



November 22, 2022

MEMORANDUM REPORT

TO: David Foley
Chief of Benefits Administration

CC: Alice Maroni
Chief Management Officer

FROM: John Seger 
Assistant Inspector General for Audits, Evaluations, and Inspections

SUBJECT: Evaluation of Hotline Complaints regarding a PBGC Contract (Report No. EVAL-2023-04)

This memorandum report presents the results of our evaluation of two hotline complaints that alleged fraud. Hotline Complaint 1 alleged a contractor billed PBGC for work the contractor did not complete. Hotline Complaint 2 alleged a contractor employee's time entries were fraudulent. Both complaints involved task orders for plan asset evaluation services awarded to a single contractor. Hotline Complaint 1 involved work performed under a firm-fixed-price contract. Hotline Complaint 2 involved, for the most part, work performed under two labor-hour task orders. Our objective was to evaluate whether the allegations contained in two hotline complaints related to services that PBGC purchased under the subject contract have merit and determine whether the allegations warrant further management attention.

We conducted our work in accordance with the CIGIE Quality Standards for Inspection and Evaluation. (See Appendix I.) We provided a draft copy of this report to management and their comments have been incorporated in this final report. We appreciate the cooperation you and your staff extended to OIG during this project. We thank you for your receptiveness to our recommendations and your commitment to reducing risk and improving the effectiveness and efficiency of PBGC programs and operations. This report 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

We determined that the fraud allegations in the complaints were unsubstantiated. However, we identified a concern related to PBGC's oversight of the labor-hour contracts that warrants management action. Specifically, we found a contracting officer's representative (COR) approved invoices without verifying supporting documentation. We will include this concern in our annual top management challenges.

Background

The Pension Benefit Guaranty Corporation protects the retirement security of over 33 million American workers, retirees, and beneficiaries in both single-employer and multiemployer private-sector pension plans. Currently, nearly one million participants receive benefit payments of over \$6.5 billion per year from the PBGC. Because of its vital mission and operating model, one of the three strategic goals articulated in PBGC's Strategic Plan is to "maintain high standards of stewardship and accountability."

Office of Benefits Administration

The Office of Benefits Administration (OBA) manages the termination process for defined benefit plans, provides participant services (including calculation and payment of benefits) for PBGC-trusted plans, provides actuarial support for PBGC, and carries out PBGC's responsibilities under settlement agreements. When it is necessary to terminate a defined benefit pension plan, OBA values the plan assets and liabilities, and collects, evaluates, and performs participant and plan financial audits. Based on these actions, OBA determines the participant benefit entitlements and plan worth.

The Asset Evaluation Division within the Plan Asset and Data Management Department provides oversight of the asset evaluation branches. The department also administers plan asset evaluations (PAE), participant data reviews, and oversees the preservation of evidence for individual participant calculations and financial reporting. OBA relies on contractors to perform many of these tasks.

Contracting Officers and Contracting Officer's Representative

Contracting Officers (CO) are federal employees within the Procurement Department (PD) under PBGC's Office of Management and Administration. They are responsible for awarding PBGC's contracts for goods and services, and they follow federal procurement regulations.

CORs are federal employees designated by the CO to perform technical functions under the contract. These duties include providing clarification, monitoring contract performance, and ensuring the contractor performs only the requirements in the statement of work/performance work statement. The COR's specific duties and responsibilities are contained in the written designation (known as a COR letter of designation) by the CO upon contract award. Examples of actions that may be taken by a COR include inspection of supplies or services, approval of invoices, acceptance and/or approval of reports, monitoring contract performance and delivery schedules, and providing technical assistance when necessary.

Government Oversight of Labor-Hour Contracts

A firm-fixed-price contract places maximum risk and full responsibility for all costs and resulting profit or loss on the contractor. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties. However, a time-and-materials (T&M) contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used. A labor-hour contract is a variation of the time- and-materials contract.

