

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 19-02

December 7, 2018

TO: All Division Heads, Regional Directors,  
Officers-In-Charge, and Resident Officers

FROM: Peter B. Robb, General Counsel /s/

SUBJECT: Reducing Case Processing Time

The prompt resolution of labor disputes has always been an essential part of the Agency's statutory mission to further the policy set forth in Section 1 of the National Labor Relations Act, to eliminate the causes of certain substantial obstructions to the free flow of commerce and mitigate and eliminate these obstructions when they have occurred.

One of my major objectives as General Counsel is to ensure the processing of cases in a timely manner and improve our service to the public. Over the years, the amount of time it takes for cases to be processed and for resolutions to be reached has increased. My goal is to reverse this trend.

In the 1980s, the median processing time for issuance of complaint in a merit unfair labor practice case was between 44 and 55 days from filing date. It is currently 128 days. There has been a steady increase in the number of unresolved cases pending at the end of each fiscal year, despite a decline in case intake relative to staffing. At the end of fiscal year 2012, there were 524 overage cases pending; at the end of fiscal year 2018, there were 724 overage cases pending, representing a 38 percent increase. The number of overage cases increased, while overall case intake decreased: From fiscal year 2012 to fiscal year 2018, unfair labor practice case intake dropped from 21,622 to 18,913, a nearly 13 percent decrease.

It is thus a priority for me to reverse this disturbing trend and provide more expeditious service to the public while maintaining the Agency's high-quality standards. Consistent with that objective, I am pleased to announce that the Agency has adopted a Strategic Plan (Attachment 1) calling for a 5% reduction per year in case processing time. This reduction includes not only case handling in the field, but also applies to the time between issuance of an Administrative Law Judge's decision and Board Order, and to issuance of a Board Order and closure of the case.

All General Counsel side divisions are subject to this 5% reduction goal, including the Divisions of Advice, Legal Counsel, Enforcement Litigation,<sup>1</sup> and Operations-Management in connection with case processing in Regional offices, where a significant number of cases will be affected. I am committed to doing all I can to assist the Divisions to achieve the 5% reduction goal.

In that regard, I am vesting the Divisions and the Regions with wide discretion to develop systems and processes they believe will enable them to meet the Agency's strategic goal. Providing the Regions greater discretion in case processing efforts necessitates a change to the

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<sup>1</sup> The Divisions of Legal Counsel and Enforcement Litigation will be subject to the goal, but only to the extent their cases are not governed by court-imposed deadlines.

emphasis currently used to measure whether unfair labor practice charges are processed in a timely fashion. Rather than imposing strict time targets for Regions to decide and dispose of cases, I am removing these strictures to allow Regional Directors to develop practices and procedures, including the more extensive use of technological resources, that will best serve their individual circumstances and enable them to achieve the Agency's strategic goals.

I am confident that the Regions will meet these goals without sacrificing their well-deserved reputation of high quality and completeness in casehandling. The Regions will continue to investigate and prosecute cases with their customary diligence. As background, in 1996, the Office of the General Counsel implemented a significant change to case processing in the field with the introduction of Impact Analysis. This national program uniformly grouped cases into one of three categories and imposed time targets for each category of unfair labor practice case. Most recently, those deemed to have the most significant impact (Category 3) were due in 49 days, mid-level impact (Category 2) were due in 77 days and lowest level impact (Category 1) were due in 98 days. Regional Director performance was assessed under this program based on the Region's ability to dispose of a case by the end of the month within which the 49<sup>th</sup>, 77<sup>th</sup> or 98<sup>th</sup> day fell depending on the category of case at issue. Additionally, a uniform set of excuses was available to Regions under this program, memorialized in detail, and which would be used regularly to excuse, with Operations-Management approval, any case that was not disposed of by the end of the month in which the time target for the given case fell.<sup>2</sup>

The Impact Analysis program was intended to offer a uniform approach to the field's inability to process all cases within the then-existing targets of 30 days to decision and 45 days to disposition. However laudable that goal may have been, it is clear more than 20 years later that the Impact Analysis program and "end of month" and overage excuse systems have outlived their utility. Originally, Impact Analysis called for time targets of 49, 63 and 84 days for Categories 3, 2 and 1 respectively. Instead of seeking more efficiency in the program, over time both time targets and the allowable percentages of overage cases have increased.

Nonetheless, despite the good intentions, at the end of September 2018, there were 36 pending overage Category 3 cases with the average case pending for 196 days *past* the 49-day target date, 263 pending overage Category 2 cases with the average case pending for 186 days *past* the 77-day target date, and 263 pending overage Category 1 cases with the average case pending for 180 days *past* the 98-day target date.

