Federal Accounting Standards Advisory Board

December 8, 2011

Memorandum

To: Members of the Board

From: Melissa Loughan, Assistant Director

Wendy M. Payne

Through: Wendy M. Payne, Executive Director

Subj: Federal Reporting Entity- **Tab C--Component Entity**[1]

MEETING OBJECTIVES

- To consider issues relating to adapting the first inclusion principle—*In the Budget—for application by* component entities.

BRIEFING MATERIAL

The transmittal memorandum includes a discussion of issues and recommendations beginning on page 3 under Staff Analysis and Recommendations. A full list of Questions for the Board appears on page 13. In addition, the following items are attached:

- Appendix 1: DOL/PBGC Background Memorandums

You may electronically access all of the briefing material at http://www.fasab.gov/board-activities/meeting/briefing-materials/

[1] The staff prepares Board meeting materials to facilitate discussion of issues at the Board meeting. This material is presented for discussion purposes only; it is not intended to reflect authoritative views of the FASAB or its staff. Official positions of the FASAB are determined only after extensive due process and deliberations.

BACKGROUND

The Board has focused its deliberations on the government-wide reporting entity. This phase of the project will focus on the component reporting entity. The topic has been briefly introduced to the Board. Due to time constraints and the amount of time spent deliberating government-wide issues in October; the Board did not have a chance to discuss the component entity phase. Staff hopes to gather preliminary feedback from the Board on this phase as we wrap up the government-wide portion of the project.

NEXT STEPS

Detailed issues related to the component entity phase will be presented at the next several meetings with the goal to review the complete draft exposure draft by August 2012.

****

MEMBER FEEDBACK

If you require additional information or wish to suggest another alternative not considered in the staff proposal, please contact staff as soon as possible. In most cases, staff would be able to respond to your request for information and prepare to discuss your suggestions with the Board, as needed, in advance of the meeting. If you have any questions or comments prior to the meeting, please contact me by telephone at 202-512-5976 or by e-mail at loughanm@fasab.gov with a cc to paynew@fasab.gov.

STAFF ANALYSIS AND RECOMMENDATIONS

From FASAB's current pronouncements, previous Boards have concluded that the same objectives apply to both government-wide and component reporting entities, and that all costs and liabilities reported in the government-wide financial statements must be attributable to a component reporting entity. In addition, there appeared to be a general principle that all costs and liabilities must be reported at the component level before flowing into the consolidated statements.

Staff believes the overall framework for the component reporting entity standards should be generally consistent with those established for the government-wide—based on organization and accountability. The component entity reports should include organizations on a comparable basis across components as well as support identification of organizations to include in the government-wide report. This would allow the Congress and the President to hold component entity management accountable for implementation of public policy decisions, show the risks inherent in component entity operations, and provide accountability.

The principles for defining what organizations should be included in the component entity reports should be consistent with those established for the government-wide. Principles and attributes established for core and non-core entities would generally be the same, but would have to be revised to fit the component entity *level* versus the government-wide. Naturally, the information presented in government-wide financial statements is aggregated and in less detail than in component entity financial statements. So, certain non-core entities may meet materiality thresholds in component entity reports while not in the government-wide. Therefore, disclosures are likely to be more detailed in component entity reports.

Conclusion regarding approach:

Staff believes the overall framework for the component entity standards should be accountability and generally consistent with what has been established for the government-wide. That is, with necessary adaptations the standards would provide:

1. principles for identifying organizations to be included in the component entity's GPFFR
2. guidance for core and non-core entity classification (generally consistent with the government-wide classification principles)
3. for only core entities to be consolidated in a component entity[2]
4. requirements to report related non-core entities through disclosures consistent with government-wide requirements

[2] The board previously decided not to establish criteria for "reporting entity." This means that any core entity can produce a standalone GPFFR. The GPFFR for that core entity must include the organizations for which the core entity is accountable.

Therefore, staff will begin by identifying potential issues that may need to be addressed to adapt the government-wide principles for the component entity level. This paper identifies issues to be considered in adapting the first inclusion principle—In the Budget—to component reporting entity principles.

