



United States Government Accountability Office  
Washington, DC 20548

May 18, 2007

The Honorable Max Baucus  
Chairman  
The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate

The Honorable Edward M. Kennedy  
Chairman  
The Honorable Michael B. Enzi  
Ranking Member  
Committee on Health, Education, Labor and Pensions  
United States Senate

Subject: *PBGC's Legal Support: Improvements Needed to Eliminate Confusion and Ensure Provision of Consistent Advice*

The Pension Benefit Guaranty Corporation (PBGC) insures the pensions of nearly 44 million private sector workers in over 30,000 employer-sponsored defined benefit pension plans.<sup>1</sup> Established in 1974 as a self-financing government corporation, PBGC's primary responsibility is to insure, under statutory limits, the pension benefits of participants in covered private defined benefit plans. PBGC collects premiums from the sponsors of defined benefit pension plans and administers plans that are terminated for reasons such as plan insolvency or bankruptcy. In the event of a termination, PBGC assumes control of plan assets, determines plan benefit liabilities, and pays benefits as guaranteed by statute. In fiscal year 2006, about 612,000 plan participants and beneficiaries received \$4.1 billion in benefit payments from PBGC. An additional 659,000 participants in plans already trusted by the corporation will receive benefits from PBGC when they become eligible to retire. An increase in underfunded plan terminations in recent years increased the number of plan participants receiving and eligible for benefit payments.

Until recently, all of PBGC's attorneys worked in the Office of the General Counsel. The General Counsel reports to the Director<sup>2</sup> and until recently had responsibility for all legal matters, from representing PBGC in bankruptcy and litigation matters, to providing advice on personnel and

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

<sup>2</sup>Until recently, the PBGC was headed by an Executive Director, but the Pension Protection Act of 2006 changed the title to Director and provided for appointment by the President with the advice and consent of the Senate. Pub. L. No. 109-280, § 411(a), 120 Stat. 780, 935 (to be codified at 29 U.S.C. § 1302(a)). Throughout this letter, we use the term Director.

procurement law. In 2005, PBGC reorganized, creating an additional legal department called the Office of the Chief Counsel, and placed this new office under the Chief Insurance Program Officer. The Chief Counsel was given the responsibility for overseeing legal issues pertaining to PBGC's core mission functions, such as negotiations involving terminations resulting from bankruptcies, while the General Counsel retained responsibility for such general law issues as ethics, procurement, and personnel law.<sup>3</sup>

The former Director responsible for the reorganization told us that the new legal structure was meant to align the staff performing PBGC's core mission-related work with the legal staff supporting that work. It was also meant to provide additional advancement opportunities for attorneys. Concerns have been raised, however, that this organizational change, a decentralization of legal functions, has affected the uniformity of PBGC's legal opinions, because there is no single chief legal officer ultimately responsible for overseeing all programmatic or regulatory issues. Because of these concerns, and in light of PBGC's growing workload, you asked us to examine the effect the reorganization of the corporation's legal functions into separate offices has had on PBGC's operations. Accordingly, we assessed whether the reorganization has (1) clearly defined the roles and responsibilities of PBGC's legal offices and (2) ensured that consistent legal advice is provided to the PBGC Director.

We reviewed PBGC's current organizational structure, including its different legal components, such as the Office of the General Counsel and the Office of the Chief Counsel. To assess the effect the reorganization has had on the provision of legal services at PBGC, we reviewed PBGC memorandums and documents concerning the reorganization and interviewed the former Director who implemented these changes and the current and former general counsels and chief counsels. We also interviewed representatives from PBGC's union and several other management officials. Because PBGC officials said that its new legal structure was modeled after that of the Securities and Exchange Commission (SEC), we reviewed SEC documentation and spoke to an SEC official about that agency's organizational structure. We conducted our review from November 2006 through April 2007 in accordance with generally accepted government auditing standards. We provided a draft of this letter to the Department of Labor and the PBGC for comment.

In summary, the restructuring of PBGC's legal functions into separate offices has caused confusion over each office's authority. As a result, PBGC staff has sought advice from both the Office of the General Counsel and the Office of the Chief Counsel, sometimes in an effort to obtain a desired response. Further, PBGC officials told us that attorneys from the Office of the General Counsel have provided legal advice when the Office of the Chief Counsel had responsibility for the issue, which resulted in confusion and conflicting opinions.