Details

Hotline Complaint 1

This anonymous complaint alleged that the contractor billed hours to PBGC with no related completion of products. For this task order, the contractor is required to electronically update the Asset Evaluation Division's existing PAE processing manual, technical manual, and related templates for both audit and valuation staff. In addition, the services include delivery of virtual training of the new policies, procedures, and technical processes in support of the PAE to PBGC staff. This task order was firm-fixed-price with a period of performance ending on September 17, 2022. The contractor has completed all deliverables to the satisfaction of PBGC through the end of that period. OBA and the contractor have mutually agreed to extend the contract for an additional six months, until March 2023.

We reviewed the subject contract, PBGC's Consolidated Financial System report, and invoices for this contract. We also examined COR contract files, contract deliverables (monthly and weekly status reports) and the project plan. We interviewed PBGC officials

about documents and the contractor performance. We also sought additional information from the complainant but did not receive any.

Our review did not reveal any performance issues noted by PBGC that may have affected the quality, delivery schedule, and the price of the services the contractor provided. We also concluded that the amount the contractor billed to PBGC reconciled with the contract terms for this fixed-price task order. As such, we determined that the fraud allegation in Hotline Complaint 1 was unsubstantiated.

Hotline Complaint 2

The complaint alleged fraudulent practices perpetrated by a contractor employee that were not properly addressed by the contractor. After gathering and analyzing the available evidence, our Investigations Division concluded that the fraud allegation in Hotline Complaint 2 was unsubstantiated. We did find, however, that the COR did not provide adequate oversight when approving invoices for the two task orders.

FAR 16.601(c)(1) states that for T&M contracts, “appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used.” The same FAR provision applies to labor-hour contracts. PBGC Directive PM-25-05, *Selection, Designation, Training, and Management of Contracting Officer's Representatives* (May 11, 2017), states that one of the COR's principal responsibilities may include approving invoices for payment. Further, “[a] separate COR letter of designation must be issued for each contract for the individual assigned to act as the COR.”

Hotline Complaint 2 pertained to two labor-hour task orders. The COR designation letter required the COR to review and approve invoices to verify whether the hours invoiced were commensurate with the contractor's progress to date and be alert to apparent discrepancies. The contract terms also required the COR to review the monthly billing reports, including the start-stop reports, for:

- the number of hours spent, and the charges incurred on each work assignment by the contractor, and
- the hours spent in each labor category of the contract for each work assignment to ensure reasonableness.

The two task orders incorporated PBGC FAR Supplement Part 52.232-7006, which requires the contractor to submit proper invoices with supporting documentation. This FAR provision specifies that the supporting documentation includes copies of time sheets indicating start and stop time of the personnel performing services under the

task orders. The contractor submitted the invoices with start-stop reports as supporting documents.

We reviewed the periods corresponding to the events in the hotline complaint for each task order (TO). We found the COR approved invoices without verifying (1) billing codes, (2) the accuracy of the submitted support for the invoice, and (3) the hours worked and billed.

Billing Codes

The contractor was required to perform plan asset evaluations for the pension plans identified in each of the task orders. According to the contract, the overall objectives of a plan asset evaluation were to:

- identify all known assets, liabilities, and expenses as of the date of plan termination;
- identify and report any potential indicators of fiduciary breach, conflicts of interest or fraud; and
- estimate the fair market value of the plan assets, based on a method of valuation that most accurately reflects such fair market value as of the date of plan termination.

The contractor invoiced PBGC for the PAE work by applying the labor category rates specified in the task orders to the hours worked on the pension plans. However, the contractor also billed hours and applied the labor rates to a "PMO" time code. We asked the COR for the meaning of this code. He could not explain what the "PMO" code represented, although he believed it stood for "Project Management Office." The CO stated that "PMO" could consist of project management responsibilities. To provide proper oversight, a COR must know the charge codes.

