. In FY 2011, the Office expanded the delivery options to include Administrative Law Judge decisions, General Counsel Memos, and a variety of other publications and documents, and now offers the ability to subscribe to news from a single Regional Office. Total subscribers now surpass 10,000.

Additionally, the office produced 10,000 new professionally-printed brochures in English and Spanish explaining the National Labor Relations Act and the role of the Agency, replacing materials that had not been updated in more than a decade. Those brochures have been distributed to the agency's 51 field offices, and more are expected to be produced during the coming fiscal year. Further, OPA also arranged presentations about the NLRB and U.S. labor laws with foreign delegations.

Public outreach has been encouraged, and embraced, at all levels of the Agency. Over the past few years, the Board Members, General Counsel, and Regional management participated in hundreds of speaking engagements, including at myriad law schools, American Bar Association events, the Chamber of Commerce, and various employer, union, and public advocacy groups.

Public Information Program

In addition to both the traditional and expanded outreach programs, one of the critical services provided to employers, unions, and employees is the Agency's Public Information Program. Under this program, officers in the field provide information directly to individuals or entities that contact the Agency seeking assistance. In FY 2011, the Agency's 51 Field Offices received 83,826 public inquiries regarding workplace 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. 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 2011, the toll-free telephone service received 34,331 calls. Also, in February 2011 the Agency revamped its website, www.nlr.gov, and for the period ending January 11, 2012, it has attracted 1.5 million visitors.

Posting Notification of Employees of Rights Under the NLRA

In August 2011, after soliciting and receiving about 7,000 public comments, the Board issued a final rule that will require employers to notify employees of their rights under the NLRA. The purpose of the rule is "to increase knowledge of the NLRA among employees, to better enable the exercise of rights under the statute, and to promote statutory compliance by employers and unions." Private sector employers (including labor organizations) whose workplaces fall under the NLRA will be required to post the employee rights notice where other workplace notices are typically posted, including internet and intranet sites. Copies of the notice will be available from

the Agency's Headquarters and Regional offices and can be downloaded or ordered from the NLRB website.

The notice, which is similar to one required by the U.S. Department of Labor for federal contractors, states that employees have the right to act together to improve wages and working conditions, to form, join, and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or complaints. Similar postings of workplace rights are also required under other federal workplace laws.

The original effective date for posting of the notifications was November 14, 2011 but was postponed by the Board until January 31, 2012, in order to allow for enhanced education and outreach to employers, particularly those who operate small and medium-sized businesses. The posting date was then further postponed at the request of the federal court in Washington, DC hearing a legal challenge to the rule. The Board's order states that it has determined that postponing the effective date of the rule would facilitate the resolution of the legal challenges that have been filed with respect to the rule. The new effective date is April 30, 2012.

10(j) Remedies for Unlawful Discharges in Organizing Campaigns

One of the core employee rights under the NLRA is the right to engage in union organizing activities in the workplace. The discharge of employees for exercising their right to self-organization can send a message to other employees that they too risk retaliation if they exercise their rights.

Over the years, the NLRB has developed a variety of effective strategies for minimizing the consequences of this unfair labor practice. First, the Agency focuses on prompt investigation of and settlement of meritorious charges. In addition, where settlement is not obtained, the General Counsel will consider whether to seek Board authorization under Section 10(j) of the Act to initiate proceedings in federal district court to obtain an injunction, requiring employers to offer interim reinstatement to unlawfully discharged employees pending the Board's order.

To ensure that all unlawful discharges in organizing cases are given priority and that a speedy remedy is sought, the Acting General Counsel has initiated a streamlined process for handling these ULP cases. The program covers all stages of processing – from identification of cases as potential 10(j) cases by Regional Offices, through Board authorization and litigation of Section 10(j) cases, to trial and decisions of the merits of the case. In FY 2011 the initiative resulted in 272 offers of reinstatement to unlawfully discharged employees and the collection of \$1.3 million in backpay.

The NLRB has been committed to a vigorous Section 10(j) injunction program for years and has found it to be a highly effective tool for achieving meaningful remedies. This streamlined process for identifying and processing potential 10(j) cases ensures that discharged employees are provided relief in “real time.”

Amendments to Procedures in Representation Elections

In December 2011, the Board adopted a final rule amending its election case procedures to reduce unnecessary litigation and delays. The rule is due to take effect on April 30, 2012.

A chief goal of the rule is to reduce unnecessary litigation, streamline pre- and post-election procedures, and facilitate the use of electronic communications and document filing. It will allow the Board to more promptly determine if there is a question concerning representation and, if so, resolve it by conducting a secret ballot election.

The rule is primarily focused on procedures followed by the Agency in the minority of cases in which parties cannot agree on issues such as whether the employees covered by the election petition are an appropriate voting group. In such cases, the matter goes to a hearing in a Regional Office and the NLRB Regional Director decides the question and sets the election.

Going forward, the regional hearings will be expressly limited to issues relevant to the question of whether an election should be conducted. The hearing officer will have the authority to limit testimony to relevant issues, and to decide whether or not to accept post-hearing briefs.

Also, all appeals of regional director decisions to the Board will be consolidated into a single post-election request for review. Currently, parties can appeal regional director decisions to the Board at multiple stages in the process. The rule also makes Board review of post-election decisions discretionary rather than mandatory.

In recent years, only about 10 percent of NLRB election cases have gone through the hearing process. Such elections have been held on average 101 days after the election petition was filed with a regional office.

The amendments to the election case procedures in the new rule were drawn from a more comprehensive proposal put forward by the Board in June. Nearly 75,000 comments were submitted following publication of the broader proposal in the Federal Register. The proposed rule was also the subject of a two-day public hearing attracting more than 60 speakers and was webcast. In introducing the new rule, the Board explained that it was holding for further deliberation parts of that proposal that had generated the most debate while moving ahead with parts considered relatively “less controversial.”

First Contract Bargaining

Initial contract bargaining constitutes a critical stage of the negotiation process because it forms the foundation for the parties’ future labor-management relationship. Additionally, 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 order to ensure that bargaining rights secured by the free choice of employees through NLRB elections are meaningful, the investigation of unfair labor practice charges dealing with first

contract bargaining are accorded high priority in the Regional Offices. Additional special remedies are considered if those charges are found to have merit, including public notice reading, multi-facility notice postings, the e-mail distribution of notices, certification year extensions, union access to bulletin boards, and bargaining-schedule remedies. The appropriateness of these remedies is considered based upon the facts of each case.

VII. MANAGEMENT INITIATIVES

This section describes initiatives to improve management and internal functions and thereby enhance the Agency's ability to meet its performance goals.

Technology Advances

The NLRB Office of the Chief Information Officer (OCIO) is executing enterprise-architecture-based technology programs that deliver value and advance the Agency's mission. The current Information Technology (IT) initiatives support the Agency's broader efforts to improve productivity and provide greater transparency.

The Agency's major IT initiatives are results-oriented and are designed to:

- Improve the productivity of the Agency's case management processes by standardizing business processes on a single unified case management system.
- Optimize business processes by providing employees ready access to the tools, data and documents they require from anywhere, at anytime.
- Transform the way the NLRB serves the public, including making its case processes transparent and providing more information to its constituents in a timely matter.
- Reduce the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations.

The Agency's three major IT initiatives are described more fully below.

Next Generation Case Management (NxGen)

The Agency's enterprise case management system is transitioning from its development phase to a balance of continued development and operations and maintenance. Known as the Next Generation Case Management System (NxGen), this system was architected to replace 11 separate legacy systems and integrate into a single unified system multiple technologies, including five distinct software solutions for customer relationship management, document management, collaboration, business analytics and web-based services for external constituents. This is the most comprehensive technology project undertaken at the NLRB, and its success is essential to the Agency's mission.

The NxGen project was launched in late 2006 with the goal of building an enterprise-wide case management system. The tools deployed to accomplish this goal are: Oracle's Public Sector and

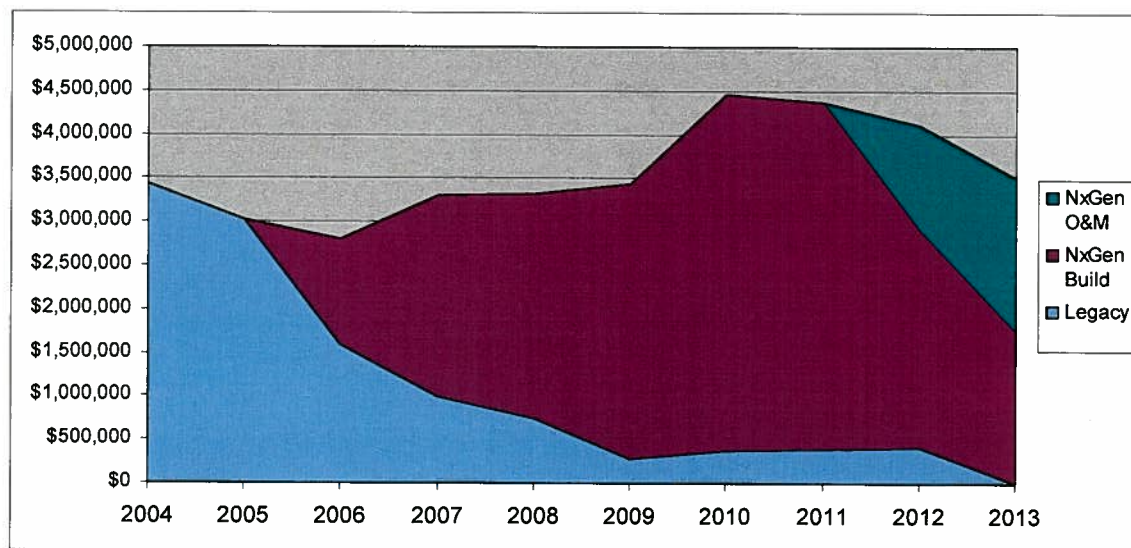
Data Quality Suites for customer relationship management and Business Intelligence Suite for analytics; EMC's Documentum Suite for enterprise content management, xPression for automated document assembly and eRoom for collaboration; and open-source solutions from Drupal and SOLR for managing external relationships and data. The NxGen project is enabling the NLRB to replace manual paper-based processes and "stovepipe" legacy systems with a standards-based solution.