Identification of Issues regarding Component Entity

The draft ED defines component reporting entity as follows:

> **Component Reporting Entity** "Component reporting entity" is used broadly to refer to a reporting entity within a larger reporting entity[3] that issues GPFFR. Examples of component reporting entities include entities such as executive departments, independent agencies, government corporations, legislative agencies, and federal courts. Component reporting entities would also include sub-components (those components that are included in GPFFR of a larger reporting entity) that prepare GPFFR. One example is a bureau of a larger department that prepares stand alone financial reports. Other examples include commercial functions, revolving funds, and/or other accounts for which GPFFR are prepared. Placeholder for clarifying the component reporting entity definition to state its GPFFR should include organizations based on principles established in this Statement [i.e. accountable or administratively assigned.]

When a component of the federal government issues a GPFFR, it must determine what organizations to include.

1. ***Complete Economic Entity***

Previously, Mr. Dacey raised the question of the completeness of a component entity. Specifically, he was concerned about whether the financial statements provide a complete representation of the component entity's operations. Because federal components receive support from other components and rely on federal funding, it is often difficult to ensure that financial statements are complete. For example, SFFAS 4 provides that certain unreimbursed costs of goods and services provided by one federal agency to another be recognized to arrive at the full cost of a program. In addition, some question the meaningfulness of net position for a component of the federal government given the power to tax and allocation of resources through the budgetary process.

Presently, each component entity includes a statement cautioning the reader as follows: 'The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.' This is in contrast to the expectation expressed in

[3] The larger reporting entity could be the government-wide reporting entity or another component reporting entity.

the International Accounting Standards Board's exposure draft, Conceptual Framework for Financial Reporting: The Reporting Entity, which provides that a reporting entity must have economic activities which "can be objectively distinguished from those of other entities and from the economic environment in which the entity exists." Staff does not believe this condition exists for most federal component entities and that this should be emphasized in the basis for conclusions (but not in the standards).

Because of this difference between federal component entities and other types of entities, the board may wish to explore the following issues further:

1. Are additional principles needed at the component level to provide a complete representation of the component entity's operations (e.g., in addition to inter-entity costing, information about inter-entity cooperation, planning, and/or performance)?

2. Is additional explanatory language needed because the component entity GPFFR presents the financial statements of a component of the U.S. Government (e.g., disclosures regarding the nature of the entity)?

Staff believes these considerations could be explored further once the Board considers the potential issues with the inclusion principles below and the Board has deliberated core and non-core entity classifications and determined needed revisions for the component level. Additionally, the Board still needs to address the Related Party area for the component area (as well as for the government-wide section) which may also have an impact. Staff recommends deferring consideration of these issues until a later stage.

Question 1 for the Board

Does the Board agree:

a. that the basis for conclusions should discuss the reasons for the limitation that "the statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity"?

b. the need for additional principles and/or explanatory language can be delayed until the issues regarding the inclusions principles, core/non-core, and related party have been resolved?

Inclusion Principles

The organizations to include in a component reporting entity GPFFR must first be identified. The four government-wide inclusion principles would serve as the starting point for developing guidance.

This paper starts by looking at the first principle in detail. The remaining principles are set up for discussion at future meetings.

In the Budget –

The Budget of the United States Government: Analytical Perspectives- Supplemental Materials Schedule of Federal Programs by Agency and Account presents budgetary accounts primarily by branch and by agency. For the government-wide GPFFR, with the exception of organizations receiving federal financial assistance, an organization identified in the budget is (1) included in the GPFFR and (2) presumed to be a core entity.

SFFAC 2 provides that "Any organization, program, or budget account, including off-budget accounts and government corporations, included in that section should be considered part of the U.S. Federal Government, as well as part of the organization with which it appears." The specific wording of the component entity "in the budget" principle will be developed after receiving board input at the December meeting.

