



# OFFICE OF INSPECTOR GENERAL AUDIT REPORT

## **Audit of PBGC's Review of Initial Special Financial Assistance Applications**

**Report No. AUD-2023-11  
June 30, 2023**



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Report Number: AUD-2023-11

Date: June 30, 2023

## Brief Sheet

### Background and

### Objective

For the first time in its history, PBGC received taxpayer funds to provide Special Financial Assistance (SFA) to financially troubled multiemployer plans under the American Rescue Plan Act (ARP) enacted on March 11, 2021. ARP added Section 4262 to ERISA, which created the SFA Program for certain financially troubled multiemployer plans. The SFA Program addresses the financial crisis threatening the retirement security of over three million workers, retirees, and their families and the solvency of the Multiemployer Program. As of July 2022, PBGC estimated it may assist about 200 financially troubled plans and the SFA Program will provide the plans approximately \$82.3 billion. The amount of SFA to which an eligible plan may be entitled is the amount required to pay all benefits due through the plan year ending in 2051. Upon approval of an application, PBGC will make a single, lump-sum payment or substantially so, using general taxpayer funds provided by the U.S. Treasury, to an eligible multiemployer plan to enable the plan to pay benefits at plan levels.

Our objective was to determine if PBGC adequately reviewed applications for SFA prior to approving them.

## Audit Results

**Conclusion.** For the three applications we reviewed, we found that PBGC had many procedures in place to review SFA applications, including eligibility checks, completeness checks, actuarial and business assumption reviews, actuarial calculation reviews, legal reviews of plan amendments, and reviews by upper management. Upon examining application files in PBGC's TeamConnect system, we verified all three plans in our sample submitted documentation required by PBGC. We also verified PBGC performed its eligibility checks, completeness checks, and legal reviews of plan amendments, and documented these steps in the concurrence packages. Finally, we confirmed that each of the three plans was eligible for SFA. However, we found the following areas for PBGC to improve in its review of SFA applications. First, PBGC should better document its analysis of potential application issues and management concurrence regarding the resolution of those issues to better ensure management oversight. Second, to improve PBGC's ability to detect discrepancies in plan calculations for suspended benefits and a plan's reported Contribution Base Unit (CBU) history, the Corporation should develop and implement additional controls to assess (a) plan calculations for previously suspended benefits and (b) a plan's reported CBU history.

## Recommendations/Management Response

We made three recommendations to improve the SFA program. We recommended the Office of Negotiations and Restructuring (ONR) develop and implement written guidelines to document analysis of potential issues and management agreement regarding the resolution of those potential issues prior to approving SFA applications. We also recommended they develop and implement additional controls to assess plans' benefit repayment calculations and assess plans' reported contribution history.

The Corporation agreed with the three recommendations. Specifically, ONR stated that it has improved its documentation of potential issues and resolution of applications received since the applications reviewed by the audit were processed by PBGC. In addition, ONR's Negotiations and Restructuring Actuarial Department (NRAD) added additional analysis of plan calculations for previously suspended benefits for Multiemployer Pension Reform Act of 2014 (MPRA) plans to a template checker, and according to ONR, NRAD will develop procedures around additional reviews that will be completed for non-MPRA insolvent plans. Furthermore, ONR stated since the completion of the OIG's fieldwork, contribution history reported in the SFA application is now checked against the history reported on Forms 5500, and NRAD actuaries were instructed to perform this check on all SFA applications. NRAD plans to formalize these additional written procedures and checks for plans' reported contribution history. Finally, ONR stated that NRAD is amending its template checkers to enhance and standardize the review of an applicant's contribution history.

We evaluated the Corporation's response and planned actions and determined they met the intent of the recommendations. The Corporation plans to complete recommendations 1 and 2 by December 31, 2023, and recommendation 3 by October 31, 2023.



June 30, 2023

**MEMORANDUM**

**TO:** John Hanley  
Chief of Negotiations and Restructuring

**FROM:** John Seger  
Assistant Inspector General for Audits, Evaluations, and Inspections

**SUBJECT:** Audit of PBGC's Review of Initial Special Financial Assistance Applications (Report No. AUD-2023-11)

We are pleased to provide you with the above-referenced final report. We appreciate the cooperation you and your staff extended to the 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  
Kristin Chapman, Chief of Staff  
Karen Morris, 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, HOAC)  
Senate committee staff (HELP, Finance, HSGAC)

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# Background

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Established by the Employee Retirement Income Security Act of 1974 (ERISA), the Pension Benefit Guaranty Corporation (PBGC) protects the retirement security of over 33 million American workers, retirees, and beneficiaries in both single-employer and multiemployer private-sector pension plans. In Fiscal Year (FY) 2022, nearly one million participants received benefit payments of over \$7.0 billion from PBGC. To support its mission, one of the three strategic goals articulated in PBGC's Strategic Plan is to "maintain high standards of stewardship and accountability."

For the first time in its history, PBGC received taxpayer funds to provide Special Financial Assistance (SFA) to financially troubled multiemployer plans under the American Rescue Plan Act (ARP) enacted on March 11, 2021. Congress and the President created the SFA program which, as of July 2022, PBGC estimated may assist about 200 financially troubled plans. The amount of SFA to which an eligible plan may be entitled is the amount required to pay all benefits due through the plan year ending in 2051. Through May 2023, PBGC has approved SFA applications from 46 plans for approximately \$47.4 billion in SFA, including interest and Financial Assistance loan repayments.

## *PBGC Insurance Programs*

PBGC has two insurance programs that are legally separate and operationally and financially independent: (1) the Single-Employer Program and (2) the Multiemployer Program. The Single-Employer Program is financed by insurance premiums, investment income, and recoveries from companies formerly responsible for the plans. The Multiemployer Program is financed by premiums and investment income.

PBGC's Single-Employer Program guarantees basic pension benefits when underfunded plans (more liabilities than assets) terminate, or when a plan sponsor demonstrates it can no longer afford its plan or goes out of business. In contrast, in the Multiemployer Program, the insured event is plan insolvency, whether or not the plan is terminated. PBGC's Multiemployer Program provides traditional financial assistance to insolvent, covered plans to pay benefits at the level guaranteed by law.

## *SFA Program*

ARP established a multiemployer SFA Program, resulting in a new source of financing outside of PBGC's revolving fund. PBGC receives appropriated SFA funds to disburse to multiemployer plans that meet certain criteria. Unlike traditional financial assistance that is in the form of a loan from PBGC, the new SFA is provided via a transfer (pass through of funds) with no obligation of repayment.