Presently, the NxGen system is in use for:

- General Counsel's fifty-two Field Offices – whose Case Activity Tracking (CATS) legacy system has been retired.
- General Counsel's Office of Appeals – whose Appeals Case Tracking (ACTS) legacy system has been retired.
- General Counsel's Division of Advice – whose Regional Advice and Injunction Litigation (RAILS) legacy system has been retired.
- Board Offices – whose Pending Case List (PCL) legacy system has been retired.
- Integration with the Board's collaborative Judicial Case Management System (JCMS).
- Integration with the Division of Judges' Case Tracking System (TIGER).
- All Offices for processing incoming electronically-filed documents, including hearing transcripts and exhibits.
- Electronic issuance of Board and Division of Judges Decisions.

In FY 2011, the Agency retired its largest legacy case tracking system – the Field Offices' Case Activity Tracking System. The Agency's FY 2012 efforts are focused on replacing the remaining substantial systems case tracking applications, expanding reporting, integrating inter-office workflows, and modernizing its records management system.

As is illustrated below, the Agency funded the NxGen modernization efforts in significant measure by reducing expenditures on the 11 remaining legacy systems. The notable spikes in the FY 2010 and FY 2011 expenditures were due to the Agency's successful efforts to complete development and deployment of NxGen to the Field Offices prior to the end of FY 2011.



Agency expenditures on case management development and support FY 2004-2013

In 2010, the White House and OMB issued a memorandum to agencies that reforms the way the Federal Government manages IT projects. The memorandum lists “principles and best practices that have been proven to reduce project risk and increase success rates” for IT projects. These principles and best practices, along with the OCIO’s implementation actions, are listed below:

- Split projects into smaller, simpler segments with clear deliverables.* In late 2009, the OCIO and the NxGen Integrated Project Team (IPT) determined that NxGen would be more successful with an increased number of smaller development efforts, commonly known as an agile process. The prior efforts essentially involved long requirements gathering exercises followed by longer builds. To paraphrase an IPT member after a particularly long development cycle, “the process was perfect and we don’t like the end product.” Agency management and staff, the OCIO, and contractors are working together on clear and manageable deliverables. Since December 2009, the OCIO has transitioned from one-to-two major NxGen releases per year to between six and eight more focused releases.
- Focus on most critical business needs first.* Along with the change in operating method, the OCIO and IPT modified the program’s focus. Whereas it previously appeared that the team was attempting to “boil the ocean,” deeper business involvement and shorter timeframes have focused efforts on that which is achievable and adds value. As a practical example, the OCIO now delivers the necessary tools to support a process rather than attempting to automate the process from the outset.

- *Ongoing, transparent project oversight.* The IPT is the true success story of the NxGen program. The group has been and is enthusiastic, involved and supportive. OMB suggests that often senior agency managers do not adequately monitor projects on an ongoing basis once they are underway. With NxGen, the Board and General Counsel have been well served in this capacity by a dedicated group.

The Agency expects to significantly increase its telework efforts by FY 2013. These mandated efforts are supported by aforementioned investments in the NxGen case management system and by additional investments in infrastructure consolidation and the widespread deployment of laptops and secure remote access.

Websites

The NLRB places a high priority on offering timely and relevant information to case participants, citizens, and employees. To that end, the Agency maintains a citizen-centric website that provides access to these groups, so that they can obtain, maintain and share information. The website also provides access to FOIA-able data and documents online.

The Agency complied with President Obama's Open Government Directive by creating an "Open Government Page" that features relevant data and documents and by supplying and regularly updating raw data sets to data.gov for researchers and interested parties.

The Agency launched its first mobile application in FY 2010, delivering recent cases, decisions, news, updates, case search and other information about the NLRB to mobile devices. A key component of the mobile service is its direct link to NxGen. This "app" furthers the Agency's commitment to transparency and makes it even easier for those interested in the Agency's work to find the information they're looking for as efficiently as possible.

Following a Supreme Court ruling that the Board was not authorized to decide cases when it had only two members, the Agency made public a database of all contested cases that were decided by the two-member Board. The list of cases, with data from NxGen, includes links to original documents and case status updates that are refreshed in real-time. A full data set of all the cases is also provided in XML format for download.

Lastly, the Agency successfully executed an ambitious plan to link its constituent self-service, E-Filing, and E-Issuance efforts to the NxGen program. This effort provided a solid foundation for the Agency's unified case management vision: to provide better services, more efficient case handling, and greater transparency, while continuing to improve quality.

The Agency debuted a new public website in February 2011 and released complementary internal sites in October 2011. To manage the process, the Agency developed a formal web management structure to give all parts of the NLRB a voice regarding web content and infrastructure while still enabling fast and efficient decision-making.

As the Agency moves into a new era of streamlined case management, electronic filing and proactive outreach, the NLRB is modernizing its web presence in form and function. The new

public website is inviting to the public as well as to labor professionals and employees of the Agency. Key design objectives included making the website easy to navigate, easy to search, and easy to update.

The intranet and public internet sites are closely integrated to eliminate prior inequities between these sites and to ensure that updated information need only be posted once. An enhanced intranet will be a key ingredient in fostering improved communication throughout the Agency.

By updating the infrastructure; establishing a strong governance process; and integrating new technologies, better tools, and robust search, the Agency continues to efficiently manage web resources and assure that valuable content is readily accessible and available online.

Infrastructure Modernization and Consolidation

In FY 2006, the NLRB developed and began implementation of an ambitious plan to modernize and consolidate its IT infrastructure. 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 contingency plan for the continuity of operations (COOP);
- Allows employees in eligible positions to telecommute on a consistently-available system, enhancing workplace flexibility;
- Improves the Agency's capability to integrate IT security into our enterprise architecture processes; and
- Enables the OCIO to benchmark its organization against other agencies' programs and evaluate potential service providers.

Historically, each of the Agency's 51 Field Offices, located throughout the continental United States, Puerto Rico and Hawaii, used local file servers to support mission-critical applications. Additionally, 17 Field Offices housed shared CATS servers and six Field Offices accommodated distributed email servers.

In FY 2006, the Agency awarded a contract for hosted data center services and began deploying resources to its first data center in Virginia. Among the first resources consolidated in the data center were those supporting E-Government initiatives.

In FY 2009, the OCIO completed consolidating the Field Office file servers into the Virginia data center.

In FY 2010, the OCIO added a second hosted data center in Massachusetts, thereby providing disaster recovery and load balancing functionality. The build-out of this facility also marked the first time that the OCIO and its contractors had access to a test environment that mirrored its production environment.

Also in 2010, the OCIO finished consolidating its two Headquarters and six Field Office email servers into a single clustered platform at the Virginia center. A similar configuration in the Massachusetts center is provisioned for replacement email services in a disaster recovery scenario.

Taken together, these consolidation efforts significantly strengthen the Agency's continuity of operations plans, provide greater storage capacity and manageability, and afford staff improved access, at work and remotely.

With consolidation, network access to data becomes paramount. The Agency transitioned to services provided by the GSA Networx contract in FY 2010, taking advantage of lower data-communications rates and upgrading bandwidth at the Field Offices to support NxGen and other applications that operate across the NLRB's wide area network.

In FY 2011, the Agency migrated Internet access for its Headquarters, Field Offices and two data centers to GSA's Managed Trusted Internet Protocol Service (MTIPS). This switchover marked an important milestone in the Agency's nearly five-year effort to comply with OMB's Trusted Internet Connection (TIC) initiative; during which the Agency reduced the number of connections to the public Internet from 53 to one.

The NxGen program was fully deployed to Field Offices in FY 2011, thereby removing the requirement to have database servers located in these Offices. Consolidation of these servers to the NxGen system and data centers have left no application-provisioning equipment in the Field Offices and met the core objectives first proposed in 2006.

In FY 2012, the Agency will develop and begin implementation of a plan for the consolidation of its data, voice, video and wireless networks.

