OFFICE OF INSPECTOR GENERAL

AUDIT REPORT

PBGC Needs to Improve Incentive Contracting Practices

Report No. AUD-2020-11

September 23, 2020

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PBGC Office of Inspector General

BRIEF SHEET

PBGC Needs to Improve Incentive Contracting Practices

Background

PBGC Contracting Activity. In FY 2019, PBGC awarded approximately $340 million in contracts for goods and services. PBGC's Procurement Department (PD) is responsible for the acquisition of all goods and services.

Incentive Contracts. Incentive contracts are appropriate when a firm-fixed-price contract is not, and the required items can be acquired at lower costs and possibly with improved delivery or technical performance by tying fee or profit to the contractor's performance. In January 2015, PBGC issued a performance-based Cost-Plus-Award-Fee (CPAF) task order under contract PBGC01-D-15-0001 for a broad range of Information Technology infrastructure operations and maintenance services covering the period of February 1, 2015 through July 31, 2018. For the services performed under this task order PBGC paid around $69 million.

PBGC Federal Acquisition Regulations (FAR) Supplement. The PBGC FAR Supplement establishes PBGC's acquisition procedures, which implement the FAR, PBGC directives, and statutory laws and regulations.

Key Questions

Objective. To determine if the costs claimed for the subject contract from February 1, 2015 through July 31, 2018 were allowable, allocable, and reasonable in accordance with the terms of the contract, applicable cost principles, and laws and regulations.

Audit Results

Overall Conclusion. We found the PD administered the CPAF contract in a manner inconsistent with the FAR by not designing performance metrics for two key factors required for an aggregate measure of performance. Based on the absence of support for the cost and schedule elements, we have classified the $5.1 million for award fees paid under the contract as unsupported. Further, PD allowed the contractor, in violation of the contract terms, to misclassify labor as "other direct cost," and did not take corrective action on a key person provided by the contractor who did not meet the minimal educational qualifications identified in the contractor's proposal. Last, PD lacked internal controls over contract file maintenance, as it did not follow the existing file room check-in/out procedure. As a result, PBGC's position in contract administration was weakened.

Corrective Actions

Our recommendations. We made seven recommendations that included the Office of Management and Administration reviewing and updating existing agency guidance on incentive contracting practices, evaluating the CPAF contract requirements, and determining if any requirements should be converted to a firm-fixed-priced task orders.

Management agreement. Management agreed with the recommendations and agreed to take corrective action as identified in the report.

Office of Inspector General

September 23, 2020

MEMORANDUM

TO: Alice Maroni
Chief Management Officer

FROM: Nicholas J. Novak Nicholas J. Novak
Acting Inspector General

SUBJECT: Issuance of Final Evaluation Report, PBGC Needs to Improve Incentive Contracting Practices (Report No. AUD-2020-11)

We are pleased to provide you with the above-referenced final report. We appreciate the cooperation you and your staff extended to OIG during this project. We thank you for your receptiveness to our recommendations and your commitment to reducing risk and improving the effectiveness and efficiency of PBGC programs and operations.

This report contains public information and will be posted in its entirety on our website and provided to the Board and Congress in accordance with the Inspector General Act.

cc: Frank Pace, Director, Corporate Controls and Reviews Department
Latreece Wade, Risk Management Officer
Juliet Felent, Director, Procurement Department
Paul Chalmers, Acting General Counsel, Office of General Counsel
Department of Labor Board staff
Department of Treasury Board staff
Department of Commerce Board staff
House committee staff (Education and Workforce, Ways and Means, HOGR)
Senate committee staff (HELP, Finance, HSGAC)

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Background

The Pension Benefit Guaranty Corporation (PBGC) guarantees the retirement benefits of over 35 million workers and retirees through insurance coverage with single employer and multiemployer plan sponsors. The Corporation is directly responsible for the pension benefits of about 1.5 million current and future retirees in trusteed pension plans and pays over $6 billion a year in benefits. PBGC receives no taxpayer funds. Because of its vital mission and operating model, one of the three strategic goals articulated in PBGC's Strategic Plan is to "maintain high standards of stewardship and accountability."

The Corporation follows the procedures established in the Federal Acquisition Regulations (FAR) for awarding and administering its contracts. The PBGC FAR Supplement establishes PBGC's acquisition procedures, which implements the FAR, PBGC directives, and statutory laws and regulations. It provides controls for the acquisition of supplies and services and operational direction for staff responsible for contracting functions, including supplemental instruction and reference material. Contracting officers (CO) must consult all the above sources to ascertain the total acquisition policy in any area.

Procurement Department

The Procurement Department (PD), a department within PBGC's Office of Management and Administration (OMA), is responsible for the acquisition of all goods and services used by PBGC to accomplish its mission. In FY 2019, PBGC awarded approximately $340 million in contracts for goods and services.

Contract Types

According to FAR 16.101, a wide selection of contract types is available to the government and contractors to allow flexibility in acquiring a variety of products and services. Contract types vary according to:

(1) The degree and timing of the contractor's responsibility for the costs of performance; and
(2) By the amount and nature of the profit incentive offered to the contractor for meeting or exceeding specified standards or goals.

Selecting the appropriate contract type for a given effort is primarily a function of allocating a reasonable degree of risk to both parties (government and contractor). There are two broad categories of contract types: fixed-price and cost-reimbursement. A fixed-price type contract places upon the contractor maximum risk and responsibility for all costs and resulting profit or loss. Cost-reimbursement types of contracts require the contractor to put forth a best effort to perform, and provide for payment of the contractor's allowable, allocable, and reasonable incurred costs. The main differences between the two contract types are summarized in Figure 1. As seen in the figure, risk and administrative burden with cost-reimbursement contracts lie with the government.

