



Pension Benefit Guaranty Corporation  
***Office of Inspector General***  
Evaluation Report

**Statutory Review of PBGC's Compliance with the  
Implementation of the  
Improper Payments Information Act**

***March 15, 2012***

*EVAL-2012-8/PA-11-85*



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

March 15, 2012

**TO:** Joshua Gotbaum  
Director  
Pension Benefit Guaranty Corporation

**FROM:** Joseph A. Marchowsky *Joseph A. Marchowsky*  
Assistant Inspector General for Audit

**SUBJECT:** Statutory Review of PBGC's Compliance with the Implementation of the  
Improper Payments Information Act  
Report No. 2012-08 / PA-11-85

As required by the Improper Payments Information Act (IPIA) (P.L. 107-300), as amended by the Improper Payments Elimination and Recovery Act (IPERA) (P.L. 111-204), the Pension Benefit Guaranty Corporation's (PBGC) Office of Inspector General (OIG) reviewed PBGC's compliance with IPIA requirements. We determined that PBGC has instituted a systematic method to review its programs and activities for improper payments and has generally complied with IPIA implementing requirements established in OMB Circular A-123 Appendix C.<sup>1</sup> PBGC reports that the Corporation requested and received OMB approval to develop an alternative method of measuring documentation issues. Thus, PBGC did not include documentation errors in its published improper payment estimates.

While we concluded that PBGC was in general compliance with IPIA requirements, we identified a minor inconsistency in that PBGC reported the net amount of estimated improper payments rather than the gross amount, as required by OMB guidance.

The objective of our evaluation was to assess PBGC's compliance with the requirements of the IPIA, as amended. This evaluation was performed in accordance with standards established by the President's Council on Integrity and Efficiency *Quality Standards for Inspections* issued January 2005. These standards require that we plan and perform the evaluation to obtain sufficient, competent, and relevant evidence to provide a reasonable basis for our conclusions based on our evaluation objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our evaluation objectives.

---

<sup>1</sup> OMB Circular A-123, *Management's Responsibility for Internal Controls*, Appendix C, April 2011.

## Background

On July 22, 2010, the President signed IPERA<sup>2</sup> into law. IPERA amended the Improper Payments Information Act.<sup>3</sup> Under IPERA, the head of each agency is required to periodically review and identify all programs and activities that may be susceptible to significant improper payments, based on guidance provided by the Director of OMB. Significant improper payments are defined as improper payments that exceed the lesser of \$100 million or 2.5 percent of program outlays plus \$10 million. OMB issued government-wide guidance on the implementation of IPERA in April 2011.<sup>4</sup> This guidance establishes implementation guidance for agency management and for inspectors general.

For each program and activity identified, the agency is required to produce a statistically valid estimate or an estimate that is otherwise approved by OMB, of the improper payments and include such estimates in the accompanying materials to the annual financial statements of the agency.<sup>5</sup> In certain circumstances, the agency is also required to prepare a report on actions it took to reduce improper payments for programs or activities with significant improper payments.<sup>6</sup> The report must specify, among other things (1) a description of the causes of improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes and (2) program- and activity-specific targets for reducing improper payments that have been approved by the Director of OMB.<sup>7</sup>

To its credit, PBGC dedicated significant staff resources to the review and analysis of improper payments. The Corporation also expended significant financial resources to hire a well-known consulting firm to assist PBGC in its IPIA assessment. PBGC senior staff were directly involved in the assessing the payments streams at risk for significant improper payments and in the determination of error definitions. Consistent with OMB guidance, the three payment streams identified for review – benefit payments, multi-employer financial assistance, and contract payments -- represent the largest volume of payments made by the Corporation, exclusive of payments made to federal employees (not required by OMB).

As part of its review, PBGC noted documentation issues in the benefit payment area. PBGC's analysis of these issues showed that a significant component is related to legacy data issues, errors that were considered to be self-correcting, and errors that were the result of internal agency policy. For these reasons, PBGC plans to refine its testing approach with respect to benefit payment documentation issues. For FY 2011, PBGC reported documentation issues without quantification; PBGC reports that OMB officials concurred in this decision.

