United States General Accounting Office

GAO

Report to the Chairman, Senate Special Committee on Aging; and the Chairman, Committee on Small Business, United States Senate

September 2000

PENSION BENEFIT GUARANTY CORPORATION

Contracting Management Needs Improvement

GAO

Accountability * Integrity * Reliability

GAO/HEHS-00-130

Contents

Abbreviations

CBD	Commerce Business Daily
CCRD	Contracts and Controls Review Department
CFO	chief financial officer
COTR	contracting officer's technical representative
ERISA	Employee Retirement Income Security Act of 1974
FAR	Federal Acquisition Regulation
FBA	field benefit administration
FTE	full-time equivalent
GPRA	Government Performance and Results Act of 1993
IOD	Insurance Operations Division
IRM	information resources management
OIG	Office of Inspector General
OMB	Office of Management and Budget
PBGC	Pension Benefit Guaranty Corporation
TPD	Trusteeship Processing Division

United States General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-282936

September 18, 2000

The Honorable Charles E. Grassley
Chairman, Senate Special Committee on Aging
United States Senate

The Honorable Christopher S. Bond
Chairman, Committee on Small Business
United States Senate

The Pension Benefit Guaranty Corporation (PBGC) insures the benefits of 43 million participants from default of their employer-sponsored defined benefit pension plans.[1] Established in 1974 as a self-financing government corporation, PBGC's primary responsibility is to collect premiums from the sponsors of defined benefit pension plans and assume administration of underfunded plans that either terminate or become insolvent. In the event of plan termination, PBGC assumes control of plan assets, calculates benefit amounts, and pays recipients a guaranteed benefit. In fiscal year 1999, about 215,000 retirees received over $902 million in benefit payments from PBGC. PBGC's work is performed at its Washington, D.C., headquarters and 11 contract office locations throughout the country, known as field benefit administration (FBA) offices.

To carry out its operations, PBGC relies heavily on the services of contractors whose headquarters and field employees account for almost half of the workforce involved in processing PBGC's workloads. In fiscal year 1999, about $100 million of PBGC's $160 million budget was used to pay for contracting and related expenses.[2] Due to the number of contractors involved in supporting PBGC's mission, you requested that we review and assess the effectiveness of PBGC's contracting activities. Accordingly, we agreed to (1) determine the basis for PBGC's decisions regarding the use of contractors versus government personnel to address its workloads, (2) assess PBGC's processes and procedures for selecting

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[1] Defined benefit plans pay specific retirement benefits, generally based on years of service, earnings, or both; the sponsoring company is responsible for ensuring that plan assets are sufficient to pay liabilities.

[2] Figure includes about $80 million in personnel costs, $15 million in office rents, and $5 million in travel.

contractors, and (3) determine how effective PBGC has been in monitoring the performance of its contractors.

To do our work, we conducted more than 70 in-depth interviews of PBGC staff and managers, as well as contractors and their employees. We also reviewed key performance data, internal documents, and the documentation regarding 15 procurements whose estimated value totaled over $197 million.[3] We conducted our work at PBGC headquarters and six contractor-operated field locations between June 1999 and May 2000 in accordance with generally accepted government auditing standards. Additional information on our scope and methodology is presented in app. I.

Results in Brief

PBGC contracting decisions and its organizational field structure have been heavily influenced by the need to service rapidly increasing workloads within existing federal staffing limitations. Faced with a significant influx of large pension plan failures beginning in the mid-1980s, PBGC chose to contract for services rather than seeking additional federal staff during a period of government downsizing. Over time, PBGC continued contracting for services to address a backlog of hundreds of thousands of pending benefit determinations which peaked at more than 300,000 in fiscal year 1994. Because PBGC's focus was on obtaining necessary services quickly, it has not adequately linked its contracting decisions to longer-term strategic planning considerations. More recently, PBGC management has acknowledged the need to better link its decisions to contract for services and its staffing allocations to future workload trends. However, PBGC's actions to date have been limited, despite automated enhancements that have made work processes more efficient, a projected leveling-off in workloads over the next several years, and a steady decrease in the total universe of defined benefit pension plans and active plan participants nationwide. Thus, PBGC cannot be assured that it has a cost-beneficial mix of contractor and federal employees, as federal policy requires, and risks being unprepared for future workload changes as defined benefit pension plans and participants decline.

We also identified weaknesses in PBGC's procurement planning and execution processes. For example, in its first competitive procurement of

[3] Total dollar amount includes base year plus option years for the contracts reviewed.

FBA office services, PBGC's consolidation of requirements for three geographically remote contractor offices into a single procurement and exclusion of the services for a fourth office from the consolidation were not supported by a business rationale and may have limited competition. In procuring management services for several other FBA office contracts, PBGC should have done more to stimulate competition by conducting outreach and market research activities to identify additional potential offerors. In reviewing several other contracts, we also could not assess the basis for PBGC's award decisions because procurement documentation was incomplete. We also identified areas where PBGC should consider using fixed-price rather than labor-hour contracts, which require considerable management oversight and carry more cost and quality assurance risks to the agency. Without more effective acquisition planning and procurement practices, PBGC risks paying too much for contracted services and receiving inferior performance.

Finally, we identified weaknesses in PBGC's contractor oversight activities. PBGC has taken a number of actions to improve its management of contractors, including automating and centralizing several functions previously handled in the field locations to allow contractors and their staff to focus primarily on processing benefit determinations. However, PBGC does not centrally compile FBA-specific data essential for monitoring the performance of contractors in field locations. We also identified weaknesses in PBGC's quality assurance review process for these field offices, and in its policies and procedural guidance for PBGC employees responsible for monitoring contracts. Furthermore, we are concerned that the current organizational placement of PBGC's Contracts and Controls Review Department (CCRD)—which provides audit and internal review services to PBGC related to contracting—may affect its independence. At present, this office is located within the PBGC component that is the second-largest user of contracted services and reports to its head.

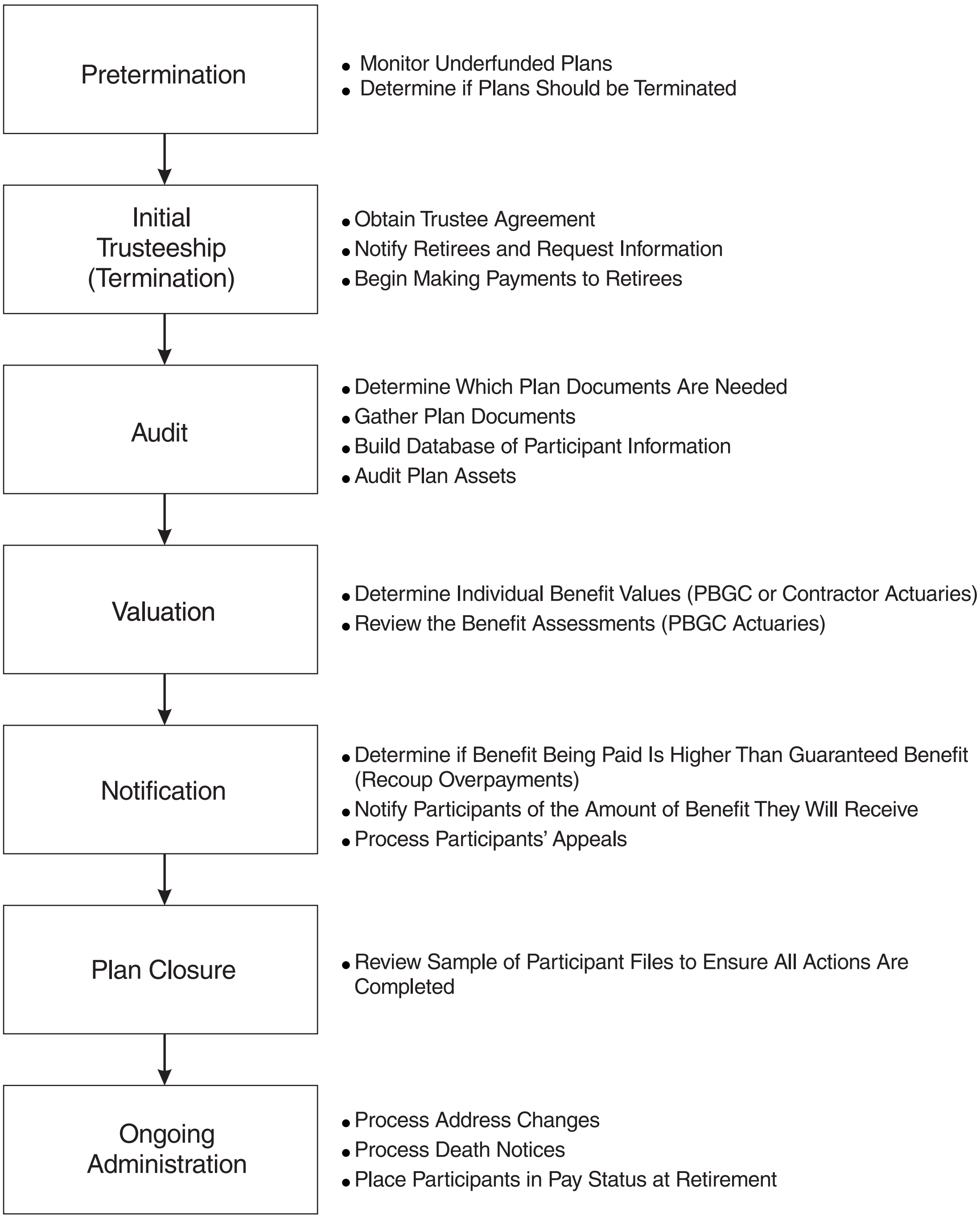
The broader management issues and day-to-day operational weaknesses that we identified in PBGC's contracting practices could affect its ability to efficiently and cost-effectively serve the financial needs of millions of pension plan participants. Accordingly, we are making several recommendations that focus on the need for PBGC to manage its longer-term contracting needs more strategically and take action to address specific operational and procedural weaknesses identified in our review of its contracts. In commenting on this report, PBGC generally agreed with all of our recommendations and cited actions it has taken or will take to implement them.

Background

The Employee Retirement Income Security Act of 1974 (ERISA) created PBGC as a self-financing, nonprofit, wholly owned government corporation.[4] PBGC protects participants in private pension plans from losing promised benefits due to the termination of underfunded plans. PBGC's primary responsibility is to collect premiums from the sponsors of defined benefit pension plans to insure against default and to assume administration of plans that become insolvent. In the event of plan default, PBGC assumes control of plan assets, calculates benefit amounts commonly referred to as initial determination letters, and pays recipients. (See plan processing flow chart, fig. 1.)

[4] A wholly owned government corporation is generally defined as a corporation pursuing a government mission assigned in its enabling statute, typically financed at least in part by appropriations, with assets owned by the government and controlled by board members or an administrator appointed by the President or department secretary. The Congress sometimes exempts these corporations from key management laws to provide greater flexibility than federal agencies typically have in hiring employees, paying salaries/benefits, disclosing information publicly, and procuring goods and services.

Figure 1: Overview of Plan Processing at PBGC



Generally, pension plans under PBGC's administration, in which final benefit determinations have not yet been issued, are considered active plans. When all benefit determinations are issued and participant appeals are resolved, plans are then closed and moved to ongoing administration where they generally require limited maintenance to reflect participants' marital changes, address changes, deaths, and so forth.[5]

In 1992, we placed PBGC on our list of federal programs at high risk because a large and growing imbalance between its assets and liabilities threatened PBGC's long-term financial viability.[6] Through the mid-1990s, the Congress' primary concern and our work at PBGC focused mainly on PBGC's financial condition. To address PBGC's financial problems, the Congress passed the Retirement Protection Act in 1994, which strengthened minimum funding requirements for plans and increased premiums paid to PBGC by underfunded plans. In addition, PBGC improved administration of its insurance programs. Consequently, we removed PBGC from our high-risk list in 1995.[7]

Over the years, PBGC's workloads have grown significantly. In fiscal year 1975, PBGC administered three pension plans with a total of 400 participants. By fiscal year 1999, PBGC had trusteed more than 2,700 pension plans with a total of more than 500,000 participants. (See figs. 2 and 3 for the number of pension plans and participants by fiscal year.)

[5] Both federal staff and contractors perform ongoing administration for closed plans.

[6] *High-Risk Series: Pension Benefit Guaranty Corporation* (GAO/HR-93-5, Dec. 1992).

[7] *High-Risk Series: An Overview* (GAO/HR-95-1, Feb. 1995).

