



Pension Benefit Guaranty Corporation
Office of Inspector General

**Trend Analysis Report
PBGC Procurement Issues
From 2000 through 2007**

RESTRICTED DISCLOSURE
(Restricted portions have been redacted)

July 26, 2007



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

July 26, 2007

MEMORANDUM REPORT

TO: Susan Taylor
Procurement Director

FROM: Luther Atkins *Luther Atkins*
Assistant Inspector General for Audit

SUBJECT: Trend Analysis Report of PBGC Procurement Issues from
2000 – 2007, OIG Report No. 2007-6/CA-0036

INTRODUCTION

Over the last several years the Government Accountability Office (GAO), the Contracts Controls and Review Department (CCRD), and my office have issued a number of audit and evaluation reports to the Procurement Department identifying improvements and recommendations that are needed. From 2000 to 2007, PBGC's contracting activity more than doubled. In its FY2008 budget submission to OMB, the Corporation reported it spends about two-thirds of its annual budget through contracts, and about two-thirds of its "staff" is contractors. This trend and volume of expenditures makes contract management a major challenge for PBGC. Therefore, since September 2004, my office has devoted a significant portion of our resources to audits and reviews of PBGC's procurement and contracting activities.

This memorandum report summarizes and highlights those audit trends we have observed over the years in the procurement and contracting area, and provides you a status of the audit recommendations addressed to your Department. We will identify the major problem areas found in these reports and the causes of these problems. We believe this will be helpful to you in performing your duties as PBGC's new Procurement Director.

RESULTS IN BRIEF

Since 2000, GAO, CCRD and our office have issued seventy-one (71) reports containing one hundred (100) recommendations to improve PBGC's procurement activities and contractor oversight. We have closed 45 of these recommendations based on our review

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of corrections actions that PBGC has taken. We are currently reviewing an additional 15 corrective actions that PBGC has taken to determine if those actions satisfy the original recommendation. Therefore, there are about 40 recommendations that remain open and need management's attention. We believe implementing these recommendations will help PBGC address this major management challenge and lead to improvements in procurement and contracting operations.

Overall, three major areas were cited most often in these reports as needing improvements:

- Questioned costs (unsupported and or unauthorized costs that contractors billed to PBGC);
- Lack of documented procurement policies, procedures, and directives; and
- Inadequate contractor oversight.

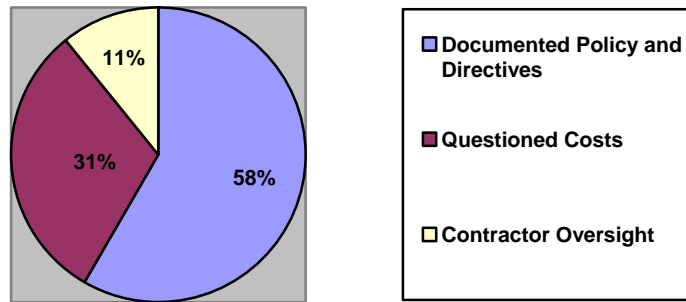
During this period, \$12,023,051 in questioned cost have been identified and recommended for recovery from contractors. Currently, \$6,490,246.00 of the \$12,023,051 remains open while \$5,532,805 has been closed. Two of the leading causes for questioned costs were contractors: (1) Did not maintain adequate documentation to justify the costs they billed PBGC, and (2) Hired employees who did not have the qualifications required under the contract.

While conducting our review of internal procurement operations, we identified a number of instances of undocumented procurement policies and procedures. Without documented policy and procedures, there is no assurance that staff that perform procurement and contract oversight have sufficient guidance and instructions to perform their duties. To illustrate, the Performance Cycle report we issued in 2006 noted the Procurement Department did not have policy or procedures to comprehensively document procurement processes.¹ The current procedures do not adequately address all of the procurement processes and do not assign responsibility for all contracting functions.

Finally, past audits have identified areas where PBGC staff who have contractor oversight responsibilities (i.e., Contracting Officer's technical representative (COTR), contracting specialist, and contract monitor) need to provide more oversight of the contractors' activities, performance and billings. Figure 1: Areas Needing Improvement, illustrates audit findings that have been identified in three major reporting areas during the period.