Likewise, between 2002 to the 2018, the median time taken between filing to issuance of complaint fluctuated between 93 and 128 days compared to 44 to 55 days in the 1980s. From fiscal year 2012 to fiscal year 2018, there has been an actual increase of 38 percent of overage cases, if excused cases are counted, even though overall case load decreased by 15 percent during that same period. Indeed, in fiscal year 2018, the Agency received more than 900 unfair labor practice cases than it disposed of. Unless these trends are reversed, it is clear the Board's mission to effectuate the prompt resolution of unfair labor practices will be compromised.

As noted above, the combination of Impact Analysis and "end of month" time targets has resulted in an unacceptable rise in the amount of time it takes to resolve cases as well as increasing the number of cases pending disposition, despite a decline in case intake.

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<sup>2</sup> I note that the end of month due dates for case dispositions and the practice of excusing cases from going overage pre-dates the Impact Analysis Program, whose most distinct feature was the creation of the three categories. However, the end of month and overage excuse systems continued to be used under Impact Analysis.

Accordingly, I have determined that the Impact Analysis program and “end of the month” as implemented on a nationwide basis, are not helpful to achieving the goal to reduce case processing time by 5% annually. Therefore, effective immediately, I will not measure Regional Director progress using the Impact Analysis program and these systems. The mandate to categorize cases pursuant to that program is hereby rescinded. The time targets in place pursuant to that program are also no longer used to measure performance, obviating the need for Headquarters to excuse cases that do not meet a given target, which practice will also cease. Uniform excuses, to the extent they were used on a nationwide basis and pursuant to which cases were “excused” from going overage, are also rescinded.

In lieu of assessing a Regional Director performance based on its percentage of unexcused overage cases, Regional Directors will now be assessed based on three measures: time between filing of charge to its disposition; time between issuance of Board order to closure of the case; and time between approval of an informal settlement agreement to closure of the case.

I have further determined that to put Regions in the best position to achieve the 5% reduction in processing time, they must have the flexibility to develop their own case management systems, rather than be subject to a rigid system imposed nationwide. Each Region’s intake, both in volume and in the variety and complexity of cases, is different and compels a more individualized approach to achieving the 5% reduction in processing time than any uniform system could successfully facilitate or otherwise ensure. Thus, no singular system will be imposed on Regions or otherwise administered on a nationwide basis. Regions are free to implement their own programs in conjunction and consultation with the Division of Operations-Management, consistent with statutory priorities. That includes retaining an end-of-the-month or categorization system should any given Region so choose; however, this would be done regionally rather than on a nationwide basis. While this may result in slightly differing approaches from Region to Region to achieve the efficiencies sought, the public will be better served by the earlier resolution of unfair labor practice cases that I expect will be achieved. The Office of the General Counsel is mindful of its obligations and fully intends to satisfy any legal requirements necessary in the implementation of any given Regional program put in place to achieve the 5% reduction.

I am aware that this may represent a change for some Regional offices. What will not change, however, is the high-quality of the Region’s processing unfair labor practice cases and the Agency’s commitment to fair and just resolution of these matters. I am convinced that effectuating a reduction in the time it takes to process cases will better further the Agency’s mission and improve our service to the public. Providing the most efficient and high-quality service we can is critical to ensuring our success. I remain dedicated to doing all I can to ensure that happens.

P.B.R

Attachment



**PROTECTING WORKPLACE  
DEMOCRACY**

# ***STRATEGIC PLAN***

**FY 2019— FY 2022**

GOVERNMENT PERFORMANCE and RESULTS ACT (GPRAMA) of 2010

## **I. MESSAGE FROM THE CHAIRMAN AND GENERAL COUNSEL**

On behalf of the National Labor Relations Board, we are pleased to present the NLRB's Strategic Plan for Fiscal Years 2019-2022. This strategic plan includes the NLRB's strategic goals, objectives, initiatives, strategies and associated performance measures for managing operations and assessing the NLRB's achievements.

The NLRB is an independent federal agency established in 1935 to promote workplace democracy and, in the words of President Franklin Delano Roosevelt, "to foster the development of the employee contract on a sound and equitable basis ." For more than 80 years, the NLRB has been at the forefront of the effort to promote and protect the rights and obligations of employees, unions, and employers under the National Labor Relations Act. This Strategic Plan will permit the NLRB to continue to adopt best practices for long-range planning.

This Strategic Plan contains four mission-related goals to support our mission and vision. It addresses the Agency's current challenges as well as outlining what we hope to accomplish. Through use of the performance measures for the supporting goals, as well as the mission-related goals, the NLRB aims to demonstrate transparency and accountability, along with providing a way to assess its progress.