Prior to ARP, the Multiemployer Program had a negative net position of \$63.7 billion as of September 30, 2020, with a very high likelihood of insolvency during FY 2026 and a near certainty by the end of FY 2027. In March 2021, the Government Accountability Office (GAO) reported:

*Absent additional steps to improve PBGC's finances, the long-term financial stability of the agency remains uncertain and the retirement benefits of millions of American workers and retirees could be at risk of dramatic reductions.*

The GAO report noted that PBGC's projections of Multiemployer Program insolvency do not include any FY 2020 information reflecting the economic effects of—or the federal response to—the COVID-19 pandemic, which may affect the program's estimated insolvency date.<sup>1</sup>

ARP added Section 4262 to ERISA, which created the SFA Program for certain financially troubled multiemployer plans. The SFA Program addresses the financial crisis threatening the retirement security of over three million workers, retirees, and their families and the solvency of the Multiemployer Program. The amount of SFA to which an eligible plan may be entitled is the amount required to pay all benefits due through 2051. As of July 2022, PBGC estimated it may assist about 200 financially troubled plans and the SFA Program will provide the plans approximately \$82.3 billion.

PBGC has been accepting SFA applications for certain plans based on Priority Groups. As of January 25, 2022, when we selected our sample of plans to review, PBGC was accepting SFA applications in Priority Groups 1 and 2. Priority Group 1 is for plans that are already insolvent or projected to become insolvent before March 11, 2022. Priority Group 2 is for plans expected to be insolvent within one year of its application date and plans that implemented benefit suspensions under the Multiemployer Pension Reform Act of 2014 (MPRA).

### *SFA Interim Final Rule and Final Rule*

Section 4262(c) of ERISA required PBGC to prescribe the requirements for SFA applications in regulations or other guidance within 120 days. To implement the SFA Program, PBGC published an Interim Final Rule on July 12, 2021, with a 30-day comment period. The Final Rule was published on July 8, 2022, with an effective date of August 8, 2022; however, because our audit sample was selected from the list of PBGC

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<sup>1</sup> In April 2023, GAO removed the PBGC Insurance Programs from the High-Risk List because the financial position for the Single-Employer and Multiemployer programs has improved and the risk of near-term financial insolvency has decreased significantly. PBGC projects that the mean projected date of multiemployer program insolvency is now fiscal year 2055.

approved SFA applications as of January 25, 2022, the Interim Final Rule still applied to the applications selected by our audit.

PBGC also released instructions and guidance to plans on assumptions used for determining eligibility and the amount of SFA.

### *PBGC's SFA Process*

ARP requires PBGC to process all SFA applications within 120 days of receipt; specifically, ARP section 9704(b) added section 4262(g) to ERISA, which states that a plan's application for SFA that is timely filed:

*shall be deemed approved unless the corporation notifies the plan within 120 days of the filing of the application that the application is incomplete, any proposed change or assumption is unreasonable, or the plan is not eligible under this section.*

Upon approval of an application, PBGC will make a single, lump-sum payment or substantially so,<sup>2</sup> using general taxpayer funds provided by the U.S. Treasury, to an eligible multiemployer plan to enable the plan to pay benefits at plan levels. SFA also assists plans by providing funds to reinstate previously suspended benefits. According to PBGC's FY 2021 Annual Report, SFA funds are also for repaying financial assistance received from PBGC's Multiemployer Program.

At the time of our review,<sup>3</sup> PBGC's Office of Negotiations and Restructuring (ONR) contained two units responsible for SFA application reviews: (1) the Negotiations and Restructuring Actuarial Department (NRAD) and (2) the Multiemployer Program Division (MEPD), which was under the Plan Compliance Department. In addition, the Office of the General Counsel (OGC) reviewed plan amendments that are part of SFA applications.

After the initial reviews are completed, each department or office documents its findings and recommendations on the SFA application in a memorandum. These memoranda, recommendations, and other documentation, including SFA payment worksheets and

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<sup>2</sup> Supplementary information to the Final Rule for Special Financial Assistance by PBGC states, "For example, if a plan's SFA payment exceeds the statutory limitation for a Federal wire of \$10 billion, the plan will receive multiple federal wire payments that will equal the approved lump sum amount." Special Financial Assistance by PBGC, 87 Fed. Reg. 40,968, 40,988, fn. 26 (July 8, 2022).

<sup>3</sup> In the FY2022 Multiemployer Business Cycle Memorandum, MEPD was responsible for the SFA triage process to confirm plan eligibility, a review of SFA "business assumptions," and was a part of the review and approval of the SFA Concurrence Package. The transfer of these responsibilities to a new division under PCD, the Multiemployer Special Financial Assistance Division (MSFAD), was established in the FY2023 Multiemployer Business Cycle Memorandum.

approval letters, are referred to as PBGC’s “concurrence package,” which is then reviewed and approved by PBGC’s upper management.

### *Defined Benefit Plans’ Fundamental Equation and PBGC’s SFA Calculations*

According to PBGC’s Public Law and Policy Department training on the Multiemployer Program, the fundamental equation for an actuarial assessment of defined pension benefits is:

**Figure 1. Defined Benefit Pension Plan “Fundamental Equation”**

$$\text{Contributions} + \text{Investments} = \text{Benefits} + \text{Expenses}$$

*Source: PBGC’s Public Law and Policy Department Training for the Multiemployer Pension System Funding Considerations, September 13, 2019.*

Under the Interim Final Rule, PBGC’s SFA application Template 4 identified elements that capture the same calculation of the “fundamental equation.” However, the actuarial approach:

1. Captures investment income under the present value calculation and
2. Expands on the equation by adding additional elements and categories.

For example, the template adds elements to the income side of the equation, such as “Withdraw Liability Payments” and “Other Payments” to the plan. Template 4 has the elements depicted in Figure 2. Each of these inputs may have multiple calculations and/or assumptions that should be checked for reasonableness and accuracy. For example, the reasonableness and accuracy of a plan’s projected contributions may rely on:

1. The geometric average rate of change of a plan’s historical Contribution Base Units (CBUs);<sup>4</sup>
2. A plan’s historical contribution rate;
3. Historical total contributions;

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<sup>4</sup> Title 29 U.S.C. § 1301 defines a CBU as “a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury.” PBGC’s website expands upon this definition to state CBUs are the unit of employee activity for which an employer has an obligation to contribute under a multiemployer plan. For example, CBUs can be the hours worked, tons of coal mined, or containers handled. *Id.* at <https://www.pbgc.gov/prac/multiemployer/withdrawal-liability> (last visited Sept. 12, 2022). For the three SFA applications in our sample, we found each defined their CBUs as the hours worked per year.