Figure 1. Differences Between Cost-Reimbursement and Fixed-Priced Contracts

	Cost-Reimbursement Contracts	*Fixed-Priced Contracts*
Promise	Best Efforts	Shall Deliver
Risk to Contractors	Low	High
Risk to Government	High	Low
Administration	Maximum Government	Minimum Government
Fee/Profit	Fee	Profit

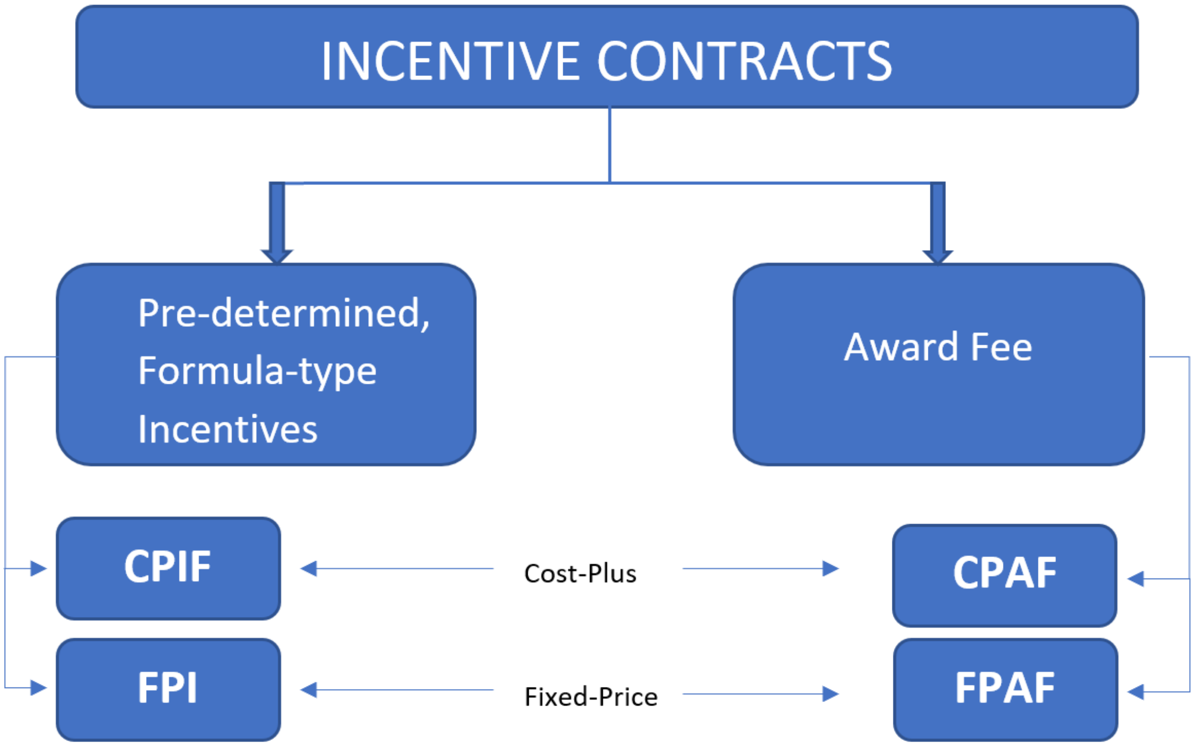
Source: OIG adapted from the *Defense Acquisition University's Comparison of Major Contract Types Supplement*

Further within these categories, there are incentive-based contract types. In the incentive contracts, the subject of our further discussion, the contractor's responsibility for costs and the profit or fee incentives offered are tailored to performance uncertainties.

Incentive Contracts

FAR 16.401 notes that incentive contracts are appropriate when a firm-fixed-price contract is not, and the required items can be acquired at lower costs and possibly with improved delivery or technical performance by tying fee or profit to the contractor's performance. Further, incentive contracts may be categorized as predetermined formula-type and award-fee. **(Figure 2.)** In both cases, the amount of profit or fee is directly related to the contractor's performance under the terms and conditions of the contract.

Figure 2. Incentive Contract Types



Legend
FPI – Fixed-Price Incentive (firm/successive targets)
CPIF – Cost-Plus-Incentive-Fee
FPAF – Fixed-Price Award-Fee
CPAF – Cost-Plus-Award-Fee

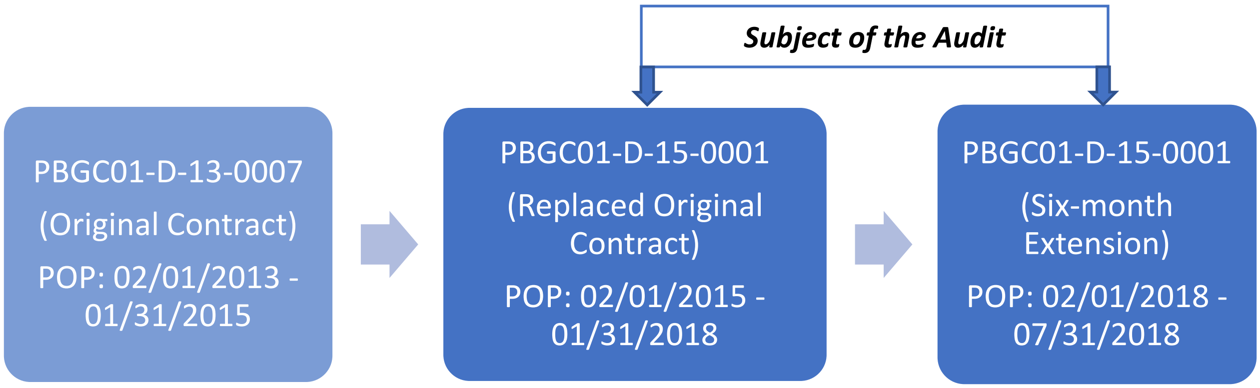
Source: OIG Synopsis of FAR

Contract PBGC01-D-15-0001(PBGC01-D-13-0007)