Dated November 27, 2018

John Ring  
Chairman

Peter Robb  
General Counsel

## II. NATIONAL LABOR RELATIONS BOARD (NLRB) AT A GLANCE

<b>FISCAL YEAR 2018 INFORMATION **</b>	
Established:	1935
Number of Employees:	Approximately 1,327
<b>Overall Case Intake:</b>	
Unfair Labor Practice Cases:	18,870
Representation Cases:	2,090
Public Inquiries:	51,613
Toll Free Phone Inquiries:	25,171
** As of 9/30/2018	
<b>NLRB MISSION</b>	
<p>Protecting workplace democracy by promoting and enforcing the rights and obligations of employees, unions and employers under the National Labor Relations Act, in order to promote commerce and strengthen the Nation's economy.</p>	
<b>NLRB VISION</b>	
<p>Achieving our mission through efficient stewardship of resources and creation of a highly motivated, productive, talented and diverse workforce.</p>	
<b>STRATEGIC GOALS</b>	
<ol style="list-style-type: none"> <li>1. Promptly resolve labor disputes affecting commerce by fairly and efficiently investigating, settling, processing and adjudicating unfair labor practices under the National Labor Relations Act.</li> <li>2. Promptly and fairly resolve all questions concerning representation of employees.</li> <li>3. Achieve organizational excellence and productivity in the public interest.</li> <li>4. Manage agency resources in a manner that instills public trust.</li> </ol>	

### **III. ORGANIZATIONAL DISCUSSION/OVERVIEW**

The National Labor Relations Board (NLRB) is an independent federal agency created in 1935 to administer and enforce the National Labor Relations Act (NLRA). The NLRA is the primary federal statute governing the labor relations of employees and employers in the private sector. The NLRA protects the right of employees to choose for themselves without interference by employers or unions whether or not to form, join, assist or bargain through a labor organization to join together to improve, or bargain concerning their working conditions, or to refrain from such activity. The NLRB seeks to promote commerce and strengthen the Nation's economy by eliminating certain unfair labor practices on the part of employers and unions.

The NLRB has two primary functions:

- To investigate and resolve (through settlement, prosecution or dismissal) allegations of statutorily defined unfair labor practices by employers and unions; and
- To investigate and resolve questions concerning representation by conducting secret-ballot elections among employees in an appropriate unit to determine whether or not the employees wish to be represented by a union.

The Board also may engage in rulemaking as appropriate to carry out the provisions of the NLRA.

Top Agency leadership consists of the five Board Members and the General Counsel, each of whom is appointed by the President with the advice and consent of the Senate. The President designates one of the five Board Members as Chairman. Day-to-day management of the Agency is divided between the Chairman, the full Board, and the General Counsel. Board members serve staggered five-year terms and the General Counsel serves a term of four years from commission. The NLRA assigns separate and independent responsibilities to the Board and the General Counsel. The General Counsel's role is administrative and prosecutorial.

The five-member Board primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings.

Neither the Board nor the General Counsel may initiate cases or investigations. All NLRB proceedings originate with the filing of charges or petitions by employees, labor unions, employers or other private parties. Unlike some other federal agencies, Board remedial orders are not self-enforcing. There is no time limit requiring parties to petition for court review. If the parties do not voluntarily comply with Board orders remedying unfair labor practices, the Board must request that the appellate courts enforce its orders.

The Board and the General Counsel maintain a headquarters in Washington, D.C., and the Agency also maintains a network of Field offices and three satellite offices of administrative law judges. Approximately 70 percent of the Agency's staff is employed in the field, where all unfair labor practice charges and representation petitions are initiated. Currently, the Field offices include 26 Regional Offices, 9 Sub-Regional Offices, and 13 Resident Offices.

## IV. STRATEGIC FIVE-YEAR GOALS

*For detailed information regarding the performance measures please see Appendix A.*

### **GOAL # 1 (MISSION): PROMPTLY AND FAIRLY RESOLVE THROUGH INVESTIGATION, SETTLEMENT OR PROSECUTION, UNFAIR LABOR PRACTICES UNDER THE NATIONAL LABOR RELATIONS ACT**

#### **Objective 1: Achieve established performance measures for the resolution of meritorious unfair labor practice charges.**

**Initiative 1:** Achieve a collective 20% increase in timeliness of case processing under established performance measures for the resolution of all meritorious unfair labor practice charges.

**Measure 1:** Realize a 5% annual decrease in the average time required to resolve meritorious unfair labor practice charges through adjusted withdrawal, adjusted dismissal, settlement or issuance of complaint.

**Measure 2:** Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

**Measure 3:** Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.

**Measure 4:** Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

**Initiative 2:** Achieve enhanced performance for the resolution of all unfair labor practice charges.

**Measure 1:** Realize a 5% annual decrease in the average time required to resolve unfair labor practice charges through withdrawal, dismissal, settlement or issuance of complaint.

**Measure 2:** Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

**Measure 3:** Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.

**Measure 4:** Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

***Initiative 3:* Ensure that all matters before the Agency are handled in a fair and consistent manner.**

**Measure 1:** Ensure that Regional case processing procedures evolve with the Agency's strategic goals and technological advancements.

**Management Strategies:**

- Continually review staff suggestions for improvement and modify case processing procedures to ensure more timely and efficient resolution of cases.

**Measure 2:** Conduct annual quality reviews of Regional unfair labor practice case files and institute modifications to case processing as appropriate.