4. The plan's assumptions for future CBUs; and
5. The plan's assumptions for future contribution rate.

These future assumptions are used to project contribution cash flows, which are discounted to the present value.<sup>5</sup>

**Figure 2. Breakdown of PBGC's SFA Calculations in Template 4 for the Interim Final Rule**

Fair Market Value [of plan assets] as of the SFA Measurement Date	+	SFA Amount as of the SFA Measurement Date	+	Present Value (PV) of Contributions	+	PV of Withdrawal Liability Payments	+	PV of Other Payments to Plan (excluding financial assistance and SFA)					
=													
<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px;">PV of Benefit Payments</td> <td style="padding: 5px;">+</td> <td style="padding: 5px;">PV of Benefit Payments Attributable to Reinstatement of Benefits Suspended through the SFA Measurement Date</td> <td style="padding: 5px;">+</td> <td style="padding: 5px;">PV of Administrative Expenses</td> </tr> </table>									PV of Benefit Payments	+	PV of Benefit Payments Attributable to Reinstatement of Benefits Suspended through the SFA Measurement Date	+	PV of Administrative Expenses
PV of Benefit Payments	+	PV of Benefit Payments Attributable to Reinstatement of Benefits Suspended through the SFA Measurement Date	+	PV of Administrative Expenses									

Source: Adapted from PBGC's SFA Application Template 4 for the Interim Final Rule.

### Objective

Our objective was to determine if PBGC adequately reviewed applications for Special Financial Assistance (SFA) prior to approving them.

<sup>5</sup> The Present Value (PV) method for determining the SFA amount was in place with the Interim Final Rule and was in effect for the three approved SFA applications selected for our audit. The final rule changed this to a cash flow basis, except for cases with MPRA suspensions, which may use a present value calculation for benefit payments in their applications.

# Audit Results

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We found that PBGC had many procedures in place to review SFA applications, including eligibility checks, completeness checks, actuarial and business assumption<sup>6</sup> reviews, actuarial calculation reviews, legal reviews of plan amendments, and reviews by upper management. Upon examining application files in PBGC's TeamConnect system, we verified all three plans in our sample submitted documentation required by PBGC. We also verified PBGC performed its eligibility checks, completeness checks, and legal reviews of plan amendments, and documented these steps in the concurrence packages. Finally, we confirmed that each of the three plans was eligible for SFA.

However, we found areas for PBGC to improve its review of SFA applications. First, PBGC should better document its analysis of potential issues and management concurrence regarding the resolution of those issues to better ensure management oversight. Second, to improve PBGC's ability to detect discrepancies in plan calculations for suspended benefits and a plan's reported CBU history, the Corporation should develop and implement additional controls to assess (a) plan calculations for previously suspended benefits and (b) a plan's reported CBU history.

## **Finding 1: PBGC's Documentation Does Not Show In-Depth Analysis or Management Awareness of Three Potential SFA Application Issues.**

According to the National Archives and Records Administration regulations at 36 CFR § 1222.22, to meet its obligation for adequate and proper documentation, PBGC must prescribe the creation and maintenance of records that:

*(b) Facilitate action by agency officials and their successors in office.*

*(c) Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government...*

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*(e) Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically.*

*(f) Document important board, committee, or staff meetings.*

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<sup>6</sup> "Business assumptions" was a term used by PBGC to identify the SFA assumptions reviewed by MEPD, including CBUs, contribution rates, administrative expense, and withdrawal liability assumptions.

We found, however, three instances where PBGC did not document its analysis and resolution of a potential SFA application issue in its concurrence package, which according to PBGC guidance and personnel, is relied upon as evidence of management approval of SFA applications. PBGC officials stated they also discussed SFA application issues during weekly meetings and briefings. PBGC, however, could not provide documentation of these meetings.

PBGC's written guidelines did not require documentation of discussions regarding SFA decisions or other documentation of management approval of decisions involving professional judgment. Additionally, direction from management may have contributed to inadequate documentation. As a result, PBGC management may not have adequate insight into the potential issues and risks related to individual SFA applications or related policy issues. The lack of written documents regarding decisions may also increase the risk of inconsistent decisions.

*Three Potential SFA Application Issues Had Insufficient Documentation.*

We found three potential issues with one SFA application where analysis and resolution of these issues was not shown in the concurrence package. One of these potential issues was also found within another application.

*Potential Issue 1: Whether Plan A's Employer 1 Contribution Rate Assumption Was Acceptable.*

The contribution rates affect the amount of income estimated to be received by a pension plan. The plan calculates the total amount of contributions by multiplying the CBUs (for example, hours worked) by the average contribution rate (the amount to be contributed to the multiemployer plan for each hour worked, which is agreed to between unions and employers). If a contribution rate is lower than it should be, the plan's amount of projected income would be lower thus increasing the amount of SFA needed to cover benefits and expenses.

For Plan A, we found evidence that multiple PBGC reviewers questioned the reasonableness of a major plan employer's assumed contribution rate, yet PBGC did not address those concerns when documenting how it decided that the employer's contribution rate assumption was acceptable. Although MEPD and NRAD memoranda state that the employer's assumed contribution rate was acceptable, we did not find any information in the memoranda or supporting documents addressing the concerns raised by PBGC personnel and contractors. When asked what they used to determine that the employer's contributions were reasonable, some PBGC personnel who conducted the SFA review either did not remember or provided a non-specific answer. Another reviewer told us information from the employer's history was considered and there were a number

of discussions on the topic. Lastly, one PBGC manager gave us additional details about the employer's history. This manager also stated there are weekly meetings to discuss issues; however, they did not provide us documentation of those meetings.

PBGC provided email chains showing contractors and PBGC personnel questioned the employer's contribution rate. The email chains end with a statement that NRAD and MEPD personnel spoke and they determined the employer's contribution rates need not be discussed further. However, these emails did not explain why the contribution rate was acceptable, what was said, or how conclusions were reached. ONR identified this email chain to show how it determined no further analysis was needed. But, again, the email did not address the concerns about the reasonableness of the contribution rate.

*Potential Issue 2: Whether the Use of a 100 Percent Straight-Life Annuity Assumption Was "Reasonable."*

A "straight-life" annuity provides a fixed monthly benefit for the rest of the participant's life, but payments will stop when the annuitant dies. In a "Joint and Survivor" annuity, payments continue after death to the annuitant's beneficiary. Straight-life payouts are generally larger on a per month basis because the payments stop upon the death of the annuitant. We found the SFA applications for Plans A and B assumed 100 percent of the participants would choose a "Life Only" benefit form (i.e., straight-life annuity). However, documentation showed that, historically, 38 percent of annuitants for Plan A and 22 percent of annuitants for Plan B, chose a Joint and Survivor annuity. Both plans stated in their applications that this 100 percent straight-life annuity assumption was "unchanged" from their pre-2021 certifications.