---

2. ***Exclusion / exception for federal financial assistance***

As members recall, the government-wide *In the Budget* inclusion principle states the following:

> An organization with an account or accounts listed in the *Budget of the United States Government: Analytical Perspectives- Supplemental Materials* schedule *Federal Programs by Agency and Account* should be included in the government-wide GPFFR **unless it is a non-federal organization receiving federal financial assistance.**[4] To identify non-federal organizations receiving federal financial assistance candidates should be assessed against the next two principles (*Ownership* and *Control*) to determine if they should be included in the government-wide GPFFR.

An important question to consider is if the same exclusion should apply at the component entity level? Staff believes it should as typically the organizations receiving federal financial assistance are listed under an agency which is a component reporting entity. For example, certain entities receiving assistance may be listed under a larger component reporting entity, such as a Department—for example the Department of Treasury or the Department of Education and this exception should apply.

The language is proposed in the Draft ED to ensure organizations that receive large grants that are specifically listed under an appropriation in the *Federal Programs by Agency and Account* schedule aren't automatically included in the GPFFR, but the same exclusion should apply at the component level. Often, grants are received through programs and recipients are not necessarily listed in the budget, but there are certain situations where an organization may be listed, so it should be addressed. In these instances, the other inclusion principles would be used to determine if the organization is part of the larger component entity. However, it shouldn't be pulled in solely based on the In the Budget principle.

For example, the National Endowment for Democracy (NED) receives grants from the Department of State. The NED is a private non-profit corporation established to encourage and strengthen the development of democratic institutions. NED is listed specifically under the Department of State in the FY 2011 *Federal Programs by Agency and Account* schedule. However, NED shouldn't be automatically considered part of the government-wide nor the component entity. Instead this type of organization should be assessed against the Ownership and Control principles to determine if it should be included.

[4] As defined by the Single Audit Act Amendments of 1996, federal financial assistance is assistance that non-Federal organizations receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance.

Another example may include the Gallaudet University which receives funding from the Department of Education under the Office of Special Education and Rehabilitative Services. Gallaudet University is listed specifically under the Department of Education in the FY 2011 *Federal Programs by Agency and Account* schedule. However, if Gallaudet is receiving assistance or a subsidy[5] it shouldn't be automatically considered part of the government-wide reporting entity or the component reporting entity.

Based on the examples provided and reasons stated, staff believes the exception regarding federal financial assistance should apply at the component reporting entity level. The determination as to whether it is financial assistance will need to be made by the preparer. Even so, those organizations would have to be assessed against the Majority Ownership and Control inclusion principles.

Question 2 for the Board:

Does the Board agree the exclusion or exception for federal financial assistance should apply at the component entity level?

---

[5] Staff believes it would be up to the preparer to know what entities are in fact receiving subsidies. The Statement should recognize that although these may be listed in the budget they are not automatically included based on the principle. Staff doesn't believe it would be appropriate to articulate how subsidies are presented in the *Federal Programs by Agency and Account* schedule or refer to other budget documents because that manner may or may not change. Similar language is included in the Basis for conclusion for the government-wide portion.

3. *__Other circumstances in which an organization identified in the budget should not be considered part of the larger organization__*

As members are aware, organizations listed in *Budget of the United States Government: Analytical Perspectives- Supplemental Materials* schedule *Federal Programs by Agency and Account* are included in the government-wide GPFFR, with the exception of organizations receiving federal financial assistance. Those organizations identified in the budget are (1) included in the GPFFR and (2) presumed to be a core entity which means it is consolidated in the GPFFR.

The question at the component level is if there are other circumstances or instances where an entity should not be included in the reports of the larger reporting entity with which it appears in the budget?

While considering this issue at the government-wide, the Board realized this may not be valid at the component level. For example, when the Board considered having "conclusive" and "indicative" principles at one point during the project—the Board tentatively agreed that conclusive principles would only be applicable at the government-wide level. The Board realized there were potential issues with having In the Budget as a conclusive principle for components, but believed it could be an indicative principle.