**Management Strategies:**

- Maintain and enhance alternative decision-making procedures to expedite Regional, Board and ALJ decisions in unfair labor practice cases.
- Utilize Compliance Unit to identify and coordinate compliance in merit cases.
- Discontinue existing interregional assistance program and replace it with a program that will ensure unfair labor practice cases in offices with backlogs are transferred to offices with available staff.
- Share best practices in unfair labor practice processing to assist regions in resolving unfair labor practice case issues promptly and fairly.

**GOAL # 2 (MISSION): PROMPTLY AND FAIRLY INVESTIGATE AND RESOLVE ALL QUESTIONS CONCERNING REPRESENTATION OF EMPLOYEES**

**Objective 1:** Achieve established performance measures for the timely resolution of all questions concerning representation of employees.

***Initiative 1:*** Achieve established performance measures for the resolution of representation cases.

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

***Initiative 2:* Ensure that all matters before the Agency are handled in a fair and consistent manner.**

**Measure 1:** Ensure that Regional case processing procedures evolve with the Agency's strategic goals and technological advancements.

### **Management Strategies:**

Continually review staff suggestions for improvement and modify case processing procedures to ensure more timely and efficient resolution of cases.

**Measure 2:** Conduct annual quality reviews of Regional representation case files and institute modifications to case processing as appropriate.

### **Management Strategies:**

- Maintain and enhance alternative decision-making procedures to expedite Board decisions in representation cases.
- Discontinue existing interregional assistance program and replace it with a program that will ensure that representation cases in offices with backlogs are transferred to offices with available staff.
- Identify and utilize procedures to ensure careful and timely processing of Requests for Review, Special Appeals, and Hearing Officer Reports.
- Share best practices in representation case processing to assist regions in resolving representation case issues promptly and fairly.

## **GOAL # 3 (SUPPORT): ACHIEVE ORGANIZATIONAL EXCELLENCE AND PRODUCTIVITY IN THE PUBLIC INTEREST**

**Objective 1: Recruit, develop, and retain a highly motivated, productive, talented, and diverse workforce to accomplish our mission.**

*Initiative 1:* Invest in and value all employees through professional development, workplace flexibilities, fair treatment, and recognition of performance in the public interest.

### **Management Strategies:**

- Maintain a current human capital plan that includes human capital goals, objectives, and strategies and a workforce plan that is consistent with the Human Capital Assessment and Accountability Framework (HCAAF) of the Office of Personnel Management (OPM).
- Ensure that the Agency's performance management system is results-oriented and aligned with the Agency's goals and objectives as to quality and productivity.
- Demonstrate significant improvement in OPM's assessment of the Agency's performance management system.
- Ensure that managers collaborate with the Agency's employees and unions to implement Agency policies and collective bargaining agreements that balance performance, productivity and workplace flexibilities.
- Reduce the number of pending background investigations.
- Enhance employee development and learning opportunities through Skillport, West Legal Ed, Training Tuesdays, and other on-line and blended media.
- Develop Individual Development Plans for training and succession planning.
- Identify, through updating the workforce plan, core competencies for managers and actions

necessary to close skill gaps as required by OPM.

**Initiative 2:** Develop and implement recruitment strategies to ensure a highly qualified, productive and diverse workforce.

**Management Strategies:**

- Comply with OPM’s hiring reform, which tracks time spent to fill vacancies.
- Identify areas in which the Agency can enhance its diversity and talent through annual analysis of MD-715 guidance.
- Attract qualified and diverse applicants, including veterans and persons with disabilities, by following OPM and Equal Employment Opportunity Commission (EEOC) guidance and utilizing best practices of similar agencies.
- Establish working relationships with veteran’s groups and Veterans Administration and Department of Labor veterans’ programs to ensure that outreach efforts to veterans are consistent with OPM, congressional and Presidential directives.

**Objective # 2: Promote a culture of professionalism, mutual respect, and organizational pride.**

**Initiative 1:** Improve employee satisfaction and employee engagement.

**Management Strategies:**

- Strive to achieve improved internal communications.
- Identify and implement strategies to increase the number of employees who respond to the Federal Employee Viewpoint Survey.
- Develop a collaborative program to encourage employee creativity and innovation, including the Agency’s suggestion program.
- Enhance internal and external recognition programs to acknowledge employee contributions (for example: Honorary Awards).

**Initiative 2:** Ensure that employees understand the Agency’s mission and how they contribute to its accomplishments.

**Management Strategies:**

- Review and enhance the employee on boarding program.
- Ensure that each employee is provided with a performance plan and a clear understanding of management’s expectations.
- Enhance publicity of significant organizational accomplishments.

**Initiative 3:** Cultivate and promote Agency programs that encourage collaboration, flexibility, diversity and mutual respect to enable individuals to contribute to their full potential.