Through continuing to modernize and consolidate its IT infrastructure, the NLRB is able to provide cost-effective access to the tools, data and documents employees require from anywhere, at anytime, along with the service and support they require.

Workforce Planning

The NLRB has always sought to efficiently manage its human resources. The need to attract qualified staff is especially critical to the Agency at this time as, at the end of FY 2012, 44 percent of GS 13-15 supervisors and 76 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 FTE located in the Washington, D.C. Headquarters, and the remaining 1,165 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.

In order to ensure that staff members have the skills needed to accomplish the NLRB's mission,

the Agency has enhanced training opportunities and materials for both supervisory and non-supervisory staff. The focus has involved initiatives aimed at developing the following key skill areas:

Technical Training: NLRB is focusing on developing instructor guides regarding specifics on how to effectuate provisions of the NLRA. Over thirty-five of these guides are currently being used to provide the introductory and refresher training throughout the Agency. These are complemented by technical training conferences addressing topics such as implementing provisions of the NLRA for new employees, trial advocacy training for attorneys, and refresher training for experienced employees. Legal experts are also brought in to address introductory and advanced Legal Writing topics.

Supervisory, Managerial, and Executive Training: As part of an Agency-wide management program, managers at all levels annually assess their management skills and training needs. The Agency offers a variety of ways managers can do this, including: a 360 degree assessment/executive coaching program; training for new supervisors; attendance at external private vendor and OPM's Management Development Center and Federal Executive Institute seminars; and on-line training from Harvard and Ninth House. These offerings are supplemented by training seminars that address managerial concerns unique to the Agency and details to other offices to acquire experience in dealing with new functional areas and managerial challenges.

Support Staff: NLRB is focusing on on-line training in business skills and development of training designed to enhance grammar. Also, training seminars that include Agency-specific topics such as proper data transfer techniques for the new automated case management system.

General: Training is being presented to address common needs such as mentoring for new employees, EEO/Diversity/Antibias, and retirement planning. In addition, videoconferencing and on-line technology is being used so training can be delivered nationwide to all employees. Headquarters presentations by special emphasis speakers, experts from academia and short "how to" seminars by internal and external experts can now be shared with Field employees.

Finally, the Agency will be revising its Strategic Plan in FY 2012. One of the NLRB's human capital goals is to create a results-oriented performance culture that clearly links employee performance and pay to the attainment of the NLRB's strategic goals. When the Plan was last revised in FY 2007, the performance measures were modified to make them more robust and customer-focused, to better serve our constituents. The end result was the creation of three overarching measures that support the Agency's two strategic goals, and annual targets that support the Agency's long-term goals. In updating the Strategic Plan, the goals and measures will be reviewed to ensure that they remain ambitious, facilitate improved performance, and promote only the most efficient and effective strategies to achieve them.

Any changes to the goals and measures will also be incorporated into the SES Pay for Performance System to show a clear linkage between executive performance and pay, and attainment of our goals. See Sections XII and XIII for further details regarding Agency goals and performance measures.

Improved Financial Reporting

In FY 2012, the Agency will be migrating from the Department of Interior's National Business Center's (NBC) Momentum Financial System to its Oracle Financials System for its accounting needs. The change was prompted when NBC, the Agency's shared system provider, announced that it would no longer be supporting Momentum. Comparable to Momentum, Oracle provides Web-based functionality and interface capabilities with other systems. The system will enable the Agency to maintain the integrated accounting, payroll and travel systems first achieved under Momentum, and provide reliable financial data and reporting consistent with government financial reporting standards.

Acquisitions

The Agency has strengthened its acquisition workforce over the past few years, elevating the unit from a section to a branch, hiring an experienced chief, and filling longstanding vacancies with experienced staff. These actions will facilitate identification of acquisition strategies best aligned with specified requirements, enhance the ability to negotiate more cost-effective contracts, and minimize competitions resulting in bids that do not meet requirements.

Linking Budget and Performance

The NLRB's annual GPRA Performance Plan is integrated into the budget request to form the basis of the Agency's Performance Budget. Budget priorities are linked to Agency goals and measures to maximize performance and efficiency. As the Agency updates its Strategic Plan in FY 2012, any new goals/measures will continue to be integrated with the budget, to ensure that resources are allocated appropriately and effectively. Pending completion of the revised Strategic Plan and decisions regarding potential new goals/measures, the current goals/measures and FY 2012 targets are assumed for FY 2013. Section XII of this document provides a discussion of the relationship between 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. These goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency. In updating the Strategic Plan in 2012, the Agency will continue these linkages between budget and performance, and performance plans will be revised as necessary to incorporate any new goals/measures.

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 2013 request of \$292.8 million includes \$282.8 million to support annual salaries and expenses requirements and \$10 million to cover the costs associated with a possible move due to expiration of the lease of the Headquarters building in June 2013. The funding will enable the Agency to cover compensation and benefits for an estimated 1,665 FTE, including payroll costs, payments of annual leave balances to separating staff, and workman's compensation expenses. The \$282.8 million will also cover General Services Administration (GSA) space and Federal Protective Service security charges, including a projected \$700,000 increase, plus information technology, telecommunications, court reporting, case-related travel, and other activities critical to handling case intake expected to remain at FY 2011 levels through FY 2013.

The GSA estimates that \$10 million will be needed to offset construction, cabling, security, moving, information technology and furniture costs associated with a potential relocation. GSA is planning a new flex space design, consistent with the Administration's effort to reduce the federal government's footprint nationwide. A reduction in space of about one third is planned that is expected to result in rent savings of about 30 percent starting in FY 2014. The \$10 million requested would be used solely to offset relocation costs and would not be available for any other purpose.

The goals, measures and targets detailed in Sections XII and XIII assume the \$292.8 million set forth in this request.

Case Intake

During FY 2011, 22,188 unfair labor practice (ULP) cases were filed with the NLRB, of which 37 percent were found to have merit, and 2,834 representation cases were filed, of which the merit factor rate was 71 percent. Case intake is expected to continue at this level for the next few years, with a total of 25,050 cases expected in FY 2013.

Several factors could affect case intake, however, thereby impacting the Agency's ability to accomplish its strategic goals. As noted, the Agency does not control the number of cases filed. However, any event or issue that affects the workforce can spur potential union organizing or protected concerted activities, possibly resulting in an increase in caseload. For instance, employment trends, stakeholder strategies, globalization of the economy, industrial economic trends, corporate reorganizations and bankruptcies, the overall health of the nation's economy, and the level of labor-management cooperation efforts, are all factors that could have an impact on the NLRB's intake and the complexity of its work.

Settlements

Currently, of those cases in which merit is found, approximately 95 percent (93 percent in FY 2011) are settled without formal litigation. Cases are settled through the Agency's settlement program under which the respondent parties agree to provide a remedy and thereby avoid time-consuming and costly litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP cases, the settlement rate is not subject to the Agency's control. Disputes cannot always be resolved informally or in an expeditious manner no matter how determined and expert settlement efforts may be. Parties may conclude that litigation serves legitimate business or economic interests. The Agency's procedures provide for administrative hearings, briefs and appeals. When the process becomes formal and litigation ensues, costs increase. The Agency calculates that every 1 percent drop in the settlement rate costs more than \$2 million. Therefore, maintaining high settlement rates promotes performance, efficiency, and cost savings.

Presidential Appointments and Vacancies

Another factor outside the control of the Agency is prolonged vacancies on the Board. The Board now has five members, including three members who were recess-appointed in January 2012. However, Member Brian E. Hayes' term expires in December 2012, and Chairman Mark Gaston Pearce's term expires in August 2013. The terms of the three recess appointees, Sharon Block, Terence F. Flynn, and Richard F. Griffin, all of whom have been nominated by the President, will last until adjournment of Congress in December 2013, unless they are confirmed by the Senate. At the end of calendar year 2013, therefore, the Board could be left without a quorum and be unable to issue decisions, resulting in a backlog of cases.

In January 2011, the President nominated Lafe Solomon to serve as General Counsel. Solomon has been Acting General Counsel since June 21, 2010.

Section XVI includes a chart showing the appointment and term expiration dates of the current Board Members and General Counsel.

Potential Effect of Statutory Changes

This budget submission is based on an assumption that the statute administered by the Agency will remain essentially unchanged and that the Board's mission and operations will continue as before. As a general matter, of course, changes in the law will affect the Agency's operations and could have an effect on case load.

IX. PROGRAM EVALUATION

The Board evaluates whether programs are achieving their GPRA and other performance targets through different techniques and mechanisms. The Board tracks the status of all of its cases on a regular basis to gauge performance against yearly targets that support the Agency's performance measures and strategic goals. A standing committee (Triage Committee) of senior management officials meets weekly to review the status of cases that have entered the issuance process, plus other cases that are likely to require special handling. Triage representatives report back to the Board Members on performance data and staff workload, among other issues. The Board has an electronic case management system that captures all case events in a database from which reports are generated.

