



Pension Benefit Guaranty Corporation
Office of Inspector General
Audit Report

**Review of Sensitive Payments
Fiscal Year 1997**

March 31, 1998

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Fiscal Year 1997**

Audit Report 98-4/23129

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
CFR	Code of Federal Regulations
CMO	Chief Management Officer
FY	Fiscal Year
GAO	General Accounting Office
Guide	Guide for Evaluating and Testing Controls Over Sensitive Payments
OGC	Office of the General Counsel
PBGC	Pension Benefit Guaranty Corporation

Review of Sensitive Payments

Audit Report 98-4/23129

EXECUTIVE SUMMARY

The Pension Benefit Guaranty Corporation's ("PBGC") senior level officials are vested with the public trust and hold positions with decision-making authority. In those positions, the employees may face intense scrutiny of their actions in the event of an impropriety, whether or not large sums of money are involved. Sensitive payments encompass a wide range of executive functions including executive compensation, travel, official entertainment funds, unvouchered expenditures, consulting services, speaking honoraria and gifts, and executive perquisites.

FINDINGS AND RECOMMENDATIONS

1. Travel Vouchers Are Not Timely Submitted.

Travel vouchers of some senior level officials were not submitted within 10 days of completion of the travel. PBGC Directive GA 10-5 establishes the travel procedures applicable to all PBGC employees.

RECOMMENDATIONS

We recommend that PBGC implement the following corrective actions:

Require senior level officials to comply with the PBGC directive regarding timely submission of travel vouchers. (FOD-270)

Direct the Payroll/Travel Office to comply with policies and procedures regarding delinquent travel vouchers. (FOD-271)

Review open travel authorizations regularly to ensure timely submission of travel vouchers. (FOD-272)

2. PBGC failed to document its authorization of ten employees' travel to a funeral.

On February 24, 1997, PBGC's former Executive Director died suddenly. On February 26, 1997, there was a memorial service at the Grand Hyatt in Washington, DC which all PBGC employees were permitted to attend. The funeral was held on February 27, 1997, in Boston, Massachusetts. Ten PBGC employees were authorized official travel to attend the funeral. We are questioning the travel expenses of \$4,071.49 because the determination that these employees' travel was essential for government business is unsupported.

RECOMMENDATION

We recommend that PBGC implement the following corrective actions:

PBGC should apply the Brueninger criteria to determine whether (1) attendance by a PBGC employee was important to the mission of the agency and (2) the appropriate representative would be unable to attend without the travel being authorized at government expense, and document this determination. (OGC-32)

PBGC should collect repayment of travel expenses for those employees who do not meet the criteria, up to \$4,071.49. (OGC-33)

Review of Sensitive Payments

Audit Report 98-4/23129

The Pension Benefit Guaranty Corporation's (PBGC) senior level officials are vested with the public trust and hold positions with decision-making authority. In those positions, the employees may face intense scrutiny of their actions. Sensitive payments encompass a wide range of executive functions including executive compensation, travel, official entertainment funds, unvouchered expenditures, consulting services, speaking honoraria and gifts, and executive perquisites. Sensitive payment issues are addressed in various laws, regulations, policies and procedures, and codes of ethics and conduct for government employees.

OBJECTIVES

We conducted an audit of Fiscal Year (FY) 1997 sensitive payments for PBGC senior level officials. Our audit covered sensitive payments made during the period October 1, 1996 through September 30, 1997. To accomplish this audit, the following objectives were completed:

1. Evaluate the effectiveness of internal controls over the areas of sensitive payments which encompass the following items: (a) compensation, (b) travel, (c) official entertainment funds, (d) unvouchered expenditures, (e) contracting and consulting services, (f) speaking honoraria and gifts, (g) executive perquisites, and (h) code of ethics criteria.
2. Evaluate compliance with applicable laws, regulations, policies and procedures, and the codes of ethics and conduct.