Staff is aware of at least one instance where an organization is <u>not</u> considered part of the larger agency that it is listed under in the budget—Pension Benefit Guarantee Corporation (PBGC) is not consolidated with the Department of Labor. Based on staff's review of the background information and memos provided, OMB granted a waiver for 2007 and beyond on July 18, 2007. See Appendix A for memos.

This waiver was based on historical experience for both DOL and PBGC, what interested parties were accustomed to accessing for both entities, and the fact both entities had received unqualified audit opinions.[6] Considering OMB approved an indefinite waiver based on an analysis performed by DOL and apparently agreed to by several parties-- it appears this issue has been considered and agreed to by many people over the years. DOL argues that this establishes GAAP through prevalent practice.

In addition to the prevalent practices argument, staff also notes that DOL in its background letter presents that consolidating the information for DOL and PBGC may result in misleading financial statements because DOL is not responsible for PBGC's liabilities and obligations. DOL describes the budget presentation as PBGC is under DOL and PBGC submits its budget through DOL. Nonetheless, PBGC and DOL have separate budgets. DOL does not guide PBGC's investment strategy, support lawsuits or permit PBGC use of DOL's Working Capital Fund. Further, PBGC is self-financed and does not draw on DOL resources.[7]

---

[6] OMB Letter dated July 18, 2007 par. 4
[7] US DOL Letter dated May 25, 2007

Staff notes that although the financial information for PBGC isn't included with DOL, performance information for PBGC is included in the Performance and Accountability Report to meet requirements of the Government Performance and Results Act.[8] (This is similar to the case of State and USAID who issue a joint summary of performance and financial information annually but provide separate agency financial reports.)

Staff believes the first question for the Board to consider is whether criteria should be developed (based on the known example). Staff believes waivers were effective when there were no established standards but may not be when standards—level A GAAP—are established. So, the standards should provide principles to identify instances where organizations should not be included in the GPFFR.

An additional consideration is that the structure of the budget presently varies and also may change in the future. Sometimes funds are not grouped within the budget strictly by agency. For example, the *Federal Programs by Agency and Account* presently groups international assistance programs (IAP) together under that heading (rather than under an agency). Under the IAP heading, Millennium Challenge Corporation and US Agency for International Development are listed and each is an independent agency. Also under the IAP heading, the Pakistan Counterinsurgency Capability Fund is listed. It is administered by the US Department of State and information about that fund is provided in State's agency financial report even though the fund is not identified under the agency in the budget.

Also, the *Federal Programs by Agency and Account* may change in the future to facilitate administrative changes. An example of a recent initiative that may lead to change is the effort to integrate some aspects of foreign assistance planning. State recently established an office "to manage an integrated Department and USAID foreign assistance budget formulation process, while retaining important roles in budget execution, strategic planning, program planning, and performance management. For the first time since [the office's] establishment, USAID will submit to the Secretary a comprehensive budget for its programs for FY 2013, which [the office] will review and integrate into the overall foreign assistance budget proposal for consideration by the [Deputy Secretary of State for Management and Resources] and the Secretary." (State OIG. Inspection of Office of the Director of U.S. Foreign. Assistance. Report Number ISP-I-11-57, August 2011)

Alternatively the standard could be silent regarding the issue because it may be deemed rare, appropriate or without merit.

[8] US DOL Letter dated October 25, 2007

Question 3a. for the Board:

Does the Board agree the component level standards should provide for instances where the organization identified in the budget should not be considered part of the larger organization?

If the Board agrees, staff believes there are two revisions required for addressing this issue at the component level:

1.) Develop principles based criteria to address these types of situations related to *In the Budget* for when this inclusion would not be applicable.

- Budget Information is Listed for Administrative or Budget Submission Purposes
    - Budget Request Not Coordinated with Component Head/Accountability Head
    - No Involvement By Component Head/Accountability Head Regarding Budget Execution, Investments, or Strategic Planning
- Professional Judgment allowed for Circumstances Resulting in Misleading Financial Statements

In addition, the criteria would also state that—similar to the case of federal financial assistance—these organizations should be assessed against any other inclusive principles (such as *Ownership* and *Control)* to determine if they should be included in the component reporting entity.