PBGC's current legal structure does not guarantee that a chief legal officer has an opportunity to provide advice and views on legal matters, including those reaching the Director. Currently, the Chief Counsel does not have a reporting relationship to either the General Counsel or the Director. In an August 2006 report on a multimillion dollar business transaction, the Inspector

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<sup>3</sup>In addition to the Office of the Chief Counsel, the reorganization created another legal office, called the Legislative and Regulatory Department, to monitor and provide legal advice on, and analysis and drafting of legislative proposals and regulations related to PBGC's mission.

General found that PBGC put itself at risk because the General Counsel was not informed and did not serve its function as a check on critical issues. When an organization implements a decentralized legal structure, all counsel housed in specific business units typically report administratively to a chief legal officer, such as a general counsel, who in turn reports directly to the agency head.

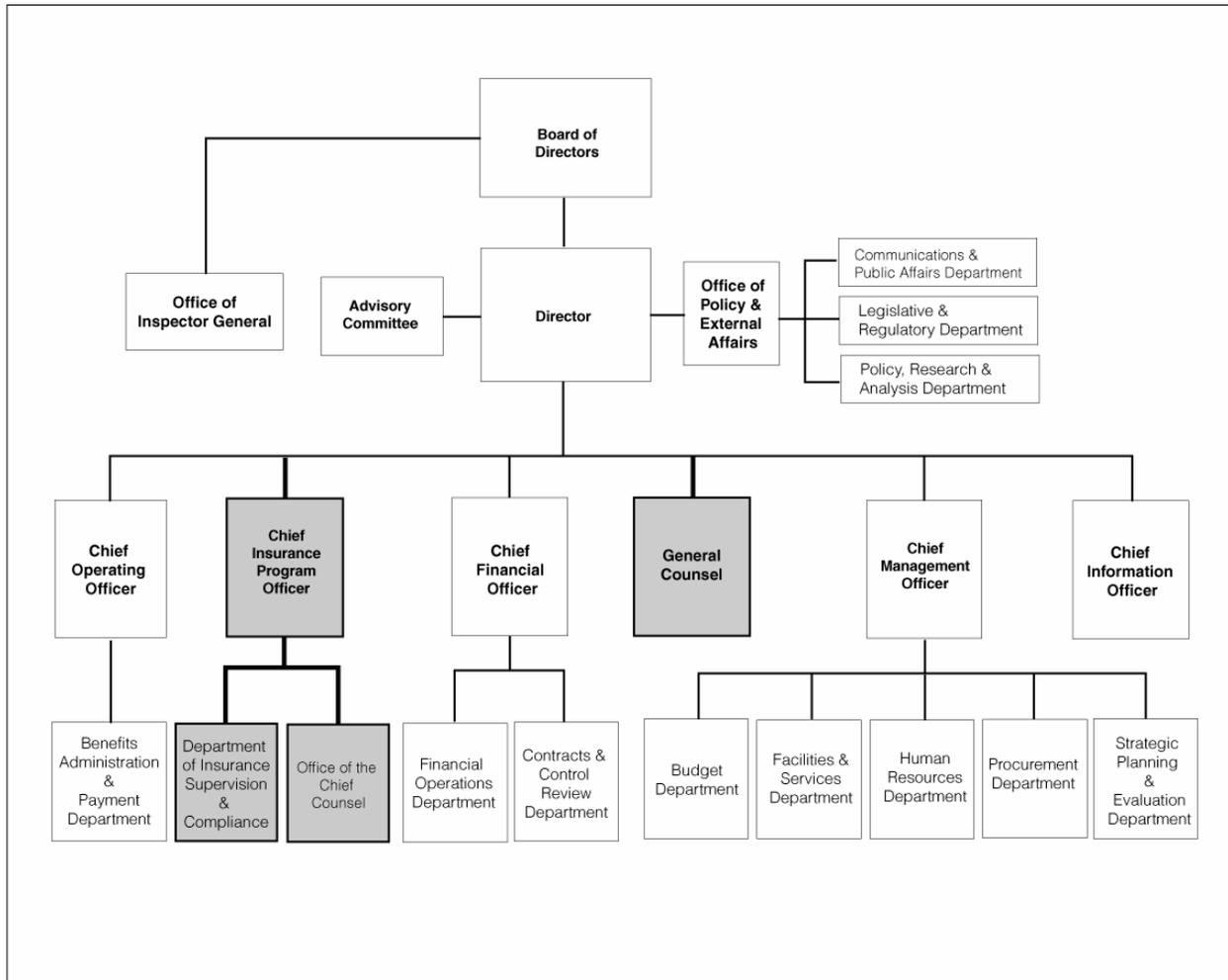
This letter contains a recommendation to PBGC to provide for all legal functions to be overseen by a single chief legal officer who reports directly to the Director. In commenting on a draft of this letter, PBGC disagreed with our recommendation, stating that a recommendation to adopt a single law office model was unduly prescriptive. We did not intend for our recommendation to be read narrowly as endorsing a single law office model. Rather than endorsing a particular legal structure, we point out that the legal functions could be organized in different ways, and this could include a decentralized structure. PBGC also expressed concern that our report did not sufficiently recognize the improved communication, coordination, reporting processes and changes to its corporate culture that it has undertaken. After carefully reviewing its concerns, we continue to believe that our conclusions and recommendation are well founded. PBGC's comments are provided in appendix I. We did not receive formal comments from the Department of Labor however, both PBGC and the Department of Labor provided technical comments and clarifications, which we incorporated in the letter as appropriate.