Figure 2: Cumulative Number of Pension Plans Administered by PBGC, Fiscal Years 1990-1999

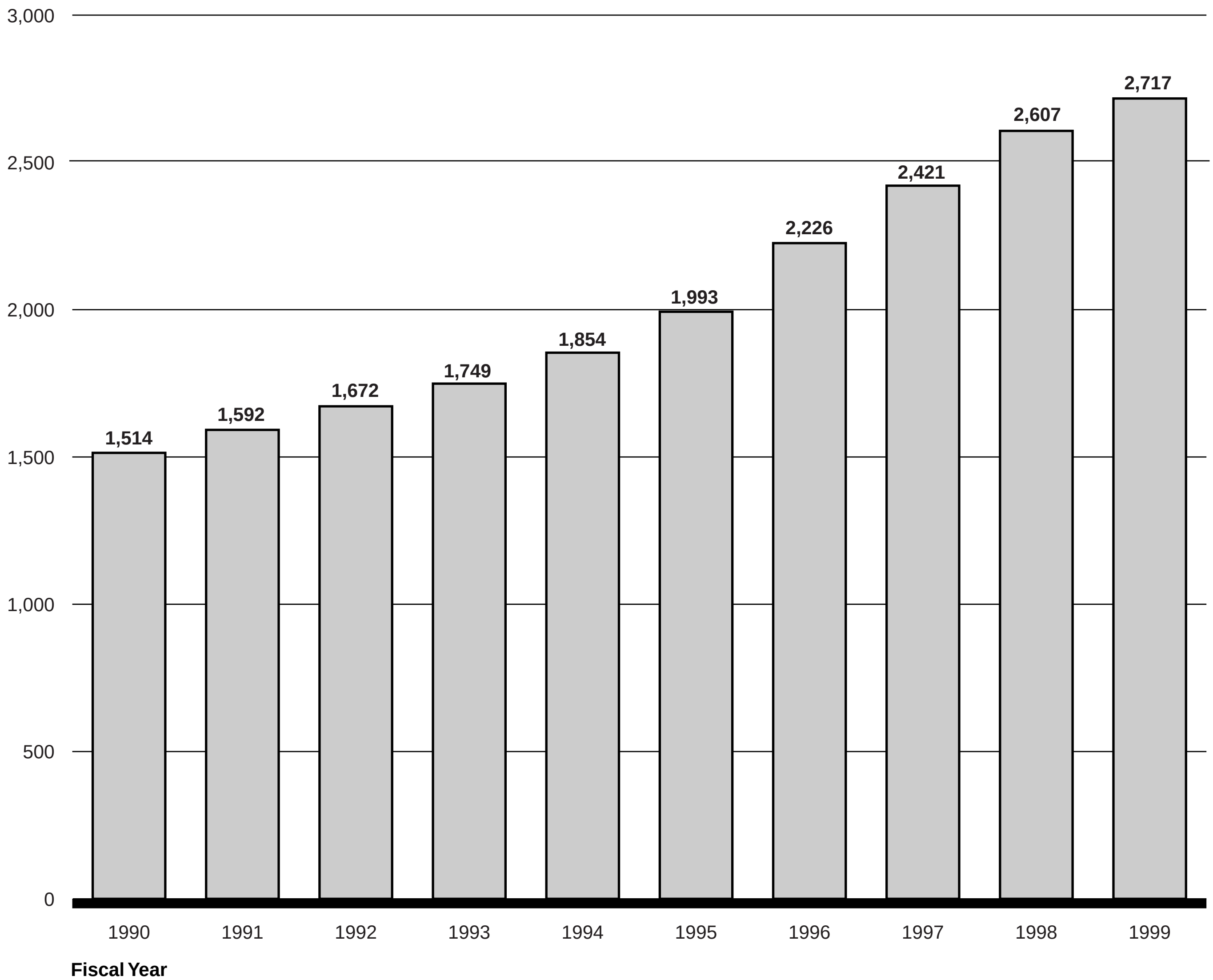
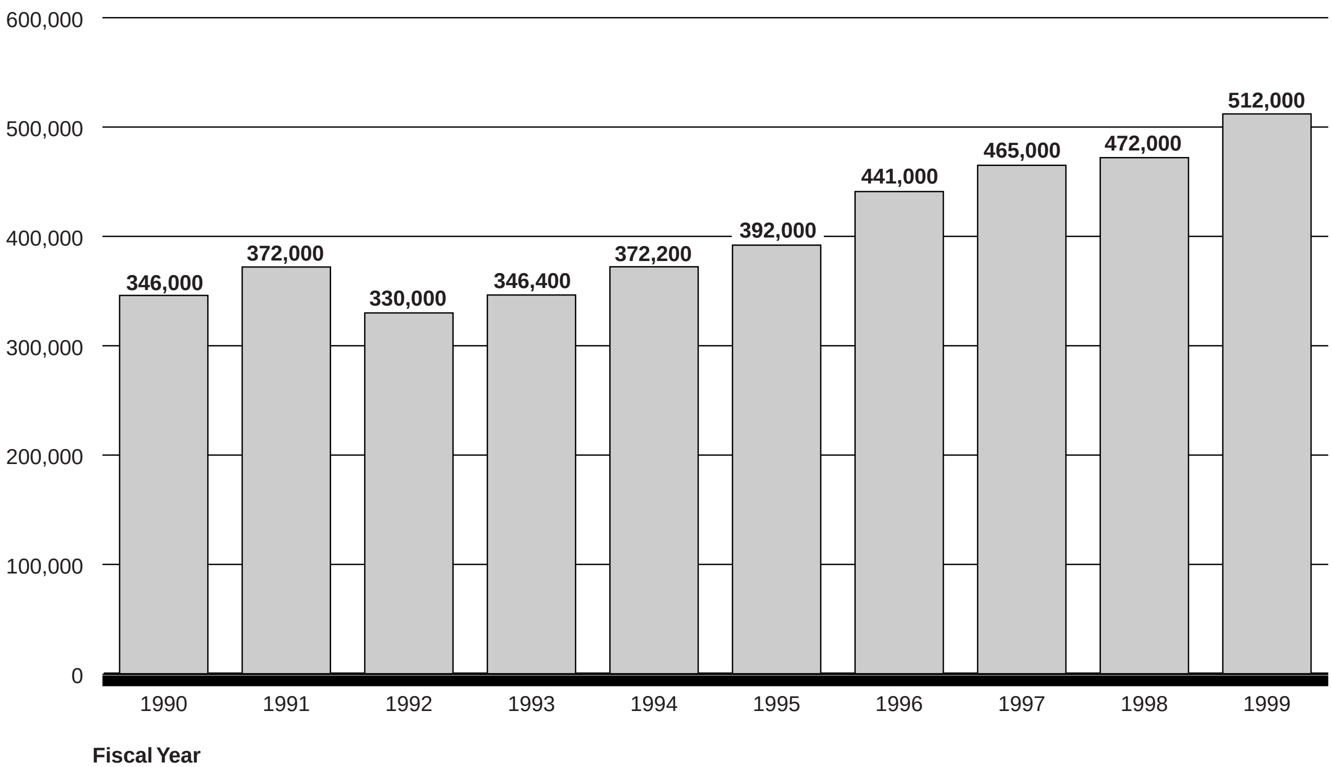


Figure 3: Cumulative Number of Participants in Pension Plans Administered by PBGC, Fiscal Years 1990-1999



To service its workloads, in fiscal year 1999 PBGC relied on 754 federal employees [8] and 680 staff employed by contractors. A total of 240 contractor employees are located at PBGC's 11 contract field offices. (See fig. 4 for a map of PBGC's contractor-operated field offices.)

[8] This figure represents full time equivalent (FTE) federal staff ceiling in fiscal year 1999.

Figure 4: PBGC Contractor-Operated Field Office Locations

These offices are primarily responsible for processing and administering trusteed plans. PBGC's Insurance Operations Division (IOD) has oversight responsibility for these offices and uses the services of an additional 227 contractor employees in the Washington, D.C., headquarters. Many of these "in-house" contractor employees are located throughout eight Trusteeship

Processing Divisions (TPD) and perform work similar to the field office contractors. In some of these areas, they work alongside federal employees performing the same benefit processing and administration functions. PBGC also relies on 213 additional employees from firms under contract to provide actuarial, legal, audit, investment management, and information resource services. (See app. II for a breakdown of the number of contract employees used by each PBGC department.)

Although not required to do so in all cases, PBGC follows the regulations governing contracting by federal agencies. PBGC's procurement activities, which include benefit processing and administration services, are not bound by the Federal Acquisition Regulation (FAR).[9] The FAR applies only to the contracting of goods and services with appropriated funds for the use of the United States.[10] Plan assets, which were privately established and maintained, are not considered appropriated funds. As a matter of policy, however, PBGC voluntarily abides by the FAR in procuring all goods and services.

Although it is a wholly owned government corporation, PBGC is self-financing in that it receives no general revenues. PBGC's operating budget is financed by funds from insurance premiums paid by plan sponsors and trust assets.[11] In fiscal year 1999, PBGC's total operating budget was $160 million. Although PBGC does not receive general revenues, the portion of its budget allocated to administrative expenses has been subject to a statutory limitation since 1985. The Congress revised this limitation in 1989 and again in 1992 to provide PBGC more flexibility to address the rapid and often unexpected workload increases that followed several large pension plan failures. These revisions exempted from any limitation all expenses incurred by PBGC in connection with the termination and management of pension plans[12] and provided PBGC with discretion to determine which functions and activities qualified as nonlimitation expenses.

[9] See *Matter of Pension Benefit Guaranty Corporation's Use of Contingent Fee Arrangement With Outside Counsel*, B-223146 (Oct. 7, 1986).

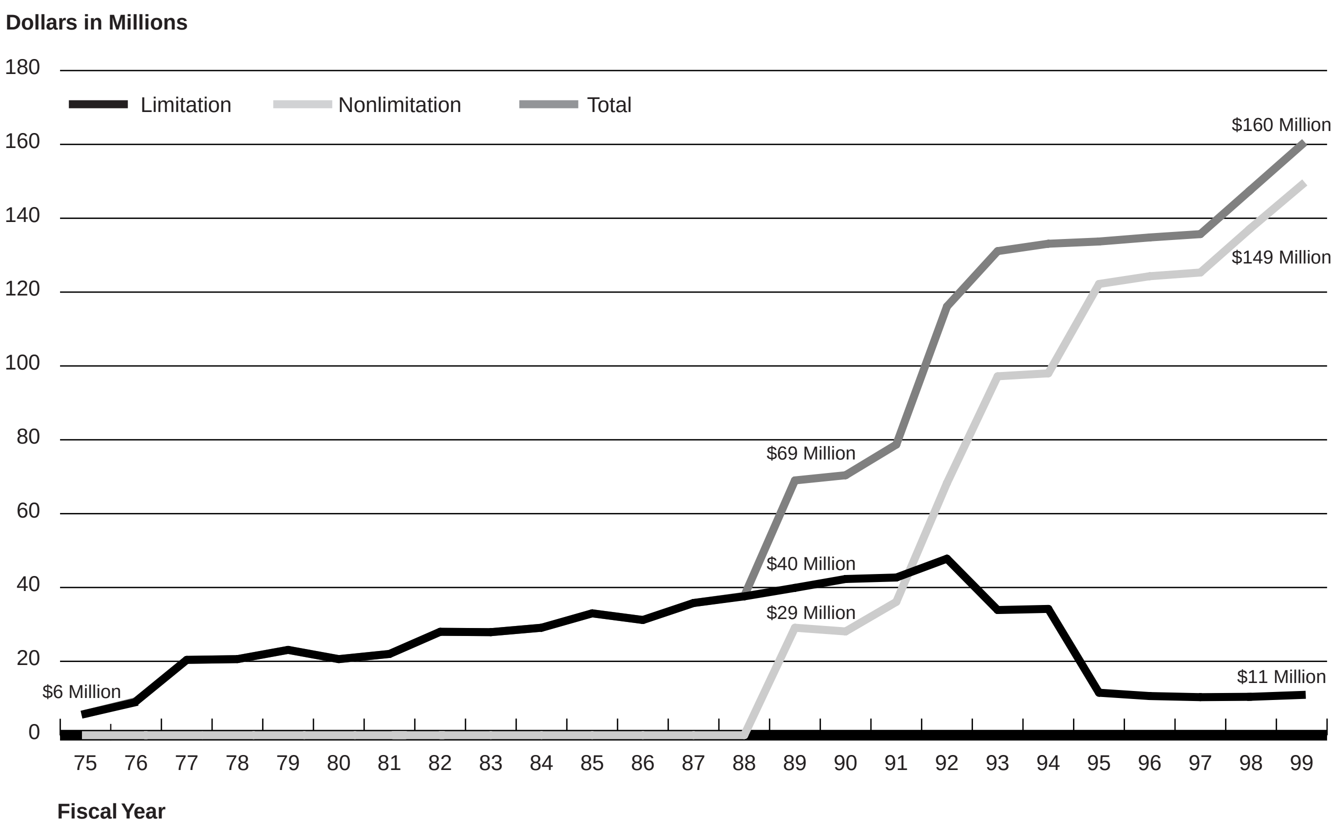
[10] 48 C.F.R. 1.104 (applicability of FAR) and 2.101 (definition of acquisition) (1999).

[11] Trust assets include assets acquired from terminated plans, investment returns on the assets, and recoveries from employers responsible for underfunded terminated plans.

[12] Activities not subject to limitation include all expenses in connection with the termination of plans for the acquisition, protection, management, and investment of trust assets; and for the administration of benefits.

Over the years, PBGC has expanded the range of activities and functions classified as nonlimitation expenses, and currently uses these resources to fund nearly all contractor positions and related costs. This has resulted in a steep increase in PBGC's nonlimitation budget, from $29 million in fiscal year 1989 to $149 million in fiscal year 1999. During the same period, PBGC's limitation budget decreased from $40 million to $11 million. Thus, by fiscal year 1999, only 75 federal employees were funded out of PBGC's limitation budget, which receives shared Office of Management and Budget (OMB) and congressional review and approval. The remaining 1,359 federal and contractor employees were funded out of PBGC's nonlimitation budget, which is primarily subject to review and approval by OMB rather than the Congress (see fig. 5).

Figure 5: PBGC Limitation/Nonlimitation Budget, Fiscal Years 1975-1999



PBGC Contracting Decisions Reflect Short-Term Needs of the Past

Because PBGC's contracting decisions and its organizational field structure have been heavily influenced by the need to service dramatic and often unexpected workload increases, while adhering to staffing limitations, decisions to contract for services have not been integrated into PBGC's strategic planning considerations. However, potential changes in the future work environment require PBGC to reassess its staffing, contracting, and organizational structure needs to best serve current and future pension plan participants.