The NLRB also tracks how the various circuit courts have treated the Board's cases on appeal. Over the past several years, the Agency's enforcement rate has been among the highest in its history. This trend continued in FY 2011 with rulings by the United States Courts of Appeals of Board decisions in 32 enforcement and review cases. Of those cases, 88 percent were enforced or affirmed in whole or in part, 84 percent were won in full, 3 percent were remanded entirely, and 6 percent were lost in full. Another 21 enforcement and review cases were dismissed or remanded by courts of appeals in light of the Supreme Court's *New Process* decision holding that, during the period from January 2008 to late March 2010 when the Board had only two members, the Board lacked authority to issue decisions. In FY 2010, courts of appeals decided 16 enforcement and review cases involving the Board. In 100 percent of those cases the Board's order was enforced or affirmed in full. Another 72 enforcement and review cases were dismissed or remanded by courts of appeals in FY 2010 in light of *New Process*.

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 annually 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.

In addition, personnel from the Division of Operations-Management review all complaints issued in the Regions to ensure that pleadings are correct and supported. They also conduct site visits during which they evaluate Regional casehandling and administrative procedures. To assess the quality of litigation, a field and Operations-Management Committee reviews all Administrative Law Judge and Board decisions that constitute a significant loss to the Agency. Moreover, the Regional Offices' performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities is incorporated into the Regional Directors' annual performance appraisals.

The Division of Operations-Management regularly reviews case decisions to determine the quality of 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. Top management also meets regularly with relevant committees of the American Bar Association to obtain feedback on their members' experiences practicing before the NLRB.

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. In FY 2011, the success rate, i.e., the percentage of authorized Section 10(j) cases in which the Agency achieved either a satisfactory settlement or substantial victory in litigation, was 93 percent.

X. FISCAL YEAR 2013 PERFORMANCE BUDGET

The \$292.8 million requested includes \$282.8 million to fund essential staffing, space/security requirements, long-term investments in IT, telecommunications, casehandling costs, employee development needs, and other operational costs, and \$10 million to offset the costs of a potential required move due to expiration of the lease of the Headquarters building in June 2013.

Assumptions

The request is based on the following assumptions:

- Case intake will remain at FY 2011 levels through FY 2013.
- Relocation costs will be incurred in FY 2013.
- The Board will have a quorum.
- The statute administered by the Agency remains unchanged.
- Planned performance goals and measures will be met.

Requirements

The NLRB's mission – the resolution of labor disputes through investigation, settlement, advocacy and adjudication – relies primarily on skilled and experienced professional employees; accordingly, about 80 percent of the \$282.8 million requested to support annual staffing and operational expenses is dedicated to personnel costs, 10 percent is required for rent and security, and the remaining 10 percent is allocated among all other operating costs and activities, including: IT development, acquisition and maintenance; telecommunications, including leased lines for all field offices; court reporting; case-related travel; witness fees; interpreters; maintenance of current legal research collections; training; and compliance with government-wide statutory and regulatory mandates. The \$10 million requested for the potential move reflects GSA's estimate of Agency relocation costs and would be used for that purpose only.

The following table places the FY 2013 performance budget request in the context of resources received or anticipated over the FY 2011 through FY 2013 timeframe:

	FY 2011 Post- Rescission Appropriation	FY 2012 Post-Rescission Appropriation	FY 2013 Performance Budget
Funding Level (000s)	\$282,800	\$278,306	\$292,800
Agency FTE	1,680	1,665	1,665

The funding will enable the Agency to cover compensation and benefits for an estimated 1,665 FTE, including payroll costs, payments of annual leave balances to separating staff, and workman’s compensation expenses. The \$282.8 million will also cover General Services Administration (GSA) space and Federal Protective Service security charges, including a projected \$700,000 increase, plus information technology, telecommunications, court reporting, case-related travel, and other activities critical to handling case intake expected to remain at FY 2011 levels through FY 2013. The request also includes \$170,000 to cover costs associated with Continuity of Operations Planning (COOP). The funding will support one FTE and training materials, travel, and supplies required for ongoing COOP development and annual exercises.

To cover potential relocation costs, GSA estimates that \$10 million will be needed to offset necessary construction, cabling, security, moving, information technology and furniture costs. GSA is planning a new flex space design, consistent with the Administration’s effort to reduce the federal government’s footprint nationwide. To maximize space utilization under this new design, GSA anticipates some additional furniture/equipment will be required to fit within reconfigured, smaller space. A planned one-third reduction in space is expected to result in rent savings of about 30 percent starting in FY 2014.

Program Activities

The following table illustrates obligations by program activity. Administrative support costs and FTE are included in the totals for each activity.

	FY 2011 Actual Obligations		FY 2012 Post-Rescission Level		FY 2013 Performance Budget	
	\$ Millions	FTE	\$ Millions	FTE	\$ Millions	FTE
Field investigation	\$228	1,332	\$224	1,317	\$228	1,317
ALJ hearing	13	104	13	104	14	104
Board adjudication	25	154	25	154	25	154
Securing compliance with Board orders	15	83	15	83	15	83
Internal review	1	6	1	7	1	7
Relocation					10	
Total	\$282	1,679	\$278	1,665	\$293	1,665

The FY 2013 budget request assumes that case intake will remain close to FY 2011 levels – 22,200 ULP cases and 2,850 representation cases. The initial processing and disposition of new case filings in the Field drives the intake for other stages of the casehandling pipeline. Historically, 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.

With new filings projected to hold at FY 2011 levels, it is expected that caseload at the ALJ hearing and Board adjudication stages of the casehandling pipeline will also remain relatively stable.

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 2012 and FY 2013, 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.

Budget Oversight

The NLRB prides itself on being a responsible steward of taxpayer dollars. As such, we have conserved funds and maximized our spending flexibility over the years, by imposing hiring controls; restructuring and streamlining our workforce to either eliminate positions or fill them at lower grades; consolidating space to reduce rental costs; and monitoring closely IT, travel, and other casehandling and support costs. These practices have enabled us to cover our normal operational requirements, serve our constituents at a high level, maintain labor peace, and achieve our GPRA goals.

Savings Initiatives

Consistent with past efforts, the Agency is undertaking the following initiatives that will save money, increase efficiency, enhance performance, and enable the NLRB to continue to provide high quality service to the public:

1. **Legacy Systems Support:** Migration of the remaining substantial legacy systems to the NxGen platform using FY 2012 funds will enable the Agency to eliminate legacy system support beginning in FY 2013. The expected savings in FY 2013 is \$405,000.
2. **Unified Communications:** In FY 2012, the Agency will develop and begin implementation of a plan for the consolidation of its data, voice, video and wireless networks. For FY 2012, the costs for these services are budgeted to be \$3.4 million. As a result of the initial efforts, the expected savings in FY 2013 total \$170,000.
3. **E-Service and E-Delivery:** In FY 2011, the Agency electronically served and delivered 332 decisions to over 29,000 parties and Agency offices who would have otherwise received printed and mailed copies. The estimated printing and postage savings in FY 2011 is \$10,000. These savings are expected to increase significantly when the Field Offices begin E-Delivery in FY 2012.
4. **Telework:** The Agency expects to significantly increase its telework efforts by FY 2013. These efforts are supported by recent investments in the NxGen case management system, infrastructure consolidation, and the widespread deployment of laptops and secure remote access. It is expected that use of telework will have significant implications for the Agency’s space rent costs going forward.

XI. OFFICE OF THE INSPECTOR GENERAL

The amount of \$1,195,870 for the Office of Inspector General (OIG) operations was submitted by the Inspector General and was included in this request without change. That amount includes \$15,000 for training of OIG personnel and \$2,865 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 2013, and any resources necessary to support the CIGIE.

XII. STRATEGIC PLAN GOALS AND THEIR RELATIONSHIP TO THE PERFORMANCE BUDGET

In its Strategic Plan for FY 2007, the Agency changed its measurements of performance to be more outcome-based, better aligned with the mission of the NLRB, and more meaningful to the public. Rather than measure individual segments of the casehandling process, the emphasis shifted to measuring the time taken to process an entire case, from start to finish.

The resulting measures focus on three outcomes: Resolving all questions concerning representation within 100 days; investigating and processing all Unfair Labor Practice (ULP) charges within 120 days; and investigating, prosecuting, arranging for settlement, or otherwise resolving ULP charges found to have merit within 365 days. Performance in all three measures has improved by more than 5 percent since the measures were established. In FY 2011, the Agency exceeded the targets for two of the measures and just missed achieving the third by .3 percent.

As noted in Section VII, the Agency will be revising its Strategic Plan in FY 2012. In updating the Plan, the goals/measures will be reviewed to ensure that they remain ambitious, facilitate improved performance, and promote efficient and effective strategies to achieve them. Pending that review, the current goals/measures and FY 2012 targets are assumed for FY 2013.

Described below are the Agency's two major strategic goals and associated objectives, strategies and performance measures.

GOAL NO. 1: Promptly resolve questions concerning representation

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. The Agency 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 involve 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 critical workforce skill gaps and address these needs through training and effective recruitment in order to achieve Agency goals.
- 8. Provide an information technology environment that will equip employees with technology tools and access to research and professional information comparable to that available to their private sector counterparts.

The success of this goal will be measured by the percentage of representation cases resolved within 100 days of filing the election petition.

GOAL #2: Promptly 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 NLRA. This goal communicates the Agency's resolve to fairly and expeditiously investigate charges of unfair labor practice. 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 gaps 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.