## **Background**

PBGC collects premiums from the sponsors of defined benefit pension plans, oversees plan terminations, and ensures the proper disbursement of payments. The corporation charges premiums to defined benefit plan sponsors, so it may make insured benefit payments to participants in defined benefit pension plans that terminate with insufficient assets. Under certain circumstances, PBGC can determine that the termination of an employer's plan is necessary to protect the interests of plan participants or of PBGC's insurance program, for example, if a plan does not have enough money to pay benefits currently due. In such cases PBGC negotiates with the plan sponsor to terminate the plan and is routinely appointed its permanent trustee. The negotiations are often fast-paced, high-pressure situations that increasingly involve large corporations and millions of dollars. PBGC's Department of Insurance Supervision and Compliance (DISC) staff, who manage the negotiations, have extensive financial, actuarial, and market expertise. DISC's legal support comes from the Office of Chief Counsel, whose staff has extensive knowledge of bankruptcy and pension law.

The Office of the Chief Insurance Program Officer, as shown in figure 1, manages the Office of the Chief Counsel and DISC. DISC monitors the corporate events and transactions of defined benefit pension plan sponsors and provides the necessary analyses to enable PBGC to assess its insurance program. In coordination with the Office of the Chief Counsel, DISC determines and pursues recoveries of unpaid employer contributions. DISC also makes recommendations to the Director concerning the filing of liens and makes recommendations to the Internal Revenue Service concerning conditions for granting employers waivers of the minimum funding requirements, which are the minimum amount of assets an employer's defined benefit plan must hold in order to fund promised benefits. Neither office reports to or through the Office of the General Counsel.

**Figure 1: PBGC's Organizational Chart**



Source: PBGC.

The Office of the Chief Counsel provides comprehensive legal services relating to PBGC's programs involving ongoing and terminated pension plans. Its attorneys represent PBGC in bankruptcy or insolvency proceedings, provide legal advice and services to support termination negotiations and settlements, and make recommendations concerning the initiation of litigation. Currently, the Office of the Chief Counsel has 50 attorneys.

Since the reorganization, the Office of the General Counsel consists primarily of attorneys who had previously worked in the general law area and are tasked with functions related to ethics, procurement, and personnel law. According to PBGC documents, the Office of the General Counsel provides the Director and PBGC departments with legal advice and counsel on general law issues and can provide advice on pension-law matters at the request of the Director. The Office of the General Counsel is also responsible for deciding administrative appeals of PBGC decisions concerning benefit coverage and other determinations. Further, the General Counsel

serves as Secretary to the PBGC's board of directors and keeps board meeting minutes.<sup>4</sup> The office currently has 27 attorneys.<sup>5</sup>