SCOPE

We defined our scope as pertaining to the individuals filling the positions of Executive Director, the Deputy Executive Directors, and selected senior level officials during this fiscal year. Our testing covered the areas identified by the United States General Accounting Office (GAO) in its publication, *Guide for Evaluating and Testing Controls Over Sensitive Payments* (revised May, 1993). For compliance criteria, we identified and reviewed the following federal laws, regulations and Corporate directives:

- 41 C.F.R. Chapters 301-304, *Federal Travel Regulation System*
- 5 C.F.R. Part 2635, *Standards of Ethical Conduct for Employees of the Executive Branch*
- Directive FM 05-6, *The PBGC Imprest Fund*
- Directive GA 05-5, *The PBGC Delegation of Authority System*
- Directive GA 10-5, *PBGC Travel Policies and Positions*
- Directive IM 10-4, *Speaking Engagements and Public Meetings*
- Directive FM 15-1, *PBGC Systems for the Requisition of, Acquisition of and Payment for Goods and Services*
- Directive PM 20-6, *Senior Level Executive Positions*

This audit was performed in conformance with *Government Auditing Standards* and included such tests of compliance with applicable federal laws, regulations, and PBGC Directives as we deemed necessary. We discussed our conclusions developed in this audit with PBGC officials.

We judgmentally selected our sample of senior level officials based upon our review of the organizational staffing pattern and the obligation balance report for the fiscal period ending September 30, 1997.

METHODOLOGY

In May, 1993, the GAO issued a *Guide for Evaluating and Testing Controls Over Sensitive Payments* (Guide). The Guide describes procedures for review of the internal controls over sensitive payments, conflicts of interest, associated ethics matters, and a determination as to whether those controls ensure compliance by senior government officials with major laws, established regulations, and policies and procedures. This review is performed as part of the audit of the financial statements. Audit testing was specifically tailored to the sensitive pay issues identified by GAO's Guide.

Compensation

We requested FY 1997 payroll data for the selected senior level officials. We obtained the Earnings History Records from the PBGC payroll system and compared pay rates and other compensation to the compensation established by Corporate directive. We recalculated rates of pay and verified those computations to appropriate support in the personnel files. We verified that total compensation did not exceed the limits authorized by PBGC Directive PM 20-6.

Travel

We obtained the travel vouchers for the selected senior level officials. We verified the completeness of the travel vouchers provided our office by tracing paid vouchers to the Financial Accounting Reporting System. We recalculated the voucher reimbursements to ensure compliance with the *Federal Travel Regulations* and PBGC Directive GA 10-5. We reviewed the vouchers to ensure proper approvals and appropriate supporting documentation was included in the voucher package.

Contracting and Consulting Services

We obtained the public financial disclosure forms (SF-278s) for the selected senior level officials. We reviewed the financial disclosure forms to determine if any potential conflicts of interest could arise from procurement activities with firms in which the senior level officials have a financial interest.

Official Entertainment Funds and Unvouchered Expenditures

These funds are established by law for specific purposes. Previous audits have found these type funds are not established for PBGC. Our audit work concluded that this criteria continued for FY 1997.

Speaking Honoraria and Gifts

We obtained the reports filed by the Corporation with the Office of Government Ethics for FY 1997 detailing reimbursement of travel from sources outside the Federal Government. We reviewed the information provided by these reports and traced all items to appropriate supporting travel documentation.

Executive Perquisites

We obtained the logs for official use of the government vehicle maintained by PBGC. We reviewed the logs to ensure that use of the vehicle was in accordance with Government regulations and PBGC policy.

Code of Ethics

We interviewed the Alternate Agency Ethics Official who explained PBGC's policies and procedures for informing its employees of their responsibilities regarding the code of ethics. We obtained the public financial disclosure forms (SF-278s) of the employees that were subject to the audit. We also obtained the related ethics information that PBGC provides to all employees.

During the course of our audit, nothing came to our attention which indicated that we should include other areas for audit testing or examination under the sensitive payment criteria.

1. *Travel Vouchers Are Not Timely Submitted.*

Travel vouchers of some senior level officials were not submitted within 10 days of completion of the travel. PBGC Directive GA 10-5 establishes the travel procedures applicable to all PBGC employees. Section 10-c, states:

Travel Voucher (SF 1012). This form is the official means to claim a reimbursement and shall be prepared, signed, and delivered to the Payroll/Travel Office by the tenth working day after the completion of the travel.

In addition, the Controller Division Consolidated Procedures Manual (Manual), section III.42.1(j), states that:

The Payroll/Travel Office regularly reviews open travel authorizations to ensure timely submission of travel vouchers.

- A first notice of an outstanding travel voucher is sent to the employee by the tenth working day after the completion of the travel (as indicated on the Travel Authorization) and a copy of the notice is filed with the employee's Travel Authorization.

- A second notice of an outstanding travel voucher is sent to the employee if not received within 20 days after the completion of travel.