On January 30, 2015, PBGC issued a new contract, PBGC01-D-15-0001 (Task Order PBGC01-DO-15-9004), to Science Applications International Corporation (SAIC) for a broad range of Information Technology (IT) infrastructure operations and maintenance services. The new contract replaced the original Indefinite Delivery/Indefinite Quantity contract, PBGC01-D-13-0007 (Task Order PBGC01-DO-13-9009), with SAIC covering February 1, 2013 through January 31, 2015 for administrative reasons.

The period of performance (POP) under the new contract number included a six-month extension to the original contract's POP and resulted in an extension of the replacement from February 1, 2015 through July 31, 2018. For the services performed under this task order PBGC paid around $69 million. The contract is a performance-based Cost-Plus-Award-Fee (CPAF) task order. **(Figure 3.)**

Figure 3. Timeline of Contract Progression



Source: OIG Analysis

Objective

Our objective was to determine if the costs claimed for contract PBGC01-D-15-0001 from February 1, 2015 through July 31, 2018 were allowable, allocable, and reasonable in accordance with the terms of the contract, applicable cost principles, and laws and regulations.

Audit Results

Summary

We found PD administered the CPAF contract in a manner inconsistent with the FAR by not designing performance metrics for two key factors required for an aggregate measure of performance. PD similarly awarded the contractor the award fee after considering only one of three factors (cost, schedule, and performance) required by the FAR – a situation where the FAR expressly prohibits paying any amount of the award fee. Further, PD allowed the contractor to, in violation of the contract terms, misclassify labor as Other Direct Cost (ODC) and failed to take corrective action when a key person provided by the contractor did not meet the minimal educational qualifications identified in the contract proposal (a part of the final contract). Last, PD lacked internal controls over contract file maintenance; specifically, it did not follow the existing file room check-in/out procedure. As a result, PBGC's position in contract administration was weakened. For the monetary impact of the findings refer to Appendix IV.

Finding 1: PBGC's CPAF Award-Fee Plan was Not Compliant with the FAR

On December 4, 2007, the Office of Management and Budget (OMB) issued a memorandum, *Appropriate Use of Incentive Contracts,* for chief acquisition officers and senior procurement executives to review and update their acquisition policies on the appropriate use of incentive contracts. According to the memorandum using incentives appropriately and applying strong project and acquisition management practices are vital to accomplishing mission needs, minimizing waste, and maximizing value. As part of acquisition planning, when determining whether to use incentive fee contracts, the contracting officer should conduct risk and cost benefit analyses.

Further, the memorandum states that contract type is generally determined based on a consideration of risk to the government and the contractor. In addition to risk, cost benefit analyses related to use of incentive contracts should consider the amount of planning required to implement an incentive type contract and the amount of additional resources required for monitoring and determining awards.

PBGC Contract Type Selection

The Corporation selected a cost-plus-award-fee contract to perform a broad range of IT infrastructure operations and maintenance services. FAR 16.401(d) requires a determination that use of an incentive and award-fee contract is in the best interest of the Government and addresses all of the suitability items in FAR 16.401(e)(1), commonly referred to as a *Determination and Findings (D&F)*. An award-fee contract is suitable for use when:

(i) The work to be performed is such that it is neither feasible nor effective to devise predetermined objective incentive targets applicable to cost, schedule, and technical performance;

(ii) The likelihood of meeting acquisition objectives will be enhanced by using a contract that effectively motivates the contractor toward exceptional performance and provides the Government with the flexibility to evaluate both actual performance and the conditions under which it was achieved; and

(iii) Any additional administrative effort and cost required to monitor and evaluate performance are justified by the expected benefits as documented by a risk and cost benefit analysis to be included in the Determination and Findings referenced in 16.401(e)(5)(iii).

Also, FAR 16.405-2, *Cost-plus-award-fee contracts*, specifies that this contract type provides for a fee consisting of a base amount fixed at inception of the contract and an award amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in the areas of cost, schedule, and technical performance.

In its D&F for the CPAF contract type, PBGC addressed the above FAR requirement as summarized below:

(i) It would not be feasible to devise predetermined objective incentive targets for a portion of the work to be performed, *specifically concerning schedule and cost.* **(Emphasis added.)** Further, although a portion of the work to be performed will occur according to a set and known schedule, a portion will not.

(ii) The likelihood of achieving the acquisition objectives of reducing the cost and complexity of PBGC IT infrastructure will be enhanced through the use of an award-fee vehicle, due to the innovative nature of a portion of the work to be performed.

(iii) Given there will be some administrative cost and effort to monitor and evaluate performance under either a fixed price or award-fee contract vehicle, and given further that monitoring and evaluation would be based on the same set of technical performance targets in either case, it is determined that any additional administrative cost and effort due to the use of the award-fee vehicle is justified by the expected benefits.

In determining whether a CPAF contract was suitable, PBGC noted that only a portion of the work would be performed according to a set and known schedule. It failed to explain why a CPAF contract would be appropriate for the remaining work. Further, PBGC did not explain how the “innovative nature of a portion of the work to be performed” enhances the CPAF contract’s likelihood of meeting acquisition objectives of reducing the cost and complexity of the PBGC IT infrastructure. Moreover, PBGC did not analyze in its justification, as required by FAR 16.401(e)(1)(iii), how the benefits of additional administrative effort and cost of monitoring and evaluation under a CPAF contract would outweigh the increased risk of cost overruns.