---

<sup>2</sup> Pub. L. No. 111-204, 124 Stat. 2224.

<sup>3</sup> Pub. L. No. 107-300, 116 Stat. 2350.

<sup>4</sup> OMB Circular A-123, *Management's Responsibility for Internal Controls*, Appendix C, April 2011.

<sup>5</sup> Pub. L. No. 111-204 § 2(b), 124 Stat. 2224, 2225.

<sup>6</sup> Pub. L. No. 111-204 § 2(c), 124 Stat. 2224, 2225-2226.

<sup>7</sup> Pub. L. No. 111-204 § 2(c)(1) and (4), 124 Stat. 2224, 2225-2226 .

## Review Results

OMB guidance specifies that each agency's Inspector General should review agency improper payment reporting in the agency's annual performance and accountability report or annual financial report and accompanying materials, to determine whether the agency complied with IPIA. We determined that PBGC had generally met the compliance requirements specified by OMB. Appendix B summarizes our assessment of PBGC compliance with the various IPIA requirements.

Although we concluded that PBGC had generally met the specific compliance requirements established by OMB, we noted that PBGC's methodology for estimating improper payments had certain analytical flaws. Further, our review of PBGC's Report No. 2011-4010 "Results of FY 2011 Improper Payment Assessment" issued November 10, 2011, identified errors and inaccuracies that further reduced the reliability of PBGC's estimates (although the differences were not significant).

Our observations of issues that should be addressed by PBGC in future efforts include:

- In its Annual Report, PBGC incorrectly reported the net of overpayments and underpayments for improper benefit payments and for improper payments to contractors. For benefit payments to participants in final pay status, PBGC reported the estimated improper payment to be \$8,297,039. A more correct presentation, consistent with OMB guidance, would have been to report estimated improper benefit overpayments of \$9,829,277 and underpayment of \$1,532,238, for a gross total of \$11,361,515 in improper benefit payments. For payments to contractors, PBGC reported estimated improper payments in the improper amount totaling \$2,799,115 instead of reporting overpayments of \$2,821,898 and underpayments of \$22,783.

While OMB guidance does not forbid reporting net amounts, the guidance does require reporting the gross estimate, numbers that PBGC did not include in its annual report. According to PBGC staff, this occurred because they considered the net to be more relevant from a collection and recovery perspective and since, in accordance with OMB instructions, PBGC had marked "N/A" for the gross improper payment table. PBGC staff believed it was permissible to report net numbers.

- PBGC and its contractor made errors in their analysis of certain payments. For example, PBGC sampled 596 benefit payments and concluded that nine of the payments were inaccurate. However, when we reviewed the nine benefit payments where the Corporation had determined the amount paid to be improper, we identified errors in PBGC's conclusions about three of the nine payments. For two of the payments, PBGC and its contractor had made small math errors. Further, for these two payments, PBGC and its contractor had incorrectly applied plan provisions. For the third payment, PBGC and its contractor initially identified an error amount that they subsequently revised.

However, our review showed that the revised amount was not entered into the statistical analysis, with the result that an incorrect amount was used in creation of the reported estimate.

The impact of the three errors was not large, changing the statistical point estimate by only \$46,180. Nevertheless, PBGC and its contractor made mistakes in one-third (3 of 9) of the identified improper benefit payments.

- In future years, PBGC should attempt to attain improved precision in its statistical sample design. While each of the statistical estimates reported in PBGC's Annual Report did meet the precision required by OMB,<sup>8</sup> statistical estimates related to documentation issues in benefit payments and reported in PBGC's internal report were not sufficiently precise. This occurred because PBGC and its contractor assumed an overall error rate in planning for the statistical sample that was lower than the actual rate determined through PBGC's testing.

---

<sup>8</sup> Estimate of the percentage of improper payments, with a 90 percent confidence interval of plus or minus 2.5 percentage points around the estimate of the percentage of improper payments.