-Payroll/Travel provides a list of outstanding travel vouchers thirty days past due to the Controller.

-The Controller issues a memo to Department Director(s), with a copy to the traveler(s), requesting that outstanding travel vouchers be submitted to GAB's Payroll/Travel Office.

We reviewed the travel vouchers for our sample of senior level officials. Based upon our review, we found that 38% (27 out of 71) of the travel vouchers were not submitted by the tenth working day after the completion of the travel. In fact, we found of the 27 tardy travel vouchers, two were more than 120 days late, three more than 20 days late, five between 12 to 19 days late, and seventeen between 1 and 11 days late.

Our review disclosed that neither the Payroll/Travel Office nor the Controller had notified senior level officials of their overdue travel vouchers as required by the Manual.

Overdue travel vouchers resulted from: (1) senior management's non-compliance with PBGC Directive requiring timely submission, and (2) the Payroll/Travel Office failure to comply with the control procedures regarding notification.

In the prior audits of senior level sensitive payments, we reported similar internal control problems over processing travel vouchers - *Review of Sensitive Payments for 1994*, Audit Report 95-2, issued February 14, 1995 and *Review of Sensitive Payments for 1996*, Audit Report 97-5, issued March 31, 1997. After each report was published, PBGC represented to the OIG that it had corrected the compliance problems, and the recommendations were closed as completed. Yet, subsequent sensitive payment audits have surfaced the same internal control deficiencies that were closed on PBGC's representations. Based on this pattern, we can only conclude that PBGC management is not serious in their enforcement of PBGC directive policy for some senior level officials regarding timely submission of travel vouchers. Management must take more aggressive steps to correct these continuing problems, or amend Directive GA 10-5 to relieve senior level officials from requirements applied to all other PBGC employees.

Therefore, for the third time, we are reporting that PBGC management needs to correct continuing non-compliance with Federal laws, regulations, and PBGC guidance with respect to senior level officials travel vouchers.

RECOMMENDATIONS

We recommend that PBGC implement the following corrective actions:

Require senior level officials to comply with the PBGC directive regarding timely submission of travel vouchers. (FOD-270)

Direct the Payroll/Travel Office to comply with policies and procedures regarding delinquent travel vouchers. (FOD-271)

Review open travel authorizations regularly to ensure timely submission of travel vouchers. (FOD-272)

2. PBGC failed to document its authorization of ten employees' travel to a funeral.

On February 24, 1997, PBGC's former Executive Director died suddenly. On February 26, 1997, there was a memorial service for the Executive Director at the Grand Hyatt in Washington, DC, which all PBGC employees were permitted to attend. The funeral was held on February 27, 1997, in Boston, Massachusetts. Our review disclosed that the Deputy Executive Director and Chief Management Officer (CMO), as Acting Executive Director, authorized official travel for ten PBGC employees to attend the funeral. Prior to authorizing the travel, the CMO sought legal advice from the Office of the General Counsel (OGC) whether official travel could be authorized for federal employees to attend the funeral. OGC researched the issue and assured the CMO that he had authority to authorize travel to the funeral. Upon inquiry, there was no documentation to support the determination that it was appropriate to authorize official travel for ten employees.

In *Danny H. Breuninger*, 70 Comp. Gen. 200 (1991), the Bureau of Indian Affairs (BIA) requested the Comptroller General issue an advance determination that it could reimburse Mr. Breuninger for his travel to attend the funeral of a BIA police officer killed in the line of duty. In its analysis, the Comptroller General stated:

Federal agencies may only authorize travel at government expense which is for official business essential to the purposes of the government and for accomplishment of the agency's mission. (citations omitted). We have long held that attending the funeral of a fellow employee is not normally considered official business. . . , and, thus, an agency may not reimburse its employees for expenses incurred to attend the funeral. (citations omitted).

We think the situation in this case justifies a different conclusion. There are situations where the attendance by an official agency representative at a funeral may be considered important to the mission of the agency and where an appropriate representative would be unable to attend without the travel being authorized at government expense. . . . We would expect, however, that before an employee is authorized to travel to a funeral as the official agency representative, the matter would be reviewed and the authorization made at an appropriate level of the agency. 70 Comp. Gen. at 200-01 (emphasis added).

