



Office of Inspector General
Pension Benefit Guaranty Corporation

July 2, 2019

TO: Alice Maroni
Chief Management Officer

FROM: Brooke Holmes 
Assistant Inspector General for Audits, Evaluations, and Reviews

SUBJECT: Issuance of Final Audit Report No. AUD 2019-11/PA-18-130
PBGC's Use of the Women-Owned Small Business Federal Contracting Program

We conducted this audit to determine if PBGC complied with federal regulations when awarding contracts through the Women-Owned Small Business (WOSB) federal contracting program. We reviewed the FYs 2017 and 2018 WOSB set-asides, and the duties of the PBGC Office of Small and Disadvantaged Business Utilization (OSDBU) Director. This memorandum report provides the results of our audit work and includes other matters for your consideration. It contains public information and will be posted in its entirety on our website and provided to the Board and Congress in accordance with the Inspector General Act.

Summary

PBGC awarded just one WOSB set-aside in FY 2018. This award was performed properly, but limited our assessment of PBGC's compliance, as further discussed below in *Other Matters*. We also reviewed the organizational alignment and duties of the PBGC's OSDBU Director. While PBGC complied with the Small Business Act (the Act) requirement of appointing an OSDBU Director, the Corporation has not complied with the requirements for aligning the OSDBU Director within the reporting hierarchy of the Corporation. Furthermore, the OSDBU Director has not provided training to contracting officers for the various small business programs. As a result, firms in SBA's contracting assistance programs may not be receiving federal contract opportunities through exclusive set-aside and sole-source contracts meant to ensure small businesses receive a fair share of federal contracting dollars.

Background

The PBGC is a federal government corporation established under Title IV of the Employee Retirement Income Security Act of 1974. PBGC's mission is to encourage the continuation and maintenance of private-sector defined benefit plans, provide timely and uninterrupted payment of pension benefits, and keep the insurance premiums to a minimum.

The Procurement Department (PD), a department within PBGC's Office of Management and Administration (OMA), is responsible for awarding PBGC's contracts for goods and services. In FY 2018, PBGC awarded approximately \$311 million in contracts for goods and services. PBGC's PD is required to follow federal procurement regulations and laws including the Federal Acquisition Regulations, Code of Federal Regulations and the Small Business Act. Included in these laws and regulations are SBA's contracting assistance programs, which are intended to help small businesses win a fair share of federal contracts and qualify for exclusive set-aside and sole-source contracts. In addition to the requirement to use small business programs, Congress sets small business procurement goals for the federal government. PBGC's small business goal was 23 percent in FYs 2017 and 2018. We have identified procurement-related areas as one of the top risks to the Corporation in the FY 2018 Management Challenges, based on our reports, hotline-related work, and risk assessments of the Corporation.

Women-Owned Small Business Federal Contracting Program

The WOSB federal contracting program (the Program) is one of the SBA's contracting assistance programs and provides greater access to federal contracting opportunities for WOSBs by allowing contracting officers to set-aside specific contracts exclusively for WOSBs in industries where women-owned small businesses are underrepresented. In addition, this Program helps federal agencies achieve the existing statutory goal of five percent of federal contracting dollars being awarded to WOSBs. PBGC's WOSB award goals for FY2017 and FY2018 were 5 percent; in both years, PBGC exceeded its goals by achieving 6.3 percent and 7.8 percent respectively. Furthermore, section 827(a)(8) of the National Defense Authorization Act of 2015 authorized federal procuring agencies beginning in October 2015 to award WOSB set-aside contracts on a sole-source basis, which allows the Corporation to award certain federal contracts without using fair and open competition, for certified WOSB firms in the Program.

Office of Small and Disadvantaged Business Utilization

In 1978, Congress amended the Small Business Act to require all federal agencies with procurement powers to establish an OSDDBU. The goal of the OSDDBU is to maximize contracting opportunities for small businesses by acting as an advocate at each agency during the

contracting process. The Act (Public Law 85-836), revised December 23, 2016, Section 15(k) details the responsibilities of the OSDBU. Among those responsibilities, the OSDBU makes recommendations to the contracting officer as to whether a contract should be awarded to a WOSB as a set-aside in the Program.