Decisions to Contract for Services Driven By Prior Workload Pressures

From the mid-1980s to the early 1990s, several large and unexpected bankruptcies—including LTV Steel, Wheeling Pittsburgh Steel, Eastern Airlines, and Pan American Airlines—contributed to more than doubling the number of PBGC pension plan participants from 170,000 to nearly 400,000. In addition to needing help to service the benefit administration needs of thousands of new participants, PBGC found itself in need of additional legal counsel and investment advisor services. Rather than continually seeking significant increases in federal staff during a time of government downsizing, PBGC increasingly turned to contractors to provide services.[13] Over time, this emphasis on contracting for services continued as PBGC focused on addressing a backlog of pending benefit determinations, which peaked at over 300,000 in fiscal year 1994.

More specifically, PBGC often quickly entered into sole-source contracts with pension office administrators from the insolvent companies to take advantage of their familiarity with plan provisions as well as their office's physical proximity to plan records and participants.[14] Over the years, 11 field office contractors have remained with PBGC to perform benefit administration services for other insolvent plans as they were terminated and trusteed. Thus, with no linkage to agency strategic planning or assessment of how PBGC should be organized for maximum efficiency, these offices have become PBGC's field office structure.

[13] Between 1988 and 1992, FTE allocations remained relatively stable at an average of 540. In fiscal year 1993, PBGC requested and received an additional 117 FTEs. During this same period, budget dollars used for contracting grew from $11 million to $79 million.

[14] A sole-source contract is entered into or proposed to be entered into after soliciting and negotiating with only one source.

Because PBGC's focus was on obtaining needed staff quickly, it did not perform a comprehensive analysis of the costs of using contractors versus federal employees to service its workloads. Nor has PBGC taken actions to reassess its contracting and staffing needs against projected future workload changes or to determine how its field structure should be organized for optimal performance in the longer term. PBGC completed a limited cost/benefit analysis in 1994 which allowed PBGC to obtain additional federal staff. However, this analysis was limited in the range and types of positions reviewed and was never used by PBGC for longer-term strategic planning purposes. In the absence of such activities, PBGC has operated for many years without reasonable assurance that it has a cost-effective mix of contractors and federal employees.[15] In fact, PBGC could not provide data on the total number of contract employees performing services for PBGC or a description of how they were deployed across various PBGC components for the years prior to fiscal year 1995.

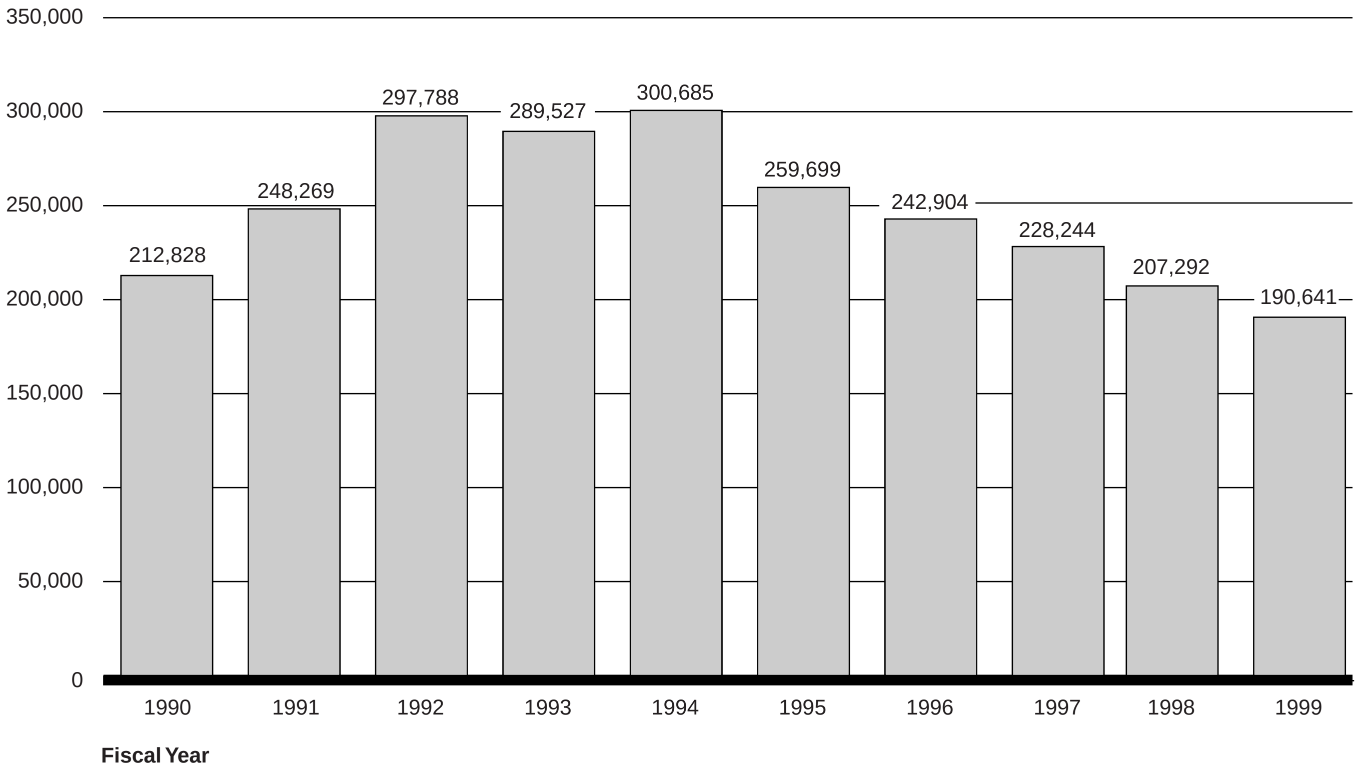
Potential Work Environment Changes Require PBGC to Better Link Contracting Activities to its Strategic Plans

As a matter of policy, the government is expected to rely upon the private sector to provide services if they can be obtained more economically from a commercial source.[16] However, potential changes in future workloads attributable in part to increased PBGC productivity, economic trends, changes in pension laws, and enhanced plan funding suggest that PBGC should reassess its approach to the acquisition of contract services and better link its activities to long-term strategic plans. For example, at the time of our review, PBGC had reduced its backlog of pending benefit determinations from a high of more than 300,000 in fiscal year 1994 to about 190,000. PBGC expects to eliminate the backlog and reach a working inventory of about 120,000 pending determinations in less than 5 years. As PBGC moves into an era of more real-time processing of benefit determinations, reassessment of staffing levels and its organizational structure may be necessary. (See fig. 6 for the number of pending benefit determinations remaining each year.)

[15] In July 1999, shortly after the start of our review, PBGC completed a limited cost comparison update of some contract and federal staff positions related to benefit administration services. This effort showed that FBA contractors were generally less costly than most comparable federal staff. However, the manager responsible for this analysis was uncertain how this information would be integrated into future strategic planning decisions.

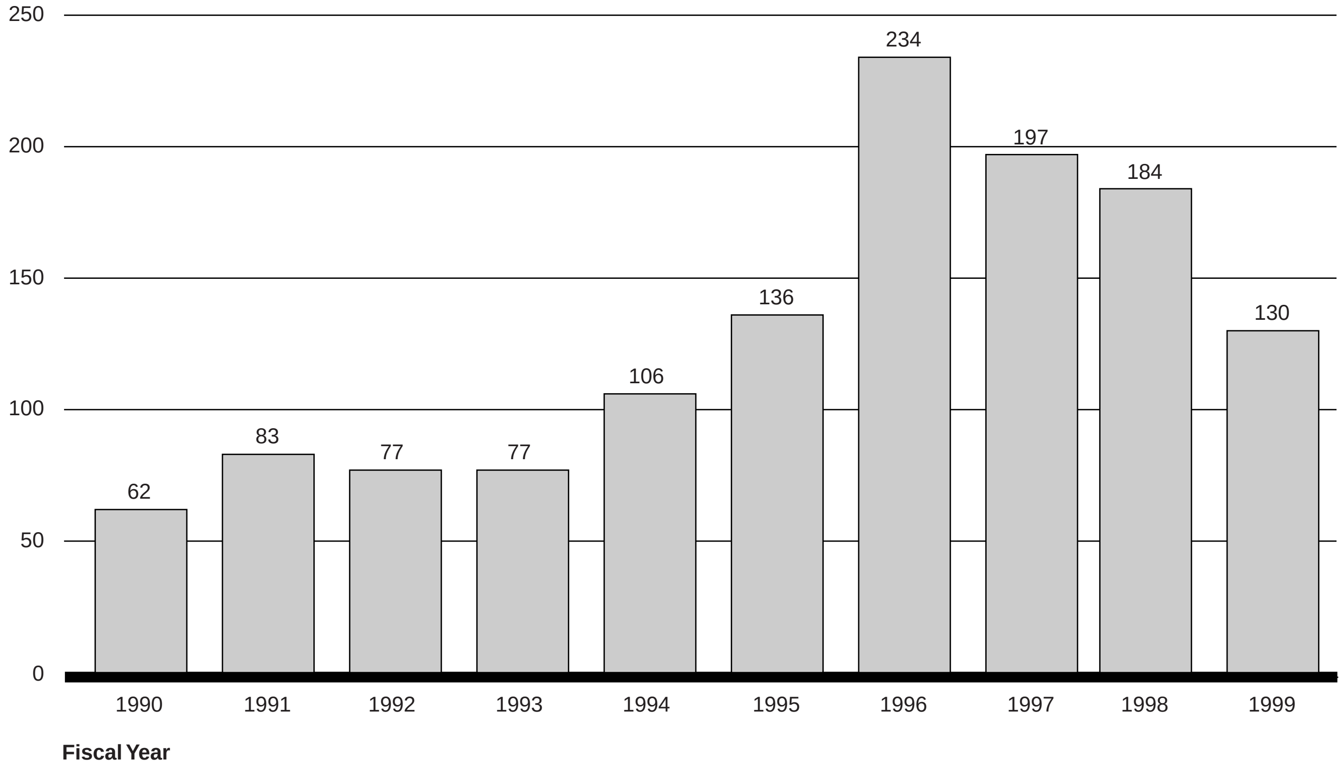
[16] OMB Circular No. A-76 (Aug. 4, 1983, revised 1999).

Figure 6: Pending Benefit Determinations, Fiscal Years 1990-1999



PBGC has also improved its ability to target companies that pose the greatest risk to PBGC and to get underfunded plans to improve their financial positions, thereby averting major crises. If pension plans are adequately funded, PBGC is less likely to assume trusteeship and associated benefit administration workloads. In fact, the data show that the number of new pension plans taken over by PBGC each year has steadily decreased and PBGC has not assumed any large and potentially disruptive plans in several years. (See fig. 7 for the number of new plans trusteed by PBGC each year.)

Figure 7: New Pension Plans Trusteed by PBGC, Fiscal Years 1990-1999



In addition, the universe of defined benefit pension plans insured by PBGC has decreased dramatically from a peak of 112,000 in 1985 to about 40,000 in 1999. This has been accompanied by a decrease in the number of active plan participants—those currently earning pension accruals and a better measure of future workloads—from 27 million in 1988 to 23 million in 1996.[17] If these trends continue, PBGC's exposure to future pension plan failures should be reduced. PBGC expects workloads to remain at about 40,000 to 50,000 new participants per year.

Sound management practices dictate that organizations should periodically engage in strategic planning and analyses to better position themselves to meet future challenges. Our prior work on human capital planning suggests that planning strategies should be linked to current and future human capital needs, including the size of the workforce; its deployment across the organization; and the knowledge, skills, and abilities needed by agencies to pursue a shared vision. Staff deployment, both geographically and organizationally, should also be made to enhance mission accomplishment and provide for efficient, effective, and economical operations.[18] In addition, the Government Performance and Results Act of 1993 (GPRA) requires that federal agencies pursue performance-based management through sound strategic planning.[19] To comply with GPRA, PBGC has developed a fiscal year 2000-2004 strategic plan and an annual performance plan to guide its operations. While these plans acknowledge future work environment challenges, they do not detail what those challenges will be and how staffing, contracting, and organizational structure decisions will facilitate accomplishment of PBGC's strategic goals and objectives. Thus, PBGC still lacks a blueprint for organizing its contractors and federal staff to cost-effectively meet the needs of current and future plan participants.

[17] Most recent data available on number of active participants.

[18] *Human Capital: A Self-Assessment Checklist for Agency Leaders* (GAO/GGD-99-179, Sept. 1999).

[19] GPRA requires federal agencies to implement results-oriented management reforms, such as conducting strategic planning, establishing program goals and objectives, measuring progress in meeting those goals, and reporting publicly on that progress. PBGC is subject to the requirements of GPRA.

PBGC officials have acknowledged the need to better assess PBGC's future workloads and how its staffing levels and contractor mix will support those workloads. However, PBGC's actions to date on this initiative have been limited and it is still giving inadequate consideration to the longer-term impacts of its decisions regarding the use of contractors. For example, PBGC initiated a policy change in fiscal year 1999 allowing contract field offices to perform ongoing administration for all of their closed plans, regardless of plan size.[20] Prior to this policy change, ongoing administration for hundreds of plans had been consolidated primarily at two designated field offices. As plans were closed, they were transferred to these two locations for servicing. Under the policy change, all 11 field offices are permitted to administer their closed plans, in addition to performing benefit administration tasks on their active plans.

Several offices we visited were in the process of closing plans that had represented a significant portion of their business for many years. An official at one of the largest offices told us that, without ongoing administration responsibilities or a significant influx of new plans, the office would likely have insufficient work to continue operations. PBGC's chief operating officer, who has ultimate responsibility for field office oversight, told us that the decision to allow all these offices to administer their closed plans was based on the assumption that they were best qualified to address participant inquiries. However, he acknowledged that PBGC's focus has been on addressing benefit determination backlogs rather than on the long-term effects of allowing them to perform routine plan maintenance activities. We are concerned that PBGC's ongoing administration decision was made without sufficient analysis of future workload trends and staffing considerations and could unnecessarily perpetuate the existence of some field office contracts if the influx of new plans trusteed by PBGC levels off over the next several years as expected.