The *Brueninger* decision created a limited exception to the Comptroller General's long-standing determination that funeral attendance is not official government business. *Brueninger* also set out several criteria for making the determination that the travel was essential to government purposes and, therefore, "official travel:" a determination was made by a high level official that (a) attendance by an official was important to the mission of the agency, and (b) the appropriate representative would be unable to travel without the government's payment of the travel. Further, we note that the *Brueninger* decision speaks repeatedly about "an" official representative, from which we conclude that determinations are to be individual and specific, rather than group.¹

There is no question the CMO had authority to authorize some federal employee to officially represent PBGC at the funeral. However, *Brueninger* sets up criteria for exercising that authority, including making a determination that attendance by the specific employee is important to the mission of the agency. We also consider significant to this analysis the fact that there was a memorial service on February 26, 1997, for all PBGC employees, and a second memorial service on March 6, 1997, at the Andrew Mellon Auditorium for the general public.

The determination is unsupported that ten employees' official travel to the funeral was essential for government business in accordance with the *Brueninger* criteria, and we question the travel expenses of \$4,071.49.

¹ This conclusion is supported by a recent Comptroller General decision, *Matter of: Central Intelligence Agency*, B-275365 (Dec. 17, 1996), in which the Inspector General questioned a CIA official's use of a government vehicle to attend the funeral of a co-worker's child. The Comptroller General reiterated its holding in *Brueninger*, determining that this was not official government business because the "CIA official here was not designated as the official representative at the funeral."

RECOMMENDATION

We recommend that PBGC implement the following corrective actions:

PBGC should apply the Brueninger criteria to determine whether (1) attendance by a PBGC employee was important to the mission of the agency and (2) the appropriate representative would be unable to attend without the travel being authorized at government expense, and document this determination.

(OGC-32)

PBGC should collect repayment of travel expenses for those employees who do not meet the criteria, up to \$4,071.49. (OGC-33)

MANAGEMENT RESPONSE AND OIG EVALUATION

The draft report was provided to the Agency for review and comment. PBGC officials agreed with the first finding and its recommendations regarding the untimely submission of senior level travel vouchers. In their response, the officials stated what actions they were implementing to correct identified deficiencies. PBGC officials did not agree with the second finding and its recommendations regarding documentation of employees' travel to a funeral.

In the audit, the OIG did not find documentation to support ten employees' official government travel to the funeral and recommended that the agency document the analysis and authorization of that travel. In its response, PBGC stated, "I disagree with the draft's premise that the original determination to authorize travel to the funeral was in any way defective." The management response also states that the appropriate official approved the travel on February 26, 1997 in advance of the travel, and confirms that approval in its memorandum response.

The OIG is not persuaded that its audit finding and recommendations are incorrect. The OIG did not question the authority of the official to approve the travel, but rather, because official government travel to a funeral is an extraordinary expense, questioned the lack of documentation of that expense. In that documentation, we would expect a determination that each employee authorized to travel was an "official agency representative," in accordance with a Comptroller General decision, Danny H. Breuninger, 70 Comp. Gen. 200 (1991). PBGC officials did not produce such documentation.

We agree that Brueninger does not address the issue of how the determination should be documented. And, we do not question that agency officials considered Brueninger when the travel was authorized. Further, in interviews with the authorizing official, he stated reasons for his determination. Though the agency and the OIG disagree as to the manner and content of the documentation of the travel authorization, we recognize that there can be disagreements about Brueninger's interpretation and requirements. We will work with the agency to meet the intent of the recommendation during the audit follow-up period.

The OIG also recommended that PBGC collect repayment of travel expenses for those employees who do not meet the Brueninger criteria. The agency stated that it would waive repayment of travel expenses if any employees were determined not to have been appropriate agency representatives under Brueninger.



Pension Benefit Guaranty Corporation
1200 K Street, N W , Washington, D.C. 20005-4026

MEMORANDUM

MAR 27 1998

TO: Wayne Robert Poll
Inspector General

FROM: N Anthony Calhoun 
Deputy Executive Director
and Chief Financial Officer

SUBJECT: Response to Audit of Sensitive Payments
Audit Report 98-4/23129

The Financial Operations Department (FOD) has reviewed the audit report on Sensitive Payments dated March 5, 1998, and concur with your findings. The issuance of reminder notices to Senior Level travelers were not consistently adhered to after the resignation of contract employees responsible for this procedure. Attempts to fill these vacancies with permanent replacements were unsuccessful due to the impending payroll/travel contract renewal. As a result, the positions were filled with a series of temporary employees which impacted our ability to consistently monitor and follow-up on all past due travel vouchers.