In FY 2017, GAO reported and testified to the extent to which selected federal agencies demonstrated compliance with 13 of the requirements of section 15(k) for OSDBUs and found that 15 of 24 agencies did not comply with two or more of the 15(k) requirements, including the Departments of Labor, Commerce, and Agriculture.

Objective

Our objective was to determine if PBGC complied with federal regulations when awarding contracts through the women-owned small business federal contracting program.

Details

PBGC's OSDBU Director Requires Realignment

Section 15(k)(3) of the Act states that the OSDBU Director "shall be responsible only to...and report directly and exclusively to, [the] head of the agency or to the deputy of such head." This required organizational alignment provides the OSDBU Director direct access to the top decision makers to effectively advocate for small businesses. In PBGC's case, as depicted in the figure below, the OSDBU Director is three supervisory levels removed from the PBGC Director, reporting to the Director of Workplace Solutions Department (Figure 1). When the OSDBU was established, the Acting Director of PBGC was also the Chief Management Officer, and the OSDBU Director was placed within her division but under the direct supervision of the Director, Workplace Solutions Department. This is where the OSDBU Director has remained.

Figure 1: PBGC's Director, OSDBU Reporting Hierarchy



Source: OIG Interpretation of the PBGC Organizational Charts from OSDBU Director to PBGC Director.

This alignment of PBGC's OSDBU Director may limit the successful implementation of the small business program within PBGC. The OSDBU Director assists the contracting officer in reviewing acquisitions to determine if they can be set aside for small business. Without proper placement of the OSDBU Director in an organization, the ability to influence decision makers may be lost, resulting in PBGC's underutilization of the SBA's contracting assistance programs in its federal contracting.

Specific Set-Aside Training Needed

Section 15(k)(13) of the Act states that the OSDBU Director may provide training to contract specialists on small business contracting. While the Act provides some flexibility in this requirement, PBGC's OSDBU Director position description states the Director will develop, conduct, and lead training sessions to ensure contract personnel are familiar with procedures and regulations pertaining to the various small business programs.

According to the OSDBU Director, she does provide small business training to contracting officers, but we were unable to verify that the OSDBU Director provided such training specifically related to the Program. We did find training material dated November 2012, available to the PD, which included contracting officers; however, these materials did not include the most up-to-date WOSB program information. Specifically, several contracting officers were not aware that awarding contracts on a sole-source basis was an option under the Program. This may be a factor in PBGC contracting officers awarding only one WOSB set-aside in FY 2018. In order to consider SBA's contracting assistance programs, like the WOSB Program, PBGC's contracting officers need the most up-to-date knowledge and understanding of the programs. Without this knowledge, PBGC may not provide small businesses in these programs the required preferences, and, thus these businesses may not receive a fair share of PBGC's contracting dollars. PBGC awarded only one contract under the Program in Fiscal Years 2017 and 2018.

Overall, we found that PBGC is not emphasizing the use of the WOSB program, with only one WOSB program set-aside contract awarded in two years. Having the OSDBU director reporting directly to the Corporate Director and providing contracting staff up to date training would provide PBGC the maximum visibility over the contracting programs such as the WOSB program.

Recommendations

We recommend that the Office of Management and Administration:

- 1. Assess the organizational alignment of the OSDBU Director within the Corporation, taking into consideration the importance of the federal government's philosophy of small business contract programs and the requirements of the Small Business Act. (OIG Control Number OMA-09)**

PBGC's Response and OIG's Evaluation

Resolved. PBGC agreed with the recommendation and plans to provide evidence that reflects a review and assessment of the organizational alignment of the OSDBU Director within the Corporation was performed by September 30, 2019.

Closure of this recommendation will occur when PBGC provides evidence that a review and assessment of the organizational alignment of the OSDBU Director was performed and that the review also considered the importance of the small business contracting programs.

- 2. Provide updated training to the Procurement Department that reflects the current WOSB Federal Contracting Program. (OIG Control Number OMA-10)**

PBGC's Response and OIG's Evaluation

Resolved. PBGC agreed with the recommendation and provided planned actions to review current and future training performed by September 30, 2019. In addition, PBGC plans to provide the training dates for the remainder of the Fiscal Year.