## Scope and Methodology

Our objective was to assess PBGC's compliance with the requirements of the IPIA, as amended. In addition, we evaluated the Agency's accuracy and completeness of reporting. To accomplish our objectives, we:

- Reviewed applicable federal laws and Office of Management and Budget guidance.
- Reviewed PBGC's *Improper Payment Assessment* documented in Appendix A of the Corporation's FY 2011 Annual Report for completeness and compliance with OMB requirements.
- Interviewed appropriate PBGC and contractor staff.
- Assessed the reasonableness of the payment streams PBGC selected for review.
- Analyzed documents, calculations, and evidence used to determine the amount of improper payments resulting from PBGC operations for correctness.
- Assessed PBGC statistical projections for compliance with OMB guidance.
- Reviewed a sample of the transactions reviewed by the PBGC contractor.

We performed our review from November 2011 through March 2012 in Washington, D.C. This evaluation was performed in accordance with standards established by the President's Council on Integrity and Efficiency *Quality Standards for Inspections* issued January 2005, and in accordance with the Office of Inspector General policies and procedures, specifically the OIG Audit Manual.

## APPENDIX A – Agency Response



Office of the Director

MAR 14 2012

### MEMORANDUM

To: Joseph A. Marchowsky  
Assistant Inspector General for Audit

From: Josh Gotbaum  
Director 

Subject: Response to the Office of Inspector General's (OIG's) Draft Report on Management's Fiscal Year 2011 Report on Improper Payments

Thank you for the opportunity to comment on the subject draft report. We are in agreement with the findings and conclusions of your report.

FY 2011 marks the first year of reporting results under the Improper Payments Elimination and Recovery Act of 2010. PBGC engaged an international public accounting and consulting firm to provide consulting assistance and testing support as part of that pilot. Based on a review of our outgoing payment streams, we identified and reported on three programs that were potentially at risk of significant improper payments, in accordance with Office of Management and Budget (OMB) guidance:

- Benefit payments to participants in "final pay" status for plans trusteeed by PBGC;
- Financial assistance payments to insolvent multiemployer plans; and
- Payments to contractors for goods and services received.

Given that this was a pilot year, we did not specify the gross improper payment rates for the three pay streams. PBGC followed OMB's guidance in this regard. Nevertheless, we reported considerable additional information in keeping with the OMB guidance.

Again, thank you for the opportunity to comment. PBGC will incorporate the findings of your 2011 review, as appropriate, to improve our 2012 IPERA assessment.

**APPENDIX B**

<b>OMB ESTABLISHED FACTORS FOR INSPECTOR GENERAL TO REVIEW FOR IPIA COMPLIANCE</b>			
<b>Item</b>	<b>Requirement/Criteria</b>	<b>PBGC Status</b>	<b>Comment</b>
<b>1</b>	Agency has published a performance and accountability report (PAR) or annual financial report (AFR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website	Complied	Annual Report published November 14, 2011. Report available on PBGC website.
<b>2</b>	Agency has conducted a program specific risk assessment for each program or activity that conforms to Section 3321 of Title U.S.C (if required)	Complied	Risk assessment of major payment streams completed.
<b>3</b>	Agency published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required)	Not Required	Improper payments below the threshold. <sup>9</sup>
<b>4</b>	Agency published programmatic corrective action plans in the PAR or AFR (if required)	Not Required	Improper payments below the threshold.
<b>5</b>	Agency published, and has met, annual reduction targets for each program assessed to be at risk and measured for improper payments	Not Required	Improper payments below the threshold.
<b>6</b>	Agency reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR or AFR	Complied	Improper Payment rates below 10% for all payment streams.
<b>7</b>	Agency reported information on its efforts to recapture improper payments.	Complied	Annual Performance Report Appendix A describes PBGC recapture efforts.

<sup>9</sup> Significant improper payments are defined as improper payments that exceed the lesser of \$100 million or 2.5 percent of program outlays plus \$10 million.