We found PBGC did not document how it concluded that the use of a 100 percent straight-life annuity assumption was "reasonable" for Plans A and B. NRAD's concurrence package memoranda for both plans stated that the straight-life annuity selection was an unchanged assumption and that they were reasonable given a limited review of all unchanged assumptions. However, the memoranda do not explain what the limited review included.

Furthermore, for Plan A, PBGC's documents did not explain why the impact of the unchanged pre-2021 assumption was "immaterial" to the SFA amount, despite documentation showing this assumption did not match plan experience, and did not include PBGC's rationale that statutory deference was to be given to unchanged assumptions. Further, for Plan B, while a PBGC staff member raised questions about inconsistencies related to the form of annuity, PBGC reviewers did not further question the reasonableness of the assumption because it was unchanged.

PBGC personnel provided their rationale only during interviews or in reply to our documentation request. With Plan A, PBGC personnel stated they reached this decision during meetings; however, PBGC personnel explained that not all discussions are documented for the record, including the one for this assumption. For Plan B, PBGC provided an email showing a reviewer raised questions about inconsistencies related to the form of annuity, and a reply email stated that the Interim Final Rule puts a “high bar” on identifying unchanged assumptions as an issue, and that further questions were not needed. However, the email did not explain why this assumption was reasonable despite plan experience to the contrary. It was not until we asked a PBGC staff member if they do not look further into unchanged assumptions unless the original assumption was “outrageous” that we received a response as “usually, yes.” Given the limited documentation and guidance, it is not clear what criteria PBGC uses to determine if an unchanged assumption is reasonable when there is historical information to the contrary.

*Potential Issue 3: Different Methodologies Were Used by MEPD and NRAD to Identify the Administrative Expense Cap.*

Administrative expenses are costs associated with operating a pension plan. Plans include projected administrative expenses in their SFA applications. In its SFA Assumptions Guidance, PBGC established generally acceptable caps on projected administrative expenses as percentages of projected annual benefit payments. For example, if the annual benefit payments for the last plan year ending on or before the SFA measurement date was “\$5 million but less than \$50 million,” the administrative expense cap would be 12 percent of the projected annual benefit payments. For benefits “\$50 million but less than \$100 million,” the cap would be 9 percent.

For Plan A, we found PBGC did not fully document the differing methodologies used by MEPD and NRAD to identify the administrative expense cap, how (or if) PBGC resolved the use of two different methodologies, and whether upper management approved of the different methodologies. We found the MEPD memorandum did not document: (1) the annual benefit payments MEPD used to determine that the administrative expense cap of 12 percent was reasonable for the SFA calculations, (2) the source they used (i.e., Form 5500 Annual Return/Report of Employee Benefit Plan for plan year ending January 31, 2016) or (3) their divergence from the SFA guidance and why. The MEPD memorandum stated, “Without the suspension due to insolvency, benefits would have been slightly below \$50 million in the last year prior to the SFA measurement date,” but did not explain the basis for the determination that the benefits would have been below \$50 million. The NRAD memorandum also did not identify how they concluded the administrative expense cap of 12 percent was reasonable.

An MEPD analyst told us they started with the plan-level benefits from the plan year ending January 31, 2016, because the plan became insolvent after 2016, and then

concluded that “it was reasonable to assume” the benefits would have remained below \$50 million in the plan year prior to the SFA measurement date because the number of participants declined. However, the MEPD analyst did not provide calculations supporting their conclusion, and we noted that the projected benefit payments increased to approximately \$51.6 million in the first year of the projections. In contrast, NRAD reviewers said they used the guaranteed level benefits in their template 4 checker because of the PBGC SFA guidance, regardless of the plan status.<sup>7</sup>

PBGC's SFA Assumptions Guidance stated that the determination of the expense cap should be based on “Annual Benefit Payments for the Last Plan Year Ending on or Before the SFA Measurement Date.” It did not identify whether the amount should be based on the guaranteed level benefits or plan level benefits. Although the guidance did not differentiate between the two methods, and only stated to use the last year’s benefits before the SFA measurement date, the MEPD analyst expressed disagreement with using the guaranteed benefits in this case. A MEPD reviewer agreed with the MEPD analyst’s method at the time, but after later discussion with NRAD, stated that the PBGC guidance should be used moving forward. In addition, in a response to OIG questions on May 27, 2022, PBGC stated that both methods would be acceptable if given by the plan but did not provide any written guidelines related to this issue. Last, PBGC management stated they have, in addition to the concurrence package, weekly meetings and briefings to discuss questions, findings, issues, and resolutions with the SFA applications. However, PBGC could not provide us anything documenting such meetings for the applications we reviewed, nor were any such documents in case files in TeamConnect or SharePoint.

*PBGC Lacked Written Guidelines Requiring Documentation of Discussions Regarding SFA Decisions.*

PBGC did not have written guidelines requiring documentation of discussions on, and management approval of, SFA decisions involving professional judgment. Such guidelines did not appear in the FY2021 or FY2022 Multiemployer Business Cycle memoranda, NRAD or MEPD SFA procedures, or PBGC’s records management directive.

We asked PBGC officials if they had written guidelines to document how potential issues identified during SFA reviews were resolved, and which positions have the authority to make certain decisions. In response, however, PBGC did not provide written guidelines; they described only general steps departments should follow to resolve SFA issues.

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<sup>7</sup> Benefit payments for 2019, the latest available pre-COVID plan year, were \$19.928 million. This amount was approximately \$28.243 million less than the plan-level benefits of \$48.171 million for plan year ending January 31, 2016, the last plan year before benefits were reduced.

PBGC's response also stated that final SFA decisions were documented in PBGC's standard work products and deliverables, including MEPD and NRAD assumptions memoranda. However, as we found regarding the three potential issues identified above, PBGC's concurrence package memoranda did not show the degree of scrutiny by contractors and PBGC staff or management awareness of these potential issues. Further, PBGC's response to us did not address whether there were steps or written procedures to separately document the meetings they identified. Indeed, an email showed an official within ONR directed actuaries to discuss questions regarding unchanged assumptions via telephone before putting anything in writing "to avoid creating documents that do not reflect the analysis that is eventually conducted on such a sensitive issue."