## Management Strategies:

- Demonstrate leadership accountability, commitment, and involvement regarding diversity and inclusion.
  - Fully and timely comply with all federal laws, regulations, executive orders, management directives and policies related to promoting diversity and inclusion in the workplace.
  - Provide on-going diversity and inclusion training for senior leadership.
  - Evaluate all levels of management on their proactivity in maintaining an inclusive work environment.
- Involve employees as participants and responsible agents of diversity, mutual respect and inclusion.
  - Reassess Agency mentoring programs to ensure they are used as tools to maintain a diverse workforce by affording a consistency of opportunity throughout all organizational units.
- Encourage participation in special emphasis observances.

## GOAL # 4 (SUPPORT): MANAGE AGENCY RESOURCES EFFICIENTLY AND IN A MANNER THAT INSTILLS PUBLIC TRUST

### Objective # 1: Use information and technology to monitor, evaluate, and improve programs and processes in order to accomplish the agency's mission and increase transparency.

*Initiative 1:* Improve the productivity of the Agency's case management by standardizing business processes in a single unified case management system.

**Measure 1:** Increase the rates of electronic service, delivery, and filings, thereby reducing the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations.

**Measure 2:** Increase the information shared electronically with the public, making the Agency's case processes more transparent.

## Management Strategies:

- Focus on most critical business needs first.
- Split projects into smaller, simpler segments with clear deliverables.
- Employ ongoing, transparent project oversight from the NxGen Integrated Project Team.

**Initiative 2:** Achieve more effective and efficient program operations in the NLRB administrative functions by automating and improving processes and information sharing within the Agency.

**Measure 1:** Streamline the Agency transactional processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time.

**Measure 2:** Continue to enhance and utilize a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all locations including the office, at home and on the road.

**Measure 3:** Fully utilize a dynamic social collaborative environment for employee engagement.

### **Management Strategies:**

- Focus on most critical business needs first.
- Split projects into smaller, simpler segments with clear deliverables.
- Increase information sharing within the Agency through mechanisms that are easy for employees to contribute to and access.
- Employ ongoing, transparent project oversight from the Administrative Systems Integrated Project Team.

**Initiative 3:** Effective management of fiscal resources.

**Measure 1:** Develop and/or support the development of the Agency's budget.

**Measure 2:** Produce financial reports as required by OMB, Treasury, and Congress.

**Measure 3:** Conduct quarterly Program Management reviews on requirements development and execution to ensure programs stay on time and on budget.

**Measure 4:** Monitor unliquidated obligations quarterly for current year execution and re-allocate to other unfunded mission requirements.

**Measure 5:** Increase the use of strategic sourcing, purchase card program, and in sourcing to minimize waste and abuse. Continue to support minority business enterprises for contract awards.

**Initiative 4:** Right-sizing and closing Field Offices and Headquarters office space by up to 30% over the next five years in accordance with GSA guidelines.

**Measure 1:** Develop five-year Project Plan that identifies field offices for reductions in square footage or for closure.

## **Objective #2: Evaluate and improve the Agency's Outreach Program**

*Initiative 1:* Enhance Agency's Outreach Program.

### **Management Strategies:**

- Employ further non-traditional outreach to the following populations:
  - Unrepresented employees
  - Unions, Small Business Owners
- Engage with organizations, such as those listed below, to better educate workers and employers:
  - Joint outreach with sister agencies
  - Memorandums of Understanding (MOU) with other agencies related to co-extensive investigations

## **Objective # 3: Conduct all internal and external Agency business in an ethical and timely manner.**

*Initiative 1:* Promote an ethical culture within the NLRB through leadership, communications, awareness, resources, and oversight.

**Measure 1:** Involve Agency leadership in promoting visibility and commitment to the NLRB Ethics Program.

**Measure 2:** Increase employee awareness of ethics responsibilities by maintaining an education program that reaches all NLRB employees at all levels and uses internet technology to expand access to program materials.

**Measure 3:** Respond to at least 85% of ethics inquiries within 5 days of receipt.

**Measure 4:** Review and certify financial disclosure reports within 60 days of receipt and notify filers of real or potential conflicts.

**Measure 5:** Use data analytics to improve financial disclosure reporting and review process.

*Initiative 2:* Respond to internal audits in a timely manner.

**Measure 1:** Prepare responses to internal audit reports as required by the auditor, meeting the deadlines specified in the reports.

*Initiative 3:* Respond to external audits in a timely manner.

**Measure 1:** Prepare responses to external audit reports as required by the auditor, meeting the deadlines specified in the reports.

**Initiative 4:** Respond to FOIA and other public inquiries in a timely manner.

**Measure 1:** Respond to at least 60% of initial FOIA requests within 20 working days.

**Measure 2:** Seek a statutory extension for less than 15% of requests.

**Measure 3:** Respond to at least 95% of statutory appeals within 20 working days.

**Measure 4:** Seek a statutory extension for less than 20% of appeals.

## **V. EXTERNAL FACTORS AFFECTING ACHIEVEMENT OF STRATEGIC PLAN**

Various factors can affect each goal, objective, and performance measure contained in the NLRB's strategic plan. These factors include budget, case intake, settlements, Board member vacancies, and the potential effect of statutory changes.