The success of this goal will be measured in two ways: The percentage of unfair labor practice (ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge; and the percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge.

Performance

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 measure the Agency has established for the conduct of elections is objective and is 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 the two performance measures noted above. In particular, the timeliness and quality of case processing, 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.

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 direct costs attributed to that goal and measure. The discussion below the charts reviews the Strategic Plan’s goals, objectives, and strategies, and explains their relationship to the performance measures contained in the Annual Performance Plan. In addition, each current performance measure in the Annual Performance Plan, including background information and performance targets, is discussed.

Measure 1, the performance measure associated with Goal 1, focuses on the total time taken to resolve a representation case, from beginning to end, including action by both the General Counsel and the Board. Elections result from petitions filed by unions, employees or employers seeking a secret ballot determination as to whether a majority of employees desire union representation. Included in this measure are withdrawals, dismissals, settlements, hearings, and elections, which occur in the Field. In addition, aggrieved parties may request a review of Regional decisions by the Board.

Goal 2 relates to Measures 2 and 3, which address the timely resolution of ULP cases, including time spent by both the General Counsel and the Board. On a yearly basis, there are more than six times as many ULP cases as representation cases, usually involving more complicated issues for Regions to address.

Goal 1—Promptly resolve questions concerning representation

	FY 2011 Actual		FY 2012 Post-Rescission Level		FY 2013 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #1: Representation Cases	283	\$47.6	281	\$46.9	281	\$48.0
Subtotal, Goal 1	283	\$47.6	281	\$46.9	281	\$48.0

Goal 2—Promptly investigate, prosecute and remedy cases of unfair labor practices by employers or unions

	FY 2011 Actual		FY 2012 Post-Rescission Level		FY 2013 Performance Budget	
	FTE	\$ (mill)	FTE	\$ (mill)	FTE	\$ (mill)
Measure #2: ULP charges resolved by withdrawal, by dismissal, or by closing on compliance with a settlement or Board order of Court judgment	931	\$156.4	923	\$154.2	923	\$156.7
Measure #3: Meritorious ULP cases closed on compliance	465	\$78.2	461	\$77.2	461	\$78.1
Subtotal, Goal 2	1,396	\$234.6	1,384	\$231.4	1,384	\$234.8
Total, Goals 1 & 2 *	1,679	\$282.8	1,665	\$278.3	1,665	\$282.8

**Note that the total budget reflected in FY 2013 excludes the \$10 million requested for relocation as this funding will not impact Agency performance.*

Any new measures included in the Strategic Plan for FY 2013 - FY 2017 will continue to maintain the strong connection between performance and budget detailed above.

XIII. PERFORMANCE MEASURES EXPLAINED

Measure #1: The percentage of representation cases resolved within 100 days of filing the election petition

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a representation case, including time spent on both the General Counsel and Board sides.

An employer, labor organization, or a group of employees may file a petition in an 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 resolution of industrial disputes.

Definitions:

Resolve -- When a case has been finally processed with no further rights of appeal or administrative action required, the question as to whether or not the labor organization will represent the employees has been finally resolved. Representation cases are resolved in a number of ways:

- Cases may be dismissed before an election is scheduled or conducted. Dismissals at an early stage in the processing may be based on a variety of reasons, for example, the employer not meeting jurisdictional requirements, the petitioner's failure to provide an adequate showing of interest to support the petition, and/or the petition being filed in an untimely manner.
- Cases may also be withdrawn by the petitioner for a variety of reasons including lack of support among the bargaining unit and/or failure to provide an adequate showing of interest.
- The majority of cases are resolved upon either a certification of representative (the union prevails in the election) or a certification of results (the union loses the election).
- In a small percentage of cases, there are post-election challenges or objections to the election. These cases are not considered resolved until the challenges and/or objections have been investigated and a report has been adopted by the Board.

Counting of Days -- The 100 days is calculated from the date that the petition is formally docketed.

Performance:

Goal 1/Measure 1 – In FY 2011, the Agency just missed achieving the target of 85 percent, closing 84.7 percent of its representation cases within 100 days of the filing of a petition. While below the FY 2011 target, the 84.7 percent represents the second highest percentage achieved for this measure since its inception in FY 2007.

Table 1: Goal 1/Measure 1

Targets for FY 2011 - 2013			
Assumes Continuation of Current Labor Law			
Goal 1: Promptly resolve questions concerning representation			
Measure 1: The percentage of representation cases resolved within 100 days of filing the election petition			
Baseline: 78.0%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	79.0%	--	79.0%
FY 2008	80.0%	--	83.5%
FY 2009	81.0%	--	84.4%
FY 2010	82.0%	85.0%	86.3%
FY 2011	83.5%	85.0%	84.7%
FY 2012	85.0%	85.2%	
FY 2013		85.2%	

The percentage of unfair labor practice (ULP) charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on the time taken to resolve a ULP charge, including time spent on both the General Counsel and Board sides.

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, or dismissed, are litigated before an administrative law judge, whose decision may be appealed to the Board.

Definitions:

Resolve -- The ULP case has been finally processed. The issues raised by the charging party have been answered and, where appropriate, remedied. There is no further Agency action to be taken.

Counting of Days -- The 120 days is calculated from the date that the charge is docketed.

Performance:

Goal 2/Measure 2 -- In FY 2011, the NLRB closed 72.5 percent of all ULP cases within 120 days of the docketing of the charge, exceeding the target by 1.3 percent.

Table 2: Goal 2/Measure 2

Targets for FY 2011 - 2013			
Assumes Continuation of Current Labor Law			
Goal 2: Promptly investigate, prosecute and remedy cases of unfair labor practices by employers or unions			
Measure 2: The percentage of unfair labor practice charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge			
Baseline: 66.7%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	67.5%	--	66.0%
FY 2008	68.0%	--	68.0%
FY 2009	68.5%	--	71.0%
FY 2010	69.5%	71.2%	73.3%
FY 2011	70.0%	71.2%	72.5%
FY 2012	71.0%	72.0%	
FY 2013		72.0%	

The percentage of meritorious (prosecutable) unfair labor cases closed on compliance within 365 days of the filing of the ULP charge

Background:

This is an overarching, outcome-based performance measure first implemented in FY 2007. The measure focuses on meritorious (prosecutable) ULP cases and the time taken to close them on compliance, including time spent by both the General Counsel and the Board. Compliance marks the point where an employer or union has ceased engaging in the ULP conduct being prosecuted and has taken appropriate affirmative action, including the payment of backpay, to make whole those injured by the ULP.

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, efforts to obtain voluntary compliance or appropriate settlements begin immediately and continue throughout the course of any necessary litigation. Most settlements are achieved before trial. Once the administrative law judge issues a decision, the decision can then be appealed to the Board. The Board, in turn, will consider the case and issue a final order resolving the ULP case. 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, which, if it is unable to secure voluntary compliance or a settlement meeting established standards, will proceed to seek a judgment from an appropriate U.S. Court of Appeals enforcing the Board's order.

Following final court judgment, any disagreements about what steps are necessary before the case can be closed on compliance are resolved either in compliance proceedings before the Board and reviewing court or, in extreme cases, in contempt of court proceedings.

Definitions:

Resolve -- Cases are closed on compliance when the remedial actions ordered by the Board or agreed to by the party charged with the violation are complete.

Counting of Days -- The 365 days is calculated from the date the charge is docketed.

Performance:

Goal 2/Measure 3 -- In FY 2011, the NLRB closed 83.2 percent of all prosecutable ULP cases in 365 days from the docketing of the charge, exceeding the target by 3 percent.

Table 3: Goal 2/Measure 3

Targets for FY 2011 - 2013			
Assumes Continuation of Current Labor Law			
Goal 2: Promptly investigate, prosecute and remedy cases of unfair labor practices by employers or unions			
Measure 3: The percentage of meritorious (prosecutable) unfair labor cases closed on compliance within 365 days of the filing of the ULP charge			
Baseline: 73.6%			
Fiscal Year	Previous Target	Revised Target	Actual
FY 2007	74.0%	--	73.5%
FY 2008	75.0%	--	76.0%
FY 2009	75.5%	--	79.7%
FY 2010	76.0%	80.0%	84.6%
FY 2011	76.5%	80.2%	83.2%
FY 2012	77.0%	80.3%	
FY 2013		80.3%	

The following chart summarizes the features of the performance plan since its implementation:

**2013 ANNUAL PERFORMANCE PLAN
ASSUMING CONTINUATION OF CURRENT LABOR LAW**

Goal #1: Resolve all questions concerning representations promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Measure 1								
The percentage of representation cases resolved within 100 days of filing the election petition	78.0%	Target 79.0%	Target 80.0%	Target 81.0%	Target 85.0%	Target 85.0%	Target 85.2%	Target 85.2%
		Actual 79.0%	Actual 83.5%	Actual 84.4%	Actual 86.3%	Target 84.7%		
Goal #2: Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Measure 2								
The percentage of ULP charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge	66.7%	Target 67.5%	Target 68.0%	Target 68.5%	Target 71.2%	Target 71.2%	Target 72.0%	Target 72.0%
		Actual 66.0%	Actual 68.0%	Actual 71.0%	Actual 73.3%	Target 72.5%		

Goal #2: Investigate, prosecute and remedy cases of unfair labor practices by employers or unions promptly	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Measure 3 The percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge	73.6%	Target 74.0% Actual 73.5%	Target 75.0% Actual 76.0%	Target 75.5% Actual 79.7%	Target 80.0% Actual 84.6%	Target 80.2% Target 83.2%	Target 80.3%	Target 80.3%

XIV. BOARD MEMBERS AND GENERAL COUNSEL

Below is information about the terms of the current Presidential appointees of the NLRB.