Closure of this recommendation will occur when training related to the current WOSB Federal Contracting Program is provided to the PBGC acquisition workforce.

Other Matters

During our audit of the WOSB program, we identified an opportunity for PBGC to improve their procurement activities related to SBA's contracting assistance programs. Additionally, due to limited use of the WOSB set-aside program, below we provide an explanation of our work related to the original audit objective, which was to determine if PBGC complied with federal regulations when awarding contracts through the WOSB program.

PBGC Awarded One WOSB Program Set-Aside- Contract in FYs 2017 and 2018

In FYs 2017 and 2018, PBGC awarded only one WOSB set-aside. As required by our objective, we reviewed that award and found that the contracting officer properly awarded the contract. However, we observed that approximately 76 percent of the total small business eligible contract actions valued at \$364 million PBGC awarded were eligible for participation in the program because they were designated North American Industry Classification System codes of the WOSB program. As a result, we believe that PBGC has the capacity to expand its use of the WOSB program in the future.

OMB Memorandum M-19-13

OMB issued M-19-13, *Category Management: Making Smarter Use of Common Contract Solutions and Practices*, on March 20, 2019 and while this memorandum only applies to Chief Financial Officers Act agencies, OMB encourages other agencies to use as a best practice. The expected result of this memorandum is to “more effectively managed contract spending through a balance of Government-wide, agency-wide, and local contracts; reduce unnecessary contract duplication and cost avoidance; and continued achievement of small business goals and other socio-economic requirements.” According to the memorandum, to successfully accomplish this, agencies will “carry out a tailored set of management actions and provide [OMB] updates on these management actions to evaluate their progress.”

One of these actions requires agencies to establish plans to increase the use of “Best in Class” contract solutions for common goods and services, consistent with small business and other statutory socio-economic responsibilities. The memorandum also encourages the OSDBU to use the small business dashboard to help achieve the best balance of Government-wide, agency-wide, local contracts and “Best in Class” contract solutions from other agencies regarding small business contracts. The dashboard was created by OMB, the General Services Administration, and the Small Business Administration to provide OSDBU’s the information they need to shape their acquisition strategies. Furthermore, a research tool will be made available for users to determine what “Best in Class” solutions are in place, including options for small business set-asides for the socio-economic categories, which should include those in the WOSB program.

According to PBGC’s senior procurement official, PBGC currently uses a General Services Administration multiple award contract for small businesses to obtain the WOSB goal set by Congress. According to the official, the General Services Administration multiple award contract purchases were competed among other small businesses and, in the process of using this mechanism, PBGC awarded contracts to small businesses that were also women-owned.

While continued use of General Services Administration multiple award contract will be an accepted acquisition strategy, OMB M-19-13 recommends that PBGC to formalize strategies and consult "Best in Class" solutions for small business acquisitions, including those in the WOSB program. We suggest PBGC emphasize the requirements to first consider small business preference programs while developing the requirements of OMB M-19-13.

cc: Jeffery Donahue, Director, Procurement Department
Alisa Cottone, WSD Director
Debra Trott, OSDDBU Director
Frank Pace, Director, Corporate Controls and Reviews Department
Judith Starr, General Counsel
Latrece Wade, Acting Risk Management Officer
Department of Labor Board staff
Department of the Treasury Board staff
Department of Commerce Board staff

Appendix I: Objective, Scope and Methodology

Objective

To determine if PBGC complied with federal regulations when awarding contracts through the women-owned small business (WOSB) federal contracting program.

Scope

We reviewed the new FY 2017 and FY 2018 WOSB awards. We performed fieldwork at PBGC Headquarters in Washington, D.C. from October 2018 through April 2019.