*PBGC Management May Not Have Adequate Insight into Potential Issues, and a Lack of Documentation Increases the Risk of Inconsistent Decisions.*

Without adequate documentation of the discussions and resolution of issues with SFA applications, PBGC management may not have adequate insight into the potential issues and risks related to individual SFA applications or policy issues posed by these applications. The lack of written documents regarding decisions may increase the risk of inconsistent decisions regarding different plans' applications, particularly given PBGC estimated it may assist about 200 financially troubled plans, totaling approximately \$82.3 billion. Moreover, one of the employers contributing to Plan A contributes to over 30 separate multiemployer pension plans. Consequently, decisions about the reasonableness of assumptions for that employer and with the pension plan's SFA application may impact decisions related to other SFA applications that involve contributions from that same employer. For example, if one plan assumed the employer would be solvent in the future, and another plan assumed the employer would be insolvent in the future, PBGC's decisions on the reasonableness of assumptions for the first plan may affect the decisions on the second plan.

## **Recommendation**

We recommend the Office of Negotiations and Restructuring:

1. Develop and implement written guidelines to document analysis of potential issues and management agreement regarding the resolution of those potential issues prior to approving Special Financial Assistance applications.

*PBGC's Response and OIG's Evaluation*

**Resolved.** PBGC concurred with the recommendation. ONR stated PBGC has increased documentation of potential issues and resolution since the applications reviewed by the audit were processed by PBGC, including raising issues and their

resolution in the final briefing with the Director and documenting the minutes in the case file. ONR also stated issues discussed in case team meetings are documented in the Multiemployer SFA Division (MSFAD) analysis memorandum and NRAD reports, and that the memoranda also include clarifying questions to the plan, their responses, and any related analysis. In addition, ONR stated NRAD is in the process of establishing additional procedures to address the potential issues in this report. ONR's goal is to complete the planned action by December 31, 2023.

Closure of this recommendation will occur when the Corporation provides procedures for documenting issues and management agreement with their resolution through minutes of the Director's briefings, the MSFAD analysis memoranda, and NRAD reports to the OIG, as well as the procedures NRAD is developing to address the potential issues identified in this report.

## **Finding 2: Additional Reviews Are Needed Regarding Make-Up Payments for Previous Benefit Cuts.**

ARP amended ERISA by adding sections 4262(j)(1) and 4262(k)(2), which specify that the amount of SFA is to include amounts needed for plans to repay previously suspended benefits under the Multiemployer Pension Reform Act of 2014 (MPRA) or the benefits suspended due to plan insolvency for participants and beneficiaries in pay status. These make-up payments are to provide individuals the difference between their benefits due under the plan (referred to as plan-level benefits) and the reduced benefits they already received.

One plan in our sample included a total amount for make-up payments in its application, which PBGC approved. However, the plan did not provide information on how the amount was calculated, including whether the amount had been adjusted for individuals no longer in pay status. This issue arose because PBGC's guidance did not require plans to provide details on suspended benefits. PBGC estimated that approximately \$700 million in suspended benefits exist. The Corporation may pay those benefits without sufficient analysis and, as a result, may not detect some discrepancies affecting the amount of SFA that plans request.

*PBGC's Review Process for Make-Up Payments Was Not Detailed Enough to Determine the Accuracy of the Total Reported by the Plan.*

One plan in our sample reported, as required by PBGC, a total (lump-sum) amount of suspended benefits. However, there was no explanation on how the plan identified the amount of make-up payments, such as a year-by-year breakdown of benefit levels with and without the suspension, or adjustments for participants no longer in pay status (for example, due to death).

PBGC performed a reasonableness check of the lump-sum amount by estimating possible minimum and maximum values for make-up payments, using the historical and projected benefits within the plan's application. PBGC's estimated range for the make-up payments was between \$121.8 million to \$143.5 million. However, this generated a range spanning more than \$21 million which, in our opinion, may leave PBGC open to a material amount of suspended benefits to pay without any further analysis. For example, PBGC's analysis did not check or adjust for individuals no longer in pay status.

The plan's requested amount for repaying benefit reductions was \$121.3 million, slightly below the lower value of PBGC's estimated range, which could be because the plan adjusted for individuals no longer in pay status. However, because PBGC did not request the information required to check this, we cannot be sure. NRAD noted the amount requested by the plan was close to the "very roughly" estimated range.

*PBGC's Guidance Did Not Require that Plans Provide Additional Details on Suspended Benefits.*

PBGC's template checker has NRAD produce an estimated range based on information from the plan. However, PBGC's SFA application filing instructions and templates did not instruct plans requesting funds to repay benefit reductions to provide detailed information regarding these calculations, such as year-by-year reduced benefits paid compared to full plan-level benefits and adjustments related to deceased participants.

*PBGC May Not Detect Some Discrepancies in Suspended Benefit Calculations.*

Of the three SFA applications we reviewed, we found one plan with suspended benefits, which provided a total (lump-sum) amount of suspended benefits to be repaid. But, there were no details on how the plan identified the amount of suspended benefits. If PBGC does not establish the appropriate controls and request the information needed to ensure plans comply with ARP requirements, PBGC may not detect some discrepancies that may affect the amount of SFA plans request. An estimate from PBGC's Policy, Research and Analysis Department, dated June 28, 2021, showed that PBGC estimated the total make-up payments could be \$700 million across the currently insolvent plans and plans with MPRA suspensions.

## **Recommendation**

We recommend the Office of Negotiations and Restructuring:

2. Develop and implement additional controls to assess plans' benefit repayment calculations.

## *PBGC's Response and OIG's Evaluation*

**Resolved.** PBGC concurred with the recommendation. ONR stated, since completion of the OIG's fieldwork, NRAD has added additional analysis that compares cash flows from a plan's MPRA application to those in the SFA application as part of a template checker. In addition, ONR stated NRAD will develop procedures around additional reviews that will be completed for non-MPRA insolvent plans. ONR's goal is to complete the planned action by December 31, 2023.

Closure of this recommendation will occur when the Corporation provides evidence of procedures for additional reviews for MPRA plans and non-MPRA insolvent plans to the OIG.

### **Finding 3: Additional Reviews of Contribution History and Projections Are Needed.**

GAO's *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014) states, "Management should use quality information to achieve the entity's objectives." Additionally, PBGC's Directive GA-15, on Management's Responsibility for Internal Controls, states:

*Supervisors, managers, and control owners should ensure that all significant internal controls are documented as part of policies, procedures, job aids, checklists, cycle memos, control matrices, flowcharts, systems documentation, or other means, as appropriate. This documentation should ... provide clear guidance on actions to be taken for a particular process.*

We found, however, Plan A's historical and projected contribution income information was inconsistent because PBGC did not always cross-check historical contribution data. PBGC's written procedures did not specifically require historical contribution information reported by the plan to be checked against the audited financial statements in the Form 5500s. In addition, PBGC did not examine the effect of including interest owed to the plan in the plan's CBU projections because an ONR official described the amount in question as immaterial. However, supporting documentation did not explain why the amount was immaterial, and PBGC did not establish a threshold for determining materiality. As a result, PBGC approved an application that may not have calculated projected contributions accurately and, consequently, the total SFA amount paid may have been inaccurate.