	<u>Appointed</u>	<u>Term to Expire</u>	<u>Nominated to Term Expiring</u>
Mark G. Pearce ⁷ Chairman	4/7/10	8/27/13	----
Brian E. Hayes Member	6/30/10	12/16/12	----
Sharon Block ⁸ Member	1/4/12	12/13	12/16/14
Terence F. Flynn ⁹ Member	1/4/12	12/13	8/27/15
Richard F. Griffin ¹⁰ Member	1/4/12	12/13	8/27/16
Lafe E. Solomon ¹¹ Acting General Counsel	6/21/10		

⁷Mark Gaston Pearce was appointed Chairman on August 28, 2011.

⁸Sharon Block was nominated on December 15, 2011 and recess-appointed on January 4, 2012.

⁹Terence F. Flynn was nominated on January 5, 2011 and recess-appointed on January 4, 2012.

¹⁰Richard F. Griffin was nominated on December 15, 2011 and recess-appointed on January 4, 2012.

¹¹Lafe E. Solomon was nominated to be General Counsel on January 5, 2011.

XV. BUDGET MATERIALS

Appropriation Language

Amounts Available for Obligation

Budget Authority by Object Class

Detail of FTE Employment

Appropriations History

Staffing History

Major Workload and Output Data

**FY 2013
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, and other laws, ~~[\$278,306,006]~~ **\$292,800,000**: 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.

Amounts Available for Obligation
(Dollars in Thousands)

	FY 2011 ACTUAL	FY 2012 ESTIMATE	FY 2013 ESTIMATE
Appropriation	\$282,833	\$278,306	\$292,800
Spending authority from offsetting collections 1/	11	20	20
Lapsed Balance in Prior Year	0	0	0
Total Estimated Obligations	\$282,844	\$278,326	\$292,820

1/ Offsetting collections of \$10,620 from federal sources for the Fitness Center Program in Washington, DC.

Budget Authority by Object Class
(Dollars in Millions)

	2011 ACTUAL	2012 ESTIMATE	2013 ESTIMATE
Personnel Compensation:			
Full-time Permanent	173	171	172
Other Than Full-time Permanent	1	1	1
Other Personnel Compensation	0	0	0
Subtotal Personnel Compensation	174	172	173
Civilian Personnel Benefits	45	43	44
Travel and Transportation of Persons	4	3	3
Rental Payments to GSA and Security Payments to DHS	28	30	33
Rent, Communications, and Utilities	5	5	5
Other Services	21	21	25
Supplies and Materials	1	1	1
Furniture and Equipment	4	3	9
Subtotal, Direct Budget Authority	282	278	293
Reimbursables	0	0	0
Total Budget Authority	282	278	293

Detail of Full-Time Equivalent Employment

	<u>FY 2011 ACTUAL</u>	<u>FY 2012 ESTIMATE</u>	<u>FY 2013 ESTIMATE</u>
Executive Level I	0	0	0
Executive Level II	0	0	0
Executive Level III	1	1	1
Executive Level IV	2	5	5
Executive Level V	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>3</u>	<u>6</u>	<u>6</u>
ES	<u>58</u>	<u>64</u>	<u>64</u>
Subtotal	<u>58</u>	<u>64</u>	<u>64</u>
AL-1	1	1	1
AL-2	4	4	4
AL-3	35	34	34
Subtotal	<u>40</u>	<u>39</u>	<u>39</u>
GS/GM-15	214	219	219
GS/GM-14	476	482	484
GS/GM-13	229	234	235
GS-12	87	78	77
GS-11	104	99	98
GS-10	1	0	0
GS-9	70	70	69
GS-8	47	57	57
GS-7	189	185	185
GS-6	74	60	59
GS-5	71	61	61
GS-4	13	5	7
GS-3	2	4	4
GS-2	1	2	1
GS-1	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	<u>1,578</u>	<u>1,556</u>	<u>1,556</u>
Full-time Equivalent Usage	<u>1,679</u>	<u>1,665</u>	<u>1,665</u>
Average ES Salary	\$172,692	\$173,000	\$173,000
Average AL Salary	\$165,295	\$165,300	\$165,300
Average GS/GM Salary	\$95,414	\$97,532	\$98,489

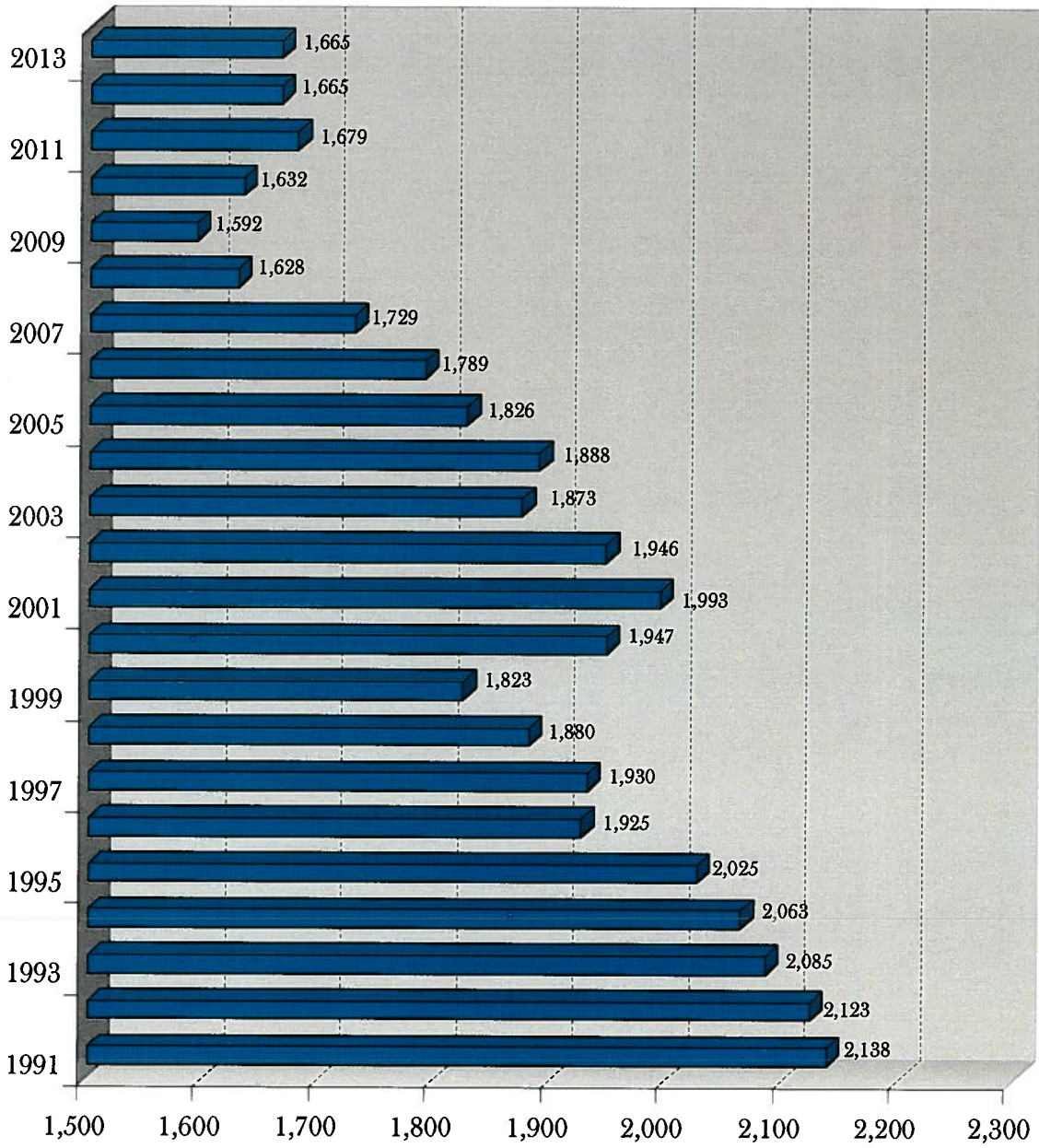
Appropriations History

Year	Estimate to Congress	House Allowance	Senate Allowance	Appropriation or Continuing Resolution	
1989	\$138,647,000	\$138,647,000	\$138,647,000	\$136,983,000	1/
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	2/
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	3/
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	4/
1996	\$181,134,000	\$123,233,000		\$170,266,000	5/ 6/
1997	\$181,134,000	\$144,692,000		\$174,661,000	7/ 8/
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	9/
2000	\$210,193,000		\$205,717,000	\$205,717,000	10/ 11/
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	12/
2003	\$233,223,000		\$231,314,533	\$237,428,592	13/
2004	\$243,073,000	\$239,429,000	\$246,073,000	\$242,632,969	14/
2005	\$248,785,000	\$248,785,000	\$250,000,000	\$249,860,000	15/
2006	\$252,268,000	\$252,268,000	\$252,268,000	\$249,745,000	16/
2007	\$249,789,000	\$249,789,000	\$249,789,000	\$251,507,470	17/
2008	\$256,238,000	\$256,988,000	\$256,988,000	\$251,761,522	18/
2009	\$262,595,207	\$262,595,000	\$262,595,000	\$262,595,000	
2010	\$283,400,000	\$283,400,000	\$283,400,000	\$283,400,000	
2011	\$287,100,000			\$282,833,200	19/
2012	\$287,699,000			\$278,306,006	20/
2013	\$292,800,000				

