



Pension Benefit Guaranty Corporation
Office of Inspector General
Audit Report

**Audit of Procurement Activities Related to
Award of Morneau Sobeco Contracts
PBGC01-CT-00-0597 and PBGC01-CT-03-0667**

September 29, 2005

2005-18/CA-0008-1



Pension Benefit Guaranty Corporation

Office of Inspector General

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

September 29, 2005

MEMORANDUM

TO: Bennie Hagans
Director, Benefits Administration & Payment Department

Robert Herting
Director, Procurement Department

FROM: Luther Atkins
Assistant Inspector General for Audits

SUBJECT: Report on Audit of Procurement Activities Related to Award of Morneau
Sobeco Contract Nos. PBGC01-CT-00-0597 & PBGC01-CT-03-0667

This memorandum transmits report no. 2005-18/CA-0008-1 prepared by Cotton & Company LLP at the request of the Office of Inspector General. During the six month period ending March 31, 2005, the firm assessed PBGC's compliance with applicable federal procurement, acquisition, and contract laws and regulations as well as PBGC policies and directives related to procurement activities conducted for award of the two contracts.

Attachment 1 of this report includes your response dated August 25, 2005 to the findings and recommendations in the draft report. In addition, summaries of the response and auditors' evaluation are incorporated in the body of the report.

Attachment

cc: Stephen Barber
William Hulteng
Martin Boehm
Debra Graul
Janice D. Johnson

**AUDIT OF PROCUREMENT ACTIVITIES RELATED TO
AWARD OF MORNEAU SOBECO
CONTRACT NOS. PBGC01-CT-00-0597 AND PBGC01-CT-03-0667**

**SUBMITTED TO
PENSION BENEFIT GUARANTY CORPORATION
OFFICE OF INSPECTOR GENERAL**

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March 31, 2005

Mr. Luther Atkins
Assistant Inspector General for Audit
Pension Benefit Guaranty Corporation
1200 K Street, NW, Suite 470
Washington, DC 20005

Subject: Audit of Procurement Activities Related to Award of Morneau Sobeco Contracts
PBGC OIG Project No. CA-0008, Task Order No. CA-0008-1

Dear Mr. Atkins:

In accordance with terms of the subject task order, Cotton & Company LLP performed an audit of procurement practices used for Morneau Sobeco Contract Nos. PBGC01-CT-00-0597 and PBGC01-CT-03-0667. The audit included assessing compliance with applicable federal procurement, acquisition, and contract laws and regulations as well as PBGC policies and directives related to award of these Morneau contracts. We interviewed key personnel involved in the process and reviewed documents supporting these efforts for compliance and reasonableness.

We identified specific control weaknesses and deficiencies and developed recommendations designed to improve contract procurement functions and procedures. We conducted the audit in accordance with *Government Auditing Standards*. We were not engaged to, and did not perform a financial statement audit, the purpose of which would be to express an opinion on specified elements, accounts, or items. This report is intended to meet the objectives described above and should not be used for other purposes.

Please call me if you have questions.

Very truly yours,

COTTON & COMPANY LLP

Michael W. Gillespie, CPA, CFE
Partner

**AUDIT OF PROCUREMENT ACTIVITIES RELATED TO
AWARD OF MORNEAU SOBECO CONTRACTS
PBGC01-CT-00-0597 AND PBGC01-CT-03-0667
AUDIT REPORT 2005-18/CA-0008-1**

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ACRONYMS AND ABBREVIATIONS

Acronym/Abbreviation	Full Title
ERISA	Employee Retirement Income Security Act of 1974
FAR	<i>Federal Acquisition Regulation</i>
IOD	Insurance Operations Department
Morneau	Morneau Sobeco
OIG	Office of Inspector General
PBGC	Pension Benefit Guaranty Corporation
PD	Procurement Department
PwC	PricewaterhouseCoopers

**AUDIT OF PROCUREMENT ACTIVITIES RELATED TO
AWARD OF MORNEAU SOBECO CONTRACTS
PBGC01-CT-00-0597 AND PBGC01-CT-03-0667
AUDIT REPORT 2005-18/CA-0008-1**

A. EXECUTIVE SUMMARY

The Office of Inspector General (OIG), Pension Benefit Guaranty Corporation (PBGC) contracted with Cotton & Company LLP to audit PBGC's procurement of Morneau Sobeco (Morneau) Contract Nos. PBGC01-CT-00-0597 and PBGC01-CT-03-0667. The audit included assessing compliance with applicable federal procurement, acquisition, and contract laws and regulations as well as PBGC policies and directives related to procurement activities conducted for award of these contracts.