### **BUDGET**

Our goals and measures assume appropriate funding of Agency budgets as submitted by the President to Congress. As a labor-intensive agency, over 90% of our budget is dedicated to fixed costs, including about 80% for salaries and benefits. If less than appropriate funding requested is authorized, the Agency's ability to produce the results and benefits set forth in this plan may be impacted.

### **CASE INTAKE**

While the Agency projects caseload based on known factors and recent history, it cannot control the number of cases filed. Public perceptions about unionization and the role of the Agency, employment trends, stakeholder strategies, globalization of the economy, industrial economic trends, corporate reorganizations and the level of labor-management cooperation efforts can all have an impact on case intake and the complexity of the work. Difficult issues can arise when companies relocate or close, dissipate or hide assets, file for bankruptcy, reorganize or operate through a different corporate entity. Based on historical data, it is projected that overall case intake will reduce by between 500 and 1,000 cases in FY2019.

### **SETTLEMENTS**

While the Agency has experienced outstanding success in achieving voluntary resolutions of representation and ULP cases, it will make early settlement of cases more of a priority. It is estimated that a one percent drop in the settlement rate will cost the Agency more than \$2 million as the process becomes formal and litigation takes over. Accordingly, factors affecting the Agency's ability to settle cases may directly affect its budgetary and performance goals and will be closely monitored.

## **VI. PROGRAM EVALUATION**

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, 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 or not they wish to be represented by a labor organization. In the unfair labor practice area, the aim of the Agency is to timely address and resolve charges that represent industrial strife and unrest that burdens the free flow of commerce. An indicator of success in the achievement of these aims is timeliness and quality of case processing, from the filing of a representation case petition or unfair labor practice charge to the closing of the case.

The NLRB uses various techniques and mechanisms to evaluate whether programs are achieving their GPRA goals and other performance targets. The Board monitors the status of all of its cases to determine performance against yearly targets that support the Agency’s overarching measures and strategic goals. A committee composed of senior management officials, including the deputy chief counsels of each of the Board Members, meets at the beginning of each month to review the status of cases, to prioritize cases, and to develop lists of cases that the Board Members will jointly focus on each week in order to facilitate the issuance of decisions in those cases. These representatives also report back to the Board Members on performance data and staff workload, among other issues. The Board has an electronic casehandling management system that captures all case events in a database from which case production reports are generated. The Board Members also regularly meet and communicate with each other to discuss cases.

Further, the General Counsel has an evaluation program to assess the performance of its Regional operations. The Quality Review Program of the Division of Operations-Management reviews unfair labor practice, 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, and compliance with Agency decisions. Additionally, complaints and Administrative Law Judges’ and Board decisions that constitute significant losses are reviewed to ensure quality casehandling, and the litigation success rate before the Board and before district courts with regard to injunction litigation is monitored. Further, Regional site visits are conducted during which Regional casehandling and administrative procedures are evaluated, and Regional Offices’ performance in implementing the General Counsel’s priorities is incorporated into the Regional Directors’ annual performance appraisals. Finally, the Division of Operations-Management periodically issues case processing suggestions based on feedback and recommendations from the field and headquarters staff of the Agency.

In addition to the Division of Operations-Management’s regular review of case decisions to determine the quality of litigation, other branches and offices, such as the Office of Appeals, Division of Advice, Contempt, Compliance and Special Litigation Branch, and Office of Representation Appeals, provide valuable insight and constructive feedback on the performance and contributions of field offices. Top Agency management also meets regularly with practice and procedure committees of the American Bar Association and with organizations representing

various labor employers or other third-party interests, to obtain feedback on their members' experiences when practicing before the NLRB.

## **VII. OFFICE OF INSPECTOR GENERAL STRATEGIC PLAN**

**GOAL #1:** PROMOTE ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN THE ADMINISTRATION OF THE AGENCY'S PROGRAMS AND OPERATIONS.

### **OBJECTIVES**

1. Conduct timely audits and inspections of the issues, programs and operations of most importance to the Agency.
2. Achieve positive change by presenting findings, identifying causes of identified and/or 2 problems, and making recommendations that are useful to the Agency.

### **STRATEGIES**

- Ensure that the audit program is aligned with the Agency's Strategic Plan.
- Solicit input from heads of Agency Branches to prepare an annual audit work plan.

**GOAL #2:** PREVENT OR DETECT FRAUD AND ABUSE IN THE AGENCY'S PROGRAMS AND OPERATIONS.

### **OBJECTIVES**

1. Evaluate all referrals to the OIG in an objective, timely, and lawful manner.
2. Conduct investigations in a thorough, efficient, timely, and lawful manner.
3. Monitor referrals under investigation by other offices where appropriate action is taken.