Methodology

To answer our objective, we reviewed the new WOSB contracts awarded during FY 2017 and FY 2018 as provided by PD. We compared this information to the Federal Procurement Data System-Next Generation, which is a federal website where federal agencies report all contracting actions. For the one WOSB set-aside contract award, we used www.sam.gov to verify small business eligibility, small business type and registered North American Industry Classification System codes. Additionally, we reviewed applicable federal regulations including the Federal Acquisition Regulations, the Code of Federal Regulations and the Small Business Act; the internal PBGC FARS; and select GAO testimony and OMB memoranda. We also interviewed PD officials, the OSDBU Director, and contracting officers.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer-Processed Data

We relied on computer-processed data obtained from the Procurement Department. To assess the reliability of the data, we compared it to the source documentation across multiple sources. For example, we reviewed the PBGC provided data and compared it to the data run in Federal Procurement Data System-Next Generation. We also independently verified business information and performed internet searches to ensure consistency among all the sources used. Based on our limited tests, we concluded data from the systems were sufficiently reliable.

Review of Internal Controls

We assessed the internal controls that related to our audit objectives. OMB Circular A-123 provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal controls. To assess internal controls during the audit, we reviewed internal procedures and interviewed management.

Appendix II: Agency's Response



1200 K Street, NW
Washington, DC 20005-4026

t 202-326-4000
pbgc.gov

TO: Brooke Holmes
Assistant Inspector General for Audits (OIG)

FROM: Jeffrey Donahue *JOL 6-20-19*
Director, Procurement Department (PD)

SUBJECT: Response to Office of Inspector General (OIG) Draft Audit Memorandum Report, PBGC's Use of the Women-Owned Small Business Federal Contracting Program

Thank you for the opportunity to comment on the OIG's Draft Audit Memorandum Report, dated May 30, 2019, relating to PBGC's Use of the Women-Owned Small Business Federal Contracting Program. Your work on this is sincerely appreciated.

PBGC met with the representatives from the Office of the Inspector General (OIG) on May 8, 2019 to discuss the findings and recommendations. The dialogue was both informative and insightful and PBGC is grateful for the opportunity to respond to the recommendations suggested by the OIG.

PBGC has outlined in the attachment steps that will be taken to address the recommendations. The Point of Contact for PBGC is Juliet Felent, Deputy Director, Procurement Department. She can be reached at extension 7475 or by email at felent.juliet@pbgc.gov.

Attachment: Response to OIG Recommendations

cc: Alice Maroni, Chief Management Officer (CMO)

**Draft Audit Memorandum Report, PBGC's Use of the Women-Owned Small Business
Federal Contracting Program**

Our responses on the specific recommendations in the draft report are as follows:

Recommendation: Assess the organizational alignment of the OSDDBU Director within the Corporation, taking into consideration the importance of the federal government's philosophy of small business contract programs and the requirements of the Small Business Act. (OIG Control Number OMA-09)

Response: PBGC agrees with this recommendation.

PD, in conjunction with the CMO, will provide evidence to reflect a review and assessment of the organizational alignment of the OSDDBU Director within the Corporation.

Target Completion Date: 9/30/2019.

Recommendation: Provide updated training to the Procurement Department that reflects the current WOSB Federal Contracting Program. (OIG Control Number OMA-10)

Response: PBGC agrees with this recommendation.

A review of current and future training will be performed. Targeted training dates will be provided for the remainder of Fiscal Year 2019.

Target Completion Date: 9/30/2019.

Appendix III: Acronyms

FY	Fiscal Year
GAO	Government Accountability Office
OIG	Office of the Inspector General
OMA	Office of Management and Administration
OMB	Office of Management and Budget
OSDBU	Office of Small and Disadvantaged Business Utilization
PBGC	Pension Benefit Guaranty Corporation
PD	Procurement Department
SBA	Small Business Administration
WOSB	Women-Owned Small Business

Appendix VI: Staff Acknowledgements

Staff Acknowledgements

John Seger, Audit Manager; Leslie Kobus, Auditor-In-Charge; and Tiara Grotte, Auditor, made key contributions to this report.

Appendix V: Feedback

Please send your comments, suggestions, and feedback to OIGFeedback@pbgc.gov and include your name, contact information, and the report number. You may also mail comments to us:

Office of Inspector General
Pension Benefit Guaranty Corporation
1200 K Street, NW, Suite 480
Washington, DC 20005

If you want to discuss this report or your comments with a member of the Office of Inspector General staff, please contact our office at (202) 326-4030.