We noted one specific control weakness during our evaluation of PBGC's performance of acquisition planning for the Morneau contracts. PBGC maintained incomplete documentation for the procurement of the initial contract (PBGC01-CT-00-0597). PBGC could not provide advanced planning documentation, such as the Individual Procurement Plan, or cost-benefit documentation dated before commencement of the initial contract. Additionally, PBGC provided no documentation that it communicated with a potentially qualified contractor when deciding to contract directly with Morneau, the subcontractor presented in the contractor's Sources Sought response.

We also noted one condition that affects Procurement Department's (PD) performance of its procurement activities. PD did not have documented departmental policies and procedures ensuring consistent and timely performance of daily and monthly duties.

We recommend that PD take the following corrective actions:

- Establish and document procedures requiring retention of all documents supporting the advanced planning process in accordance with *Federal Acquisition Regulation* (FAR) and PBGC requirements. **(OIG Control Number PD-39)**
- Establish and document detailed policies and procedures for PBGC's procurement activities, including duties performed by the Contracting Officer, Contract Specialists, and the Competition Advocate. **(OIG Control Number PD-40)**

Management's Comments and Auditors' Evaluation

We provided a draft of this report to PBGC for comment. In addition, we met with PBGC officials to discuss the report's finding and recommendations. PBGC's response is included as an attachment. Management agrees to emphasize the requirement to retain documents supporting the acquisition process. Management does not agree with our second recommendation to establish and document detailed policies and procedures for PBGC's procurement process. After considering the reasons for management's disagreement, we continue to recommend that detailed policies and procedures be established and documented.

B. BACKGROUND

PBGC was established under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to insure the pension benefits of participants in certain private-sector defined benefit pension plans. PBGC currently protects the pensions of more than 44 million Americans in approximately 31,000 plans.

PBGC has two major roles: (1) administering the plan termination process, including providing plan sponsors and administrators with guidance for compliance with legal termination rules, and (2) paying ERISA Title IV benefits to plan participants and their beneficiaries when a plan terminates with insufficient assets to pay the benefits.

PD is responsible for planning and administering PBGC's procurement of goods and services. Each department is, however, responsible for identifying its needs, performing needs and alternative analyses, verifying availability of budgetary resources, preparing purchase requisitions, and monitoring contract performance.

The Insurance Operations Department (IOD) manages most of the process by which insured pension plans are terminated by their sponsors, or involuntarily by PBGC, and benefits are paid to participants in those plans.¹ A critical portion of this process is valuation of the terminated pension plan and calculation of benefits due plan participants and their beneficiaries. IOD decided that replacing the procedures and tools being used with parameter-driven benefit calculation software would greatly improve the valuation and benefit calculation process.

PBGC published a request for information on June 1, 1999, regarding potentially qualified sources to provide parameter-driven benefit calculation software that would be capable of valuing pension plans and calculating individual participant benefits in accordance with ERISA and PBGC regulations. Three firms responded to this request, including PricewaterhouseCoopers (PwC) with Morneau Sobeco (Morneau) as a subcontractor. After reviewing the software and products offered by responding vendors, PBGC concluded that only Morneau met its needs. Morneau, based in Toronto, Canada, provides actuarial consulting services to both commercial and governmental entities.

A notice was published in the *Commerce Business Daily* on September 2, 1999, announcing PBGC's intention to award a sole-source contract to Morneau, without PwC, to acquire its Ariel software package and associated services. PBGC's Competition Advocate approved the sole-source award in February 2000.

PBGC awarded a labor-hour contract to Morneau on July 14, 2000. The purpose of this contract (No. PBGC01-CT-00-0597) was to provide services required to develop system specifications for modifying the Ariel software package in four phases, as follows:

- **Phase 1:** Prepare a plan for developing system specifications.
- **Phase 2:** Document PBGC and ERISA regulations, procedures, processes, actuarial standards, and business processes that must be incorporated in the modified Ariel software package.
- **Phase 3:** Produce specifications for modifying the Ariel software package.

¹ Due to reorganization, these functions are now the responsibility of the Benefits Administration and Payment Department.

- **Phase 4:** Develop an overall plan for construction, testing, and review of the modified software.

Funding of \$541,838 was provided for Phases 1 and 2. The contract effective date was July 24, 2000, although the Contracting Officer signed the contract on September 27, 2000.

Contract No. PBGC01-CT-00-0597 has been amended 14 times through May 2004 to modify the period of performance, expand the scope, and increase funding. The contract was incrementally funded for each phase of the project and for additional requirements including a Reference Guide, pilot rollout, and currency exchange rate variances. The ceiling amount increased from \$541,838 to \$2,875,773. The total amount funded equals the ceiling price.