### **Restructuring Has Resulted in Confusion over Legal Roles and Responsibilities**

The restructuring of PBGC's legal functions has caused confusion within the corporation over each office's authority. As a result, PBGC staff has sought advice from both the Office of the General Counsel and the Office of the Chief Counsel, on the same or substantially similar issues, sometimes in an effort to obtain a desired response. In addition, PBGC officials told us that attorneys from both legal offices often provide legal advice on the same issues, which has resulted in confusion. For example, early in 2006, PBGC's Chief Financial Officer sent a memo to both offices requesting advice on an issue involving bankruptcy, and each office rendered a separate legal opinion. According to PBGC, the Office of Chief Counsel has responsibility for providing legal advice on issues involving bankruptcy matters, and the Office of the General Counsel has responsibility for providing legal services to the Financial Operations Department. While the legal conclusions of the two memos can be read in concert, the Chief Counsel's memo appears to reflect some level of disagreement with the General Counsel's approach to the issue raised. In another case, involving advice on a benefits issue concerning a specific pension plan, even though the Office of the Chief Counsel is generally responsible for providing legal advice to the Benefits Administration and Payments Department, both legal offices wrote memos to this department, presenting legal opinions that were in disagreement. After internal discussions among senior management, PBGC officers followed the advice presented by the Office of the General Counsel.

Confusion over roles and responsibilities has led to problems for those outside of PBGC as well. In some cases, external clients, such as employers that sponsor defined benefit plans, have experienced delays in receiving advice because they mistakenly sent their legal queries to the Office of the General Counsel rather than the Office of the Chief Counsel. For example, according to a PBGC official, an outside attorney contacted the Office of the General Counsel seeking guidance on a transaction and was told to submit a written request for a legal opinion. PBGC officials later agreed that the inquiry should have been sent to the Chief Counsel's office. Determining internal jurisdiction delayed by about a month PBGC's analysis of the transaction and its guidance. In another example, the General Counsel's office was asked for advice regarding a plan that was seeking relief from its premium payments. An attorney from the Office of the General Counsel drafted a letter that would have allowed for such relief. The letter, had it been approved, would have permitted PBGC staff to stop collecting premiums from the specific plan sponsor, indicating that PBGC did not cover the plan. However, the Chief Counsel's office disagreed with the Office of the General Counsel's position, and found that PBGC did cover the plan. According to a PBGC official, if the plan sponsor had stopped paying premiums to PBGC, the law would still require PBGC to guarantee benefits if the plan terminated with insufficient assets.

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<sup>4</sup>29 C.F.R. § 4002.6 (2006).

<sup>5</sup>The Legislative and Regulatory Department currently has 11 attorneys.

In an attempt to clarify the roles and responsibilities of the two legal offices, PBGC's Interim Director issued a memorandum in January 2007 discussing certain areas of jurisdiction that were not clearly addressed in the reorganization. To a certain extent, the memo heightened the confusion because, according to some PBGC officials, the memorandum reassigned certain functions previously understood to be within the scope of the Office of the Chief Counsel to the General Counsel's office. For example, although benefit determinations are made based on legal advice provided by the Office of the Chief Counsel, the responsibility for deciding appeals of benefit determinations has been given to the Office of the General Counsel. The memorandum states that the Office of the General Counsel is responsible for leading litigation arising from such an appeal. This is in conflict with PBGC documents that state that the Office of the Chief Counsel will represent PBGC in litigation in all courts when the issue involves ongoing and terminated pension plans. PBGC union representatives also asserted that the memorandum was not consistent with the union-negotiated reorganization agreements with PBGC management. According to the union representatives, the reorganization agreements state that the Office of the Chief Counsel will consist of the group that had previously been responsible for litigating fiduciary breach and Appeals Board cases in the pre-reorganization Office of the General Counsel and do not mention transferring these functions, or any others, to the post-reorganization Office of the General Counsel. PBGC management disagreed with the union's views on the Interim Director's memorandum, and told us that PBGC has not yet finalized how the issues discussed in the memorandum will be implemented.

Although officials at PBGC have acknowledged that there was confusion during the initial period of reorganization, they have also indicated that communication and collaboration among attorneys and clients has improved, and stated that the potential for future confusion is low. They explained that in response to the Interim Director's memorandum, PBGC's two legal offices now participate in biweekly meetings, to coordinate the matters his memo addressed. According to the officials, these meetings have enhanced collaboration.

