Pension Benefit Guaranty Corporation

Office of Inspector General

Audit Report

FY 2014 Audit of PBGC's Compliance with the Implementation of the Improper Payments Information Act

May 14, 2015

AUD-2015-10/PA-15-106

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

May 14, 2015

TO: Alice Maroni
Chief Management Officer

Patricia Kelly
Chief Financial Officer

FROM: Rashmi Bartlett
Assistant Inspector General for Audit

SUBJECT: Audit of PBGC's FY 2014 Compliance with the Implementation of the Improper Payments Information Act

Report No. AUD-2015-10/PA-15-106

As required by the Improper Payments Information Act of 2002 (IPIA), as amended, the Pension Benefit Guaranty Corporation's (PBGC or the Corporation) Office of Inspector General (OIG) audited PBGC's compliance with statutory requirements. The Corporation has taken action to comply with all applicable requirements established in OMB Circular A-123 Appendix C. [1] However, there is a question whether the sample size used was adequate for one of the payment streams tested.

Based on our statistical review, we question the sufficiency of the number loans payments tested as part of the Corporation's statistical projections regarding the financial assistance to insolvent multiemployer plans; not enough of a sample was tested. Therefore, OIG could not assess the reasonableness of PBGC's statistical projections and cannot opine on the accuracy of the improper payment reporting for this payment stream in the PBGC FY 2014 Annual Report or the reported lack of this program's susceptibility to significant improper payments. We concur with the Corporation's assessment that payments to federal employees were not susceptible to significant improper payments.

The objective of our audit was to assess PBGC's compliance with the requirements of the IPIA, as amended. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform

[1] OMB Memorandum 15-02, Appendix C to Circular No. A-123, Requirements for Effective Estimation and Remediation of Improper Payments October 2014

this audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted between December 2014 and April 2015 in Washington, DC.

Background

The Improper Payments Information Act (IPIA) of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), requires agencies to:

- periodically review all programs and activities and identify those that may be susceptible to significant improper payments,
- take multiple actions when programs and activities are identified as susceptible to significant improper payments, and
- annually report information on their improper payments monitoring and minimization efforts.

Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments, provides guidance to agencies to comply with IPIA, as amended. An improper payment is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements.

For each program and activity reviewed, the agency is required to perform an assessment to identify programs or activities with a risk of significant improper payments. For programs identified with a significant risk, OMB guidance requires that agencies obtain a statistical estimate of the level of improper payments for each payment stream and include such estimates in the accompanying materials to the annual financial statements of the agency. Additionally the agency must report the actions it took to reduce the improper payments. A "significant improper payment"[2] is defined as:

> gross annual improper payments (i.e. the total amount of overpayments plus underpayments) in the program exceeding (1) both 1.5 percent of program outlays and $10,000,000 of all program activity or activity payments made during the fiscal year reported or (2) $100,000,000 (regardless of the improper payment percentage of total program outlays).

PBGC has identified the following major payment streams: 1) benefit payments to participants in "final pay" status for plans trusteed by PBGC under Title IV of ERISA (Benefit Payments), 2) payments to contractors for goods and services, including government credit card transactions (Payments to Contractors), 3) financial assistance loans to insolvent multiemployer plans that are unable to pay pension benefits when due under the requirements of Title IV of ERISA for the

[2] OMB Memorandum 15-02, *Appendix C to Circular No. A-123, Requirements for Effective Estimation and Remediation of Improper Payments* October 2014.

payment of participants' benefits and reasonable administrative expenses of the plan (Multiemployer Plan Financial Assistance Payments), and 4) payments made to federal employees, including payroll and travel reimbursements (Payments to Federal Employees). [3]

In previous fiscal years using the OMB parameters established in Step 1 of OMB Circular A-123 Appendix C, PBGC concluded that none of its payment streams were susceptible to significant improper payment risk. Therefore, PBGC now performs risk assessments of its payment streams using a rotational strategy based on a three-year cycle. For FY 2014, PBGC assessed Multiemployer Plan Financial Assistance Payments and Payments to Federal Employees.

For the FY 2014 report, with OMB permission, PBGC reviewed FY 2013 payments. The Corporation contracted with a consulting firm to assist in its IPIA assessment. The Corporation, reported in the PBGC FY 2014 Annual Report that it did not have significant improper payments for either payment stream tested.

The IPIA as amended requires that each agency's inspector general shall annually determine whether the agency is in compliance with the Act. OMB guidance specifies that each agency's inspector general should review improper payment reporting in the annual financial report and any accompanying materials to determine whether the agency complied with IPIA.