Weaknesses Identified in PBGC'S Procurement Practices

Our review of PBGC's most recent field benefit administration services procurements identified weaknesses in its procurement planning and execution processes which could affect competition. Specifically, PBGC lacked a sound business rationale to support its approach for contracting for services at four field office locations. PBGC also should have done more to stimulate competition for its other field office services

[20] Prior to the revision, ongoing administration was allowed only for plans with 10,000 or more participants, or plans requiring special expertise.

procurements. In reviewing several non-FBA contracts, we identified additional weaknesses in PBGC's procurement practices, as described below.

Procurements for Benefit Administration Services Were Not Consistently Structured

As noted previously, PBGC currently has 11 contracts for FBA services requirements. PBGC's first competitive procurement for these services occurred in 1997, when it solicited offers for four offices' service requirements—a total value of about $71 million. We reviewed these procurements and found that the underlying procurement approach was not supported by a sound business rationale. (See app. I, table 1, for specific information on the contracts reviewed.) Such weaknesses in PBGC's procurement planning and execution processes could negatively affect competition. As a result, the agency risks paying too much for contracted services and receiving inferior performance.

Prior to 1997, procurements for all field office services were conducted on a sole-source basis because of PBGC's view that only one responsible source was capable of performing the work in each location. According to PBGC's Procurement Director, the decision to open some field office services requirements to competition was influenced by concerns expressed by PBGC's Office of Inspector General (OIG). The OIG had reported that some of PBGC's contracts may have been awarded under "less than full competition in inappropriate circumstances." In response, PBGC competed the requirements for services at those field locations having the largest contract dollar-values—Miami, Atlanta, Wheeling, and Wilmington. At that time, a single large contractor—Office Specialists, Inc.—was incumbent at the Miami, Atlanta, and Wheeling offices. A second contractor—Benefit Services Unlimited—was incumbent at the Wilmington office. However, rather than compete the services for these three offices separately, PBGC consolidated the Miami, Atlanta, and Wheeling service requirements into a single procurement. The services for the Wilmington location were excluded from the consolidated procurement and competed separately. These procurement actions resulted in PBGC's award of a $47 million, three-site contract to Office Specialists, Inc., and the award of a $24 million Wilmington contract to Benefit Services Unlimited, leaving the incumbent contractors in place for all four locations.[21]

[21] These figures represent the total contract costs over a term of 4 years.

PBGC's procurement director stated that PBGC competed the four largest field office requirements because they represented most of PBGC's FBA contract budget. He also said he believed these large, high-dollar contracts would attract competition. At our request, the procurement director provided a written explanation of the procedures used in conducting these four acquisitions. He stated that, based on the knowledge he and the director of the Insurance Operations Division have of the "availability of benefit administration firms that specialize in defined benefit pension plans terminated in accordance with ERISA," PBGC was certain that the employees already working at the sites for which the services requirements were combined constituted "the only labor pool . . . qualified" to perform the services. The Procurement Director further stated that out of five proposals received in response to the solicitation, four were found to be technically acceptable.[22] These four offerors also proposed using the same group of employees already working at the three sites. In view of "PBGC's knowledge of this rather specialized marketplace," the Procurement Director stated that requiring the successful offeror to perform at the Miami, Wheeling, and Atlanta sites would not tend to restrict competition among responsible firms. However, the procurement director acknowledged that the services for the Wilmington site were not included in the consolidated procurement because to do so would have precluded the incumbent from competing for the work.

Absent legal authority that permits the contracting entity to do otherwise, federal procurements are generally to be conducted using full and open competition. As such, solicitations are permitted to contain restrictive provisions only to the extent necessary to satisfy the needs of an agency. Because consolidated procurements combine separate requirements into one award, they have the potential for restricting competition by excluding potential competitors that can furnish only a portion of the requirement. Therefore, consolidated procurements must be reasonably necessary to satisfy the government's need. The decision to consolidate the requirements must also be based upon sound business reasons, supporting the conclusion that the government's overall needs can be most effectively provided through a consolidated procurement approach. In sum, PBGC's

[22] The fifth offeror's proposal offered to provide services only for the Atlanta office. In addition, a contractor at one of the other FBA offices stated that it would have competed to provide services at one of the three offices for which services were consolidated. This contractor said it did not compete in the procurement because of the size of the combined workload and potential management difficulties associated with a multisite contract.

reasons for combining requirements must be balanced against the possible restriction of competition.

Although PBGC did receive five proposals in response to the combined solicitation, it did not provide a sound business rationale as to why the consolidation of the Miami, Atlanta, and Wheeling requirements was necessary to meet PBGC's needs. PBGC did not establish that the combination supported any program plan or goal of PBGC. In fact, PBGC's explanation for combining the three requirements and its explanation for excluding the fourth are inconsistent. PBGC's conduct of these procurements showed weaknesses in its procurement planning practices. Consequently, competition may have been limited and PBGC risks paying too much for contracted services and receiving inferior performance.

Competition for Sole-Source Benefit Administration Services Contracts Could Be Improved

Although PBGC competed four field office services requirements in 1997, it continued its practice of making sole-source awards for the seven remaining field office contracts. Our review showed that PBGC should have done more to stimulate competition for these procurements.

PBGC's rationale for continuing to make sole-source awards was that the incumbent contractors, as former pension plan administrators of companies from which their primary plans emanated, were uniquely qualified to perform the work because of their knowledge of the primary plans.[23] Even though PBGC published a notice of these awards in the Commerce Business Daily (CBD), we found no indication that PBGC ever acted to stimulate competition by conducting outreach or market research activities to identify other offerors capable of performing the required services. In prior work, we have reported that such activities have been effective in stimulating competition.[24]

Our review of the contract files for the Pueblo, Sarasota, and Cleveland offices confirmed that the principals/owners were former benefit administrators for the primary plans under administration and were still

[23] The primary plan is defined by PBGC as the original plan for which the contract was initiated. For example, the initial contract for the Pueblo, Colorado, office was let in the early 1990s to service CF&I Steel. The principal/owner was a former pension benefit administrator at CF&I Steel.

[24] *Contract Management: Few Competing Proposals for Large DOD Information Technology Orders* (GAO/NSIAD-00-56, Mar. 20, 2000).

servicing their primary pension plans. However, at the time of these procurements, these contractors had 6 years of service with PBGC and had made considerable progress toward completing the work on their primary plans. They also had assumed benefit administration responsibility for numerous additional pension plans not associated with the plans they originally administered. For example, one sole-source office contractor listed a total of 15 additional trusteed plans from various companies and thousands of new participants under its administration.

PBGC's procurement director told us that the decision to continue awarding sole-source contracts for these seven offices was based primarily on his knowledge of the marketplace and a belief that few companies other than the incumbents possessed the expertise to service pension workloads at these locations. However, PBGC acknowledged that it conducted no outreach or market research activities to identify other potential offerors.

When a contracting entity uses noncompetitive procedures, it must execute a written justification that includes sufficient facts and rationale to justify its use of those procedures. The justification must also include a description of any market survey conducted—or an explanation of why a market survey was not conducted—and a statement of actions the agency may take to remove barriers to competition in the future. For those contract files we reviewed, PBGC's justification for the procurement states that it received no statements of interest from other potential offerors in response to its CBD notice. Concerning its actions to overcome barriers to competition, the justification states:

> The PBGC is presently unaware of any specific barriers to competition that could be overcome with respect to this requirement. Further, PBGC will continue to form and disseminate its requirements in a manner which will reach the widest range of potential sources.

Even though, procedurally, the CBD notice may serve the purpose of a market survey, PBGC should do more to stimulate competition. PBGC's justification, along with its actions in continuing to award these contracts noncompetitively for almost a decade, indicates an absence of intent to do otherwise. Given the amount of time this practice has continued, PBGC should make greater efforts in the future to stimulate competition for these requirements.

PBGC's procurement director acknowledged that PBGC should reassess its sole-source field office contracts as more offices close out their primary plans and continue to take on additional work beyond their original area of expertise. This reassessment could result in additional competitive field office procurements in the future. However, he noted that this reassessment would be unlikely prior to fiscal year 2001, when the current field office contracts are due to expire.

Additional Observations on PBGC Contractor Selection Practices

In addition to the above findings, our review of PBGC's contracting practices identified other management and operational weaknesses associated with contracts let by the chief financial officer (CFO) component, the second largest user of contractors' staff at PBGC (see app. II). These weaknesses pertain to the need for PBGC to better document the results of technical evaluations of proposals, and its use of fixed-price rather than labor-hour payment arrangements for some contracts.

For Some Contracts, PBGC's Basis For Contractor Selection Is Not Fully Documented

Our review of two CFO component contracts found that PBGC should have more fully documented its basis for awarding an $18 million information resources management (IRM) contract for systems engineering and a $1.5 million investment management contract. PBGC's internal guidance at the time of the procurements provided for the establishment of a Technical Evaluation Panel to assess contractor proposals and make selection recommendations to the procurement director. This guidance required that, in evaluating proposals, the panel chairperson and each member identify and record the strengths and weaknesses of each proposal under review. While it was not specifically required, panel members could also prepare individual score sheets for each offeror's proposal.

The procurement files we reviewed included the technical scores for the offerors under consideration as well as a selection recommendation from the panel chairperson. However, they did not include a complete set of individual panel members' scoresheets documenting their review and rationale for arriving at a particular score. For the investment management contract, we found that only two of seven panel members submitted individual scoresheets and some analysis of the specific strengths and weaknesses of competing proposals. With only the final numeric scores to go by, the record lacked information concerning the panels' bases for determining contractor qualifications and issuing its final selection recommendations. Thus, it was not possible to determine whether final award decisions were based on a thorough assessment of each offeror's proposal by all panel members.

Opportunities Identified for Alternative Contract Payment Arrangements

We reviewed five additional CFO component contracts for premium compliance audit services and found that PBGC should give stronger consideration to using fixed-price contracts rather than labor-hour contracts for these services.[25] For these contracts, audit firms perform reviews of companies that pay insurance premiums to PBGC. The reviews primarily involve examining, testing, and validating required asset and liability information related to the calculation of premium levels and ensuring that premiums paid by covered pension plans are correct. The collection of pension plan premiums is a major source of income to PBGC.[26]

As of June 2000, about 60 percent of PBGC's active contracts involved labor-hour pricing, under which contractors are paid at an established hourly rate for performing agreed-upon tasks. In general, labor-hour contracts require detailed reviews of the hours charged by contract staff and close monitoring by the contracting entity to ensure that quality and timeliness requirements are met. Otherwise, the contracting entity risks paying a higher price than it would under a fixed-price arrangement, as well as receiving poor performance. Accordingly, in its best practices guide for performance-based service contracting, the Office of Federal Procurement Policy encourages the increased use of fixed-price contracts and incentives to promote optimal performance.[27]

[25] Fixed-price type contracts generally provide for a firm price or, in appropriate cases, an adjustable price for performing a particular service, regardless of how long it takes to complete the service. These contracts generally have some type of target or ceiling price that can be revised only in limited circumstances. Labor-hour contracts provide for payment of contractors at hourly rates for performing agreed-upon tasks.

[26] Total premium collection income was $925 million in fiscal year 1999.

[27] The Office of Federal Procurement Policy's primary responsibilities include prescribing governmentwide procurement policies that must be followed by the executive agencies and ensuring agency action in maintaining the FAR.

When acquiring services that previously have been provided by contract, agencies should rely on the experience gained to facilitate the use of fixed-price contracts for such services. Prior to entering into the current contracts in 1997, the incumbents performed similar work for PBGC under purchase order agreements. Thus, PBGC had actual experience in pricing similar services that could have served as a basis for estimating future contract costs. Based on this information, the contracting officer's technical representative (COTR) responsible for oversight of the firms calculated a potential fixed price of between $3,400 and $8,000 to be paid to the contractors for each audit completed.[28] A fixed-price contract for these audits was originally proposed by PBGC and the five firms submitted offers. However, following a meeting between PBGC component management and the contractors, PBGC made a determination that a labor-hour payment arrangement would be more effective to accommodate the variable level of effort needed to complete the audits.

The procurement files showed that, after the contracts were awarded, PBGC experienced performance problems with several of the contractors. Within the last 2 years, PBGC also opted not to continue its 15-month relationship with two of the firms. Documents we examined showed that PBGC paid one of these contractors $210,000 to complete three audits—about $70,000 per audit—which resulted in $2,000 in additional collections. In contrast, PBGC's highest-producing contractor performing similar services completed 27 audits with $1.3 million in additional collections at an average cost of $6,600 per plan. This indicates that PBGC could have paid much less than $210,000 to the above contractor under the fixed-price arrangement originally proposed, in which firms were paid on a per-audit basis.[29] In addition, a second contractor has been referred to PBGC's OIG by the former COTR for investigation of potential contract billing irregularities. In light of the performance issues surrounding these contracts, and the fact that PBGC has some basis to award them as fixed-price contracts, PBGC should give stronger consideration to using fixed prices in similar situations.

[28] The COTR is appointed by PBGC management to provide assistance with awarding and administering contracts to ensure that work progresses satisfactorily.

[29] Based on COTR's proposal of about $4,000 per plan audit.

PBGC's Contract Oversight Practices Need Improvement

Contract oversight primarily involves monitoring performance. In recent years, PBGC has taken actions to improve its contract oversight role and better support its contractors who perform field benefit administration services. However, we identified several key management weaknesses that could affect PBGC's ability to monitor and hold contractors accountable for performance. These include a lack of FBA-specific data necessary for monitoring performance, deficiencies in PBGC's field office quality reviews, insufficient policy guidance for PBGC staff responsible for managing contractors, and current organizational alignments that could affect the independence and objectivity of PBGC's contracts review component. In addition to these broader contract management issues, our review of the contract files identified specific operational deficiencies pertaining to PBGC's oversight of its premium compliance audit and IRM contracts.