### **Current Structure Does Not Ensure That Advice of a Chief Legal Officer is Provided on Significant Legal Issues**

PBGC's legal structure does not guarantee that a chief legal officer has an opportunity to provide advice on significant legal matters, including those reaching the Director. Organizations that implement a decentralized legal structure—by having all legal advice from counsel housed in specific business units pass through a chief legal officer, such as a general counsel, reporting directly to the agency head—can ensure that only legal advice that is backed by the chief legal officer reaches the agency head. However, PBGC's current legal structure fails to give the Office of the Chief Counsel an independent reporting line to either the General Counsel or the Director. In a 2006 survey of 186 large private-sector corporations, 154 corporations reported having attorneys that were organized in a centralized structure. Eighty-nine percent of these corporations reported that between "76 and 100 percent" of their attorneys report directly to a general counsel. In addition, 19 corporations reported having attorneys who were organized in a decentralized structure. The attorneys report directly to the head of their business units, with

an indirect reporting relationship to a general counsel.<sup>6</sup> An entity's general counsel commonly reports directly to the chief executive officer within the management hierarchy.

The Chief Counsel reports to the Chief Insurance Program Officer, a position that also has responsibility for the high-pressure negotiations conducted by DISC. Given the high value and risk of these negotiations, an independent legal voice is important. PBGC officials told us that the lack of a direct-reporting line is remedied because legal questions can be discussed in the executive management forum, which includes the Chief Insurance Program Officer, the Director, and the General Counsel. However, legal issues raised by the Office of the Chief Counsel may not reach the Executive Management forum, if the Chief Insurance Program Officer does not elevate them to that forum. The Chief Insurance Program Officer could be faced with competing priorities. On the one hand, this official has staff negotiating high-pressure deals. On the other hand, this official has attorneys responsible for ensuring that the deals are legally sound. Under pressure to close the deal, the potential exists for this executive to make a decision or take an action without airing an important legal concern before the General Counsel or the Director. However, PBGC officials noted that the current Chief Insurance Program Officer is an attorney with the necessary expertise to manage the Office of the Chief Counsel effectively. They also noted that the position of the Chief Insurance Program Officer may not always be held by someone with legal qualifications.

While PBGC documentation requires the General Counsel to review important transactions, this review does not always occur, which may put the corporation at risk. For example, in an August 2006 report, PBGC's Office of Inspector General found that the Office of the General Counsel had not been substantively involved in a multimillion dollar business transaction, even though PBGC documentation requires that the General Counsel review relevant proposed actions requiring approval of the Director. If, during the fast pace of decision making in negotiations, the Office of the General Counsel does not review important transactions, gaps in responsibility and accountability can occur. For example, an organization's General Counsel can help ensure that attorneys in the business units maintain their professional independence while providing specialized legal services.<sup>7</sup> Under the current legal structure, the Office of the General Counsel cannot realistically be integrally involved in every aspect of negotiations, and there may be times when the Office of the General Counsel is not aware of an issue that can result in damage to the PBGC. The Inspector General found that PBGC put itself at risk because the General Counsel was not informed, and did not serve its function as a check on critical issues facing PBGC.

According to PBGC officials, the corporation refined its practices after this transaction and the report by the Office of Inspector General, and began coordinating better in a variety of areas. For example, the Interim Director implemented biweekly meetings on major cases, at which key senior staff are alerted to major developments that may require their input. According to PBGC officials, during a subsequent transaction, there was improved cooperation across all

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<sup>6</sup>The Hildebrandt 2006 Law Department survey was conducted by Hildebrandt International, a professional services consulting firm. Its benchmarking survey provides information on legal spending, staffing, management, and compensation. The median company in its survey is one with approximately \$8 billion in worldwide revenues, 20,000 worldwide employees, and a U.S. law department with over 20 lawyers and 40 total staff.

<sup>7</sup>E. Norman Veasey, and Christine T. Di Guglielmo, "The Tensions, Stresses, and Professional Responsibilities of the Lawyer for the Corporation," *The Business Lawyer* (Vol. 62, Nov. 2006).

department lines that, according to the officials, resulted from the implementation of these meetings.