The “Contract Work Breakdown Structure” for the subject contract has nine activities. Only two (Modernization & Enhancement and Transformation) can reasonably be characterized as “innovative in nature.” The remaining activities are for routine services (e.g., end user services, data center operations, voice/video/data network infrastructure, etc.), and occur according to a set and known schedule. As such, for those remaining activities it could have been feasible to devise predetermined objective incentive targets applicable to cost, schedule, and technical performance.

PBGC FAR Non-Compliance

According to FAR 16.401(e)(2):

> The amount of award-fee earned shall be commensurate with the contractor’s overall cost, schedule, and technical performance as measured against contract requirements in accordance with the criteria stated in the award-fee plan. The basis for all award-fee determinations shall be documented in the contract file to include, at a minimum, a determination that overall cost, schedule, and technical performance in the aggregate is or is not at a satisfactory level.

Furthermore, FAR 16.401(e)(3)(v) states that award-fee plans shall, “Prohibit earning any award fee when a contractor’s overall cost, schedule, and technical performance in the aggregate is below satisfactory.” A CPAF contract requires including cost, schedule and technical performance in the aggregate measure of a contractor’s performance when determining the award fee amount. Because PBGC did not measure two of the three areas (cost and schedule) required by FAR 16.401(e)(2) for the aggregate performance assessment, the overall result cannot be considered satisfactory and no award fee can be disbursed in accordance with FAR 16.401(e)(3)(v).

Our review of the award-fee memorandums did not disclose any discussion of cost or schedule. In failing to consider cost and schedule when determining the appropriate contract vehicle and in failing to consider cost as part of an aggregate assessment of performance in determining the award fee paid to the contractor, PBGC did not comply with FAR 16.401.

When asked about the missing performance metrics related to cost and schedule, the PBGC information technology staff referenced cost savings and monitoring in general terms. They did not identify any specific metrics for cost and schedule in the contract. In our discussions with the Office of Information Technology (OIT) management, they reported they were very satisfied with the performance of the contractor but acknowledged that the award fee documentation was missing for two key elements.

PBGC did not include all required elements in determining the award fees, which amounted to approximately $5.1 million over the life of the contract subject to this audit. Based on the absence of support for the cost and schedule elements, we have classified the award fees paid under the contract as unsupported. **(*See* Appendix IV.)**

Continued Use of CPAF on Current Contract

At the conclusion of the contract discussed, PBGC did not have a new contract in place for the required work; this resulted in awarding a follow-on bridge 17-month contract (No. 16PBGC18C0015) to the same contractor to ensure continuity. The bridge contract, also a CPAF, with an estimated value of $32 million, was for the same work as the prior contract. Following the bridge, in December 2019, PBGC awarded another CPAF contract to SAIC (No.16PBGC20D0002), valued at an estimated $106 million, with approximately $93 million of estimated direct labor costs subject to up to a 9% award fee.

Recommendations

We recommend that the Office of Management and Administration:

1. Review and update existing agency guidance on incentive contracting practices to ensure that the use of award fee contracts are planned and awarded in accordance with current regulations, and that the guidance addresses the concerns of the OMB memorandum of December 2007.

   PBGC's Response and OIG's Evaluation

   Resolved. PBGC concurred with the recommendation. OMA stated that PD would review the PBGC FAR Supplement and other agency guidance and update as appropriate to ensure that it complies with current regulations and the December 2007 OMB memorandum. Also, PD acknowledged the audit conclusion that the $5.1 million award fee payment is unsupported with metrics related to cost. PD and ITIOD will review the award fee plan and determine appropriate next steps. OMA's goal is to complete the planned actions by March 31, 2021.

Closure of this recommendation will occur when PBGC provides evidence of the completed review and updates of the agency guidance.

2. For the ongoing contract #16PBGC20D0002, jointly with the Office of Information Technology, evaluate CPAF contract requirements and determine if any should be converted to firm-fixed-priced task orders.

   PBGC's Response and OIG's Evaluation

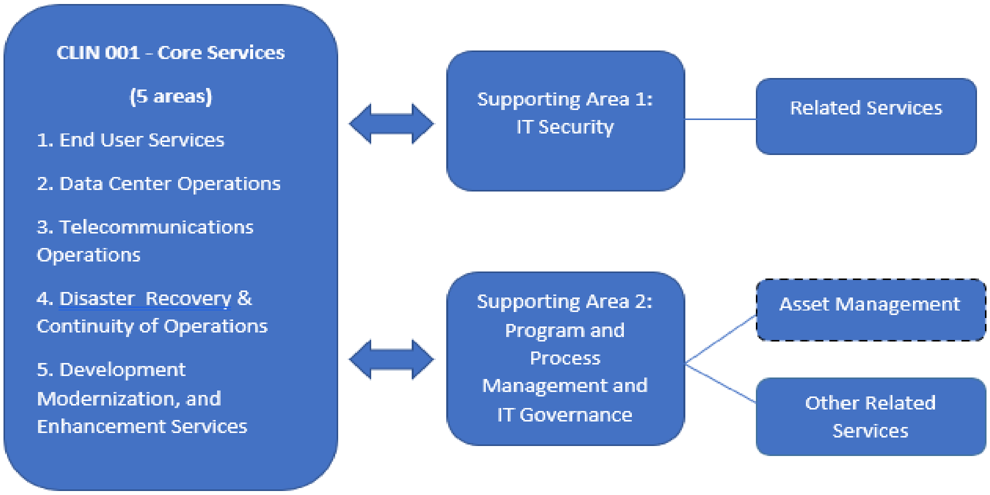
   Resolved. PBGC concurred with the recommendation. OMA stated that PD and OIT would conduct a review of contract requirements and determine if it would be feasible to convert any to a fixed-price contract type. OMA's goal is to complete the planned actions by March 31, 2021.