¹ Procurement Cycle Performance Audit Report/2006-9/CA-0010

Figure 1: Areas Needing Improvement



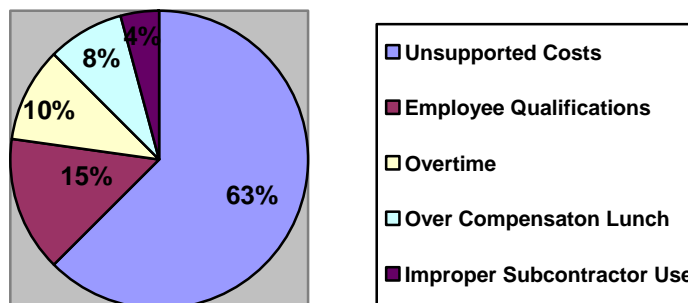
QUESTIONED COSTS

Over the past several years auditors have continually found the major cause of questioned cost was the contractor’s inadequate documented support for the costs billed to PBGC. (See Figure 2, Questioned Costs) For example, OIG and CCRD reports have found unsupported cost resulted from the contractor’s failure to:

- Maintain contemporaneous time records to support employees daily work hours;
- Retain supporting documentation for labor hours employees worked; and
- Maintain documentation to support contractor billings in accordance with the Federal Acquisition Regulation (FAR).

To further illustrate, in a report we issued in January 2006, the audit objective was to verify whether contractor amounts billed to PBGC were allowable, supported, and consistent with the contractual provisions. The report identified \$2,150,321 in questioned costs related to the contractor’s failure to maintain support documentation for its employee’s labor hours. The report also found that contractors did not reduce employees work hours for non-work activities such as lunch. This is a major area of concern and contracting officials must ensure contractors are properly monitored to ensure compliance with FAR and the contract terms.

Figure 2: Questioned Costs



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Reports issued by OIG and CCRD identified \$12,023,051.00 in questioned costs. The Procurement Department has made management decisions on five (5) of the reports and there are fourteen (14) reports that have open recommendations to recover questioned costs, or demand that the contractors provide additional documentation. Figure 3: Report with Management Decisions, shows the audit reports for which the Procurement Department has made management decisions. The previous Procurement Director was slow to act on our recommendations to recover questioned costs, thus a large balance of questioned costs have yet to be addressed with the contractors. We believe a concerted effort is needed to recover these costs if contractors cannot support them or if they are not allowed under the contract terms. See Appendix II for a listing of open recommendations on questioned costs.

Figure 3: Reports with Management Decisions

Contractor	Questioned Costs	Management Decision
CCRD Report No. 2002-2000	\$7,200	\$2,025
CCRD Report No. 2005-2001	\$106,433	\$96,405
CCRD Report No. 01-MFAI-012	\$154,496	\$48,656
OIG Report No. 2003/2005-13/CA-0009	* \$652,402	\$0
OIG Report No. 2004/2005-11/CA-0004	\$10,414	\$0

*This Management Decision is still under review by OIG.

DOCUMENTED PROCUREMENT POLICIES AND PROCEDURES

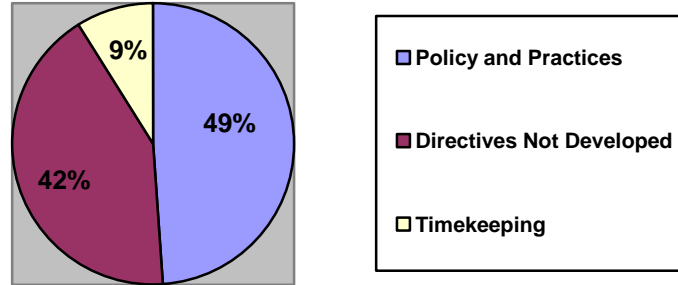
We further found that the Procurement Department does not have sufficiently documented procurement policy and procedures to guide contracting officials in performing their duties and responsibilities. As shown in Figure 4: Documented Policy and Directives, our trend analysis found that recommendations or suggestions were related to three areas for example, a report we issued in September 2005, recommended that the Procurement Department develop policies and procedures for PBGC's procurement activities and contracting officials duties. Then our 2006 Performance Cycle report noted:

- The Procurement Department's procedures do not comprehensively address all aspects of the procurement process, and do not assign responsibility for all contracting functions.

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- Large purchase contract files maintained by the Procurement Department, General Accounting Branch, and the COTR did not contain all the documentation PBGC directives, policies and procedures, and the FAR required.
- The final invoices COTR's certified for payment were not labeled as "final." Thus, this hindered contracting officials from efficiently administering contracts under their purview.

Figure 4: Documented Policy and Directives



There are no comprehensive PBGC procurement directives or policy guidance available to aid contracting officials and contractors to carry out their respective duties. Our audit reports have continually indicated that contracting officials, including COTRs, and contractors are not maintaining proper documentation needed to support billings, invoices, and other procurement records. Without comprehensive contracting policies and procedures, the contracting specialists and COTRs may not perform their duties in a consistent manner, and ensure contractors abide by the terms of the contract and are compensated according to the terms of their contract for work that is performed. See Appendix III for a listing of open recommendations that address the need for documented policy, procedures and directives.

