

United States Senate

WASHINGTON, DC 20510

October 6, 2010

Via Electronic Transmission

The Honorable Wilma B. Liebman
Chairman
National Labor Relations Board
1099 – 14th Street NW
Room 11100
Washington, DC 20570

Dear Chairman Liebman:

As Ranking Members of the Senate Committee on Finance, and the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, we sent a letter on April 8, 2010, to 69 Inspectors General, asking among other things, about any agency interference or resistance to the OIG's oversight work.

The OIGs replied, indicating varying degrees of cooperation with their agencies. We were disappointed to learn that the National Labor Relations Board (NLRB) is among those that have not fully cooperated with the OIG. A copy of the Inspector General's letter is attached for your reference. Specifically, the Inspector General reported obstacles to obtaining information regarding access to the Citibank databases for General Service Administration's Smart Pay travel and purchase cards. The OIG needed access to the databases in order to detect potential fraud in the high risk purchase card program. The OIG had cause to question the NLRB's internal controls for the program.

In an attempt to conduct a "real time" investigation the OIG requested "read only" access to the system. This request was denied by the Director and Deputy Director of the Division of Administration. The Inspector General (IG) met with the Director who limited OIG access to the information to the OIG on an individual, as-requested basis. The Inspector General said this supposed compromise was merely "gamesmanship that creates needless bureaucratic hurdles," impedes oversight activity, and prevents the real-time detection of fraud.


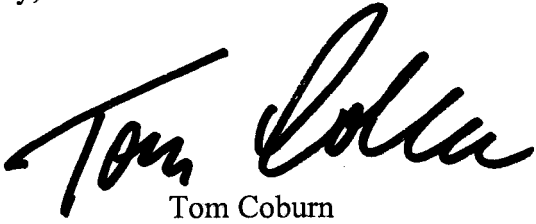
It is troubling that the NLRB put up roadblocks to impede the OIG's ability to conduct a comprehensive fraud detection and deterrence program. In light of these problems, we have the following questions:

- 1) Prior to this letter, were you aware of these examples of interference with the OIG's oversight function?
- 2) If so, when and how did you become aware of these issues and what steps have you taken to correct the problems?

- 3) If not, what steps do you intend to take to correct the problems?
- 4) What instructions have been provided the employees of the NLRB informing them of their obligation to cooperate with the OIG?
- 5) Please provide copies of any such instructions.

Thank you for your cooperation and attention to this important matter. Please provide the request set forth in this letter no later than October 20, 2010. Should there be any questions, please contact Jason Foster on Senator Grassley's staff at (202) 224-4515, or Keith Ashdown on Senator Coburn's staff at (202) 224-3721. All formal correspondence should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Sincerely,

	
Charles E. Grassley Ranking Member Committee on Finance	Tom Coburn Ranking Member Permanent Subcommittee on Investigations Homeland Security and Governmental Affairs Committee

Attachment



United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF INSPECTOR GENERAL

Washington, DC 20570-0001

June 10, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Grassley:

This letter is in response to your request of April 8, 2010, for information regarding the Office of Inspector General (OIG), National Labor Relations Board (NLRB).

At the NLRB, we have established appropriate working relationships with managers to ensure that we are able to obtain much of the information that we require for our audits, inspections, and investigations without delay or difficulty. As a result, with one exception, delays in granting access to information within the control of the Agency are rare and can best be described as resulting from miscommunication rather than an attempt to impede us in our oversight activities.

The one exception involves access to the Citibank databases for General Service Administration's Smart Pay travel and purchase cards. The Government's travel and purchase card programs are well-known for being at risk for abuse and fraud. In the fall of 2009, a situation came to my attention that caused me to question the Agency's internal controls for those transactions. To address my concerns, I determined that ongoing/continuous oversight of transactions involving those cards through proactive investigative reviews would be an effective means to detect misuse. In January 2010, my office requested that officials in the NLRB's Division of Administration provide user identification and passwords to OIG auditors. In February and March, OIG staff made inquiries regarding the status of the requested access and were eventually told by the Finance Branch Chief that she was instructed by the Director and Deputy Director of the Division of Administration not to process the request because they were concerned that data in the system could be altered. That explanation was problematic because we were asking for "read only" access, and I know that such access is possible because several years ago an OIG auditor had "read only" access to the systems. On June 7, 2010, I met with the Director and she stated that her concerns were that the OIG not have unfettered access to a Privacy Act system of records. The Director also cited a Memorandum of Understanding