PBGC Has Taken Steps to Better Manage Contractor Workloads and Performance

Our analysis showed that PBGC uses various tools to monitor contractor performance. For example, all of the FBA offices we visited received a performance review by PBGC in the last year. As required by its contract's statement of work, each office also used PBGC workplans to guide its daily activities and submitted monthly status reports to PBGC to document progress made. Field office managers also reported regular communication with their assigned COTR at PBGC.

We also found that PBGC has taken steps to improve benefit processing and administration and to better support field office contractors in servicing their workloads. For example, in 1993, PBGC reorganized its benefit administration operations to implement team case processing so that auditors, actuaries, and benefit administrators in both headquarters and the field are arranged in teams to process benefits. This replaced sequential processing, in which cases were handed off between various components as discrete tasks were completed. Over the last several years, PBGC also made significant investments in automation and centralized several functions previously handled by the field offices to allow staff to focus primarily on processing benefit determinations. For example, field offices now have the capacity to automatically generate mass letters and notices to recipients, rather than use manual processes. In addition, responsibilities for addressing participant telephone inquiries and for processing mailed documents into PBGC's databases are now centralized in PBGC headquarters.

Our interviews with field office managers showed a general agreement that the reorganization was effective in terms of expediting pension plan processing and improving organizational communications. Most of the managers and staff also noted that PBGC's automation investments have improved office productivity and overall customer service.

PBGC Does Not Centrally Compile and Monitor Automated Data on FBA Office Performance

Our analysis and field visits showed that PBGC does not compile and centrally monitor FBA-specific performance data that are essential to overseeing and managing performance. In the absence of such data, PBGC may lack critical information to ensure that work is progressing as required and quality goals are met.

In order to undertake a comparative analysis of field office productivity, we requested data from PBGC to document the range of activities and volume of work processed by these offices. We found that field office data are not centrally compiled and monitored by PBGC. Instead, PBGC generally compiles data on work processed by each office—such as final benefit determinations—on a plan-specific basis. This information is then included in the productivity data for PBGC's eight TPDs in Washington. These divisions have primary responsibility for pension plan administration and oversee the activities of field offices assigned to their plans. Under the current organization, a field office with 30 pension plans could report to several processing divisions and its workload outputs would be included within the productivity totals of each of those divisions. As a result, PBGC lacks centralized field office performance data and reports necessary for quickly providing top management with a "snapshot" of office productivity as pension plans move through the various stages. Due to the commingling of data, along with the fact that field office productivity is reported on a plan-specific basis, it may be difficult for PBGC to ensure that its contract field offices are performing efficiently and effectively.

Individual offices do, however, maintain internal productivity information to assist in managing their workloads. Such information includes the number of benefit determinations processed, death notices recorded, address changes completed, pension databases built, documents scanned, and pension plans closed out. Some offices also compiled manual data on backlogged workloads. However, the extent and detail of these data varied among the offices. The offices we visited also reported their activities to PBGC via monthly status reports to their assigned COTR, as required by their contracts. However, the content of these reports also varied. Thus, the monthly status reports are not an adequate substitute for automated and centrally monitored field office performance data. We believe that—if uniformly compiled and monitored—additional automated data would provide PBGC with information needed to compare office productivity and performance over time, monitor a specific office's performance against prior months and years, more quickly determine work progress, and identify and track workload backlogs.

FBA-specific data may also allow PBGC to evaluate the impacts of special management initiatives on other workloads, such as a recent PBGC mandate to complete all pre-1994 pending benefit determinations by the end of fiscal year 1999. For example, PBGC's OIG reported that PBGC's emphasis on processing benefit determinations may have caused final plan closings to receive less priority. The OIG also concluded that completing this step was important because it allowed PBGC to ensure that all final benefit determinations for a plan were issued. Because PBGC does not centrally compile and monitor FBA-specific data on plan closures, it lacks valuable information for top management to assess the effect of this recent directive on other workloads.

PBGC officials responsible for overseeing the field offices acknowledged that FBA-specific data were not centrally compiled or used by management to assess and monitor individual office performance. They generally agreed that compiling such information would better support upper management's need to quickly assess PBGC's progress in meeting processing targets. One high-level official also told us that, in prior years, the lack of comprehensive field office performance data impeded PBGC's efforts to obtain OMB approval for additional resources. Some managers cautioned that using such data for comparison purposes was difficult because offices are not always in the same stage of operations. For example, one office may be processing more benefit determinations in a given month, while another may be processing recipient death notices. Thus, their outputs would be different. However, these officials also acknowledged the value of using such data for intraoffice comparisons—that is, comparing an office's performance against its prior months or years to evaluate trends in office productivity and identify any emerging performance issues. We believe that such data may also provide PBGC with better management information to establish more meaningful future FBA office performance goals.

Performance Review Process for FBA Offices May Not Adequately Ensure Work Quality

PBGC requires its FBA offices to undergo regular performance reviews to ensure that proper internal controls are in place and that workloads are processed in a complete, accurate, and timely manner. The reviews include steps to assess the management of field office operations and verify participant information files to ensure that information is accurately documented and benefit computations are accurate. However, our analysis identified continuing weaknesses in the review process, which may affect PBGC's ability to manage contractor performance. In 1995, PBGC's OIG reported that its performance reviews were not in accordance with generally accepted government audit standards as had been claimed by management. The OIG also concluded that the reviews often resulted in flawed recommendations, seemed to excuse poor field office performance, and posed a risk to PBGC decision-making. In response to these findings, PBGC agreed to reassess its audit standards, to improve documentation and followup on prior recommendations, and to hold its field office contractors accountable for identified problems.

Our review identified continuing problems with PBGC's performance review process. PBGC's procedural manual for these reviews states that they are based on government auditing standards. As such, review team members are required to meet general standards for independence, qualifications, due professional care, and quality control. Despite these requirements, key headquarters staff and managers told us that the reviews had a limited impact on improving field office performance, because management often did not support efforts to identify weaknesses and hold the offices accountable for negative findings. Others noted that team leaders and members often lacked sufficient training and expertise to perform the reviews. We also obtained an internal management report prepared by PBGC last year assessing the effectiveness of the review process. This document noted that the reviews continued to show weaknesses in meeting auditing standards which could facilitate internal control weaknesses and poor product quality. The report especially highlighted deficiencies in the area of personnel qualifications and due professional care.[30] For example, the report noted that it was the practice of some components to rotate experienced personnel out of the review function each year, and assign lead roles to individuals who had never completed such reviews or received training in applying the standards and

[30] Under generally accepted government auditing standards, due professional care means using sound judgment in establishing the scope, selecting the methodology, choosing tests and procedures for the audit, and evaluating and reporting audit results.

procedures. In fact, of 22 field office reviews completed by PBGC, nearly one-third were led by individuals who had never before participated in a review.

In regard to the issue of due professional care, the management study also cited frequent instances of poor quality control and of reports and work papers being returned for significant additional development, even though they had been reviewed and approved by team supervisors. Finally, the study noted that resources devoted to the reviews may be insufficient to ensure that a quality review is conducted. Citing feedback from various review teams, the report pointed out that “corners would be cut” when PBGC’s work priorities dictated.

A PBGC official responsible for field office quality assurance acknowledged that training and qualifications for review team members remain a concern. However, this individual stated that PBGC now places a greater emphasis on reviewer training and on ensuring adherence to accepted auditing standards. Our review showed that PBGC does provide and encourage field office reviewer training. However, PBGC still does not require team leaders or members to meet minimum professional education credit requirements. At the time of our review, PBGC also had not reached any conclusions as to whether a system of permanent review team leaders would be more efficient than the current process of rotating less-experienced staff into that role.

PBGC should act quickly to address the weaknesses in its performance reviews of field office contractors. An effective quality control system is particularly important, considering that PBGC recently completed its initiative to issue final benefit determinations for plans trusteed prior to 1994. During our field visits, contractor management commonly referred to this directive as a major undertaking with tight time frames. Individuals from several offices also noted that pressure to process this workload may have negatively affected the accuracy of benefit calculations and quality of notices sent to participants. Thus, it is important that PBGC have an adequate review process in place to detect errors resulting from this effort.

Individuals Responsible for Contractor Oversight Lack Sufficient Guidance

Primary responsibility for oversight of PBGC’s contracts lies with more than 69 COTRs located throughout PBGC and five contract specialists within the Procurement Department. In its best practices guide for contract administration, the Office of Federal Procurement Policy states that problems often arise when contracting officials allocate more time to awarding contracts than to administering them. In addition, unclear roles and responsibilities of individuals responsible for contract administration are also cited as sources of problems. Contracting entities should pay attention to adequately supporting the individuals responsible for monitoring and ensuring contractor performance.

Despite the importance of effective contract oversight, we found that PBGC has not developed a comprehensive set of policies and procedures to guide COTRs and contract specialists in their day-to-day activities. The Procurement Department maintains a limited policy and procedure manual, which serves as the primary guide to contractor selection and oversight. However, the director often supplements this document with ad hoc directives, e-mails, and other standalone memorandums to address contracting issues and problems as they arise. Because PBGC has never compiled these informal policy clarifications and directives into its departmental manual, PBGC lacks a comprehensive set of standard operating procedures to guide staff in addressing common contract oversight problems.

During our review, staff involved in contract oversight management expressed a common need for additional policy and procedural guidance and training beyond what is currently provided by PBGC. In the absence of more specific procedures, some COTRs and contract specialists have chosen to rely on their own judgment or on advice from coworkers for policy and procedural interpretations. Due to the decentralized nature of PBGC's directives, staff may also spend significant time seeking guidance for issues such as when contracts should receive legal review or what to do with pension files after plans are closed. Furthermore, staff and managers may receive conflicting directions, which could ultimately lead to inconsistent administration practices and contractor performance problems. During our review, we identified two separate internal guidance documents used by PBGC to clarify COTR responsibilities. These documents included disparate information regarding the COTRs' responsibility to provide monthly status reports to management on the progress of work. In reviewing the contract files for 6 of the 11 FBAs, we found that the COTRs were regularly completing these reports while COTRs for several other non-FBA contracts were not.

Organizational Placement of CCRD Could Have Contract Management Implications

Our analysis shows that the independence and objectivity of PBGC's CCRD could be negatively affected by its position in PBGC's organizational structure.

Established by PBGC's Deputy Executive Director and CFO in 1994, CCRD performs contract cost audits and internal control reviews of PBGC's departments and programs. Auditing standards require that the audit organization and individual auditors should be organizationally independent in all matters relating to audit work. However, because the director of CCRD reports directly to the CFO, any internal reviews of departments and programs located under this component cannot be considered independent. CCRD management told us that any reports or reviews of departments under the CFO must disclose the fact that CCRD is not considered independent under generally accepted government auditing standards. While we agree that such a disclosure is necessary, we are concerned that the objectivity of this department's reviews could still be in question due to the current reporting relationship. More importantly, we are concerned that the potential exists for management to influence the scope of audits or affect CCRD's ability to make independent judgments as to which CFO departments and programs should be reviewed. The former Director of CCRD told us that the department's current location within PBGC was not ideal. He also suggested that stronger organizational independence could facilitate more effective internal reviews of all of PBGC's departments and programs.

Management and Oversight Issues Identified in Several Contracts Reviewed

In addition to the broader contract management issues noted above, we identified specific weaknesses in PBGC's oversight of five premium compliance audit contracts and one IRM systems engineering contract.

We found that none of the premium compliance audit contractors submitted the required monthly COTR status reports, which are essential to documenting work status and identifying performance problems early in the process. In addition, despite the fact that the compliance audit contractors were performing similar services for PBGC, their reports on the progress of audits differed in terms of format, data provided, and comprehensiveness. The contractors also used various means, other than written reports, to document the final results of their reviews. In fact, it was common for no signed reports to be issued. Instead, contractors' work papers often served as their final report product.

As noted earlier, PBGC has experienced performance problems with some of the firms working under these contracts. Weaknesses in PBGC's oversight and management of these contracts may have affected its ability to monitor work progress and ensure the quality of the reviews. The total value of the five contracts we reviewed was about $7.5 million; however, their importance is much more significant because annual insurance premiums paid by covered plans are a primary source of PBGC's income. Thus, ensuring proper payment of premiums is crucial. Current data show that additional collections resulting from these reviews are down from more than $2 million in FY 1999 to about $7,000 as of May 2000. It is important that PBGC maintain adequate contractor oversight practices to ensure the performance of the firms responsible for auditing pension plan premiums.

Our review of the IRM systems engineering contract also identified oversight problems. Over the course of several years, this $18 million contract has involved 73 contract modifications and 70 task orders for related work beyond the original contract agreement. PBGC's contract specifically requires the contractor to develop a project workplan for each additional task order, specifying the work to be completed, how it will be done, and the timeframes for completion. Our review showed that this document was prepared for only 1 of the 70 task orders. We identified contractor-provided reports specifying the work to be completed under some task orders, but these reports were infrequent and appeared to be written after the work had started, rather than prior to starting as required by PBGC. Finally, the contract files also showed evidence of insufficient monitoring by the COTR. In fact, for a 6-year period, we found only three COTR monthly status reports. These reports were completed by the previous COTR in the first 2 years of the contract. The file included no status reports from the current COTR, who has administered the contract for the last 3 years. We provided PBGC's Procurement Department with an opportunity to present additional documentation on PBGC's monitoring activities; however, the department did not provide us with any additional information.

Conclusions

PBGC has historically relied heavily on contracting to address increasing workloads. Accordingly, contractors have played a significant role in PBGC's ability to serve plan participants and reduce the backlog of pending benefit determinations from a high of about 300,000 in fiscal year 1994 to about 190,000 in fiscal year 1999. However, we have identified underlying management weaknesses in regard to PBGC's overall approach to selecting and managing contractors, as well as its day-to-day administration of specific contract requirements.