2.) The assumption that entities listed in the budget are "core" and consolidated may need to be revised for the component level. Although these entities may still be core, this may not necessarily lead to automatic consolidation at the component level. Staff notes the need to consider whether the approach to consolidation and disclosures should change at the component level.

Question 3b. for the Board:

Does the Board agree with the general direction of staff's proposed revisions for addressing instances where the organization identified in the budget should not be considered part of the larger organization at the component entity level? (Staff will present final wording as part of the complete revised principle on "In the Budget" for a later discussion.)

Question 4 for the Board:

4. Are there other issues related to *In the Budget* principle that should be explored further?

QUESTIONS FOR THE BOARD

1. **Does the Board agree:**

   a. **that the basis for conclusions should discuss the reasons for the limitation that "the statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity"?**

   b. **the need for additional principles and/or explanatory language can be delayed until the issues regarding the inclusions principles, core/non-core, and related party have been resolved?**

2. **Does the Board agree the exclusion or exception for federal financial assistance should apply at the component entity level?**
3. **Does the Board agree:**
   a. **that the component level standards should provide for instances where the organization identified in the budget should not be considered part of the larger organization?**
   b. **with the general direction of staff's proposed revisions for addressing instances where the organization identified in the budget should not be considered part of the larger organization at the component entity level? (Staff will present final wording as part of the complete revised principle on "In the Budget" for a later discussion.)**
4. **Are there other issues related to *In the Budget* principle that should be explored further?**

U.S. Department of Labor

Office of the Chief Financial Officer
Washington, D.C. 20210

MAY 25 2007

MEMORANDUM FOR LINDA COMBS
Controller, Office of Management and Budget

FROM: YOKO ALBAYRAK
Acting Deputy Chief Financial Officer

SUBJECT: Request to Exclude the Pension Benefit Guaranty Corporation from the Department of Labor for Purpose of Consolidated Financial Statement Reporting

I request that the Pension Benefit Guaranty Corporation (PBGC) be excluded as a component entity of the Department of Labor (DOL) for consolidated financial statement reporting. This request is based on several factors: DOL and PBGC have established a prevalent practice over many years of PBGC not being consolidated into DOL's financial statements; consolidation of PBGC into DOL could produce misleading financial results to readers of the financial statements; and DOL and PBGC have separate budgets. A detailed discussion of these issues is provided below.

Background

PBGC is a federal corporation created by the ***Employee Retirement Income Security Act of 1974 (ERISA)*** within DOL for the purpose of protecting the private-sector defined benefit pension plans of U.S. workers. ERISA has been revised several times in the past, and provisions from the most recent revision, ***The Pension Protection Act of 2006***, have been considered and, where appropriate, incorporated into the contents of this document.

Currently PBGC protects the pensions of nearly 44 million American workers and retirees in 30,330 private single-employer and multi-employer defined benefit pension plans. PBGC, in turn, pays monthly retirement benefits, up to a guaranteed maximum, to about 612,000 retirees in 3,683 pension plans that ended and PBGC now manages.

PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums set by Congress and paid by sponsors of defined benefit plans, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the plans. ERISA provides that the U.S. Government is not liable for any obligation or liability incurred by the corporation.

Since its inception, PBGC, as a stand-alone government corporation, has prepared its own audited financial statements. PBGC also provides financial data directly to the Department of the Treasury for consolidation into the *Financial Report of the U.S. Government (FRUSG)*. PBGC has received an unqualified independent audit opinion for the past 14 consecutive years.

DOL prepares financial statements under the CFO Act of 1990. DOL has excluded PBGC as a component entity of DOL for financial statement reporting purposes since 1992 in its first set of audited financial statements. DOL has routinely included a statement in its annual financial reports that PBGC is excluded from the consolidated financial statements based on an OMB waiver.