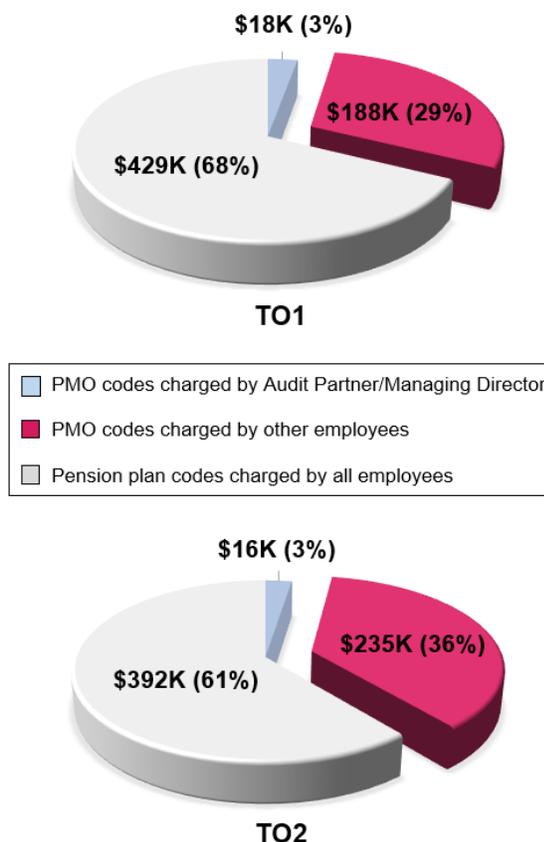
From June 2020 to June 2021, PBGC paid around \$635,000 and \$639,000 on the respective TO1 and TO2 invoices. By examining the start-stop reports, we found the employee “PMO” code charges accounted for approximately \$188,000 (29%) and \$235,000 (36%) of the amounts paid for the two respective task orders. (See Figure 1.)

Our review also revealed delays in gathering plan information and plan reviews. The delays might have impacted the efficiency and the contract costs as they are labor-hour task orders. However, without an understanding of the billing codes, PBGC could not track and assess performance on the contract. As a result, contract costs could increase and reduce the return on contracted services and dollars. Also, if PBGC decides to convert this type of labor-hour contract to a firm-fixed price task order, lack of understanding of contract performance could hinder the conversion as PBGC would not know the actual costs incurred per pension plan.

Inaccuracy of the submitted support for the invoice

We noted that the contractor submitted a start-stop report with February 2020 dates as support for the TO1 May 2020 invoice. That report showed more than 700 hours worked, which did not match the hours worked on the May 2020 invoice. The May 2020 invoice showed 378 total hours worked, totaling about \$37,000 paid by PBGC. The COR did not question the support at the time of the review and approved the invoice that was paid in full. After bringing this discrepancy to the COR's attention, the COR contacted the contractor in April 2022 to request the correct start-stop report for May

Figure 1. Breakdown between “PMO” and pension plan codes for TO1 & TO2 charged by employees (June 2020 to June 2021)



Source: OIG analysis of start-stop reports.

2020. As the labor-hour contracts require appropriate government surveillance, not verifying the accuracy of supporting documents may cause inaccurate payments.

Inaccuracy of the hours worked and billed

We found that the entries on the start-stop reports did not corroborate the hours on the invoices. For example, a start-stop report showed a charge of eight hours when the time entries indicated the employee began work at 12:30 p.m. and ended at 1:30 p.m. or, conversely, the time entries showed more hours worked than charged on the invoice. (See Figure 2.)

Figure 2. Entries with inaccurate elapsed time calculations for TO1 and TO2 (June 2020- June 2021)

Start-Stop Analysis	TO1	TO2
Number of times billable hours did <i>not</i> match the elapsed time (based on start and stop time stamps)	989	1,215
Number of start-stop entries	2,244	2,255
Percentage of entries with inaccurate elapsed time calculations	44%	54%

Source: OIG analysis of start-stop reports.