The former Director, responsible for the reorganization, told us that the new legal structure is modeled on that of the SEC. At SEC, there is an Office of the General Counsel that reports to the SEC Chairman. There are also several Chief Counsels who are embedded in the various business units, and they report directly to the department heads—not necessarily the General Counsel. However, according to an SEC official, it is agency practice that the Chief Counsels' most important actions are reviewed by the Office of the General Counsel. In addition, the official also told us that the heads of the majority of SEC's business units are required to be filled by attorneys, whereas at PBGC the Chief Insurance Program Officer position, although currently filled by an attorney, is a general management position.

## **Conclusions**

The current organization of PBGC's legal functions lacks a clear division of authority and does not ensure that the Director receives legal advice directly and with the full support of a chief legal officer. Currently, there are two distinct legal offices within PBGC, but there is no single legal voice. The current structure creates confusion for PBGC both internally and externally, which could seriously affect PBGC's mission. While PBGC's legal functions could be organized in different ways, we believe that the lack of a direct reporting line from the Chief Counsel to the General Counsel or the Director could result in decisions made without consideration of PBGC's overarching legal concerns. In short, the current legal structure has resulted in various problems and has the potential to create additional problems in the future. Therefore, this matter deserves prompt attention to eliminate such problems.

## **Recommendation for Executive Action**

In order to promote clear lines of authority and the provision of consistent legal advice, we recommend that PBGC

- provide for all legal functions to be overseen by a single chief legal officer with full authority to delineate the duties of each legal office and a direct reporting relationship to the Director.

## **Agency Comments and Our Evaluation**

We provided copies of a draft of this letter to the Secretary of Labor and PBGC's Interim Director for their comments. The Department of Labor provided technical comments which we incorporated in our final letter as appropriate. PBGC provided written comments which are reproduced in appendix I. In its comments, PBGC stated that it disagrees with our recommendation, which it characterizes as an unduly prescriptive recommendation that it adopt a single law office model. We did not intend for our recommendation to be read narrowly as endorsing a single law office model. Rather than endorsing a particular legal structure, we point out that the legal functions could be organized in different ways, and this could include a decentralized structure. We recommended, and continue to believe, however, that in determining the most appropriate structure for providing legal support, PBGC should ensure that all legal functions are overseen by a single chief legal officer with authority and accountability for all legal advice provided to the Director and the various departments within

PBGC. Without a single chief legal officer, we believe that the inconsistency and confusion that we documented in the report are likely to continue. Indeed, our recommendation is consistent with the views of four former General Counsels of the PBGC. We interviewed these individuals, with a combined 28 years of service as General Counsel, and each of them independently stated that having a chief legal officer oversee PBGC's attorneys is the best approach for the corporation.

PBGC also expressed concern that our report did not sufficiently recognize the improved communication, coordination, reporting processes and changes to its corporate culture that it has undertaken. While we have modified the report to include these stated changes, we point out that, during our five month review we saw little evidence of such change. We believe that the new biweekly meetings implemented by the Interim Director are a step in the right direction, and involving the General Counsel in the oversight of major agency decisions is consistent with our recommendation. However, relying solely on improved cooperation and communication is not an adequate approach for improving a flawed organizational structure.

In addition to its written comments, PBGC also noted several technical corrections to the letter, which we incorporated as appropriate.

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As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 30 days after the date of the letter. At that time, we will send copies of this letter to the Secretary of Labor, the Interim Director at PBGC, and other interested parties. We will also make copies available to others on request. In addition, the letter will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this letter, please contact me at (202) 512-7215 or [bovbjerg@gao.gov](mailto:bovbjerg@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this letter. Other key contributors to this letter were Blake Ainsworth, Assistant Director; Monika Gomez; Jason Holsclaw; Kisha Clark; and Craig Winslow.

Sincerely yours,



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

# Appendix I: Comments from the Pension Benefits Guaranty Corporation



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

Office of the Director

May 8, 2007

Barbara D. Bovbjerg, Director  
Education, Workforce, and Income Security Issues  
U.S. Government Accountability Office  
Washington, DC 20548

Re: Response to GAO's Draft Report on PBGC's Legal Support

Dear Ms. Bovbjerg:

I appreciate the opportunities you have given PBGC to provide input for this report. On May 3, 2005, we submitted technical corrections that clarified PBGC's statutory mandates and numerical data about the insurance program. PBGC also provided additional information concerning the current and historical responsibilities and reporting roles of various units and officials. At a meeting with GAO officials on May 4, 2007, PBGC provided factual corrections to several of the examples in the draft report. PBGC does not know the extent to which the final report will reflect these comments, but as we clarified during the meeting, the draft report draws conclusions from incidents that occurred some time ago during a period when PBGC was in transition, and does not reflect the extensive coordination practices that PBGC has implemented since that time. As the Interim Director during this time of transition, I continued to implement the reorganization mandated by the previous Director in a manner that ensured that the legal offices were productive and provided the agency with quality legal advice.