In 2006, DOL's new external auditors, KPMG, inquired about the existence of this waiver. After investigation, no one at DOL, OMB, or DOL's Office of Inspector General (DOL OIG) could find a copy of the official record[1] of this waiver. All parties acknowledge that the waiver was in effect, but no official paperwork on the waiver could be located.

DOL applied for and was granted a one-year waiver by OMB in November 2006 with the expectation that DOL and PBGC would perform an in-depth study of the merits of a permanent waiver from consolidating PBGC into DOL and present its findings to OMB for consideration. You indicated in your November 1, 2006, response to DOL's FY 2006 waiver request that OMB would have discussions with DOL to determine the appropriateness of a waiver beyond 2006. DOL received an unqualified audit opinion on the FY 2006 consolidated financial statements as it has for the past 10 consecutive years.

An Evaluation Team was formed with members from DOL, PBGC, and independent consultants to study the laws, regulations, and Federal Generally Accepted Accounting Principles to determine the merits of requesting a permanent waiver from OMB. Additionally, OCFO has shared our results with members of your staff and have incorporated their comments and suggestions into this document as well as the results and recommendation of the Evaluation Team's research.

---

[1] Records and files were reviewed within the respective offices at DOL, OMB, and OIG. The search did not include an examination in either the National Records Center or the National Archives.

Budgeting

The PBGC is presented in the President's Budget as a division within the Department of Labor. Per ERISA (29 U.S.C. § 1302(g)(2)), "The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government." However, PBGC's source of financing is provided exclusively through its own means, primarily annual premiums paid by sponsors of ongoing covered plans, assets from terminated plans, investment income, and amounts due PBGC from sponsors of terminating plans.

Authoritative Guidance

As noted above, PBGC is displayed in the President's Budget as a Federal Program by Agency and Account within DOL. OMB Circular A-136 and Statement of Federal Financial Accounting Concepts (SFFAC) No. 2, ¶ 42, identify this as conclusive criteria that the entity is a component entity of the executive department.

Rationale for Not Considering PBGC a Component Entity of DOL for Financial Statement Reporting

There are three primary rationales that PBGC should not be considered a component entity of DOL for financial statement reporting.

1. Prevalent Practice Established due to Specific Circumstances

    a. PBGC has established itself as a stand-alone government corporation since its inception in 1972. PBGC has issued audited financial statements since its inception and has received an unqualified audit opinion for the past 14 years. Parties interested in understanding PBGC's role in protecting private-sector defined benefits plans are accustomed to consulting PBGC's audited financial statements.

    b. DOL prepares financial statements under the CFO Act of 1990. DOL has received an unqualified audit opinion for the past 10 consecutive years. DOL has excluded PBGC as a component entity of DOL's consolidated financial statements since 1992, its first year of published financial statements. DOL has routinely included a statement in its annual financial reports that PBGC is excluded from the consolidated financial statements based on an OMB waiver. Therefore, a prevalent practice of not consolidating PBGC into its audited financial statements has been established. Under the Generally Accepted

Accounting Principles (GAAP) hierarchy under the AICPA Statements on Auditing Standards, AU 411, paragraph 5,[2] "The sources of established accounting principles that are generally accepted in the United States are...

(d) Practices or pronouncements that are widely recognized as being generally accepted because they represent prevalent practice in a particular industry, or the knowledgeable application to specific circumstances of pronouncements that are generally accepted."

2. Unusual Circumstances Result in Misleading Financial Statements

   a. ERISA provides that the U.S. Government is not liable for any obligation or liability incurred by the PBGC.

   b. PBGC provides financial data directly to the Department of the Treasury for consolidation into the FRUSG. From a stewardship function, the U.S. Government includes PBGC-specific information in tables and footnotes to the FRUSG as part of its report on the nation's financial condition. However, the U.S. Government does not assume the PBGC's liabilities.

   c. If PBGC were consolidated into DOL's financial statements, a reader of those statements may erroneously think PBGC's obligations and liabilities are backed by DOL.