### **STRATEGIES**

- Operate a fraud hotline and advertise its existence and other means for referring matters of possible fraud or abuse to the OIG.
- Refer matters within the jurisdiction of other Agency offices, e.g., EEO, security, or ethics, to those offices for action.
- Conduct investigations in accordance with Council of Inspectors General on Integrity and Efficiency (CIGIE) Quality standards, identify program vulnerabilities and recommend ways to prevent program abuse as part of the investigative process.
- Report immediately to the Chairman and/or the General Counsel any serious or flagrant problems, abuses, or deficiencies.
- Report expeditiously to the Attorney General potential violations of Federal criminal law.
- Present findings of wrongdoing to the appropriate officials for action.

**GOAL #3:** ESTABLISH A COLLABORATIVE RELATIONSHIP WITH THE CONGRESS, THE BOARD, AND AGENCY EMPLOYEES TO IMPROVE AGENCY OPERATIONS.

**OBJECTIVES**

1. Keep the Chairman, General Counsel, Board, and Congress informed of program or operational vulnerabilities and significant issues.
2. Operate in a manner that demonstrates values such as fairness, courtesy, professionalism, empathy, openness, access, and a willingness to listen.

**STRATEGIES**

- Issue semiannual reports by April 30 and October 31 each year.
- Participate in CIGIE projects to improve financial and program operations.

## **APPENDIX**

The appendix provides additional information regarding Agency performance measures, outlines of the types of cases arising under the Labor Management Relations Act, the basic procedures in the processing of cases within the Agency and overviews of each strategic goal.

## Appendix

### PERFORMANCE MEASURES

In support of our mission-related goals, objectives, and initiatives, the Agency has a long, successful history of performance measurement focusing on timeliness and effectiveness in our case handling process timeliness, because we firmly believe that "justice delayed is justice denied," and effectiveness, because we strive to give customers a response that provides a thorough and reasoned solution to the issue(s) presented.

In support of the mission-related goals that appeared in the Fiscal Years 2007-2012 strategic plan, the Agency developed two goals that help drive the mission and the vision of the agency. These goals are tied to either management strategies some of which do not have annual percentage targets or specific projects or deliverables that can be accounted for with a "yes" or a "no".

**GOAL 1, Objective 1, Initiative 1:** Achieve a cumulative 20% increase in timeliness of case processing under established performance measures for the resolution of all meritorious unfair labor practice charges over the next 5 years.

**Measure 1:** Realize a 5% annual decrease in the average time to resolve meritorious unfair labor practice charges by adjusted withdrawal, adjusted dismissal, deferral or settlement or issuance of complaint.

<b>Baseline:</b>	FY 2018	106 days
<b>Long-term target:</b>	FY 2022	85 days
<b>Annual targets:</b>	FY 2019	101 days
	FY 2020	95 days
	FY 2021	90 days
	FY 2022	85 days

**Measure 2:** Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

<b>Baseline:</b>	FY 2018	242 days
<b>Long-term target:</b>	FY 2022	194 days
<b>Annual targets:</b>	FY 2019	230 days
	FY 2020	218 days
	FY 2021	206 days
	FY 2022	194 days

**Measure 3:** Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.

<b>Baseline:</b>	FY 2018	585 days
<b>Long-term target:</b>	FY 2022	468 days
<b>Annual targets:</b>	FY 2019	556 days
	FY 2020	527 days
	FY 2021	497 days
	FY 2022	468 days

**Measure 4:** Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

<b>Baseline:</b>	FY 2018	648 days
<b>Long-term target:</b>	FY 2022	518 days
<b>Annual targets:</b>	FY 2019	616 days
	FY 2020	583 days
	FY 2021	556 days
	FY 2022	518 days

**GOAL 1, Objective 1, Initiative 2:** Achieve enhanced performance for the resolution of all unfair labor practice charges.

**Measure 1:** Realize a 5% annual decrease in the average time to resolve unfair labor practice charges by withdrawal, dismissal, deferral, settlement, or issuance of complaint.

<b>Baseline:</b>	FY 2018	90 days
<b>Long-term target:</b>	FY 2022	72 days
<b>Annual targets:</b>	FY 2019	86 days
	FY 2020	81 days
	FY 2021	77 days
	FY 2022	72 days

**Measure 2:** Realize a 5% annual decrease in the average time between issuance of complaint and settlement by administrative law judge or issuance of administrative law judge decision.

<b>Baseline:</b>	FY 2018	242 days
<b>Long-term target:</b>	FY 2022	194 days
<b>Annual targets:</b>	FY 2019	230 days
	FY 2020	218 days
	FY 2021	206 days
	FY 2022	194 days

**Measure 3:** Realize a 5% annual decrease in the average time between issuance of an administrative law judge decision and a Board order.