### *Inconsistent Information Regarding Plan A's Contribution Income History and Projections.*

Although CBUs are an important factor in calculating SFA, PBGC did not consistently cross-check the historical total contributions from the plans' applications with contributions previously reported on audited financial statements in the Form 5500s. NRAD actuaries stated they cannot verify CBUs because they are not directly in any official documents, but they can verify total contributions back to the Form 5500s. In our opinion, although this does not provide total assurance that the historical CBUs are accurate, it does provide some assurance because total contributions are usually obtained by multiplying the CBUs and the average contribution rate.

Although three of the four NRAD actuaries (covering all three sampled applications) stated they checked the Form 5500s for contributions, the NRAD staff members' notes for only two of the three plans indicated they checked this. The template 3 checkers for two plans stated the total contributions in template 3 match the Schedule MB (i.e., Form 5500), but the third plan's (Plan A) template 3 checker did not mention checking total contributions to the Form 5500s. When we checked Plan A's historical total contributions to audited financial statements attached to Form 5500s, we found the total contributions did not match the Form 5500 for 8 of the 10 years. Some of the years may have, in contradiction to PBGC's SFA template instructions, included "other income" in the total contributions. For 2019 (the last year of historical data), we were not able to reconcile the full difference between total contributions in template 3 and employer contributions in the audited financial statements with any of the "other" income amounts.

NRAD's and MEPD's memoranda also did not indicate they verified total contributions. The MEPD Analyst for Plan A stated that he assumed the data given by the plan was "factual in nature" and relied on the applicant's certification and the penalty of perjury statement to ensure that the applicant provided accurate information.

In addition, it appears the plan may have, in part, double counted an "other income" source in their CBU projections; specifically, for 2019, the plan partially included one employer's interest on deferred contributions in the total contributions for that year to obtain 1,280,688 CBUs. The approximately \$5.2 million in total contributions for 2019, used to obtain the CBUs, was \$88,493 greater than the approximately \$5.1 million in employer contributions on the audited financial statements (see Figure 3). The only other sources of income on the statements were the \$258,400 in interest on the Contribution Deferral Agreement (CDA) and \$1,058 in "Other" contributions. Therefore, it appears that the plan partially included Employer 1's CDA interest in the total contributions for 2019. However, the plan then used the reported 1,280,688 CBUs for 2019 and added the full

CDA interest to calculate the 1,344,923 CBUs as the basis for their projections (see next paragraph).

**Figure 3. Plan A’s Different Contribution Amounts for 2019**

Description	Amount
SFA Application: Total Contributions Based on CBUs (Per Application Template Instructions)	\$5,151,055
Audited Financial Statements: Employer Contributions	\$5,062,562
Difference	\$88,493

*Source: Plan A’s Template 3: Historical Plan Information and Audited Financial Statements Attached to Form 5500.*

*PBGC Did Not Examine the Effect of CDA Interest on the Plan’s Projections.*

PBGC did not evaluate the effect of including one employer’s interest on deferred contributions to the CBU projections, including whether it was appropriate to project interest income based on CBUs. Plan A reported a historical total of 1,280,688 CBUs in 2019, which was used as the basis for their CBU projections. The plan also identified that it had an agreement with one employer that deferred paying contributions in the past and was paying interest to the plan on those deferred contributions. To develop its projections the plan combined its CBUs and this interest on deferred contributions to calculate a starting baseline of 1,344,923 CBUs for 2019, in contradiction to PBGC’s templates. The templates stated that the plans should identify total contributions based only on CBUs, which were separate from other income. The plan then projected that the 1,344,923 CBUs would decrease 3 percent each year for the first 10 years and decrease 1 percent each year thereafter. The decreasing trend was in line with PBGC’s SFA Assumptions Guidance; however, combining the historical CBUs and interest together was not.

Other than stating CBU projected decline rates and CBUs include CDA interest, the plan’s CBU assumption did not specify what happens to income from deferred contributions in its CBU projections, and available information suggested inconsistencies, such as with the payoff date. Adding the employer’s interest on deferred contributions to Plan A’s projected CBUs appeared to assume that the employer would be paying this interest in the future. Given the plan’s application did not explain what was in the assumption for declining CBUs, it is possible the assumption included interest that would be paid until the

end of the projection period in 2051. If interest on deferred contributions would be paid through 2051, the projection assumed the contributions owed to Plan A (i.e., debt) would not be fully paid or forgiven through 2051. However, the audited financial statements attached to the latest publicly available Form 5500, as of the SFA application date, stated the payoff date for the employer's balance was 2021.

The plan's narratives and PBGC's concurrence package did not discuss these assumption details. Instead, we only found documentation that the plan's CBU projections were reasonable in the concurrence package and an email stating that the amount was immaterial. In this email, an official within ONR concluded that he thought the amount the employer owed under the CDA was immaterial and, therefore, it was not necessary to spend any time assessing the reasonableness of the plan's assumption that cash flow from the CDA is included in the contribution projection. Because PBGC did not examine how this issue affected the plan's projections it appears it did not fully assess the reasonableness of the plan's future contribution assumptions, which could affect the total amount of SFA.

*PBGC Did Not Have Written Procedures for Checking Total Contributions.*

We concluded that PBGC did not consistently cross-check the historical contribution data because its written procedures were vague and did not specifically require this information reported by the plan to be checked against the Form 5500s. NRAD personnel noted that their SFA review process has always included a procedure to "verify contribution information against publicly available information such as past Form 5500 filings and attachments." They also noted, however, that no version of NRAD's template checkers included inputs from the Form 5500s themselves.

We reviewed the template 3 checkers for the SFA applications in our sample and found they either had no instructions, or general instructions that "the user should go through the Review Summary sheet, analyzing the results and adding comments as necessary." One version stated that the user is not limited by the analysis in the checker and should use professional judgment, and the Review Summary sheets did not specifically require the reviewer to verify total contributions except in an early version of the template checker. This early version stated, "check contributions against PRAD 5500 spreadsheet (and other fields, as applicable)," but this check did not appear in subsequent versions. A PBGC staff member stated they removed it because the early versions were "cluttered." Furthermore, we did not find a requirement to check the Form 5500s in the NRAD or MEPD SFA procedures.