First, despite a reduction in the backlog of pending benefit determinations and projected changes in future workloads, PBGC still has not taken steps to reassess its contracting and organizational structure needs. All organizations should regularly engage in analyses to ensure they have an appropriate level of skilled staff and to position them to meet workload challenges. Current trends show that PBGC should act soon to respond to a potentially different work environment in the future. During our review, management acknowledged the need to better link its decisions to contract to future workload and staffing assessments. However, no significant initiatives are under way. We believe that PBGC should undertake analyses of its staffing needs, skill levels, and organizational structure relative to current and future workloads. This type of contingency planning is consistent with the strategic planning requirements of GPRA and should allow PBGC to make systematic and orderly changes to its workforce as needed in the future while still meeting the needs of plan participants.

Second, PBGC can do more to encourage competition in the procurement of services. Without consistent efforts to monitor the marketplace and to stimulate competition, it is difficult to ensure that PBGC obtains the best value for services it procures. Moreover, without effective contract oversight, PBGC cannot be sure that its contractors are held accountable for meeting performance requirements.

We also believe that PBGC should refocus its management and contract oversight processes and better compile and use contractor data to ensure performance. PBGC should also enhance its quality assurance tools and provide more comprehensive policy guidance for individuals responsible for overseeing contractors. Finally, PBGC should ensure that the organizational alignment and reporting relationships of the CCRD provide for independent reviews.

As noted earlier, PBGC's budget structure provides it with substantial flexibility to address workload pressures by utilizing nonlimitation funds that are not directly subject to review and approval by the Congress. Over time, the nonlimitation budget has grown significantly and now supports nearly all of PBGC's operations and procurement activities. This absence of traditional checks and balances over PBGC's budget represents a potential weakness in regard to the Congress' ability to oversee and ensure that PBGC conducts its operations in a manner that sufficiently administers trust fund assets while still meeting the needs of pension plan participants. Because PBGC's budget lacks the structure of shared OMB and congressional review and approval common to most other government entities, it is essential that PBGC act prudently in managing its budget resources and procurement activities to ensure that competition and contractor oversight are strengthened. Inaction on PBGC's part to address the issues identified in this report could result in PBGC's paying too much for required services, in contractor performance problems, and in deterioration of service to plan participants. Continued inaction may also call for the Congress to strengthen its oversight role by reassessing and redefining the range of activities and functions treated as nonlimitation expenses.

Recommendations to the Executive Director of the Pension Benefit Guaranty Corporation

To improve PBGC's management of its contract responsibilities, we recommend that PBGC's executive director take the following actions:

- Conduct a comprehensive review of PBGC's future human capital needs, including the size of the workforce; its deployment across the organization; and the knowledge, skills, and abilities needed by PBGC. The results of this review should be used to better link staffing and contracting decisions to PBGC's long-term strategic planning process, consistent with GPRA.
- Address weaknesses in PBGC's procurement process to ensure that contract award decisions best serve the needs of the government and plan participants, while fostering competition. This would include conducting market research as appropriate to determine whether other potential offerors exist and seeking opportunities for increasing competition for PBGC contracts that are now awarded on a sole-source basis.
- Where appropriate, utilize more fixed-price contracts and fewer labor-hour payment arrangements consistent with best practices in performance-based contracting.
- Strengthen polices and procedures for evaluating proposals by ensuring that review panels adequately document their contract award recommendations in accordance with PBGC's internal guidelines.
- Strengthen PBGC's contract oversight role by developing the capacity to centrally compile and monitor essential field office performance data. Such a system should provide the longitudinal data necessary to quickly measure and compare field office performance in regard to outputs, product quality, backlogs, and timeliness.

- Address weaknesses in PBGC's field office performance review process to better ensure that benefit administration services contractors meet quality and accuracy requirements.
- Develop a comprehensive set of procedural guidance for staff responsible for awarding contracts and monitoring contractor performance.
- Revise the current organizational placement and reporting relationship of CCRD to promote objectivity and independence.

PBGC'S Comments and Our Evaluation

In providing comments on this report, PBGC generally agreed with all eight of our recommendations. If fully implemented, the corrective actions cited by PBGC have the potential to substantially improve the management of its contracting responsibilities.

PBGC agreed with our recommendation that a strategic workforce planning study is necessary, and said that it intends to engage an independent outside organization to conduct such a review. Second, PBGC agreed to strengthen its procurement processes by opening additional contracts to competition and expanding its market research efforts to identify potential offerors. PBGC said it plans to separately compete 10 FBA office contracts over the next year. The corporation also agreed with our recommendation that, where appropriate, it should use more fixed-price contracts and other non-labor-hour payment arrangements. PBGC also intends to strengthen its policies and procedures for evaluating contractor proposals, as we recommended. In particular, PBGC said that it would ensure that individual reviewer scores and additional documentation are retained in the procurement files.

In regard to our recommendations for strengthening PBGC's contract oversight role, PBGC stated that it would continue to develop additional centralized field office performance data essential to managing its contractors, and that changes were being made to its field office performance review process to ensure that trained and experienced staff are assigned to the reviews. PBGC also agreed that providing procurement policies and program guidance in a central location is needed. Accordingly, PBGC plans to identify gaps in procedural guidance and develop needed policies. Finally, PBGC told us it plans to address CCRD organizational placement and independence issues as part of its larger workforce planning study.

However, in some instances PBGC took issue with our findings regarding its past contract actions and procedures. For example, PBGC believed our assumption that future workloads would likely level off, were too optimistic. We agree that it is difficult to predict PBGC's future workloads with absolute accuracy. However, a steady downward trend in the data that could affect PBGC's future work environment requires PBGC to have a strategy or contingency plan in place to ensure that its staffing, contracting, and organizational structure meet the needs of current and future pension plan participants.

PBGC also disagreed that its 1997 procurements for FBA services may have limited competition. PBGC noted that its procurement actions met the competition requirements of the FAR and the prices obtained could be assumed to be reasonable. Consolidated procurements have the potential to restrict competition. As noted in this report, PBGC did not provide a sound business rationale to support its consolidated procurement approach. While in this case multiple bids were received, PBGC's actions showed weaknesses in the management of its procurement planning and execution practices. Consequently, PBGC risked paying too much for contracted services and receiving inferior performance.

In discussing its use of labor-hour, rather than fixed-price payment arrangements for its premium compliance audit contracts, PBGC noted that its decision was based on consideration of numerous workload factors. PBGC also questioned whether these types of contracts should be fixed-price, based on its interpretation of performance-based contracting guidelines. The guidelines state that fixed-price contracts are appropriate for services that can be objectively defined. PBGC's prior experience with these contracts allowed its managers to define the work to be completed and develop detailed fixed prices. Prior experience also allowed the incumbent contractors to initially respond with fixed-price offers. The guidelines do not explicitly exclude audit contracts from being designated as fixed-price. These factors led us to conclude that there was a reasonable basis to contract as fixed-price.

PBGC also disagreed with our conclusion that one former contractor received $210,000 to complete only three plan audits. PBGC said that the figure was misleading in that it did not account for work completed by the contractor on more than 37 additional audits. Our conclusion was based on an internal PBGC document noting that the former contractor's remaining premium plan audits were transferred to another contractor, but this contractor could not use any of the work performed. Thus, the audits had to be started from “scratch.” Therefore, the dollar figure cited represents an accurate assessment of how much PBGC paid for actual work completed.

Finally, regarding PBGC's need to ensure that its review panels document their award recommendations, PBGC explained that the contracts we reviewed predated a September 1999 revision to its internal guidance that required technical panel members to complete individual scoresheets for each offeror. PBGC explained that, while individual scoresheets were used prior to the guidance change, only summary scoresheets were required to be in the files. In response to PBGC's comments, we revised the report to note that individual panel member scoresheets were not required for the procurements reviewed.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that point, we will send copies to the Honorable David M. Strauss, Executive Director of the Pension Benefit Guaranty Corporation. Copies will be made available to others upon request.

If you have any questions concerning this report, please contact me at (202) 512-7215, or Daniel Bertoni at (202) 512-5988. Other major contributors are listed in app. IV.

Barbara D. Bovbjerg, Associate Director
Education, Workforce, and Income Security Issues

Scope and Methodology

This appendix describes our approach for collecting and analyzing data and for interviewing officials to document the growth and management of contract staff at the Pension Benefit Guaranty Corporation (PBGC). The objectives of our review were (1) to determine the basis for PBGC's decisions regarding the use of contractors versus government personnel to address its workloads, (2) to assess PBGC's processes and procedures for selecting contractors, and (3) to determine how effective PBGC has been in monitoring the performance of its contractors.

Our review was conducted at PBGC headquarters in Washington, D.C., and six field benefit administration (FBA) offices: Wilmington, Delaware; Miami, Florida; Atlanta, Georgia; Pueblo, Colorado; Sarasota, Florida; and Cleveland, Ohio. We selected the field offices based on the dollar amounts of the contracts, volume of work processed, geographic area, and whether the procurements were selected on a competitive or sole-source basis. Our selections included three large offices, two medium-sized offices, and one small office. Three of these offices' contracts were competed and three operated under sole-source contracts. We conducted our review from June 1999 to May 2000 in accordance with generally accepted government auditing standards.

Interviews With PBGC Managers and Staff

To determine the range of factors that have influenced PBGC contracting decisions over the last decade, as well as PBGC's approach to selecting and managing contract staff, we conducted in-depth interviews of more than 70 PBGC personnel. These included PBGC headquarters senior executives, middle managers, and line staff, as well as contract personnel in headquarters and the field offices. We captured this information using structured interview guides which included general questions applicable to all personnel regarding corporation procedures and policies, as well as specific questions tailored to each individual's particular position or area of expertise. We also administered a short survey to PBGC's 69 contracting officer's technical representatives (COTR) to obtain their views on how the contractor selection and management process could be improved.

Analysis of PBGC's Structure and Basis for Contracting Decisions

To assess PBGC's procurement practices, we obtained federal staff and contractor trend data that documented the extent to which PBGC has used contract personnel over the last decade. We also obtained and reviewed budget information to determine how PBGC is financed and its authority for using contractors. We identified and obtained internal policies and procedures with respect to contracting practices and documented PBGC decisions with respect to the use of contractors to address workload backlogs of prior years. Finally, we compared PBGC's activities against the strategic planning requirements of the Government Performance and Results Act of 1993 and prior GAO work outlining steps agencies should take to address resource, human capital, and other strategic planning challenges.

Analysis of Contractor Selection and Oversight Practices

To evaluate the effectiveness of PBGC's contractor source selection and oversight practices, we reviewed 15 contracts of the two largest users of contracting at PBGC. We assessed PBGC's activities against the requirements of the Federal Acquisition Regulation and PBGC's own internal policies and procedures. Where appropriate, we also compared PBGC's activities against "best practices" in contract selection and administration as defined by the Office of Federal Procurement Policy. Finally, we reviewed reports from PBGC's Office of Inspector General that identified past deficiencies in the selection, management, and oversight of contractors. Table 1 presents additional information related to the contracts we reviewed

Table 1: Summary of Contracts Reviewed

Contractor/ contract number	Award date	Effective date	Option years (after base year)	Contract action	Type	Purpose	Estimated maximum value (base + option years)	Cumulative total amount obligated (06/12/00)	Contract status (as of 06/12/00)
D.L. Skully & Associates Inc. PBGC01-CT-98-0540	12/23/97	10/01/97	3	Sole-source	Labor hour	Pension benefit administration services at Richmond Heights, Oh., FBA[a] office	$13,949,308	$2,350,319	In progress (option year 2)
General Employee Management Services, Inc. PBGC01-CT-98-0536	03/20/98	10/01/97	3	Sole-source	Labor hour	Pension benefit administration services at Sarasota, Fla., FBA office	$13,941,500	$1,763,725	In progress (option year 2)

(Continued From Previous Page)

Contractor/ contract number	Award date	Effective date	Option years (after base year)	Contract action	Type	Purpose	Estimated maximum value (base + option years)	Cumulative total amount obligated (06/12/00)	Contract status (as of 06/12/00)
Benefits Services Unlimited PBGC01-CT-98-0538	11/05/97	10/01/97	3	Com-petitive	Labor hour	Pension benefit administration services at Wilmington, Del., FBA office	$24,093,636	$4,373,842	In progress (option year 2)
Disciplined Benefit Services, Inc PBGC01-CT-98-0537	03/02/98	10/01/97	3	Sole-source	Labor hour	Pension benefit administration services at Pueblo, Colo., FBA office	$8,385,816	$1,340,315	In progress (option year 2)
Office Specialists PBGC01-CT-98-0543	11/17/97	11/01/97	3	Com-petitive	Labor hour	Pension benefit administration services at Miami, Fla., FBA office	$13,173,656	$4,702,529	In progress (option year 2)
Integrated Management Resources Group, Inc. PBGC01-CT-98-0573	10/14/98	10/01/98	4	Com-petitive	Labor hour	Pension benefit administration services at Atlanta,Ga., FBA office	$25,261,453	$3,814,090	In progress (option year 1)
Office Specialists PBGC01-CT-98-0545	11/10/97	11/01/97	4	Com-petitive	Labor hour	Pension benefit administration services and telephone center at PBGC headquarters	$64,289,740	$14,811,787	In progress (option year 2)
Integrated Management Resources Group, Inc. PBGC01-CT-98-0546	11/05/97	11/03/97	4	Com-petitive	Labor hour	Audit services	$13,878,025	$6,010,475	In progress (option year 2)