The payroll/travel contract has just recently been awarded with the start date of April 1, 1998. The contractor will immediately recruit permanent replacements to perform these functions.

In response to the audit recommendations, FOD will take the following actions.

- 1 **Recommendation:** Require senior level officials to comply with the PBGC Directive regarding timely submission of travel vouchers.
Response: The corporation will enforce compliance of the PBGC Directive requiring senior level officials to submit their travel vouchers timely.
 - a To promote compliance, new initiatives such as issuing a monthly e-mail to travelers reminding them that travel vouchers must be submitted by the 10th working day after the completion of their trip. This notice will be included with the monthly e-mail notice, currently, sent to all employee to remind them to pick up their Metro-Check and Parking Tag.

b In addition, the Travel Authorization document (available on Jet Form) will be revised to include the notice that travel vouchers must be submitted by the 10th working day after the completion of their trip

2 **Recommendation:** Direct the Payroll/Travel Office to comply with policies and procedures regarding delinquent travel vouchers

Response: The Payroll/Travel Office staff will be directed to comply with the policies and procedures regarding delinquent travel vouchers

a To assist the COTR with managing this enforcement, a compliance report is being developed and will be given to the Payroll/Travel Office to complete and report each month.

3 **Recommendation:** Review open travel authorizations regularly to ensure timely submission of travel vouchers

Response: The corporation will review open travel authorizations on a monthly basis as part of the effort mentioned above in response (2a) to ensure timely submission of travel vouchers

If you have any questions please call Wayne McKinnon, Controller, on extension 6782

cc: John Seal, CMO
Joseph Grant, COO
Nell Hennessy, CN
James J Keightley, OGC
Edward Knapp, FOD
Dale Williams, CCRD



Pension Benefit Guaranty Corporation

1200 K Street N.W., Washington, D C 20005-4026

MEMORANDUM

March 31, 1998

TO: Wayne Robert Poll
Inspector General

FROM: John Seal *John Seal*
Chief Management Officer

SUBJECT: Draft Audit Report 98-4/23129

Thank you for the opportunity to review and comment on the subject evaluation of "sensitive payments" made to senior level PBGC officials. I respond here to that portion of the audit addressing authorization for ten employees to travel to the funeral of Martin Slate.

The draft notes that employees "were authorized official travel to attend the funeral" but that "the determination that these employees' travel was essential for government business is unsupported." Accordingly, the draft recommends that, under the Comptroller General's "Breuninger" opinion,¹ an appropriate PBGC official now determine whether the travel was justified, document that determination, and, if necessary, require repayment of the travel expenses from any employees whose travel is determined not to have been justified.

I disagree with the draft's premise that the original determination to authorize travel to the funeral was in any way defective. Prior to Mr. Slate's funeral, the General Counsel advised me (in my capacity as then-Acting Executive Director) that the Breuninger case recognized an agency head's discretion to approve such travel where it "would serve the governmental purposes of sustaining employee morale and reinforcing to the agency's employees and others the significance of the deceased to the agency."² On February 26, 1997, *i.e.*, prior to the travel in question, I approved the travel on that basis.

¹ 70 Comp Gen 200, B-239887, Danny H Breuninger--Travel Allowances--Attending Funeral as Agency Representative, January 25, 1991

² Id. at 201

As to your request for documentation of that travel authorization, I am advised that neither the Breuninger opinion nor a related Comptroller General opinion³ issued shortly before Mr Slate's funeral expressly require such documentation. Nonetheless, a memorandum authorizing the travel of PBGC's representatives to the funeral and stating the above-quoted criteria was prepared by the General Counsel for my signature on February 26, 1997. A search for that memorandum located the computerized electronic original (bearing an automated "created-on" date of February 26, 1997) but, thus far, not the paper version printed that day for my signature. I am informed, however, that confirming in this memorandum my earlier approval of the employee representatives' travel will meet your request for documentation. Accordingly, I now so confirm my authorization of February 26, 1997.

Finally, I am informed that you question whether the number of employee representatives authorized to travel to Mr Slate's funeral accorded with the referenced discretion to approve such travel. Although I continue to believe the number of representatives I approved for travel to Mr Slate's funeral was justified, I would not hesitate to waive any claim for overpaid travel expenses with respect to that travel and, accordingly, render the issue moot.

cc James J Keightley

³ B-275365 Matter of Central Intelligence Agency--Use of Government Vehicle to Attend Funeral of Employee's Child, December 17, 1996