We did not receive explanations from the COR to our inquiries about inaccurate time calculations. The apparent inaccuracy in the number of hours billed resulted in inaccurate amounts paid by PBGC, which is a key risk in a labor-hour contract structure; however, the total discrepancy was immaterial for these task orders.

Also, our analysis of the start-stop reports supporting the contractor's invoices revealed the overlapping of hours between the two task orders and inaccurate time charges to the plans assigned to another task order. Each task order covers PAE services for a different set of pension plans performed by the same contractor personnel. As confirmed with the COR, the contractor could not work on two task orders at the same time. Also, the contractor's staff should have charged hours on the plans assigned to a correct task order.

Conclusion

It is incumbent upon PBGC to provide adequate oversight of contracts that are not fixed-price, because, under this type of contract, the contractor has no incentive to control costs. In this case, PBGC reimbursed the contractor for hours billed despite evidence that the bills contained inaccuracies. As a result of the lack of adequate COR

oversight, the labor hours charged to the two task orders and paid by PBGC may not be accurate.

Recommendations

We recommend the Office of Benefits Administration:

1. Establish controls to monitor COR reviews of contractor invoices and supporting documents.

PBGC's Response and OIG's Evaluation

Resolved. PBGC concurred with the recommendation. OBA stated that they were discussing best practices with other departments to identify gaps. Management will improve oversight, implement controls, and monitor COR reviews of contractor invoices and supporting documents. OBA's goal is to complete the planned action by December 29, 2023.

Closure of this recommendation will occur when PBGC provides evidence of the established controls and monitoring actions of COR reviews of contractor invoices and supporting documents.

2. In coordination with PD, train CORs to properly review supporting documents before they approve or reject contractor invoices.

PBGC's Response and OIG's Evaluation

Resolved. PBGC concurred with the recommendation. OBA stated that they would coordinate with PD to provide training to CORs. OBA and PD have discussed this training and PD recognized a training gap exists between identifying COR responsibilities regarding processing invoices and the invoice payment process that takes place within Financial Operations Department. See additional details in Appendix II. OBA's goal is to complete the planned action by April 28, 2023.

Closure of this recommendation will occur when PBGC provides evidence of the training development and its completion by CORs.

cc: Gordon Hartogensis, PBGC Director
Frank Pace, CCRD Director
Karen Morris, General Counsel
Latrece Wade, Risk Management Officer
Kristin Chapman, Chief of Staff
Department of Labor Board staff
Department of Treasury Board staff
Department of Commerce Board staff
House committee staff (Education and Workforce, Ways and Means, HOCR, and
Appropriations)
Senate committee staff (HELP, Finance, HSGAC, and Appropriations)

Appendix I: Objective, Scope, Methodology, and Standards

Objective

To evaluate whether allegations contained in two hotline complaints related to services that PBGC purchased under the subject contract have merit and determine whether the allegations warrant further management attention.

Scope

We evaluated two hotline complaints we received in August and December 2021. We conducted this evaluation from October 2021 to August 2022 via full-time telework because of the COVID-19 pandemic.

Methodology

To answer our objective, we reviewed the subject contracts and the applicable criteria in the FAR and PBGC FAR Supplement. We interviewed PBGC officials and a complainant for additional information. In addition, we reviewed documentation from PBGC officials, including contract modifications, COR files, monthly status reports, weekly status reports, project plans, PBGC's Consolidated Financial System reports and invoices for the period of performance of the contracts. For the two labor-hour task orders, we reviewed invoices and supporting documentation for February 2020 and the period of May 2020 to June 2021 that cover the events in Hotline Complaint 2.