3. Budget Presentation

   a. In the President's Budget, PBGC is under DOL and PBGC submits its budget through DOL. However, PBGC and DOL have separate budgets. PBGC receives appropriations for its administrative expenses (which are self-financed through premium payments), but PBGC has permanent indefinite spending authority as it applies to the payment of benefits. PBGC does not draw on DOL resources.

   b. PBGC's budget has the same format, exhibits, and deadlines as other DOL agencies, but DOL does not, for example, guide PBGC's investment strategy, support PBGC's lawsuits against pension plans, or permit PBGC use of DOL's Working Capital Fund.

---

[2] Also cited in OMB Circular A-136, revised (July 24, 2006).

c. Therefore, PBGC should not be considered an entity under DOL based solely on the *conclusive criteria* in SFFAC 2, paragraph 41. Since the establishment of a prevalent practice discussed above would be considered "Level D" GAAP (auditing standards, AU 411 ¶5 d), this should have priority over the Federal Accounting Standards Advisory Board concept statement (SFFAC No. 2, ¶ 42) and PBGC should continue to be excluded as a component of the DOL financial statements.

Conclusion

As discussed in this document, there are several compelling arguments contained within GAAP Level D guidance for PBGC not to be considered a component entity of DOL for consolidated financial statement reporting. Accordingly, I agree that PBGC should not be considered a component entity of DOL and OMB should grant a permanent waiver from consolidating PBGC's financial statements into DOL's consolidated financial statements.

Concurrence to Waiver Request
Linda Combs
Controller, Office of Management and Budget

Date

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE CONTROLLER

JUL 18 2007

Yoko Albayrak
Acting Deputy Chief Financial Officer
Department of Labor
200 Constitution Ave. N.W.
Washington, DC 20210

Dear Ms. Albayrak:

Thank you for your letter dated May 25, 2007 requesting a waiver from the Office of Management and Budget (OMB) to allow the Pension Benefit Guaranty Corporation (PBGC) to be excluded from the Department of Labor (DOL) consolidated financial statements for FY 2007 and beyond. I am responding to your request on behalf of the Director of OMB.

Your current letter of May 25, 2007 follows your letter of October 19, 2006. In your October 19, 2006 letter, DOL requested a waiver from the requirement that PBGC be included in DOL's consolidated financial statements in FY 2006. As we indicated to you in our November 1, 2006 response, components of executive departments are required to be included in the organization-wide consolidated financial statements (*see*, OMB Circular A-136, *Financial Reporting Requirements* and the Statement of Federal Financial Accounting Concepts (SFFAC) No. 2, *Entity and Display*). Under these criteria, PBGC is required to be included in DOL consolidated financial statements. OMB approval is required for a waiver from these requirements.

According to your October 19, 2006 letter, and consistent with historical experience, DOL has excluded PBGC from its consolidated financial statements pursuant to an OMB waiver issued in the mid-1990s. However, a copy of the original waiver has not been located. For this reason, OMB's November 1, 2006 response to your October 19, 2006 request granted a limited waiver for FY 2006. In addition, our November 1, 2006 letter indicated that we would have future discussions with DOL to determine whether a waiver was appropriate for periods beyond FY 2006.

As noted in your most recent letter of May 25, 2007, DOL and PBGC performed an in-depth study of the merits of a permanent waver. Your letter notes that since its inception, PBGC has prepared its own audited financial statements under the Government Corporation Control Act (59 Stat. 597, codified at 31 U.S.C. § 841 et seq.) and also submits financial data directly to the Department of the Treasury for the *Financial Report of the United States Government*. Moreover, your letter notes that PBGC is viewed as a stand-alone entity in which interested parties are accustomed to accessing information through PBGC audited financial statements. Finally, under this reporting format, PBGC has received an unqualified independent audit opinion for the past 14 consecutive years, and DOL has received an unqualified audit opinion for the past 10 consecutive years.

For the reasons stated above, on behalf of the Director, I am granting your request to waive the requirement to present PBGC as part of DOL consolidated financial reporting for FY 2007 and beyond.

If you have any questions, please contact Carrie Hug at (202) 395-3993.