When we asked PBGC if there was other guidance regarding checking reported contribution information against other sources (e.g., audited financial statements, Form 5500s), PBGC replied that reviewers are to use "professional judgment" and added such

judgment includes verifying contribution information against publicly available information as part of a three-step review process; however, this was not a written procedure. In addition, the reviewer's notes for Plan A in the template 3 checker did not mention checking total contributions against the Form 5500s, and we found the total contributions did not match the Form 5500s for 8 of the 10 historical years.

*PBGC Did Not Establish a Threshold for a "Material Amount" in the SFA Applications.*

We concluded that PBGC did not evaluate the effect of including interest on deferred contributions in the plan's CBU projections because the official within ONR stated he thought the amount that the employer owed under the CDA was "immaterial." In addition, ONR did not provide other documentation discussing this issue. Moreover, we found that PBGC's documentation did not explain why the \$2.3 million in deferred contributions was immaterial and PBGC did not establish a threshold for materiality.

The concurrence package memoranda only stated that the CBU projections were reasonable based on the declining historical CBUs and PBGC guidance and did not discuss the materiality of the deferred contributions. ONR stated that it chose not to set precise materiality thresholds around data submitted in SFA applications. It explained this was because (1) "PBGC's role in the SFA process is to determine whether requested SFA is reasonable, not a best estimate," and (2) "what is 'reasonable' varies by plan depending on the characteristics of the plan, its industry, and history."

Our report, [\*PBGC Should Improve Its Special Financial Assistance Review Procedures\*](#), covered a similar issue. Because this evaluation report recommended that ONR define risk tolerances for changes in key assumptions, we did not make a separate recommendation in this audit for establishing guidelines for determining materiality.

*Insufficient Information May Have Led PBGC to Approve an Application That May Not Have Correctly Calculated SFA.*

Because we were unable to determine the reasonableness of the future contribution assumptions, we could not determine whether the plan underestimated or overestimated the SFA amount. In either event, PBGC approved an application that may not have calculated projected contributions and, consequently, the total SFA amount, accurately.

PBGC's decision to not define a threshold for materiality may leave individual reviewers to make significant decisions, which, as shown above, were not documented in the concurrence package materials presented to upper management. According to the Actuarial Standards Board's Actuarial Standard of Practice No.1, an item is material, "if its omission or misstatement could influence a decision of an intended user." Even though an official within ONR in this case considered the \$2.3 million to be immaterial, it

may not appear immaterial to another reasonable person. Although the plan's total projected benefits payments were \$1.1 billion through 2051, the \$2.3 million could cover 4.4 percent of the \$53.0 million in projected benefits payments for the 2022 plan year, or 15.4 percent of the \$15.2 million in projected benefits payments for the 2050 plan year. Additional controls would allow PBGC to better meet its strategic goal of maintaining high standards of stewardship and accountability, particularly considering that taxpayer dollars fund SFA.

## **Recommendation**

We recommend the Office of Negotiations and Restructuring:

3. Develop and implement additional controls to assess plans' reported contribution history.

### *PBGC's Response and OIG's Evaluation*

**Resolved.** PBGC concurred with the recommendation. ONR stated since the completion of the OIG's fieldwork, contribution history reported in the SFA application is now checked against the history reported on Forms 5500, and NRAD actuaries were instructed to perform this check on all SFA applications. NRAD plans to formalize additional written procedures and checks for plans' reported contribution history. In addition, ONR stated that NRAD is amending its template checkers to enhance and standardize the review of an applicant's contribution history. ONR's goal is to complete the planned action by October 31, 2023.

Closure of this recommendation will occur when the Corporation provides evidence of the formalized additional written procedures and checks for plans' reported contribution history to the OIG.

# Appendix I: Objective, Scope, and Methodology

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## Objective

Our objective was to determine if PBGC adequately reviewed applications for Special Financial Assistance (SFA) prior to approving them.

## Scope

The audit team selected a sample of three SFA applications that were approved by PBGC between the time the SFA application window initially opened on July 9, 2021, and January 25, 2022. We reviewed three applications that totaled approximately \$975 million in SFA, including interest and Financial Assistance loan repayments.

## Methodology

To accomplish our objectives, we:

1. Obtained an understanding of statutory and regulatory criteria related to PBGC's responsibilities to review and approve SFA applications;
2. Obtained an understanding of, and assessed, the internal controls in place as they relate to PBGC's review and approval of the SFA applications;
3. Conducted a completeness check of the SFA application documentation;
4. Conducted a review of PBGC's eligibility check of the SFA applications;
5. Conducted an independent review of the actuarial and business assumptions and arithmetic for each of the sampled SFA applications;
6. Conducted or attended interviews and walkthroughs with PBGC personnel responsible for SFA reviews and internal controls, such as actuaries, financial and program analysts, and PBGC managers;
7. For one SFA application, we interviewed the contractors responsible for the initial review of the SFA application and the plan personnel;
8. Reviewed PBGC's concurrence package memoranda and case files for

documentation of issues identified with each application and their resolution; and

9. Where applicable, pulled the plan's Form 5500 data and reconciled the historical contributions to those submitted in the SFA applications.

### *Judgmental Sampling*

The audit team set January 25, 2022, as our "as of" date for selecting approved initial SFA applications to examine. The first SFA application was approved on December 21, 2021, and to ensure that the audit team did not delay the start of the audit for an unreasonable amount of time, the team set January 25, 2022, as the date for selecting approved SFA applications.

As of January 25, 2022, 29 plans had applied for SFA, and 5 had been approved. Their requests totaled approximately \$1.1 billion, including interest and Financial Assistance loan repayments. From the approved 5 plans, we selected a judgmental sample of 3 SFA applications for review. We picked these three PBGC approved SFA applications based on (1) the amount of SFA being requested (we selected the largest plans, while also considering the next two elements) (2) ensuring our sample had different actuarial firms preparing the application, and (3) existing known issues with the plan, such as an existing reciprocity agreement.

### *Use of Computer Processed Data*

We relied on computer processed data extracted from PBGC's TeamConnect and PBGC's SharePoint systems. To assess the reliability of computer processed data from TeamConnect and SharePoint, we conducted a series of tests to (1) ensure that we received all computer processed data needed to fully assess PBGC's review of the SFA applications, and (2) determine if that data was sufficient and reliable by checking to see if it was complete and accurate, but only for the purposes of determining whether we were looking at all available data PBGC used in their SFA review. These tests included:

1. Our retrieval of SFA application documentation from the systems and our requests for data from PBGC personnel to obtain documentation for each of the plans in our sample. This was to ensure the audit team had all available information related to PBGC's review of SFA applications. Then, we conducted a check to ensure the SFA application files were complete and had all documents available in TeamConnect needed for our review.
2. Where possible, we used existing forms and records to check historical and projection data; however, there was limited available documentation to corroborate the data submitted in the SFA applications for: (1) Contribution Base Units (CBUs),

(2) Withdrawal Liability Payments, (3) Other Income, and (4) Benefit Payments  
Attributable to Reinstatement of Suspended Benefits.