Appropriations History -- Footnotes

- 1/ Reflects a reduction of 1.2% applied to all discretionary programs, per P.L. 100-436.
- 2/ Reflects reduction of 2.41% applied to all discretionary programs, per P.L. 101-517.
- 3/ Reflects .8 percent across-the-board reduction applied during conference.
- 4/ Reflects government-wide rescission of \$326,000, per P.L. 104-19.
- 5/ 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).
- 6/ Reflects reduction of \$477,000 per two rescissions in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).
- 7/ The Senate Appropriations Committee recommended \$170,266,000. 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).
- 8/ Reflects reduction of \$339,000 due to across-the-board reductions in conference per Section 519, P.L. 104-208.
- 9/ Reflects reduction of \$221,000, per government-wide rescission (P.L. 106-5).
- 10/ 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)
- 11/ Reflects reduction of \$783,000 due to across-the-board reductions in conference, per P.L. 106-113.
- 12/ 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.
- 13/ The Senate bill initially provided for \$238,223,000 and two amendments reduced all discretionary programs by 2.9%.
- 14/ This total includes a rescission amount of \$1,440,031 as provided under P.L. 108-199.
- 15/ Reflects a .8 percent across-the-board rescission, per P.L. 108-477.
- 16/ Reflects a 1 percent across-the-board rescission, per P.L. 109-148.
- 17/ Reflects an additional \$1,762,150 to cover 50% of the pay increase, as per P.L. 110-5.
- 18/ The Labor/HHS bill was passed by Congress but vetoed by the President. The total reflects the President's Request less a 1.747% rescission, per H.R 2764.
- 19/ Reflects a .2% across-the-board rescission, per P.L. 112-10.
- 20/ Includes a .189% across-the-board rescission, per P.L. 112-74.

STAFFING HISTORY



FTE totals through FY 2011 reflect actual utilization. Totals for FY 2012 and FY 2013 are estimates.

Major Workload and Output Data

	FY 2011 ACTUAL	FY 2012 ESTIMATE	FY 2013 ESTIMATE
1) Regional Offices:			
Unfair Labor Practice (ULP) Cases			
Situations Pending Preliminary Investigation at Start of Year	4,208	4,421	4,321
Case Intake During Year	22,188	22,200	22,200
Consolidation of Dispositions	1,200	1,000	1,000
Total ULP Proceedings	22,218	21,300	21,300
Situations Pending Preliminary Investigation at End of Year	4,421	4,321	4,221
Representation Cases			
Case Intake During Year	2,834	2,850	2,850
Dispositions	2,856	2,942	3,059
Regional Directors Decisions	203	209	217
2) Administrative Law Judges:			
Hearings Pending at Start of Year	265	264	267
Hearings Closed	226	238	239
Hearings Pending at End of Year	264	267	268
Adjustments After Hearings Closed	4	5	6
Decisions Pending at Start of Year	49	43	50
Decisions Issued	230	235	236
Decisions Pending at End of Year	43	50	51
3) Board Adjudication:			
Contested Board ULP Decisions Issued	272	275	280
Contested Representation Election Decisions Issued	96	100	105
4) General Counsel - Washington:			
Advice Pending at Start of Year	60	92	89
Advice Cases Received During Year	686	705	714
Advice Disposed	654	708	719
Advice Pending at End of Year	92	89	84
Appeals Pending at Start of Year	459	231	231
Appeals Received During Year	1,970	2,100	2,205
Appeals Disposed	2,198	2,100	2,205
Appeals Pending at End of Year	231	231	231
Enforcement Cases Received During Year	185	200	204
Enforcement Briefs Filed	89	95	97
Enforcement Cases Dropped or Settled	64	58	59
Enforcement Consent/Summary	56	62	63

XVI. PROGRAM MATERIALS

Exhibit A: Types of NLRB Cases

Exhibit B: Organization Chart

Exhibit C: Basic Procedures in Cases Involving Charges of Unfair Labor Practices

Exhibit D: NLRB Order Enforcement

Exhibit E: Outline of Representation Procedures Under Section 9c

EXHIBIT A

TYPES OF NLRB CASES

1. CHARGES OF UNFAIR LABOR PRACTICES (C CASES)

Charges Against Labor Organization

Charges Against Employer			Charges Against Labor Organization and Employer		
Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act	Section of the Act
CA	CB	CC	CD	CG	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, 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: (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). (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. (C) 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.	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 employer to select such labor organization as its representative, unless such labor organization is currently certified as the representative of such employees: (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). (B) where within the preceding 12 months a valid election under Section 9(c) has been conducted, or (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(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). (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. (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.			
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.				
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.				
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.				

* 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.

2. PETITIONS FOR CERTIFICATION OR DECERTIFICATION OF REPRESENTATIVES (R CASES)

By or in Behalf of Employees

Section of the Act	Section of the Act	Section of the Act	Section of the Act
FC	RD	RM	UD
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.