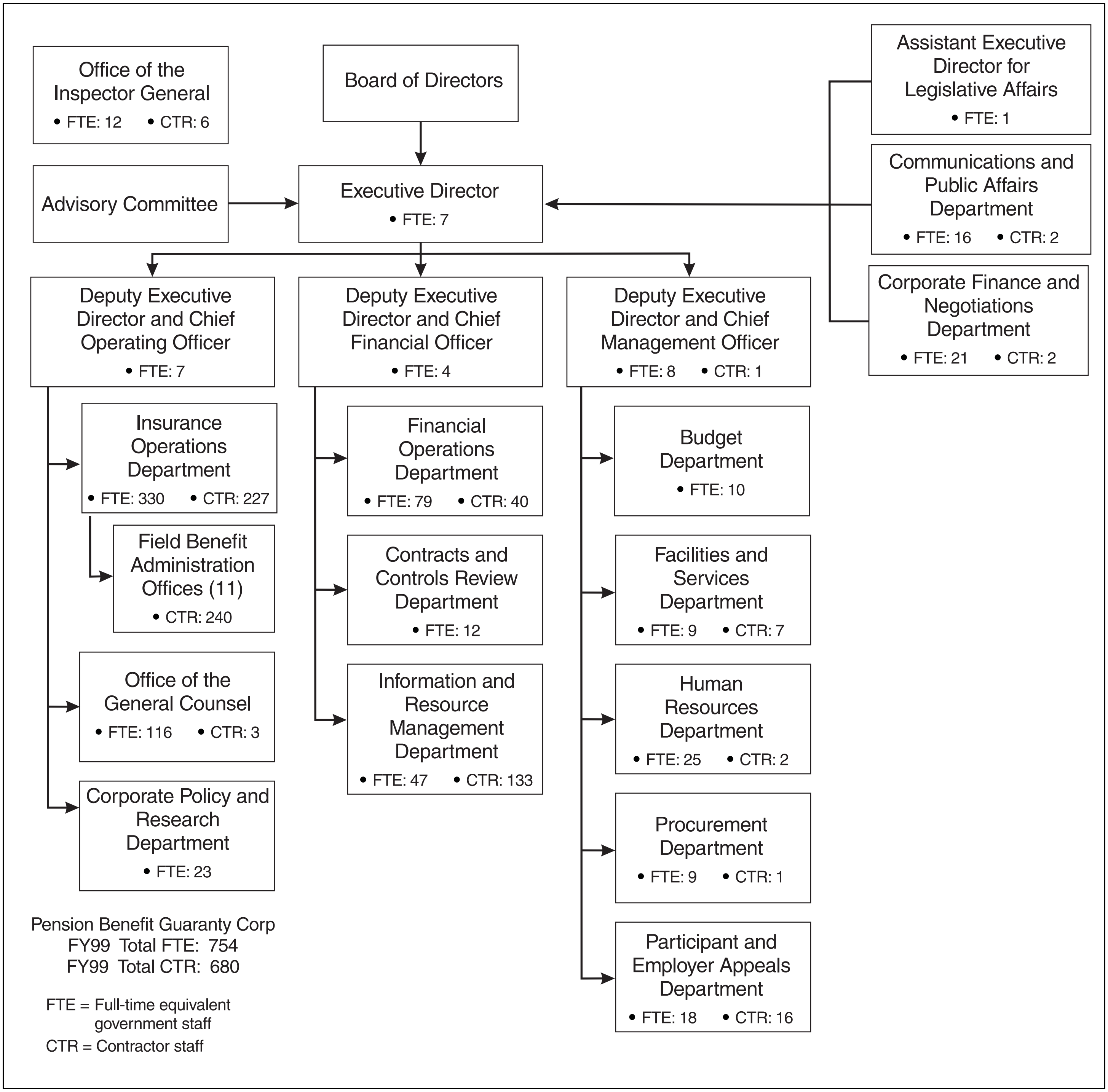
(Continued From Previous Page)

Contractor/ contract number	Award date	Effective date	Option years (after base year)	Contract action	Type	Purpose	Estimated maximum value (base + option years)	Cumulative total amount obligated (06/12/00)	Contract status (as of 06/12/00)
Booz, Allen & Hamilton, Inc. PBGC-J-8-0418	10/20/93	09/30/93	4	Competitive	Labor hour, Task order	Systems engineering services to redesign Case Administration System	$12,851,241	$18,017,067[b]	Inactive (ended 09/30/99)
Paradigm Asset Management PBGC01-CT-96-0509	01/31/97	10/01/96	5	Competitive	Fixed price	Investment management services	Percentage of investment earnings	$1,074,699	In progress (option year 3)
Coleman & Williams PBGC-J-9-0527	09/03/97	07/29/97	3	8(a) (noncompetitive)	Labor hour	Premium compliance review services	$1,597,600	$305,000	Inactive (terminated 08/27/99)
Owusu & Company PBGC-J-7-0528	10/02/97	07/25/97	3	8(a) (noncompetitive)	Labor hour	Premium compliance review services	$1,570,256	$200,000	Inactive (ended 09/30/98 no options taken)
Emma S. Walker PBGC01-CT-97-0529	09/03/97	07/25/97	3	8(a) (noncompetitive)	Labor hour	Premium compliance review services	$1,425,800	$505,000	In progress (option year 3)
Frye, Williams & Company PBGC01-CT-97-0530	09/03/97	07/25/97	3	8(a) (noncompetitive)	Labor hour	Premium compliance review services	$1,379,047	$480,000	In progress (option year 3)
Carter & Associates PBGC01-CT-97-0531	10/23/97	07/25/97	3	8(a) (noncompetitive)	Labor hour	Premium compliance review services	$1,527,164	$674,342	In progress (option year 3)

[a]Field benefit administration.

[b]Increase to contract due to additional task orders.

PBGC Organization Chart



Comments From the Pension Benefit Guaranty Corporation

PBGC
U.S. GOVERNMENT AGENCY
25 Years of Pension Protection

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(202) 326-4010

Office of the Executive Director

August 23, 2000

Ms. Barbara D. Bovbjerg
Associate Director, Education Workforce, and
Income Security Issues
U.S. General Accounting Office
Washington DC 20548

Dear Ms. Bovbjerg:

Thank you for the opportunity to review and comment on your proposed report, Pension Benefit Guaranty Corporation: Management of Contracting Activities Needs Improvement (GAO/HEHS-00-130). I appreciate the fact that your report documents the enormous progress that the PBGC has made since 1992 in finances, benefit processing, and contracts management. And I appreciate your recommendations for the further improvement of contracts management.

Improvement in Finances

As the report notes, "In 1992 [GAO] placed PBGC on [its] list of federal programs at high risk because of a large and growing deficit between its assets and liabilities that threatened the Corporation's long-term financial viability. . . . To address PBGC's financial problems, Congress passed the Retirement Protection Act of 1994 [RPA], which strengthened minimum funding requirements for plans and increased premiums paid to PBGC by underfunded plans."

As important as the RPA was in bolstering PBGC's financial condition, it took more than that to turn a $3 billion deficit into a $7 billion surplus. The Corporation changed its investment strategy to better focus on equities. This fact, coupled with a period of unprecedented economic expansion, helped us to create--on behalf of PBGC's plan sponsors and participants alike--the best financial position ever in PBGC's history.

In addition, PBGC significantly improved its internal controls in 1993, earning the first of seven consecutive unqualified financial audit opinions from independent financial auditors. Those internal control improvements, coupled with substantive system advances, led OMB to remove PBGC from its high risk list. Similarly, as your report rightly notes, GAO "removed PBGC from [GAO's] high-risk list in 1995."

The PBGC has taken advantage of the longest period of uninterrupted economic growth in history to build the surplus. This gives us a cushion to protect the insurance program in the

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event of an economic downturn. The cushion is important because of the long tail of PBGC's liabilities and PBGC's exposure to a variety of long-term risks, most of which are beyond PBGC's control. As the 1998 GAO report on PBGC's financial condition stated, "An economic downturn and the termination of a few plans with large unfunded liabilities could quickly reduce or eliminate PBGC's surplus." So, while the PBGC is in very sound financial condition today, we will continue to remain vigilant.

Improvement in Benefit Processing

Your report notes management improvements in PBGC's insurance program and confirms that PBGC's workloads have grown significantly. As the report states, this led to ". . . a backlog of pending participant benefit determinations, which peaked at over 300,000 in fiscal year 1994."

Your report found that ". . . PBGC has taken steps to improve the benefit administration process and better support field office contractors in processing their workloads. For example, in 1993, PBGC reorganized its benefit administration operations to implement team case processing so that auditors, actuaries, and benefit administrators in both headquarters and the field are arranged in teams to process benefits. . . . Over the last several years, PBGC also made significant investments in automation and centralized several functions previously handled by the field offices to allow staff to focus primarily on processing benefit determinations."

Your report confirms the success of these efforts. "[GAO's] interviews with field office managers showed a general agreement that the reorganization was effective in terms of expediting pension plan processing and improving organizational communications. Most of the managers as well as their staff also noted that PBGC's automation investments have improved office productivity and overall customer service." And the ultimate proof of PBGC's efforts since 1993 is in the results. As you note, "At the time of [your] review, PBGC had reduced its backlog of pending benefit determinations from a high of over 300,000 in fiscal year 1994 to about 190,000."

Improvement in Contracts Management

Your report documents that PBGC responded to unpredictable workloads and large backlogs by turning increasingly to contracting for services. The report notes that "PBGC contracting decisions and its organizational field structure have been heavily influenced by the need to service dramatic and often-unexpected workload increases, while subject to staffing limitations."

We recognized in 1993 that contracting was taking on increased importance. So we took a number of steps to improve contract planning and administration:

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- In 1993, the procurement staff were reorganized from a lower-level division to a higher-level departmental status, reporting to the Chief Management Officer. Prior to 1993, there were only six procurement staff; today there are 10.
- In 1994, a new contract auditing function was established to assist the Procurement Department in both pre- and post-award contract pricing. Since this function has been in operation, over $12 million of contract savings have been realized.
- In 1994, we adopted an advance procurement planning process to help us better analyze contract needs in the Corporation.
- And, as your report notes, "Although not required to do so in all cases, PBGC follows the regulations governing contracting by federal agencies. . . . PBGC voluntarily abides by the FAR [Federal Acquisition Regulation] in procuring all goods and services."

PBGC's Future Workload

We believe the report's assumption that there will be a leveling off of PBGC's workload in future years may well prove to be optimistic. PBGC's workload has always been episodic and unpredictable and remains so for the following reasons.

First, while the number of active participants in plans we insure has declined, the overall number of participants in those plans remains unchanged as the number of retirees has increased. If this trend continues, by the year 2003 the number of retired participants will exceed the number of active workers, and the defined benefit system may become even more unstable, which could increase PBGC's exposure.

Second, despite almost perfect economic conditions, we are still assuming responsibility for 30,000 to 50,000 new participants a year. It would not be prudent to assume that such ideal economic conditions will last indefinitely. A small downturn in the economy could lead to a significant increase in the number of participants for whom we would assume responsibility.

Third, as both PBGC's Office of the Inspector General and you have reported, the PBGC still has a large backlog of plans that have not been through plan closing. In addition, we need to improve the quality of the service we provide participants, most notably by allowing participants to responsibly plan for their retirement by providing them with timely benefit estimates. And, while we are now processing plans in less than five years on average, this is still too slow. We must continue to speed up PBGC's operations until we are routinely processing plans as rapidly as the Employee Retirement Income Security Act (ERISA) will allow (currently about three years).

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Finally, and most importantly, the PBGC's future workload, no matter how well we strategically plan, is to a large extent unpredictable. Despite today's excellent economic conditions, there are still hundreds of financially-troubled companies with significantly underfunded pension plans. The PBGC's exposure from this group of plans -- i.e., the cost to the insurance program if these plans fail -- remains in the $15 to $20 billion range, far exceeding PBGC's surplus. And, despite the strong economy, reported plan underfunding among this group of companies has not changed significantly over the last several years. Many of these companies are in cyclical industries that are vulnerable to economic downturns. More than half of PBGC's exposure from these financially troubled companies is concentrated in just three industries -- airlines, retail, and steel. Even a small downturn in the economy could have a large negative impact on these companies and their plans. The PBGC could be again faced (as we were in 1991 and 1992 with Pan Am and Eastern Airlines) with taking in huge plans on very short notice.

RESPONSES TO THE GAO'S SPECIFIC RECOMMENDATIONS

First Recommendation

GAO recommends that the PBGC "conduct a comprehensive review of PBGC's future capital needs, including the size of the workforce, its deployment across the organization, and the knowledge, skills, and abilities needed by PBGC," and that PBGC "use the results of this review to better link staffing and contracting decisions to the Corporation's long-term strategic planning process, consistent with GPRA [Government Performance and Results Act]."

Response

To examine these issues, the PBGC will engage an outside, independent organization to conduct a strategic workforce planning study. The report should be completed by next Spring.

Background

The Corporation has expanded its use of contractors over time to handle its increased workload. Contracts were used for several reasons:

- Both the Administration and the Congress have preferred to reduce or at least not expand the size of federal employment wherever possible over the last several years;
- Contracting gives the Corporation greater flexibility in meeting changing workloads; and
- Costs associated with particular projects can be better tracked under a contractual arrangement.

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PBGC received an additional 117 positions during 1992 and 1993. But contract spending also rose from $11 million in 1988 (30% of PBGC's budget) to $79 million by 1993 (60% of PBGC's budget) in order to address the surge of trusteed plans and participants. Because of this contract growth, the Corporation conducted an internal review in 1994 on its use of federal employees and contractors, finding that in specific instances we could justify federal employment as being more economical than contractor slots. We requested 58 additional positions and received approval from the Congress in 1996.[1] Since that time, we have opted to contract out most additional workload taken on by the Corporation for the above stated reasons. The Corporation, however, has also reduced the number of contract personnel whenever feasible:

- When the PBGC set up a special effort to complete the benefit processing of older plans largely from the 1980's, it hired an additional 32 contract staff. When the processing was completed, the project team was dissolved.