<b>Baseline:</b>	FY 2018	585
<b>Long-term target:</b>	FY 2022	468
<b>Annual targets:</b>	FY 2019	556
	FY 2020	527
	FY 2021	497
	FY 2022	468

**Measure 4:** Realize a 5% annual decrease in the average time between issuance of a Board order and the closing of the case.

<b>Baseline:</b>	FY 2018	648 days
<b>Long-term target:</b>	FY 2022	518 days
<b>Annual targets:</b>	FY 2019	616 days
	FY 2020	583 days
	FY 2021	551 days
	FY 2022	518 days

**Goal 1, Initiative 3:** This initiative consists of management strategies that are not measured by performance; they will be measured by actions and reflected in the Agency Performance Management System. See management strategies on page 5 for Goal 1, Initiative 3.

**Definitions:**

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

**GOAL 2, Objective 1, Initiative 1:** Achieve established performance measures for the timely resolution of all questions concerning representation of employees.

**Measure 1:** The percentage of representation petitions resolved within 100 days of filing the election petition.

<b>Baseline:</b>		85.9%
<b>Long-term target:</b>	FY 2022	85.9%
<b>Annual targets:</b>	FY 2019	85.8%
	FY 2020	85.8%
	FY 2021	85.9%
	FY 2022	85.9%

**Goal 2, Objective 2, Initiative 2:** This initiative consists of management strategies that are not measured by performance; they will be measured by actions and reflected in the Agency Performance Management System. See management strategies on page 6 for Goal 2, Objective 2, and Initiative 2.

**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 our jurisdictional standards, 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 either administratively or by a hearing and a report that has been adopted by the Board.

*Counting of Days* -- The Agency starts counting the 100 days on the date that the petition is formally docketed.

**GOAL 3:** This goal consists of management strategies that are not measured by performance; they will be measured by actions and reflected in the Agency Performance Management System. See Management Strategies on pages 7-9 for Goal 3.

**GOAL 4, Objective 1, Initiative 1:**

**Measure 1:** Increase the rates of electronic service, delivery, and filings, thereby reducing the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations. (Y, N)

**Measure 2:** Increase in the information shared electronically with the public, making the Agency's case processes more transparent. (Y, N)

**Goal 4, Objective 1, Initiative 2:**

**Measure 1:** Document the streamlined Agency transactional processes wherein employees were provided with ready access to the tools, data and documents they require from anywhere, at any time. (Y, N)

**Measure 2:** Document the full usage of a modern single unified communications platform and network to empower Agency personnel to communicate with voice, video and data from all locations including the office, at home and on the road. (Y, N)

**Measure 3:** Document the full usage of dynamic social collaborative environments for employee engagement. (Y, N)

**Goal 4, Objective 1, Initiative 3:** Effective management of fiscal resources

**Measure 1:** Produce annual budget with the input of Program areas.

**Measure 2:** Produce financial reports as required by OMB, Treasury, and Congress. (Y, N)

**Measure 3:** Conducted quarterly Program Management reviews on requirements development and execution to ensure programs stay on time and on budget. (Y, N)

**Measure 4:** Monitor unliquidated obligations quarterly for current year execution and re-allocate to other unfunded mission requirements. (Y, N)

**Measure 5:** Increase the use of strategic sourcing, purchase card program, and in sourcing to minimize waste and abuse. Continue to support minority business enterprises for contract awards. (Y, N)

**Goal 4, Objective 2, Initiative 1:** This initiative consists of management strategies that are not measured by performance; they will be measured by actions and reflected in the Agency Performance Management System. See management strategies on page 11 for Goal 4, Objective 2, and Initiative 1.

**Goal 4, Objective 3, Initiative 1:**

**Measure 1:** Involve agency leadership promoting visibility of NLRB ethics program (Y, N)

**Measure 2:** Increase employee awareness of ethics responsibilities by maintain an education program that reaches all NLRB employees at all levels (Y, N)

**Measure 3:** Respond to 85 % of ethics inquiries within 5 days of receipt (Y, N)

**Measure 4:** Review and certify financial disclosure reports within 60 days of receipt and notify filers of real or potential conflicts

**Measure 5:** Use technology to improve financial disclosure reporting and review process (Y, N)

**Goal 4, Objective 3, Initiative 2:**

**Measure 1:** Prepare responses to internal audits as required by the auditor, meeting the deadlines specified in the reports. (Y, N)

**Goal 4, Objective 3, Initiative 3:**

**Measure 1:** Prepare responses to external audit reports as required by the auditor, meeting the deadlines specified in the reports. (Y, N)

**Goal 4, Objective 3, Initiative 4:**

**Measure 1:** Respond to at least 65% of initial FOIA requests within 20 working days (Y, N)

**Measure 2:** Seek a statutory extension for less than 15% of requests (Y, N)

**Measure 3:** Respond to at least 95% statutory appeals within 20 working days (Y, N)

**Measure 4:** Seek a statutory extension for less than 20% of appeals (Y, N)