PBGC awarded Morneau a second sole-source labor-hour contract on December 31, 2002. Contract No. PBGC01-CT-03-0667, effective January 1, 2003, is for services required to modify the Ariel software package, provide it for use by PBGC, and assist PBGC in its initial production implementation. The Contracting Officer signed the contract on May 29, 2003. This contract has been amended 13 times through October 2004 to modify the period of performance, expand the scope, and increase funding. The contract was incrementally funded for each phase of the project and for additional requirements including ongoing monthly Application Service Provider (ASP) costs, currency exchange rate variances, and software modifications. The ceiling amount increased from \$1,788,577 to \$11,946,777. The total amount funded equals the ceiling price.

Through October 2004, the total ceiling price for both contracts increased from \$2.7 million to nearly \$15 million. PBGC considers both contracts active. The period of performance for the initial contract expired in May 2004. It has, however, been kept open for any additional specification work needed to complete the second contract, which is expected to be completed in December 2007.

C. OBJECTIVES

PBGC's OIG contracted with Cotton & Company to audit PBGC's procurement of two Morneau contracts: No. PBGC01-CT-00-0597 and No. PBGC01-CT-03-0667. The audit focused on determining if procurement actions taken by PBGC for these two contracts were proper with respect to:

- Performing acquisition planning.
- Publicizing contract availability.
- Meeting other than full and open competition circumstances.
- Completing sole-source justification (justification, certification, and approval).
- Evaluating potential sources.
- Determining contractor responsibility.
- Negotiating contract terms.
- Completing approval and execution of contracts.

D. SCOPE AND METHODOLOGY

The audit included assessing compliance with applicable federal procurement, acquisition, and contract laws and regulations as well as PBGC policies and directives related to procurement activities conducted for award of these contracts. We interviewed key personnel involved in the process and reviewed documents supporting these efforts for compliance and reasonableness.

We interviewed key persons from PD, IOD, Office of the General Counsel, and the Contracts and Controls Review Department. We also interviewed a technical contract employee and a former PBGC employee who were involved in the market research and initiation of the first contract. We reviewed and gathered all pertinent documents maintained regarding procurement of both contracts and determined if documents supported stated processes as well as met applicable policies and regulations. Through our review of this information, we also gained an understanding of PBGC's procurement process and noted issues we deemed as possibly affecting other PBGC contracts.

We conducted the audit in accordance with *Government Auditing Standards*, as promulgated by the Comptroller General for performance audits. We conducted this audit from October 20, 2004 to March 31, 2005.

E. AUDIT RESULTS

PBGC complied with applicable FAR requirements and PBGC directives, policies, and procedures with respect to seven of the eight procurement actions discussed in the earlier section titled Objectives. We noted one control weakness, which is described below.

Incomplete Documentation for Acquisition Planning

PBGC maintained incomplete documentation for the procurement of the initial contract (No. PBGC01-CT-00-0597). PBGC could not provide advanced planning documentation, such as the Individual Procurement Plan or cost-benefit documentation dated before commencement of the initial contract. Additionally, PBGC provided no documentation that it communicated with PwC when deciding to contract directly with Morneau, the subcontractor presented in PwC's Sources Sought response.

Without adequate documentation, we are unable to determine if appropriate advanced planning was performed for the initial contract in compliance with FAR and PBGC policies. Contracts that may have been initiated without completion of a cost-benefit analysis could result in inefficient use of PBGC resources.

FAR Subpart 4.801 requires the head of each office performing contracting to establish files containing records of all contractual actions and maintain the files in a manner that constitutes a complete history of the acquisition process. In addition, FAR Subpart 7.104 states that acquisition planning should begin as soon as the agency need is identified, preferably well in advance of the fiscal year in which contract award is necessary.

Additionally, FAR Subpart 4.805 states that agencies must prescribe procedures for handling, storing, and disposing of contract files. These procedures must take into account documents held in all types of media, including microfilm and various electronic media. Agency procedures for contract file disposal must include provisions that the documents specified in paragraph (b) of this section may not be destroyed before the retention periods indicated and may be retained longer if the responsible agency official determines that the files have future value to the government. For contracts (and related records or documents, including successful proposals) exceeding the simplified acquisition threshold for other than construction, the retention period is 6 years and 3 months after final payment.

Recommendation

We recommend the following corrective action:

The PD should establish and document procedures requiring retention of all documents supporting the advanced planning process in accordance with FAR and PBGC requirements. (**OIG Control Number PD-39**)

Management's Response

Management concurs with the finding and recommendation and will emphasize the requirement to retain documents supporting the acquisition process.

Auditors' Evaluation

Management is responsive to our recommendation.

F. OTHER MATTER

We noted the following area for improvement within the PBGC procurement process:

PD Operating Procedures

PD did not have detailed documented departmental policies and procedures related to the award of contracts. According to PD representatives, PD uses the FAR as its written policy. While the FAR may be used as a baseline, it does not provide specific daily and monthly duties with deadlines to permit PD to hold individuals accountable. Written policies and procedures also allow for clear understanding of requirements by the staff and cross training opportunities. This documentation should include established turnaround time for negotiation summaries, notification to solicitors, and involvement of the competition advocate, as well as advanced planning requirements and documentation for the PD.