- During the late 1980's and early 1990's, PBGC was engaged in several large-scale litigation issues as it attempted to contain its growing deficit. As a result, outside legal counsel was needed. In 1993, about $5 million was spent for outside legal expertise. In contrast, less than $1 million in contracting was spent in 1999 due to changing workload.

- Since 1994, the PBGC has closed seven field benefit administration (FBA) contract offices and opened one new office based on workload and cost savings considerations.

- As PBGC has become more reliant on technology, the information technology contract staff have risen from 83 in 1995 to 133 in 1999. Likewise, the field benefit administration (FBA) contractor staff have gone from 131 to 240 in that time period in order to handle the influx of new trusteed plans. On the other hand, the contract staffing number dropped from 79 to 40 in PBGC's financial area with the completion of development work on new financial systems, and from 346 to 227 for the headquarters insurance operations staff because of completion of special projects and a greater emphasis on field processing of benefits.

In summary, the Corporation has planned for and made rational decisions to reallocate flexible contract staffing needs to meet its changing priorities. We agree with the GAO, however, that it is now appropriate to conduct another strategic workforce planning study.

[1] PBGC had to take a 14 position reduction the same year due to the Government Workplace Restructuring Act.

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Second Recommendation

GAO recommends that the PBGC "address weaknesses in PBGC's procurement process to ensure that contract award decisions best serve the needs of the government and plan participants, while fostering competition. This would include conducting market research as appropriate to determine whether other potential offerors exist and seeking opportunities for increasing competition for PBGC contracts that are now awarded on a sole-source basis."

Response

We agree to expand PBGC's market research efforts and will continue to foster competition with respect to PBGC procurements. For example, we plan to separately compete 10 field benefit administration (FBA) offices next year. We are also reviewing a copy of the GAO's Contract Management: Few Competing Proposals for Large DOD Information Technology Orders to determine if we can implement its suggestions for PBGC's smaller contracts.

Background

In 1999, over 80 percent of the contract dollars awarded by PBGC was through full competition. Only 14 percent were awarded non-competitively.

The first sole source, FBA contractor office was set up in 1978. All of the subsequent FBA offices established in the 1980's and early 1990's were also sole source. Recognizing that PBGC would be increasing its field benefit processing workload, we planned for the first round of competitive bidding in 1997 with the 4 largest FBAs. In 1998, we again competed the Atlanta FBA (receiving 4 proposals). Over this next year, we intend to separately compete all of the remaining 10 FBA contracts in accordance with PBGC's advance procurement planning.

With regard to the smaller FBA offices that were extended on a sole source basis in 1997, the PBGC did publish a notice in the Commerce Business Daily soliciting additional interested contractors. We did not receive any responses. At the time, PBGC was looking at the competition for FBA offices as a two-step process: immediately compete PBGC's largest FBAs and then compete the remaining smaller FBAs, assuming they received additional plans. That strategy is still the one we are following.

1999 Policy "Change": The report references a policy "change" in fiscal year 1999 as an example of a decision that could unnecessarily perpetuate some field offices by allowing the "contract field offices to perform 'ongoing administration' for all of their closed plans regardless of plan size."

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PBGC did modify its contract language concerning the transfer of plans to ongoing FBAs in fiscal year 1999. This was an effort to clarify PBGC's existing policy, and no change in policy or practice was intended. Since 1993, it has been PBGC policy to transfer plans from the processing FBA site to an ongoing FBA office after the completion of plan closing in all but very limited circumstances. That policy and practice remains unchanged.

In fiscal years 1999 and 2000, 451 plans were transferred to the Ongoing Administrators. Only seven plans were allowed to be kept by the FBA office which had processed the plan. For example, PBGC determined based on size, complexity and customer service that one of the plans in the Eastern Airlines family of plans (seven plans with a total of nearly 50,000 participants) should remain with the Miami FBA.

1997 Procurement: The GAO report also raises a concern about a 1997 procurement for four field benefit administration contractor offices, specifically the consolidated procurement for three of these offices. The 1997 procurement was conducted in accordance with the Federal Acquisition Regulation (FAR) requirement to obtain "full and open competition." A competitive evaluation was done by a panel of PBGC technical experts along with a cost evaluation by the procurement staff and outside auditors. Sixty percent of the evaluation was based on technical quality and 40 percent on cost. Detailed documentation is contained in the contract file to support the award decision. The FAR states that when "adequate price competition exists" the price can be assumed to be reasonable. "Adequate price competition" is defined by the FAR as:

> "Two or more responsible offerors, competing independently, submit priced offers that satisfy the government's requirements and award will be made to the offeror whose proposal represents the best value where price is a substantial factor in source selection."

In this case, price was a substantial factor in the selection. Five offers were received. The winning offer received the most points for the best price and was tied with another competitor for the best technical proposal. Therefore, it was the best value to the government. We disagree that there was any substantial risk of paying too much or receiving inferior performance based on the way the competitive procedures were followed in this case.

Third Recommendation

GAO recommends that the PBGC, "where appropriate, utilize more fixed-price contracts and other non-labor-hour payment arrangements consistent with best practices in performance based contracting."

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Response

We agree. We will use fixed-price and other non-labor-hour payment arrangements as well as performance based contracts whenever appropriate.

Background

Your report recommends that stronger consideration should have been given to using fixed-price rather than labor-hour contracts for the 1997 premium compliance audit awards. Consistent with the FAR, we use sound judgment when selecting contract types and considering fixed price contracting where a reasonable basis for them exists. Section 16.202-2 of the FAR, however, describes fixed price contracting to be appropriate where there is "reasonably definite functional or detailed specifications."

We discussed in depth at the time whether these particular contracts should be labor-hour or fixed-price. PBGC's decision not to go with fixed-price was based on the following considerations: (1) the range of complexity in pension plans to be audited; (2) the differences in plan size (i.e., the number of plan participants) and multiple plan office locations; and (3) the risk that plan sponsors might not fully cooperate with the audit or provide inadequate records or reconciliations, requiring additional auditing work. A contracting judgment was made to award these contracts to 8(a), independent certified public accounting firms on a labor-hour basis.

The previous purchase orders used to obtain these auditing services were labor-hour, not fixed-price. The best practices guide referenced in the GAO report encourages increased use of fixed-price contracting specifically for "Performance-Based Service Contracting", which is a particular method of contracting that allows a contractor to be paid if they perform within an acceptable range of measurable performance standards. This type of contracting was not the one used for the auditing services.

Payments to Contractor: The report questions payments made to one premium audit contractor. It is important to note that the sum cited was not paid, as the report implies, solely to "complete three audits." Rather, the contractor was assigned 37 additional audits. Under the terms of PBGC's agreement with the contractor, we legitimately paid for that work which was done on all audits–not only those completed at the end of the term. Nonetheless, we observed that other contractors in the program were better able to meet PBGC's requirements. We made a business decision to not renew the contract and to transfer the work in progress to another contractor in the program. Thus, the high dollar per audit figure cited in the report is misleading in that other work was performed.

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Fourth Recommendation

GAO recommends that the PBGC "strengthen policies and procedures for evaluating proposals by ensuring that review panels adequately document their contract award recommendations in accordance with PBGC's internal guidelines."

Response

We have met this recommendation with PBGC's September 1999 requirement to retain individual scores from technical panel members in the contract files. We will also ensure that other needed documentation continues to be retained in those files.

Background

GAO reviewed two old contracts for documentation: a 1993 information technology contract for systems engineering and a 1996 investment management contract. The GAO finding that individual, technical panel scoring sheets were required to be in the contract files according to internal PBGC policy is incorrect for the time periods during which these two contracts were awarded. The internal guidance requiring individual scoring sheets was not put into place until September 1999, several years after the procurements in question. While individual scoring sheets were used prior to this guidance, only the summary scoring sheets were required in the files.

The existing record for the investment management award is made up of more than just final summary scores. The contract file contains both the initial and final scores for each panel member and the consensus scores agreed upon by the technical panel. It also contains about 45 pages of narrative outlining the strengths and weaknesses of each offeror and documenting the consensus scores given by the panel. Two awards were made to the offerors with the highest total scores. Individual rater scores did not markedly deviate from final consensus scores.

For the 1993 systems engineering contract examined by GAO, the task orders that were issued under the contract contained statements of work with detail on what to do, when and at what cost. While the GAO report is correct that the contract had a generic paragraph calling for work plans, there actually was no need to require work plans in this instance since they would have been redundant of the statements of work. With the advantage of hindsight, the generic paragraph should have been deleted from this particular contract.

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Fifth Recommendation

GAO recommends that the PBGC "strengthen PBGC's contract oversight role by developing the capacity to centrally compile and monitor essential field office performance data. Such a system should provide longitudinal data necessary to quickly measure and compare field office performance in regard to outputs, product quality, backlogs, and timeliness."

Response

While FBA performance data is currently used by the PBGC, development of additional FBA performance information will continue per the GAO recommendation.

Background

PBGC compiles and centrally monitors FBA performance data that is essential to overseeing the performance of the FBAs. For example, PBGC senior managers receive daily reports on customer service performance metrics for each FBA. PBGC also actively manages the document scanning activities in the field offices using centrally compiled and monitored data. In addition, using the automated data systems that have been brought on line over the past several years, PBGC is now compiling data that will allow senior management to analyze FBA performance in several additional areas GAO identified. The existing monthly status reports are being further standardized so that they will be more useful in providing FBA comparative data.

You report also notes that, "In recent years, PBGC has taken actions to improve its contract oversight role and better support contractors performing field benefit administration services for the Corporation." Here too, PBGC has had to overcome significant challenges. As your report states, "PBGC could not provide data on the total number of contract employees performing services for the Corporation or a description of how they were deployed across various PBGC components prior to fiscal year 1995."

The report now confirms that PBGC currently "uses various tools to monitor contractor performance. For example all of the FBA offices ... received a performance review in the last year by PBGC. As required by their contract's statement of work, each office also used PBGC work plans to guide their daily activities and submitted monthly status reports to PBGC to document progress made. Field office managers also reported regular communication with their assigned Contracting Officer's Technical Representative (COTR) at PBGC."

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Sixth Recommendation

GAO recommends that the PBGC "address weaknesses in PBGC's field office performance review process to better ensure that benefit administration services contractors meet quality and accuracy requirements."

Response

Changes are being made to the FBA office performance review process to ensure trained and experienced staff are assigned to the reviews. The field office review function will be moved to the staff responsible for ensuring compliance with program procedures.

Background

PBGC is confident that participants are receiving accurate benefit determinations and payments. We agree that efforts to provide more timely benefit determinations should not compromise their accuracy. We are taking action to address concerns about FBA performance reviews identified during PBGC's own study, a copy of which was provided to the GAO. We are revising PBGC's procedures to require that field office reviews be led by experienced staff. In addition, while GAO notes that PBGC provides for reviewer training, we agree that some team members in the past have not been fully trained. We are revising PBGC's procedures to make such training mandatory. Finally, in response to GAO's concern, we will shift the field office review function to the staff responsible for ensuring compliance with the program procedures and internal controls.

Seventh Recommendation

GAO recommends that the PBGC "develop a comprehensive set of procedural guidance for staff responsible for awarding contracts and monitoring contractor performance."

Response

We believe the training guidance, personal contacts with procurement specialists and periodic written updates for COTRs is the best approach for a good procurement program in a small organization. We agree, however, that providing procurement program guidance in a central location on the PBGC intranet or in hard copy is needed. As part of that consolidation effort, we will also identify any gaps in procedural guidance and develop the needed policies.

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Background

With regard to additional written guidance for the Corporation's COTRs, we have contacted a number of agency procurement offices and none have comprehensive standard operating procedures for COTRs. All rely on training the COTRs and providing them with access to procurement professionals for specific advice when needed. The PBGC procurement staff often interact with the COTRs, spending a significant amount of time on contract administration.

Two training manuals (240 pages long) are given to all COTRs outlining the basic principles and methods to be applied in contract administration. Significant increases in training have occurred in the last year and a formal COTR certification program is in development. A records disposition policy has been drafted to help answer staff questions about pension files after plans are closed. Finally, we implemented earlier this year an automated, COTR monthly status report and are now receiving all of the required reports. We agree with GAO that it would be beneficial to consolidate the most up-to-date guidance in one easily accessible venue. As part of that effort, we will also look to identify any gaps in guidance that need to be addressed.

Eighth Recommendation

GAO recommends that the PBGC "revise the current organizational placement and reporting relationship of the Contracts and Controls Review Department to promote objectivity and independence."

Response

The organizational placement of CCRD will be addressed as part of the workforce planning study.

Background

The Corporation did not have an in-house, dedicated contract audit capability for most of its history. In 1994, PBGC created the Contracts and Controls Review Department (CCRD) to handle this function, and over the years has saved more than $12 million as a result. CCRD reports to the Chief Financial Officer (CFO) as a means of separating the function from the Chief Management Officer, who has oversight for procurement. Contract audits are performed at the request of the procurement staff. The CFO does not usually review those reports. In a small agency, placement of the contract audit function in a different area would not necessarily improve its independence. In addition, PBGC has an Office of Inspector General that audits contracts.

PBGC transferred premium compliance audit oversight to CCRD in FY 2000. One of PBGC's objectives with this change was to improve internal controls by separating the audit

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function from the premium determination function. In addition, it provided us an opportunity to reexamine the program for improving customer service. While this transition is still in process, we would note that monthly COTR status reports are being regularly filed. In addition, any new audit assignments will require signed reports to be issued.

CONCLUSION

We appreciate the opportunity to comment on the draft report and look forward to working on these recommendations to further strengthen PBGC's contract management.

Sincerely,

David M. Strauss
Executive Director

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Staff Acknowledgments

In addition to those named above, Barry Bedrick, Jeff Bernstein, Deborah Moberly, Elizabeth O'Toole, Sylvia Shanks, and Craig Winslow made key contributions to this report.

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