



Pension Benefit Guaranty Corporation

Office of Inspector General

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

September 23, 2015

VIA EMAIL

The Honorable Jason Chaffetz, Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

The Honorable Elijah E. Cummings, Ranking Member
U.S. House of Representatives
Ranking Member, Committee on Oversight and Government Reform
2471 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Chaffetz and Ranking Member Cummings:

This letter is in response to your August 27, 2015 request that the Pension Benefit Guaranty Corporation (PBGC; the Corporation) Office of Inspector General (OIG) provide to the Committee on Oversight and Government Reform information to “help the Committee understand whether IGs are receiving timely, unfettered access to documents, information, and agency employees.” Below, we set forth your questions and our corresponding responses.

- 1. A list and description of any instances within the last two years where an agency has refused to provide timely, unfettered access to documents, information, and agency employees.**

OIG Response: PBGC has not refused to provide our office with access to documents, information, or agency employees.

2. A list and description of any instances within the last two years where an agency has delayed or improperly conditioned access to documents, information, and agency employees.

OIG Response: PBGC has not improperly conditioned access to documents, information, or agency employees. We occasionally experience delays which we would consider “ordinary course of business.” In FY 2014, under the leadership of an Acting Inspector General, there were a few instances where the OIG experienced delays in receiving relevant information that should have been readily available in the ordinary course of business but were produced by PBGC only after repeated requests and intervention of senior PBGC leaders. The following are summaries of these instances:

- On March 27, 2014, we issued a draft audit report related to PBGC’s management of incentive and compensation flexibilities. We requested an exit conference on April 15. PBGC agreed to an exit conference on August 28, at which time PBGC leaders asserted, among other things, that OIG had “spoken to the wrong people” and had failed to gather all the relevant evidence, then presented a 5-inch binder of documents they asserted were relevant. Though we had interviewed program managers and other PBGC employees, at no time was it suggested that documents might exist elsewhere in PBGC. As a result, we had to conduct additional fieldwork and we were not able to issue the final report until September 30, 2014.
- During the FY 2014 financial statement audit, beginning in August, auditors from the independent public accounting firm (IPA) with whom OIG contracts repeatedly requested information about pension insurance premium revenue and controls. On multiple times, PBGC provided information that was non-responsive to the request. After two months, the IPA auditors requested that the Acting IG and Chief Financial Officer intervene to obtain answers to their questions. It was not until October 31 that relevant information required to complete audit testing was provided. The financial statement audit must be issued on November 15, so this delay resulted in IPA and OIG auditors having to work extended and extra hours to issue the reports on time.
- While we were conducting an audit of PBGC’s financial assistance to multiemployer pension plans, the program office began collecting missing records from at least one multiemployer pension plan without disclosing this fact to us. These records were relevant to our audit and should have been in the possession of the program office. We learned about the program office’s efforts only after we had completed fieldwork and notified the program office that we were independently seeking the missing records from some of the plans. Management characterized the non-disclosure as “inadvertent” and “not intentional.”

In our March 24, 2015, letter to you, our office reported that we had experienced delays in 2014. In summary, we expressed the above access concerns to Congress through our Semiannual Report to Congress,¹ in letters to Senators Grassley and Coburn on October 31, 2014² and to one of PBGC's oversight committees, Senate Health, Education, Labor and Pensions (HELP),³ and in meetings with various oversight committees. Prior to this external reporting, in addition to trying to resolve the issues at the staff/manager level, the Acting Inspector General had spoken directly with PBGC executives about the access issues.

As a result of our reporting to the Senate HELP Committee, on February 19, 2015, Chair Alexander, Ranking Member Murray, Subcommittee Chair Enzi and Subcommittee Ranking Member Sanders sent a letter to the PBGC Acting Director. In this letter HELP leadership cited our reporting of delays in providing and timely disclosure of relevant information. Citing §6(a)(1) of the Inspector General Act (IG Act) and emphasizing the Inspector General's right to access all information, HELP leadership strongly expressed their expectation that PBGC would cooperate fully with the OIG. In PBGC's March response, the Acting Director acknowledged the important work of our office and pledged her cooperation with the OIG.

Subsequently, on May 18, 2015, the Acting Director issued a memorandum to all PBGC employees titled "Cooperation with the PBGC Office of Inspector General," in which she made clear that, under §6(a)(1) of the IG Act, the OIG has access to all records including those that contain sensitive, privileged, confidential information or might be otherwise exempt under the law. In her forwarding email, the Acting Director stated: "The PBGC OIG is a crucial and valued part of PBGC's leadership. As public servants, we work together cooperatively to achieve PBGC's mission efficiently and effectively."

Congressional focus on this issue, including the letter from PBGC's oversight committee, and our continued discussions with PBGC leadership, has resulted in positive change. We have not experienced similar reportable delays or non-disclosures of information.

3. A list and description of any instances within the last two years where an agency has provided access to documents, information, and agency employees, but asserted that the agency was not required to supply such access under the terms of the IG Act and may not comply with similar requests in the future.

OIG Response: PBGC OIG has had no such instances.

¹ Semiannual Report for the period April 1 – September 30, 2014: <http://oig.pbgc.gov/pdfs/SARC51.pdf>

² Bi-annual letter to Senators Grassley and Coburn: <http://oig.pbgc.gov/pdfs/LTR-10-31-14.pdf> .

³ Letters to Senate HELP: to Chair Harkin, <http://oig.pbgc.gov/pdfs/LTR12-2-14-L2.pdf> and to Ranking Member Alexander, <http://oig.pbgc.gov/pdfs/LTR-12-2-14.pdf>

4. **For instances responsive to the requests above, any formal or informal response by the IG to the agency and if no response was given, a description of why the IG understands the agency's actions to be improper.**

OIG Response: In each of the three instances cited above, the Assistant IG for Audit and the Acting Inspector General met with PBGC managers and leadership to resolve the issue. With respect to PBGC's non-disclosure of the collection of relevant information during the audit, the Acting Inspector General met with the Acting Director as well as the C-level leader of the audited program. Even when presented with the facts of numerous informal and formal meetings when missing documents were discussed, the leaders continued to assert the non-disclosure of PBGC's document collection efforts was not intentional.

If you have any questions about this response or about any of our OIG work, please contact me at 202 326-4000 extension 3437.

Respectfully submitted,



Robert A. Westbrooks
Inspector General

cc:

Senator Lamar Alexander,
Chair, Senate Committee on Health, Education, Labor and Pensions

Senator Patty Murray
Ranking Member, Senate Committee on Health, Education, Labor and Pensions