PBGC Directive GA 15-1, Management Control Program, provides guidance to PBGC management on improving the accountability and effectiveness of PBGC programs and operations by establishing, assessing, correcting, and reporting on management controls. The directive implements Office of Management and Budget Circular A-123, Management Accountability and Control, which implements Section 2 of the Federal Managers Financial Integrity Act (FMFIA). FMFIA requires the Government Accountability Office (GAO) to issue standards for internal control in government. GAO's *Standards for Internal Control in the Federal Government* in the section titled Examples of Control Activities cites the following as appropriate documentation for transactions and internal control:

Internal control and all transactions and other significant events need to be clearly documented and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

Recommendation

We recommend the following corrective action:

The PD should establish and document detailed policies and procedures for PBGC's procurement activities, including duties performed by the Contracting Officer, Contract Specialists, and the Competition Advocate. **(OIG Control Number PD-40)**

Management's Response

Management does not concur with the finding and recommendation. The response states that the FAR was adopted as PBGC's policy for the acquisition of goods and services and supplemental policies and procedures are not required or needed. The response also indicates that PBGC directive FM 15-1, PBGC Systems for the Requisition of, Acquisition of and Payment for Goods and Services, discusses specific policies and procedures and Contract Specialists are experienced and receive training related to acquisition requirements.

Auditors' Evaluation

We do not agree with management's response. While the FAR and PBGC directive FM 15-1 may be used as a baseline, they do not document specific daily and monthly responsibilities related to the award of contracts. We continue to recommend that the PD establish and document detailed policies and procedures for PBGC's procurement activities.

ATTACHMENT

MANAGEMENT'S RESPONSE TO DRAFT REPORT



Pension Benefit Guaranty Corporation

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

To: Luther Atkins, Assistant Inspector General for Audits
Office of Inspector General

From: Robert Herting, Contracting Officer
Procurement Department

Subject: Response to Draft Report Regarding the Procurement Activities Related to
Morneau Sobeco Contracts PBGC01-CT-00-0597 and PBGC01-CT-03-
0667

Thank you for the opportunity to review the draft report. The audit focused on determining if procurement actions taken by PBGC for the above-referenced contracts were proper. We are pleased that the report concluded that, except for the retention of certain acquisition planning documents, PBGC complied with applicable Federal Acquisition Regulation (FAR) requirements and PBGC directives, policies and procedures. We acknowledge that those acquisition planning documents should have been retained, but it is important to note that the report does not take exception to the appropriateness of these contract awards. The contract award process is taken very seriously by PBGC, and we continually emphasize the need to ensure that contract awards are made in accordance with the FAR requirements. Our responses to the specific recommendations included in the report are detailed below:

1. Incomplete Documentation for Acquisition Planning

OIG Recommendation:

We recommend that PD take the following corrective action: Establish and document procedures requiring retention of all documents supporting the advance planning process in accordance with the Federal Acquisition Regulation (FAR) and PBGC requirements.

Management Response:

We concur. We will emphasize the requirement to retain acquisition planning documents to Contract Specialists, and ensure that such documents supporting procurement planning processes are retained in the future.

2. PD Operating Procedures

OIG Recommendation:

We recommend that PD take the following corrective action: Establish and document detailed policies and procedures for PBGC's procurement activities, including duties performed by the Contracting Officer, Contract Specialists, and the Competition Advocate.

Management Response:

We do not concur. The report does not identify any significant issues regarding the appropriateness of these contract awards or other issues that would indicate the need for additional policies and procedures. It has been the policy of the Procurement Department to adopt the Federal Acquisition Regulation (FAR) for the purposes of procuring goods and services for PBGC. The FAR provides specific guidance for the purpose of the award, administration, and settlement of contracts. The FAR anticipates that the Contracting Officer must exercise judgment in making contract awards. We are not aware of a specific FAR requirement for supplemental policies and procedures, and the report does not reference such a requirement. In fact, PBGC has not seen the need to develop supplemental guidance as other agencies have done (e.g., Defense Federal Acquisition Regulation Supplement).

PBGC does maintain specific policies and procedures over the acquisition of goods and services as detailed in existing PBGC directive entitled, FM 15-1 - PBGC Systems for the Requisition of, Acquisition of and Payment for Good and Services. This directive details the responsibilities of the Contracting Officer, Procurement Department staff, and the Competition Advocate. Contract Specialists working in the Procurement Department all have extensive experience, and have received training relating to acquisition requirements.

If you have questions regarding this memorandum, please contact me.