   Closure of this recommendation will occur when PBGC provides its determination on feasibility of the conversion to a fixed-price contract type supported by documented review and analysis of requirements for the ongoing contract #16PBGC20D0002.

Finding 2: Direct Labor was Misclassified as "Other Direct Costs"

Section B of the SAIC contract states that the contractor shall perform the services in accordance with the Performance Work Statement (PWS) under Contract Line Item Number (CLIN) 001 for the periods in the contract. Under the PWS's scope, the contractor will provide support in the five core services areas, sustained by two supporting services. The supporting service areas include (1) IT Security and (2) Program and Process Management and IT Governance Support. Asset Management Services are a part of the second supporting service area. **(Figure 4.)** The requirements for the Asset Management Services entail the contractor maintaining property records and conducting physical inventories on an annual basis to verify asset location and accountability.

Figure 4. Asset Management Services in Support of Core Services (CLIN 001)



Source: OIG Summary of Task Order 001 Performance Work Statement

Further, the contract clause for Other Direct Costs (ODC) states: "The Contractor shall be reimbursed for the actual cost of other direct costs determined to be allowable in accordance with Part 31 of the Federal Acquisition Regulation (FAR) and authorized by the Contracting Officer or his designee prior to the contractor incurring the charge."

According to the contract, these costs may include but are not limited to travel and travel related expenses, hardware and software unique to and required in performance of task order projects, and necessary supplies in support of the issued task order projects. The contract requires billing ODC under CLIN 002.

We reviewed ODCs in the contract and found that PBGC paid the contractor for annual inventory cost billed to ODC CLIN 002, instead of Direct Labor CLIN 001. Figure 5 shows the inventory cost breakdown billed as ODC.

Figure 5. SAIC Billings to CLIN 002, Other Direct Costs

Year/Option Year (OY)	Amount
2016/OY3	$ 179 K
2017/OY4	$ 114 K
2018/OY4 (Extension)	$ 39 K
Total OY3-OY4	**$ 332 K**

Source: OIG Analysis

Our review of the contract's ODCs and conversations with PBGC officials revealed that historically the physical annual inventory services (except for option year 2 when PBGC procured inventory services valued at around $100K separately) were charged to the ODC CLIN. However, the annual inventory fell under the direct services (CLIN 001) that should have been assigned direct labor/project codes rather than being allocated to ODCs. No contracting official questioned this billing arrangement because funds under CLIN 002 were available.

We determined that the contractor charged direct labor for physical annual inventory services as ODC, and that PBGC did not correct this cost misclassification. Moreover, we found PBGC issued three modifications for the OY3 through OY4 to increase ODC costs from their already established ceiling of $250K. For OY3, the increase was $52K, raising the ceiling amount to $302K and for OY4, the modification increase of $100K raised the ceiling to $350K. Figure 5 shows the amounts paid for the inventory services. Also, the inventory services in the amount of $39K were part of the ODC charges in the OY4 extension of the contract. PBGC could have avoided the cost increase in CLIN 002 if they had followed the contract in billing the correct CLIN.

Recommendations

We recommend that the Office of Management and Administration:

3. Ensure that PBGC's annual inventory is charged to the correct CLIN, as required by the contract.

   PBGC's Response and OIG's Evaluation

   Resolved. PBGC concurred with the recommendation. OMA stated that PD and the OIT COR would complete a follow-up review to ensure that any contractor services related to the annual inventory are charged to the correct CLIN. OMA is scheduled to complete these actions by December 31, 2020.

   Closure of this recommendation will occur when PBGC provides the completed review of contractor services related to the annual inventory showing its conclusion on the appropriateness of the used CLIN.

4. Provide refresher training for COs and CORs to ensure correct billing by CLIN.

PBGC's Response and OIG's Evaluation

Resolved. PBGC concurred with the recommendation. OMA stated that PD would provide refresher training related to invoice/voucher review, including correct billing by CLIN, by June 30, 2021.

Closure of this recommendation will occur when PBGC provides proof of the completed training by the scheduled date.

Finding 3: PBGC Did Not Exercise Due Care in Vetting Key Person

The SAIC contract, Section I, states:

> The Contractor shall, in meeting the requirements of this contract, perform in accordance with their technical and cost proposal to the PBGC. That proposal is incorporated in this contract by reference. However, to the extent that anything in the proposal is in conflict or is inconsistent with the contract, the clauses of this contract shall be controlling and shall supersede anything in the proposal.

Further, the SAIC proposal dated August 23, 2012 states: "SAIC's price utilized the labor categories as well as additional labor categories identified by SAIC. For each labor category SAIC has identified an appropriate labor description, experience and *education requirement*[.] ... SAIC's labor category mapping and skills matrix for key and non-key labor categories is included as Appendix A." **(Emphasis added.)**

During our direct labor testing we identified one key person (Business Process Modernization Lead) who did not have the required education level (based on his resume) required by the contract.[1] PBGC identified this position as essential based on the contract, Section H.1, PBGC-37-001, Key Personnel. As the provisions of the proposal are considered to be a part of the contract, we confirmed that the SAIC proposal listed a bachelor's degree as an educational requirement for this position.

We found that during the pre-award phase PBGC failed to identify that a key person in the company's proposal did not meet educational requirements outlined in the proposal. Neither PD nor the program office were able to locate a soft copy of the Technical Evaluation Proposal (TEP) report. Instead, PD staff provided the award decision memorandum (written by the CO) that included a summary of the TEP report findings.