Sincerely,

Linda M. Combs

Linda M. Combs
Controller

cc: Calvin L. Scovel III, Inspector General

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210

OCT 2 5 2007

MEMORANDUM FOR HEATHER FLANAGAN
Partner, KPMG, LLP

FROM: PATRICK PIZZELLA
Assistant Secretary for
Administration and Management

LISA D. FIELY
Acting Chief Financial Officer

SUBJECT: Pension Benefit Guaranty Corporation:
Performance Information

The purpose of this memorandum is to offer background information and the rationale for including performance information for the Pension Benefit Guaranty Corporation (PBGC) in the Department of Labor's annual *Performance and Accountability Report* (PAR) – while excluding PBGC in the Department's financial statements. Your staff noted this inconsistency during the course of KPMG's FY 2007 audit work. Although we each have discrete areas of responsibility in this matter, we concur on the rationale and wished to jointly reply.

Background

The Department has excluded PBGC as a component entity for financial statement reporting purposes since 1992, when DOL issued its first financial statements under the Chief Financial Officers Act. Since the issuance of the FY 1999 DOL *Performance and Accountability Report* (PAR) – which first combined financial and performance reporting – the practice of excluding PBGC from the Department's consolidated financial statements has continued; however, each year's DOL PAR has included PBGC's performance reporting.

The authority to exclude PBGC as a component entity in the Department's financial statements from the DOL PAR was reaffirmed by the Comptroller of the Office of Management and Budget (OMB) in the attached July 18, 2007 letter in which OMB granted DOL's request for a waiver from the Circular A-136 requirement to include all components of executive departments in the consolidated financial statements. While the attached May 25, 2007 request memo established PBGC's status as an excluded component for financial reporting purposes, it did note that PBGC "is displayed in the President's Budget as a Federal Program by Agency and Account within DOL." In approving the exclusion of PBGC from the Department's financial statements, OMB cited the customary acceptance of the Corporation's separate financial reporting and the evidence of their competence at performing the task: 14 consecutive unqualified independent audit opinions.

Rationale

As required by the Government Performance and Results Act (GPRA), the guiding document for performance reporting purposes is the Annual Performance Plan. DOL's Annual Performance Plan is contained in the Performance Budget Overview appendix of the annual Congressional Budget Justification (CBJ). Because PBGC's budget request is included in the DOL CBJ, their performance goals are also included. In accordance with GPRA requirements, we report on PBGC's performance against its goals and targets at the end of the fiscal year. PBGC's inclusion is also consistent with the President's Management Agenda's requirement of the integration of budget and performance data. We interpret the absence of any mention of reporting PBGC's performance information in the July 18 waiver as OMB's approbation for continuing DOL's long-standing practice of incorporating PBGC's performance information in our annual report. Incorporating PBGC's performance information in DOL's PAR has similarly achieved customary acceptance, as has been validated by awards from George Mason University's Mercatus Center and the Association of Government Accountants.

Conclusion

The Department is proud of its record of producing a high-quality PAR – and believe that our readers benefit from the inclusion of PBGC's performance information. Moving forward, we plan to continue reporting PBGC's performance information – but have taken steps to increase transparency and reduce potential confusion. First, for those readers wishing to review PBGC's financial statements, we have included a link to PBGC's Annual Management Report. We have also added the following footnote to the presentation of DOL's organization chart on page five of the PAR: "PBGC, a Federal corporation created by the Employee Retirement Income Security Act of 1974, is not included in the DOL organization chart. However, in accordance with the requirements of the Government Performance and Results Act (GPRA), PBGC's performance reporting is included in this report in that PBGC's performance goals are included in the Department's performance budget."

Thank you for pointing out this apparent inconsistency. We hope that this adequately addresses your concerns, and improves the transparency of our PAR. Should you have questions or concerns, your staff may contact Rick French, the Director of the Program Planning and Results Center, at 693-4088. They may also contact Yoko Albayrak in the Office of the Chief Financial Officer at 693-6800.

cc: Acting Deputy Secretary Radzely
Inspector General Heddell

Attachments