We did not assess the reliability of data from the Department of Labor's ERISA Filing Acceptance System II, which we used to obtain Form 5500s to check SFA application data. Testing the system was outside the scope of our audit.

We determined the data was sufficient, appropriate, and reliable for our purposes, which included looking at all available documentation PBGC had received for their review of SFA applications. Additionally, although we believe the data is sufficient, appropriate, and reliable for making a conclusion about PBGC's review of the SFA application data, we identified possible limitations, overall, about PBGC's review of the data. These limitations include the review of historical contributions and make-up payments.

*Assessment of Internal Controls*

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 evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed the control activities component, specifically, the principle of designing control activities. We also assessed the information and communication component; specifically, the principles of using quality information and communicating internally. We also assessed the monitoring component; specifically, the principle of performing monitoring activities.

We found PBGC's internal controls in these areas related to the review of SFA applications could use improvement, specifically in the areas of documentation, suspended benefit payments, and validating contributions. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

# Appendix II: Agency Response

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445 12th Street SW  
Washington, DC 20024-2101  
202-229-4000  
PBGC.gov

June 14, 2023

**To:** Nick Novak  
Inspector General

**From:** John Hanley JOHN HANLEY Digitally signed by JOHN HANLEY  
Date: 2023.06.14 17:00:19 -0400  
Chief of Negotiations and Restructuring

**Subject:** Response to OIG's Draft Report Audit of PBGC's Review of Initial Special  
Financial Assistance (SFA) Applications

Thank you for the opportunity to comment on the Office of Inspector General's (OIG) draft report, received May 16, 2023, relating to PBGC's Review of Initial Special Financial Assistance (SFA) Applications (Project No. PA-22-164). Your office's work on this is appreciated.

PBGC management met with the representatives from the OIG on April 27, 2023, 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 response 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: Frank Pace, Director, Corporate Controls and Reviews Department  
Latrece Wade, Risk Management Officer  
Karen Morris, General Counsel

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

1. **Develop and implement written guidelines to document analysis of potential issues and management agreement regarding the resolution of those potential issues prior to approving Special Financial Assistance applications. (OIG Control Number 2023-11-01)**

**PBGC Response:** Management concurs with this recommendation.

Since the applications reviewed for this audit were processed, PBGC has increased documentation of potential issues and resolution. All of the issues that arise are analyzed and concluded upon and documented in the Multiemployer SFA Division (MSFAD) analysis memo and the Negotiations and Restructuring Actuarial Department (NRAD) reports. In addition, these issues and their resolution are raised in the final briefing with the Director. Beginning in October 2022, minutes of the Director's briefing are documented, circulated, and included as part of the case file documentation.

In addition, there are standing weekly meetings which members of management attend. These meetings include:

- ONR meetings
- Operations meetings which include staff from various departments.
- Tri-Agency meetings that include representatives from the Departments of Treasury and Labor.

Additionally, the case team for each application has meetings throughout the application process to discuss issues identified during the review. Those issues are documented in the MSFAD analysis memo and NRAD reports. ONR currently adds the clarifying questions asked of the plan and their responses to our memos and includes any related analysis.

Lastly, NRAD is in the process of establishing additional procedures to address OIG's "potential issues" documented in the report as the background behind this recommendation.

**Scheduled Completion Date:** December 31, 2023

2. **Develop and implement additional controls to assess plans' benefit repayment calculations. (OIG Control Number 2023-11-02)**

**PBGC Response:** Management concurs with this recommendation.

Since completion of the OIG's fieldwork, NRAD has added additional analysis that compares cash flows from a plan's Multiemployer Pension Reform Act of 2014 (MPRA) application to those in the SFA application. These procedures were developed in late-2022 and implemented in application reviews beginning December 2022. That analysis is done on an additional tab within

ATTACHMENT

Template Checker 4A. In addition, NRAD will develop procedures around additional reviews that will be completed for non-MPRA insolvent plans.

**Scheduled Completion Date:** December 31, 2023

**3. Develop and implement additional controls to assess plans' reported contribution history. (OIG Control Number 2023-11-03)**

**PBGC Response:** Management concurs with this recommendation.

Since completion of the OIG's fieldwork and with the evolution of the SFA program, NRAD's procedures have been refined over time and contribution history reported in the SFA application is now checked against the history reported on Forms 5500. Instructions were given to NRAD actuaries via weekly meetings to perform this contribution check on all SFA applications. To the extent discrepancies are found, NRAD asks the applicant to explain via clarifying questions. These questions and the plan's responses are included in our memos, which also include any related analysis.

NRAD will formalize additional written procedures and checks around the evaluation of plans' reported contribution history. To address this finding, NRAD, with the assistance of its actuarial contractors, is currently in the process of amending its Template Checkers to enhance and standardize the review of an applicant's contribution history.

**Scheduled Completion Date:** October 31, 2023

## Appendix III: Acronyms

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<b>Acronym</b>	<b>Meaning</b>
ARP	American Rescue Plan Act of 2021
ASOP	Actuarial Standard of Practice
CBU	Contribution Base Unit
CDA	Contribution Deferral Agreement
CFR	Code of Federal Regulations
COVID-19	Coronavirus Disease 2019
ERISA	Employee Retirement Income Security Act of 1974
FY	Fiscal Year
GAO	Government Accountability Office
MEPD	Multiemployer Program Division
MPRA	Multiemployer Pension Reform Act of 2014
MSFAD	Multiemployer SFA Division
NRAD	Negotiations and Restructuring Actuarial Department
OGC	Office of General Counsel
OIG	Office of Inspector General
ONR	Office of Negotiations and Restructuring
PBGC	Pension Benefit Guaranty Corporation
PV	Present Value
SFA	Special Financial Assistance
U.S.C.	United States Code

# **Appendix IV: Staff Acknowledgement**

Staff Acknowledgement

Kara Burt, Audit Manager; Bryan Beardsley, Auditor-In-Charge; and Jensen Chan, Actuary, made key contributions to this report.

# Appendix V: Feedback

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Please send your comments, suggestions, and feedback to [OIGFeedback@pbgc.gov](mailto: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  
445 12th Street SW  
Washington, DC 20024

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.