[1] In the contract, PBGC identified 15 positions as "key personnel," 14 of whom we did not test for qualifications.

The memorandum did not have specific discussions related to the identified key person. PBGC officials relied on SAIC to provide qualified personnel, but neither verified all key personnel met the contractor's proposal requirements nor secured support showing a waiver of the educational requirement. Thus, the Corporation compensated SAIC based on a level of academic achievement not possessed by the key person.

When less-qualified personnel are assigned to tasks requiring higher qualifications, contract performance risk may increase. Moreover, due to the lack of the required bachelor's degree, PBGC overpaid for one key person's labor during the period of April 2015 through December 2016. As a result, we question $175,839, the difference in pay for personnel with a bachelor's degree versus some college based on the Department of Labor statistics. **(*See* Appendix IV and V.)**

Recommendations

We recommend the Office of Management Administration:

5. Verify all key personnel meet the contractor's proposal requirements and secure waivers if exceptions are granted.

   PBGC's Response and OIG's Evaluation

   Resolved. PBGC concurred with the recommendation. OMA stated that during annual COR file reviews, PD would verify that CORs ensure key personnel meet the contractor's proposal requirements or that waivers are properly documented. OMA scheduled to complete the planned actions by December 31, 2021.

   Closure of this recommendation will occur when PBGC provides evidence of the PD verifications of CORs addressing the contractor's proposal requirements for key personnel and documenting waivers when applicable.

6. Take required actions for the Direct Labor questioned costs of $175,839 on Contract PBGC01-D-15-9001.

   PBGC's Response and OIG's Evaluation

   Resolved. PBGC concurred with the recommendation. OMA stated that PD would document the CO's determination and seek reimbursement, if appropriate, after analyzing the questioned costs. This action is scheduled for completion by March 31, 2021.

Closure of this recommendation will occur when PBGC provides CO's determination supported by analysis of the questioned costs.

Finding 4: Contract File Retention Practices Need Improvement

FAR 4.8, *Government Contract Files*, requires that contracting offices maintain files with a complete and readily accessible history of a contract's transactions to support informed decisions at each step in the acquisition process and provide information for reviews and investigations. In addition, the Government Accountability Office's *Standards for Internal Control in the Federal Government* states that agencies should have internal control activities, such as the creation and maintenance of records that provide evidence of execution of approvals and authorizations.

During our review of the SAIC contract in 2020, we requested a visual review of the contract file on multiple occasions. PBGC was able to provide some documentation electronically. However, the main file was in paper form and PBGC was unable to present the entire contract file to OIG for review.

On a visit to the contract file room in June 2020, auditors noted that although there is a file room check-in/out procedure, the PBGC staff did not follow it. According to the procedure, PD maintains the File Room Inventory folders on its SharePoint, and the file check-out is documented in the File Room Inventory spreadsheet. Despite the procedure, PD staff could not locate the contract file even after contacting the CO for the subject contract. As of end of July 2020, the location of the file is unknown and OIG staff were unable to validate key data in the file.

The need for well-maintained and complete contract files is important, not only to support informed decisions at each step in the acquisition process and provide information for reviews and investigations, but also for continuity of operations. Considering the high personnel turnover of contracting staff in PD, accessible contract files help ensure proper transfer of responsibilities among staff mitigating disruptions to PBGC operations.

Recommendation

We recommend the Office of Management Administration:

7. Improve controls to ensure contract files are properly safeguarded and maintained as required by the FAR and internal procedures.

PBGC's Response and OIG's Evaluation

Resolved. PBGC concurred with the recommendation. OMA stated that PD has already begun its transition to maintaining all official contract files electronically. PD will establish guidance, controls, and oversight going forward to ensure that all files are safeguarded, maintained, and accessible to appropriate PD staff regardless of whether files are maintained in electronic or hardcopy form. OMA scheduled March 31, 2021 as completion date for this recommendation.

Closure of this recommendation will occur when PBGC provides evidence of the established guidance and operating controls and oversight.

Other Matters

While performing our incurred cost testing, we found current PBGC FAR Subparts 16.3, *Cost-Reimbursement Contracts*, and 16.4, *Incentive Contracts*, did not have clear guidance for awarding these types of contracts. We identified three areas where further guidance would benefit PBGC staff charged with performing this work:

1. Reconciling award fee based on estimated costs to actual costs at the final billing;
2. Determining allowability of sub-contractor award fees; and
3. Establishing rounding rationale for consistency.

FAR 16.401(e)(2) emphasizes that the amount of award fee earned shall be commensurate with the contractor's overall cost, along with schedule and technical performance. Thus, the contractor award should have been determined, in part, on the contractor's overall or actual costs compared to the estimated costs at the beginning of the contract. As PBGC did not reconcile the fees based on the actual costs, additional costs in the amount of $289K were incurred. Also, the lack of clarity in the contract language led PBGC to the overpayment of $47K for subcontractor award fees (as it caused an increase in the award fee beyond the 9% maximum) and $12K due to the inconsistent application of the award fee rounding.

Additional operational direction in the current PBGC FAR Subpart 16.4 for the PBGC staff responsible for contracting functions could clarify these issues.

Appendix I: Objective, Scope, and Methodology

Objective

Our objective was to determine if the costs claimed for contract PBGC01-D-15-0001 from February 1, 2015 through July 31, 2018 were allowable, allocable and reasonable in accordance with the terms of the contract, applicable cost principles, laws, and regulations.