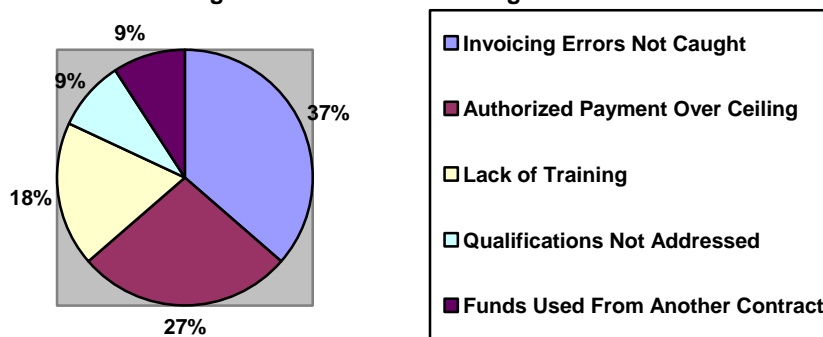
We understand that you are committed to revise the Procurement directive and we believe this will go a long way in addressing the need for up-to-date policies and procedures and promote consistency within the Procurement Department.

CONTRACTOR OVERSIGHT

One of the root causes for problems with improper billings, unauthorized contractor activities and practices is that PBGC is not providing effective oversight of its contractors. Our trend analysis shows that a substantial number of reports found that PBGC needs to strengthen its contractor oversight. The reports issued from 2000-2007, identified significant procurement problems and control vulnerabilities, often stemming from a lack of adequate monitoring of contractor performance. In Figure 5: Contractor Oversight, our trend analysis revealed five major areas where more contractor oversight is needed.

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Figure 5: Contractor Oversight



Not only did some reports note weaknesses in PBGC's procurement process pertaining to contract monitoring, they also noted invoice errors that PBGC oversight officials should have caught or questioned. For example, in recent OIG audits we found:

- As much as 10 percent of the contractor's employees did not have the educational requirements spelled out in the contract, yet this unauthorized process went unnoticed and unreported.
- A contracting official used \$665,679 in funds from the current contract to pay invoices for another contract the contractor had with PBGC.
- Two occasions where a contracting official authorized invoice payments over the year's ceiling. Had the contracting official adequately oversaw the contract, reviewed the contractor's files more frequently, and maintained better records; these mistakes may not have occurred.
- Instances where the COTR does not appear to understand the relationship with the PBGC Contracting Officer.

Given the magnitude, complexity, and criticality of ongoing contract activity at PBGC, it is imperative that individuals who oversee contractor performance are made fully aware of their responsibilities, are adequately trained, and have the time needed to carry out their duties. We believe a good first step is for you, as Contracting Officer, to clarify and emphasize the legal and organizational relationship between you and the COTRs. (See Appendix IV for a listing of open recommendations to address the need for contractor oversight.)

We trust that the information presented will be useful to you as you address open audit recommendations and re-focus PBGC's procurement and contracting activities. We also look forward to working with you and your office in addressing open audit recommendations.

Objective, Scope and Methodology

OBJECTIVE, SCOPE AND METHODOLOGY

The purpose of this memorandum report is to summarize and highlight audit trends we have observed over the years in the procurement and contracting area and to provide the recently appointed Contracting Officer a status of the audit recommendations addressed to the Procurement Department. Our review covered procurement related audit issues, findings, and recommendations issued from 2000 to 2007. Specifically, to identify contracting and procurement trends within PBGC we compiled a spreadsheet of audit issues, findings and recommendations from reports issued by the Office of Inspector General (OIG) and the Contracts and Controls Review Department (CCRD). In addition, we reviewed a report the Government Accountability Office (GAO) issued in September 2000 finding PBGC contract management needed improvement. All of this material is summarized in this report.

All reports were issued to PBGC's executive director or management, and had recommendations to the Procurement and Financial Operations Department. We consulted with CCRD and the Procurement Department to verify the status of audit recommendations and all questioned costs for which no management decision was made. For the status of GAO recommendations we reviewed their website.

Our work was performed between February 2007 and June 2007 in accordance with government auditing standards and included interviews with CCRD and PBGC procurement personnel. If you have any questions, you may contact Henry Hopson on (202) 326-4030, ext. 3547.

Office of Inspector General – Office of Audit
Procurement Findings and Recommendations Fiscal Years 2002-2007
Questioned Cost

Appendix II

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Office of Inspector General – Office of Audit
Procurement Findings and Recommendations Fiscal Years 2002-2007
Lack of Documentation (PBGC/Contractor)

Appendix III

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Office of Inspector General – Office of Audit
Procurement Findings and Recommendations Fiscal Years 2002-2007
COTR Contract Monitor Performance

Appendix IV

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