NOTE: Users of the reported improper payment estimate for the Multiemployer Plan Financial Assistance Payments should be aware of a significant limitation in PBGC's review. The improper payment testing did not include work to verify that the trustees or plan administrators properly calculated plan participants' pension benefits prior to any reduction necessitated by the PBGC guarantee levels; it presumed that these amounts were correct and that participants listed were valid. Rather the Corporation's review of benefit payments included tests to ensure the payments did not exceed PBGC guarantee limits. Plan benefits vary greatly among plans. The fact that guarantee levels were not exceeded does not ensure the identification of any improper payments made because of errors in benefits calculations or inaccurate beneficiary information provided by trustees or administrators

Audit Results

We concur with PBGC's assessment that payments to federal employees were not susceptible to a significant level of improper payment. However, the projection of improper payments related to the financial assistance to insolvent multiemployer plans maybe unreliable because of the small number of payments sampled. Accordingly, OIG could not verify the accuracy of the Corporation's improper payments reporting in the FY 2014 Annual Report [4] regarding the financial assistance loan payments to insolvent multiemployer plans.

[3] Payments to Federal employees were added as a stream of payments to be examined by the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA).

[4] Pension Benefit Guaranty Corporation Annual Report Fiscal Year 2014 pp97-101

FINDING 1 Insufficient Number of Multiemployer Financial Assistance Loans May Have Been Sampled to Support PBGC Statistical Projections

PBGC's contractor may have not sampled a sufficient number of multiemployer financial assistance loans because it met the mandated statistical parameters requirements with a lower number of samples than indicated by OMB guidelines. As a result, doubt exists as to the multiemployer financial assistance payment projection errors included in PBGC FY 2014 Annual Report and OIG cannot confirm the reliability of the improper payment reporting. OMB guidance requires that agencies obtain a statistical estimate of the level of improper payments for each payment stream susceptible to significant improper payments.[5] OMB requires that agencies should design the sample and select a sample size sufficient to yield an estimate of improper payments with a 90 percent confidence interval of plus or minus 2.5 percent of the total amount of all payments for a program around the estimate of the dollars of improper payments. [6]

In the Corporation's FY 2014 Annual Report, PBGC reported it had determined that the payment stream was not susceptible to significant risk of improper payments. This was based on the results of the risk assessment of the multiemployer financial assistance loans and the results of the statistical sampling.

The Corporation reported that 24 payments and $22,002,500 multiemployer financial assistance loans were tested with gross improper payments of $34,500 being identified. Overall, the Corporation's improper payments were statistically estimated as 0.38 percent and $336,649 for the entire $89,340,090 universe of FY 2013 multiemployer financial assistance loans. PBGC's contractor completed the planning and execution of the statistical sample. Our review determined that the Corporation's sampling methodology was sound. However, because of the limited number of loans actually sampled, doubt exists as to the accuracy of the projections. Accordingly, OIG cannot confirm the reliability of the improper payment reporting in the FY 2014 Annual Report.

<u>Questions Exist Regarding the Sufficiency of the Number of Transactions Sampled</u>

OIG made arrangements with the United States Postal Service Office of Inspector General (USPS OIG) for statistical sampling expertise for this audit. USPS OIG conducted an independent verification of the methodology used in its FY 2014 Improper Payments Assessment for Multiemployer Financial Assistance. USPS OIG determined the overall methodology used by the PBGC contractor was sound. USPS OIG further reviewed the execution of the sampling plan and determined that, with one exception, the technical execution was valid. [7]

However, USPS-OIG concluded that PBGC contractor's judgmental decisions may have resulted in inaccurate results due to the very small number of tested samples. Statistical sampling relies on the professional judgment of the analyst, and there is room for disagreement on many

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[5] OMB Memorandum 15-02 *Appendix C to Circular No. A-123 , Requirements for Effective Estimation and Remediation of Improper Payments* Part I (9) Step 2

[6] OMB Memorandum 15-02 *Appendix C to Circular No. A-123 , Requirements for Effective Estimation and Remediation of Improper Payments* Part I (9) Step 2.2.d

[7] The sample standard deviation formula was used to calculate the population standard deviation.

subjective qualities. None-the-less, there are generally accepted and specified practices for minimum sample sizes.