Scope

Our scope was limited to examination of the costs claimed for contract PBGC01-D-15-0001 from February 1, 2015 through July 31, 2018. We performed field work at the contractor's location in Reston, VA, and PBGC headquarters in Washington, DC, from June 2019 through July 2020.

Methodology

To answer our objective, we interviewed PD personnel responsible for the management and oversight of contract PBGC01-D-15-0001. We also interviewed contractor officials responsible for legal matters, billing, and contract financing. We reviewed and analyzed the regulations related to the contract, including the FAR, PBGC FAR Supplement, and PBGC Directives. We also reviewed the contract terms and contract modifications to determine cost allowability. Additionally, we obtained, reviewed, and analyzed 52 invoices which we used during the testing of the award fee, ODCs and direct labor.

We judgmentally selected two invoices to test direct labor costs. For each invoice, we selected 20 contractor employees and subcontractors from the respective invoice universe (40 employees in total). Our judgmental selection of contract employees included one key personnel. We reviewed labor distribution reports, personnel timecards and resumes to determine if (i) the claimed and billed hours reconcile to the contractor's books and records, and (ii) claimed labor hours, rates and personnel qualifications comply with contract terms.

We reviewed the contract award fee terms, contract's Quality Assurance Surveillance Plan and Award Fee Memos to understand the terms and limitations of the award fee schedule. We compared the award fee calculated with the award fee billed on the invoices. In addition, using the quarterly award fee percentages earned, we performed a trend analysis. We analyzed the metrics used to calculate the award fee earned and conducted further review of the quarterly contract performance spreadsheets for the scope of our audit to find performance metrics.

We analyzed ODC transactions in all 52 invoices/vouchers for the performance period of the contract. We selected two types of the ODC expenses that had high amounts: ODC staff consultant and ODC staff expenses. For ten judgmentally selected transactions, we evaluated source documents for completeness and accuracy, and determined the allowability of the costs with respect to the contract terms and FAR.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate documentation to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the documentation obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer Processed Data

We relied on computer processed data files extracted from the contractor's information systems, such as labor distribution reports, timesheets, and subcontractor data, and PBGC systems. To assess the reliability of the data, we compared the computer processed data across multiple external and internal sources, performed reconciliations, interviewed knowledgeable agency and contractor officials and traced selections to or from source documents. For example, for selected invoices we reconciled contractor billed amounts to PBGC's billing history or, for selected employees, we traced claimed and billed hours reconciled to the contractor's books and records (e.g., timesheets, labor distributions reports, and job cost summary reports). Based on our tests, we concluded that the computer processed data we used for this audit was sufficiently reliable.

Assessment of Internal Controls

We assessed the internal controls that related to our audit objective. As the subject contract was a cost reimbursement contract with significant labor costs, we considered internal controls for the systems that process those costs. Noncompliance with those controls greatly increase the risk of labor mischarging.

Our review was limited to controls applicable to our audit objective as it relates to:

1. Control environment;
2. Risk assessment;
3. Control activities;
4. Information and communication; and

5. Monitoring.

We identified three internal control components that are particularly significant to our audit objective: (1) Risk Assessment, (2) Control Activities, and (3) Monitoring. We further identified principles within those components, which are relevant for establishing an effective internal control system that increases the likelihood that an entity will achieve its objectives. During our fieldwork, we identified a weakness in the Control Activities component related to implementation of contract file maintenance in paper form.

We considered the internal PBGC guidance and reports, by identified components, that are significant to the audit. We also identified and reviewed contractor's policies and procedures applicable to this audit on separation of duties in recording and approving journal entries and on determination of allowability of costs.

As most of the information in this audit is coming from the contractor's systems, we obtained a sufficient understanding of information systems controls necessary to assess audit risk and plan the audit within the context of the audit objectives. We obtained an understanding of the policies and information systems used by the contractor to comply with contract requirements, and procedures used by PBGC to oversee the contract performance. We added procedures based on this understanding related to the labor costs.

Our evaluation of PBGC and SAIC’s internal controls in performing Contract PBGC01-D-15-9001 was not made for the purpose of providing assurance on PBGC and SAIC’s internal control structure as a whole. PBGC and SAIC’s management is responsible for the establishment and maintenance of internal controls.

Appendix II: Agency Response

PBGC Protecting America's Pensions

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

September 14, 2020

To: Nick Novak
Acting Inspector General

From: Alice Maroni
Chief Management Officer

ALICE MARONI Digitally signed by ALICE MARONI Date: 2020.09.14 12:05:42 -04'00'

Subject: Response to OIG's Draft Audit Report

Thank you for the opportunity to comment on the Office of Inspector General's (OIG) draft SAIC report, received August 31, 2020, relating to Pension Benefit Guaranty Corporation's (PBGC) contract PBGC01-D-13-0007 (Task Order PBGC01-DO-13-9009), later replaced by PBGC01-D-15-0001 (Task Order PBGC01-DO-15-9004), for IT Infrastructure Operations and Support Services (ITIOSS) with Science Applications International Corporation (SAIC). Your office's work on this is sincerely appreciated.

PBGC management met with the representatives from the OIG on August 24, 2020, to discuss the findings and recommendations. The dialogue was both informative and insightful and PBGC is grateful for the opportunity to respond to the recommendations suggested by the OIG.