As with any reorganization, a number of different models could be pursued. In fact, PBGC itself has used different models, including one in which the General Counsel reported to the Chief Operating Officer (approximately 1995 to 2003). No one model is necessarily right. Indeed, I believe that the issues that have arisen in connection with this reorganization derive primarily from the need to enhance communication and collaboration, rather than from structural problems. Making structural changes now might not only fail to address problems with the current system, but could also create new problems.

Following any reorganization, a period of adjustment is necessary. It is critical to the success of any organizational model that the affected offices actively foster a culture of co-operation and communication. While the legal reorganization certainly created some difficulties for PBGC staff as roles and responsibilities evolved, these were internal problems only, and did not affect the quality of the legal work of the Corporation. Over

time, the Corporation has instituted processes and procedures for its legal offices that facilitate greater communication and co-operation.

PBGC is concerned that the report does not capture this evolution, but rather, focuses on problems that occurred during the early days of the reorganization. Moreover, PBGC believes that some of the information in the report is not factually accurate, and is therefore appending to this response a list of technical corrections to the report (Attachment 1). PBGC requests that it be provided the opportunity to respond to any new or additional facts that GAO may decide to include in the report.

Specifically, the draft report focuses on a period when the reorganization had not fully been assimilated, and when lines of communication were not nearly as well developed as they are today. In the last several months, we have made substantial progress. For example, PBGC now holds biweekly meetings to report major bankruptcy and transactional matters to the Interim Director, the General Counsel, the acting Chief Financial Officer, and other senior staff. Issues are vetted, concerns are raised and addressed, and all are kept apprised of significant developments and events on the horizon. As appropriate, other senior officials are brought into the case as their respective areas of expertise or responsibility are implicated. In reciting the findings of an Office of Inspector General report, the draft fails to note that PBGC later refined its coordination practices, and adopted additional practices. A good example is the recently completed Delta Airlines bankruptcy, which included a complex settlement with PBGC on a variety of issues. The General Counsel was asked to review the final settlement documentation, as well as a report on Delta's pension plan investment practices. In a similar vein, the Department of Insurance Supervision and Compliance and the CFO organization worked closely together, with advice of counsel, to negotiate appropriate treatment of the Delta common stock that was issued to PBGC in exchange for its claims.

There are also biweekly meetings among the Chief Counsel and General Counsel and their senior staff members. At these meetings, less visible but nevertheless novel and difficult legal issues are vetted, and further coordination is planned. Several examples of fruitful collaboration have resulted from these meetings, in areas not clearly addressed by the Mission and Functions statements. Perhaps more important, the corporate culture is evolving to one of open lines of communication. In those instances where there is a diversity of legal opinion, this helps to elucidate the issues and inform the decision makers.

Regardless of formal lines of reporting, a lawyer's duties are defined by applicable legal ethics standards. And although there may be differences of opinion on how best to protect the agency's interests, PBGC has resolved this issue as most organizations do, by making written assignment of responsibility to different departments, including the two law offices. As in any organization, the Director is surely entitled to consult with the General Counsel, the Chief Counsel, or any other member of his staff as he sees fit.

We are particularly troubled by the Recommendation portion of the report. To recommend that an agency adopt a single organizational model to clarify lines of

authority and promote consistent legal advice seems to us unduly prescriptive. The problems that the Recommendation purports to resolve can also exist within a single law office model. Indeed, PBGC experienced some of these same difficulties when the agency had a unified legal office. The Recommendation also gives far too little weight to the improved communication, coordination, and reporting processes and changes in corporate culture described above. PBGC has made significant progress in addressing past problems with cooperation and communication and, therefore, the agency disagrees with the Recommendation to restructure.

Sincerely,



Vince Snowbarger  
Interim Director

Attachment

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