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between her and the prior Inspector General regarding access to the NLRB Privacy Act systems as a basis for her denial of ongoing access to the system. The Director stated also that her staff would provide the information needed on an as requested basis. On June 9, 2010, I formally brought this matter to the attention of the Deputy General Counsel, the Director's immediate supervisor.

Records for the travel and purchase cards are part of a Government-wide Privacy Act system of records and not an NLRB system. The memorandum cited by the Director expressly applies only to NLRB Privacy Act systems. The Government-wide Privacy Act system notices for the travel and purchase cards both have provisions that allow access to the data by employees of an agency for an official purpose. The Privacy Act system notice for the purchase cards states that access can be granted to "Federal agency employees . . . to conduct official duties associated with the management and operation of the purchase card program." The Privacy Act system notice for the travel cards states that it is a routine use "[t]o disclose information to a Federal agency for accumulating reporting data and monitoring the system." Proactive OIG investigative reviews of the travel and purchase card transactions squarely meet the criteria for access to the systems.

The Director's denial of system access and her assertion that her staff will provide individual data once it is requested is little more than gamesmanship that creates needless bureaucratic hurdles that impede our oversight activities and affects the integrity of the data. Requiring the OIG to make repeated requests for the information rather than providing real-time access prevents OIG auditors from identifying transactions that are unlawful or inappropriate very near the time they occur. The denial of the access to the systems is also troubling because the NLRB's procurement function is located within the Division of Administration and the impetus for renewal of this oversight was transactions by a member of her staff and a lack of procedures for managing those programs. To now rely on the Director and her staff to provide the data to the OIG significantly reduces the integrity of the data given the ease that it can be manipulated or altered.

Rather than further escalate this matter by going to the Chairman, I determined that the most appropriate manner to address this issue is to initiate an audit of the NLRB's travel and purchase card transactions. To that end, I instructed the OIG audit staff to develop an audit program that will review the past transactions for Fiscal Year 2010 and monitor the daily purchase card transactions through the end of the fiscal year. If we are again denied access to the systems, we will take appropriate action in accordance with the Inspector General Act.

I think it is important to note that the difficulty in dealing with the Director of Administration is not evidence of a systemic problem at the NLRB. Overall, the environment at the NLRB is supportive of the OIG mission, including appropriate support from the Chairman.

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Pursuant to your request for reports on all investigations, evaluations, and audits that have not been disclosed to the public and in accordance with the guidance provided to the Council of the Inspectors General on Integrity and Efficiency, I am providing a summary of each of the investigations closed between January 1, 2009 and April 30, 2010. Each summary provides a brief description of the allegation, the investigative findings, and the resulting criminal or administrative action.

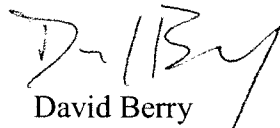
In addition to our investigations, we also produce audit and inspection reports and Issue Alerts. We consider each of those items to be public information, and we disclose them to Congress and the public through our Semiannual Report to Congress. We also post audit and inspection reports on the OIG portion of the NLRB Web site.

At no time has any NLRB official threatened or otherwise attempted to impede my office's ability to communicate with Congress. If such a situation should ever arise, I will immediately provide the information to you.

As requested, I have also enclosed a copy of the information provided to the Ranking Member of the House Committee on Oversight and Government Reform on outstanding audit recommendations that have not been fully implemented.

I appreciate your interest in the work of Inspectors General. If you have any questions or require additional information, please contact me at (202) 273-1960 or david.berry@nlrb.gov.

Sincerely,



David Berry
Inspector General

Enclosures (2)

cc: Chairman
General Counsel