Applicable Professional Standards

We conducted this engagement in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform the engagement to obtain sufficient, and appropriate evidence to provide a reasonable basis for our conclusions and observations based on our objective. We believe that the evidence obtained provided a reasonable basis for our conclusions and observations based on our evaluation objective. Accordingly, the evaluation included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the evaluation objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our evaluation. Finally, we partially relied on computer-processed data to satisfy our evaluation objectives. We conducted a limited reliability assessment as we did not assess the contractor's systems.

Appendix II: Management Response



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November 18, 2022

To: Nick Novak
Inspector General

From: David Foley
Chief of Benefits Administration

CC: Alice Maroni
Chief Management Officer

Subject: Response to OIG's Draft Report Evaluation of Hotline Complaints regarding a PBGC Contract

DAVID FOLEY Digitally signed by DAVID FOLEY
Date: 2022.11.18 12:25:48 -05'00'

ALICE MARONI Digitally signed by ALICE MARONI
Date: 2022.11.18 13:00:17 -05'00'

Thank you for the opportunity to comment on the Office of Inspector General's (OIG) draft report, received October 26, 2022, relating to the evaluation of two hotline complaints. (Project No. EV-22-162). Your office's work on this is sincerely appreciated.

PBGC management met with the representatives from the OIG on October 24, 2024, 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.

Management concurs with the report's findings and recommendations. In the attachment to this memorandum, you will find our specific responses to each recommendation included in the report, as well as our planned corrective actions and scheduled completion dates. Addressing these recommendations in a timely manner is an important priority for PBGC.

cc: Juliet Felent, Procurement Department Director, Senior Procurement Executive
Michael Hutchins, Plan Asset and Data Management Department Director
Frank Pace, Corporate Controls and Reviews Department Director
Latrece Wade, Risk Management Officer
Karen Morris, General Counsel

ATTACHMENT

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

1. Establish controls to monitor COR reviews of contractor invoices and supporting documents. (OIG Control Number 2023-04-01)

PBGC Response: Management concurs with this recommendation. Office of Benefits Administration (OBA) is discussing best practices with other departments to identify gaps. Management will improve oversight, implement controls, and monitor Contracting Officer's Representative (COR) reviews of contractor invoices and supporting documents.

Scheduled Completion Date: December 29, 2023

2. In coordination with the Procurement Department, train CORs to properly review supporting documents before they approve or reject contractor invoices. (OIG Control Number 2023-04-02)

PBGC Response: Management concurs with this recommendation. The Office of Benefits Administration (OBA) will coordinate with the Procurement Department (PD) to provide training to Contracting Officer Representatives (COR). OBA and PD have discussed this training and PD recognizes a training gap exists between identifying COR responsibilities regarding processing invoices and the invoice payment process that takes place within Financial Operations Department (FOD). As part of the COR training to properly review supporting documentation before approving or rejecting invoices:

- a) PD will develop an Invoice Review Checklist that includes a sample invoice depicting all the requirements listed on the Invoice Clause for CORs to quickly identify if an invoice is acceptable.
- b) PD will develop and share an Invoice Tracker Template that assists CORs with matching up the contract line item numbers (CLIN) with items appearing on monthly invoices and will be used throughout the period of performance of the contract.
- c) PD will create a training course covering invoice processing from contract award to invoice review and approval.

Scheduled Completion Date: April 28, 2023

Appendix III: Acronyms

Acronym	Meaning
CO	Contracting Officer
COR	Contracting Officer Representative
FAR	Federal Acquisition Regulation
OBA	Office of Benefits Administration
PAE	Plan Asset Evaluations
PBGC	Pension Benefit Guaranty Corporation
PD	Procurement Department
TO	Task Order

Appendix IV: Staff Acknowledgements

PBGC OIG Contact

John Seger at (202) 229-3315 or
seger.john@pbgc.gov

Staff Acknowledgements

In addition to the contact above, Parvina Shamsieva-Cohen, Audit Manager; Natali Dethomas, Auditor-In-Charge; and Jessica Kim, 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
445 12th Street SW
Washington, DC 20024

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.