PBGC's contractor stated all its sampling procedures were performed in a manner consistent with guidance in OMB Memorandum M-11-16. This guidance includes the following formula:

OMB M-11-16 Sample Size Estimation

$$n \geq \frac{2.706(1-P)}{\left(\frac{0.025}{P}\right)^2 P}$$

P in the preceding formula represents the expected error rate. PBGC's contractor established a 1 percent expected error rate for the analysis. Therefore, the minimum sample size for this project would have been 43. The contractor only tested 24.

A further reference on sample size is available from the 2008 Government Accountability Office (GAO) Financial Audit Manual, Volume I (GAO-08-585G). The Financial Audit Manual provides sample size lookup tables for expected error rates of 5 and 10 percent and a 90 percent confidence level. Section 450 of the *Manual*, Sampling Control Tests, offers two tables for sample sizes, the minimum for each is not less than 45.

The contractor used a multi-stage sampling approach. A random sample of 72 of the 162 assistance loans were stratified into five account groupings. The contractor's sampling plan called for each selected assistance loan to be reviewed at the participant benefit to determine whether the benefit payment was at, above, or below the guaranteed PBGC amount.

The approach taken by the contractor was to test a portion of each sample to determine whether project criteria was satisfied. If it does, there is no reason to test further; it not, additional incremental tests would be conducted until results meet criteria. The USPS-OIG statistician noted that this is a widely accepted strategy, but it assumes that a sufficiently large test sample is chosen.

The population sample sizes and tested sample sizes by strata, as reported by the contractor, are shown in Table 1.

Table 1: Population, Sample, and Test Sizes

Strata	Number	Sample Size	Tested Sample Size
1	20	20	7
2	11	9	3
3	25	19	6
4	32	13	4
5	74	11	4
Total	**162**	**72**	**24**

Given considerations of the Law of Large Numbers and the Central Limit Theorem, combined with the overall and strata distributions, it is questionable that the very small number of samples tested is adequate to satisfy all the assumptions in the analysis. USPS OIG concluded that a test sample of less than the generally accepted minimum (43 to 45, as described above) was likely to provide a false positive for meeting project criteria. That is, type I error of detecting an effect or condition that is not present.

As stated earlier, statistical analysis in part relies upon the professional judgement of the statistician planning and performing the analysis. The number of loan payments sampled was very small overall and within each stratum.

Recommendations

Recommendation CCRD-19

Reassess the financial assistance loans payments to insolvent multiemployer plans as part of the Corporation's FY 2016 improper payments assessment.

Recommendation CCRD-20

Establish a policy for minimum samples sizes for IPIA assessments and monitor compliance with the PBGC requirements.

Scope and Methodology

Our objective was to assess PBGC's compliance with the requirements of the IPIA, as amended. The scope of review consisted of PBGC's FY 2014 improper payment reporting. To accomplish our objectives, we:

- Reviewed applicable laws and OMB Circular A-123, Appendix C.
- Reviewed PBGC's FY 2014 Annual Report.
- Interviewed PBGC staff of the Chief Financial Officer and Chief Negotiations and Restructuring Multiemployer Program Division.
- Obtained and reviewed documentation of PBGC's assessment of the multiemployer assistance and federal employee payment streams.
- Obtained financial data and reviews for any new programs or significant changes to existing programs that would require a risk assessment.
- Reconciled PBGC Annual Report improper payments reporting to the contractor's documents.
- Selected a sample of transactions tested by PBGC's contractor and reviewed the supporting documentation and calculations to confirm the contractor's results.
- Reviewed documentation to support the statistical projections for compliance with OMB guidance.

This audit was conducted between December 2014 and April 2015 in Washington, DC. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform this audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX A – Agency Response

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

May 13, 2015

To: Rashmi Bartlett, Assistant Inspector General for Audit
Office of Inspector General

From: Alice C. Maroni
Chief Management Officer

Subject: Response to OIG's FY 2014 Draft Report on Compliance with the Implementation of the Improper Payments Act

Thank you for the opportunity to review the draft report, and especially for taking the time to discuss the findings and recommendations with us. We are dedicated to ensuring compliance in this important area, and appreciate your acknowledgement of our actions taken to that end.

We also appreciate your work on this very complex topic. Although there appear to be differences in the professional judgments of our respective statisticians regarding the sample size, we have heard you on the points of reviewing the multiemployer payment stream again next year and establishing and monitoring a policy for minimum sample sizes. To that end, we are in agreement with both recommendations and will provide you with a schedule in the near future to complete that work.

Again, we appreciate the work your office has performed to help continue to ensure our compliance and to provide the American public with transparency in this important area.

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