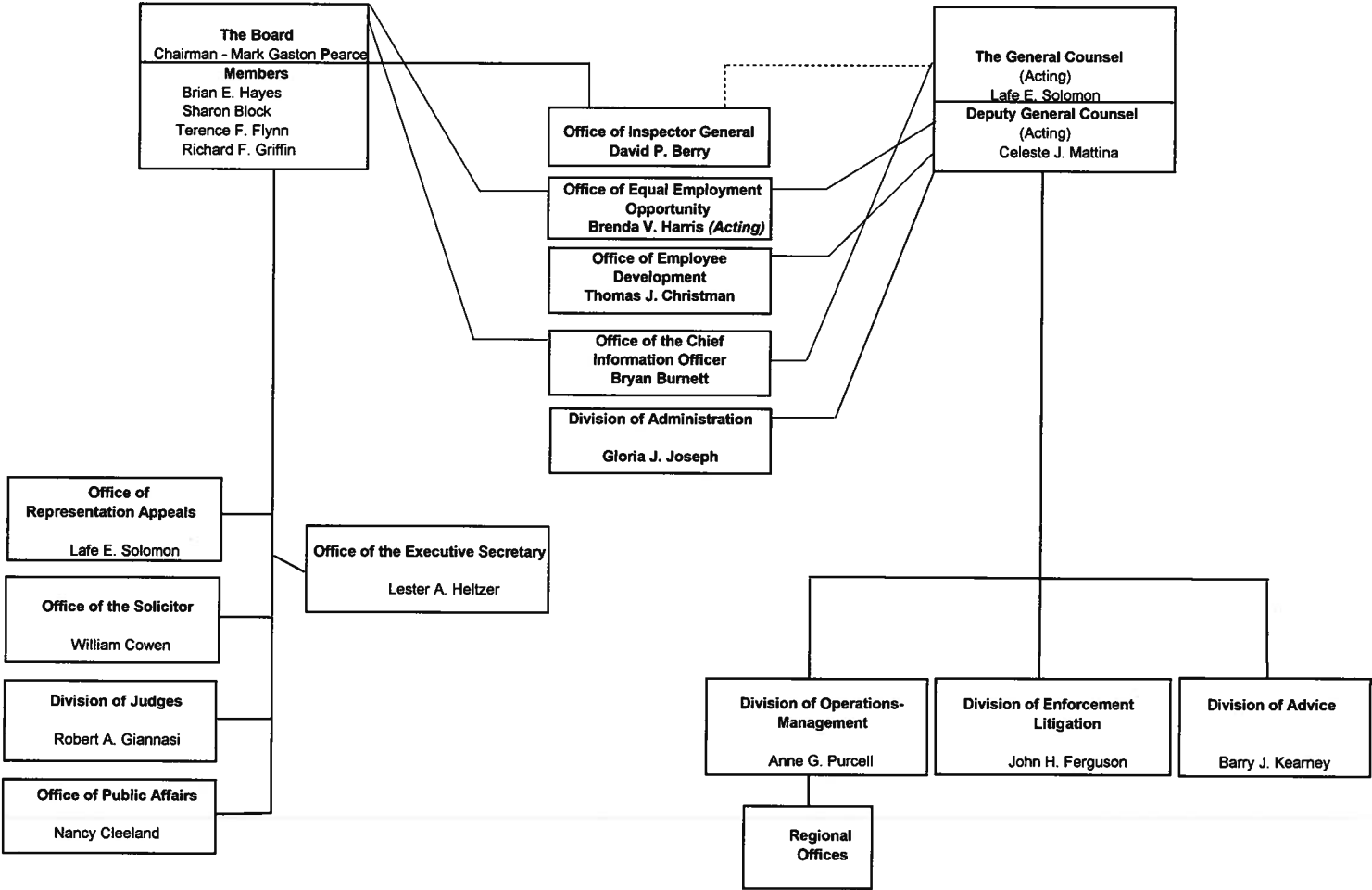
3. OTHER PETITIONS

By a Labor Organization or an Employer

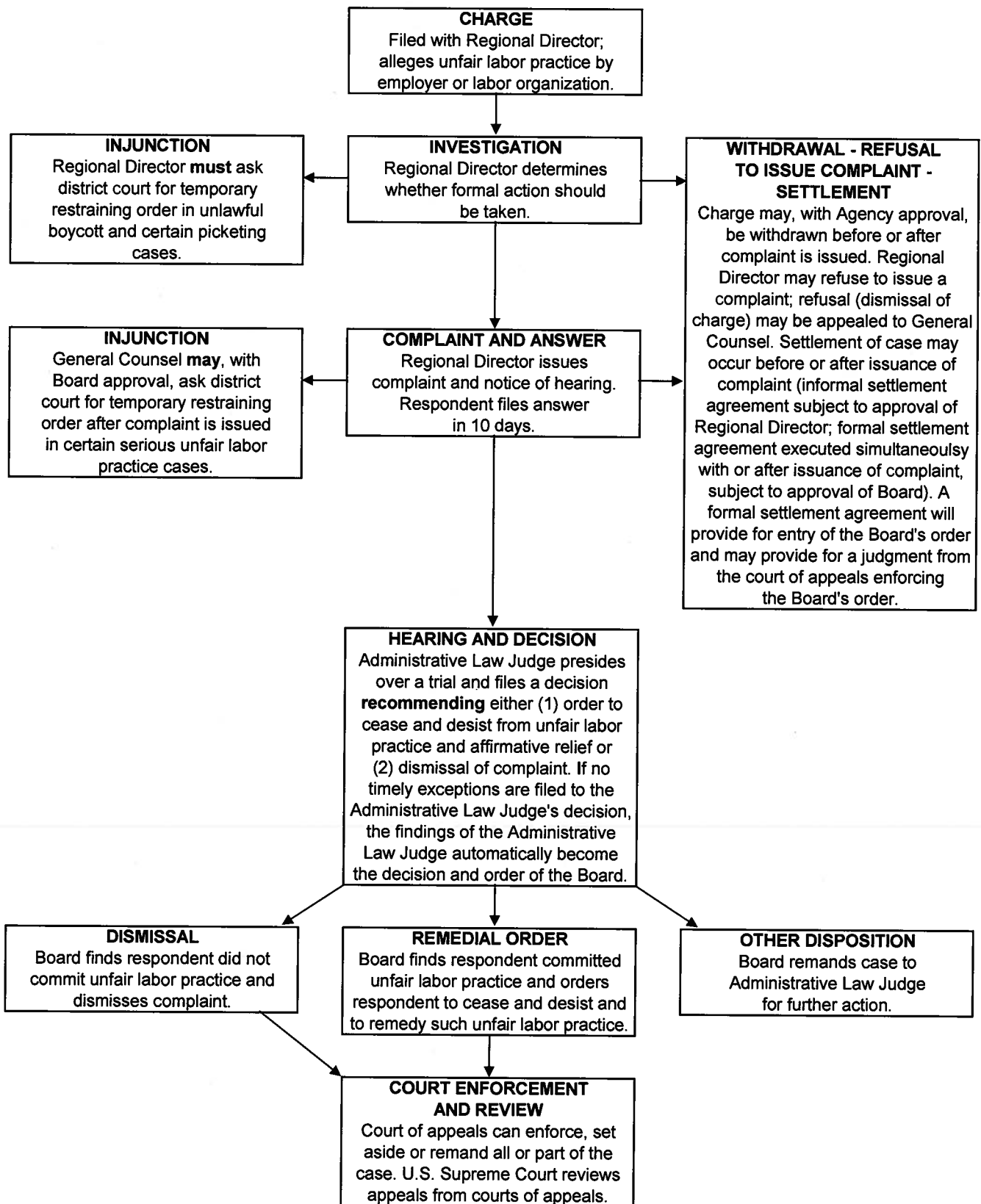
Section of the Act	Section of the Act	Section of the Act
AC	UC	UD
Subpart C Seeking amendment of an outstanding certification of bargaining representative.	Subpart C Seeking clarification of an existing bargaining unit.	Subpart C Seeking certification of employees (30 percent or more of an appropriate unit) wish to rescind an existing union-security agreement.

NATIONAL LABOR RELATIONS BOARD

ORGANIZATION CHART

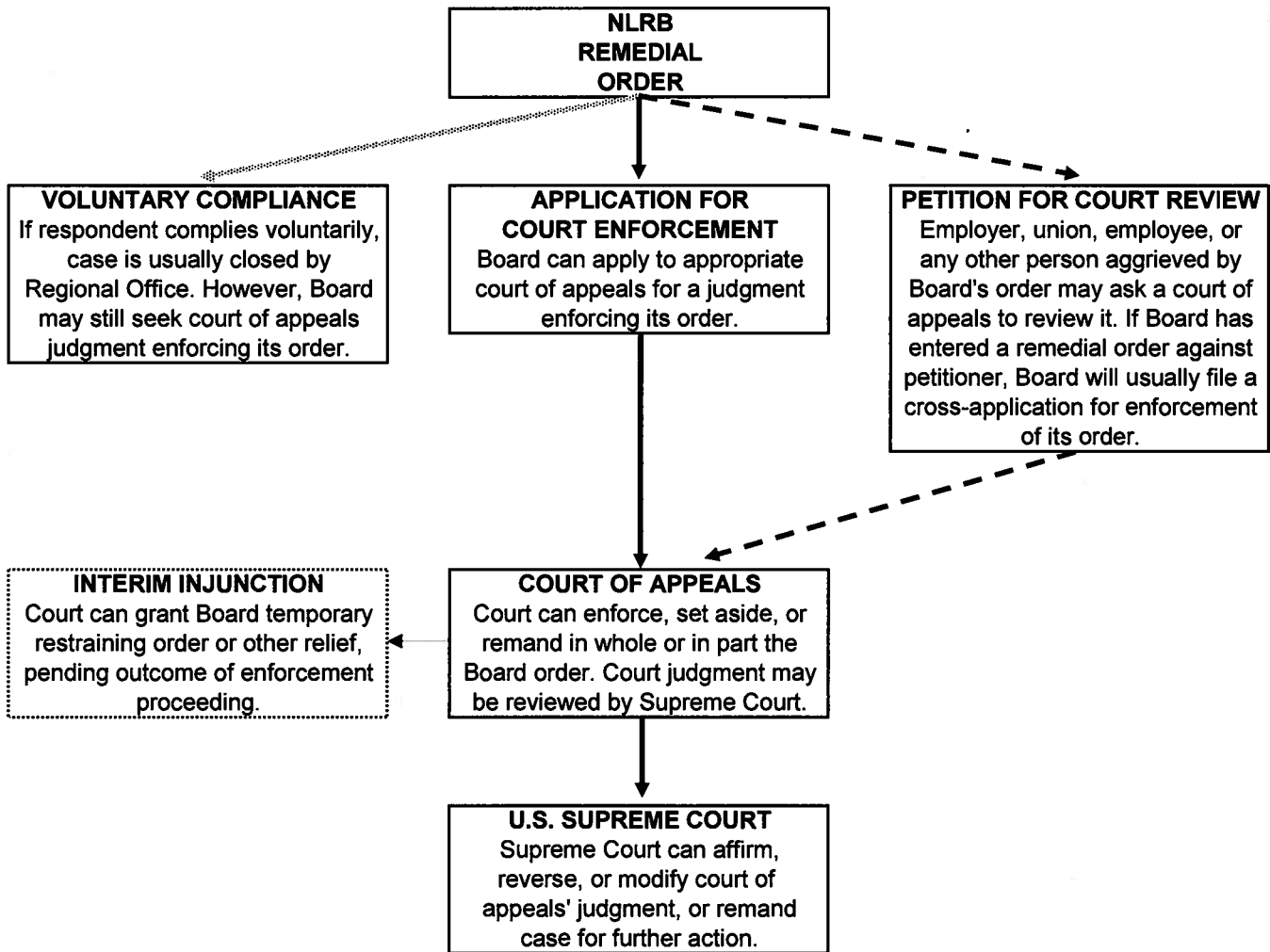


NATIONAL LABOR RELATIONS BOARD **EXHIBIT C**
BASIC PROCEDURES IN CASES INVOLVING CHARGES OF UNFAIR LABOR PRACTICES



NLRB ORDER ENFORCEMENT CHART

EXHIBIT D



OUTLINE OF REPRESENTATION PROCEDURES UNDER SECTION 9(c)