Management concurs with the report's findings and recommendations. In the attachment to this memorandum, you will find our specific responses to each recommendation included in the report, as well as our planned corrective actions and scheduled completion dates. Addressing these recommendations in a timely manner is an important priority for PBGC.

cc: Bob Scherer, CIO
Frank Pace, Director, CCRD
Joshua Kossoy, Director, ITIOD
Juliet Felent, Director, PD

Our comments on the specific recommendations in the draft report are as follows:

1. **Review and update existing agency guidance on incentive contracting practices to ensure that that the use of award fee contracts are planned and awarded in accordance with current regulations, and that the guidance addresses the concerns of the OMB memorandum of December 2007.**

PBGC Response: Management concurs with this recommendation. The Procurement Department (PD) will review the PBGC Federal Acquisition Regulation Supplement (PBGGFARS) and other agency guidance and update as appropriate to ensure that it is in compliance with current regulations and the December 2007 OMB memorandum.

PD also acknowledges the audit conclusion that the $5.1 million award fee payment is unsupported with metrics related to cost. PD and ITIOD will review the award fee plan and determine appropriate next steps.

Scheduled Completion Date: March 31, 2021

2. **For the ongoing contract #16PBGC20D0002, jointly with the Office of Information Technology, evaluate CPAF contract requirements and determine if any should be converted to firm-fixed-priced task orders.**

PBGC Response: Management concurs with this recommendation. PD and Office of Information Technology (OIT) will conduct a review of contract requirements and determine if it is feasible to convert any to a fixed-price contract type.

Scheduled Completion Date: March 31, 2021

3. **Ensure that PBGC's annual inventory is charged to the correct CLIN, as required by the contract.**

PBGC Response: Management concurs with this recommendation. While the inventory process has already been modified, PD and the OIT COR will complete a follow up review to ensure that any contractor services related to the annual inventory are charged to the correct CLIN.

Scheduled Completion Date: December 31, 2020

4. Provide refresher training for COs and CORs to ensure correct billing by CLIN.

PBGC Response: Management concurs with this recommendation. PD will provide refresher training related to invoice/voucher review, which will include ensuring correct billing by CLIN.

Scheduled Completion Date: June 30, 2021

5. Verify all key personnel meet the contractor's proposal requirements and secure waivers if exceptions are granted.

PBGC Response: Management concurs with this recommendation. During annual COR file reviews, PD will verify that CORs ensure that key personnel meet the contractor's proposal requirements or that waivers are properly documented.

Scheduled Completion Date: December 31, 2021

6. Take required actions for the Direct Labor questioned costs of $175,839 on Contract PBGC01-D-15-9001.

PBGC Response: Management concurs with this recommendation. After analyzing the questioned costs, PD will document the Contracting Officer's determination and seek reimbursement, if appropriate.

Scheduled Completion Date: March 31, 2021

7. Improve controls to ensure contract files are properly safeguarded and maintained as required by the FAR and internal procedures.

PBGC Response: Management concurs with this recommendation. PD has already begun its transition to maintaining all official contract files electronically. PD will establish guidance, controls, and oversight going forward to ensure that all files are safeguarded, maintained, and accessible to appropriate PD staff regardless of whether files are maintained in electronic or hardcopy form.

Scheduled Completion Date: March 31, 2021

Appendix III: Acronyms

Acronym	**Meaning**
CLIN	Contract Line Item Number
CO	Contracting Officer
COR	Contracting Officer’s Representative
CPAF	Cost Plus Award Fee
FAR	Federal Acquisition Regulations
FY	Fiscal Year
ODC	Other Direct Costs
OIG	Office of the Inspector General
OIT	Office of Information Technology
OMA	Office of Management and Administration
PBGC	Pension Benefit Guaranty Corporation
PD	Procurement Department
PWS	Performance Work Statement

Appendix IV: Summary of Monetary Impact

Monetary Impact Area	Amount	Associated Recommendation
Finding 1 - Unsupported Costs [no support for cost and schedule metrics]	**$5.1 M**	**1-3**
Finding 3 - Questioned costs [key personnel direct labor costs]	**$176 K**	**6**
Total monetary impact	**$5.3 M**	

Appendix V: Direct Labor Questioned Cost – Calculation Detail

The Bureau of Labor Statistics provided the median weekly earnings by educational attainment for 2017.

	Educational attainment	Median usual weekly earnings	Unemployment rate
	Doctoral degree	$1,743	1.5%
	Professional degree	1,836	1.5
	Master's degree	1,401	2.2
A	Bachelor's degree	1,173	2.5
	Associate degree	836	3.4
B	Some college, no degree	774	4.0
	High school diploma, no college	712	4.6
	Less than a high school diploma	520	6.5
	Total	907	3.6

Note: Data are for persons age 25 and over. Earnings are for full-time wage and salary workers.

Source: U.S. Bureau of Labor Statistics, Current Population Survey.

We compared the education level of key personnel, some college but not degree (B above), to the median wages for someone with a bachelor's degree (A above). Some college but no degree typically makes about 66% of someone with a Bachelor's degree; thus the decrement factor is 34% (100%-66%). See the calculation below:

Description	Percent	Amount
a. Total Amount Paid by PBGC for the key person		$480,020
b. Total Decremented Amount [a x 34%]		$163,207
c. Average Award Fee earned on the decremented amount during the scope of this audit	7.74%	$12,632
Total Questioned Costs [b + c]		**$175,839**

Appendix VI: Staff Acknowledgement

Staff Acknowledgement	Parvina Shamsieva-Cohen, Audit Manager; Leslie Kobus, Auditor-In-Charge; and Natali Dethomas, Auditor, made key contributions to this report.

Appendix VII: Feedback

Please send your comments, suggestions, and feedback to OIGFeedback@pbgc.gov and include your name, contact information, and the report number. You may also mail comments to us:

Office of Inspector General
Pension Benefit Guaranty Corporation
1200 K Street, NW, Suite 480
Washington, DC 20005

If you want to discuss this report or your comments with a member of the Office of Inspector General staff, please contact our office at (202) 326-4030.