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The Honorable Bob Filner
Chairman
The Honorable Steve Buyer
Ranking Member
Committee on Veterans' Affairs
House of Representatives

Subject: *VA Health Care: Status of Inspector General Recommendations for Health Care Services Contracting*

The Department of Veterans Affairs (VA) operates one of the largest health care systems in the nation. For fiscal year 2007, VA estimates that it will provide health care to more than 5 million veterans, either in its own facilities or through other health care providers. During the past decade, the numbers of VA patients and the costs for treating them have increased rapidly, due in part to an expansion in the number of veterans eligible to receive care.[1] The Veterans Health Administration (VHA)—the VA entity responsible for the health care of veterans—spends about $35 billion a year providing health care to veterans, including more than $7 billion to acquire health care services and products. In its own health care facilities, VHA contracts for a broad range of medical services such as anesthesiology, for other services that support the delivery of medical care such as facility maintenance and laundry services, and for products such as medical equipment, food, and hospital linens. It also contracts for medical care for veterans provided in non-VA hospitals and community based clinics. Contracting for services at VHA represents a large and growing proportion of total contract spending.

In an effort to improve the operation of VHA's health care system, VA's Inspector General (IG) conducted reviews of individual VHA facilities through structured site visits with teams of IG officials from fiscal year 1999 through fiscal year 2006. These teams included officials from three IG offices—Audit, Health Care Inspections, and Investigations. These reviews, known as the Combined Assessment Program (CAP), focused in part on actions to increase the efficiency and effectiveness of VHA's contracting. The IG issued a summary report in September 2006 on the results of these CAP reviews, including summaries of recommendations made to address systemic, recurring deficiencies in the planning,

[1]The Veterans' Health Care Eligibility Reform Act of 1996 simplified eligibility standards for veterans in need of hospital and outpatient care and made available services that previously had not been made available to veterans without service-connected disabilities or low incomes. See Pub. L. No. 104-262, §§ 101, 104, 110 Stat. 3177, 3178-81, and 3182-84.

management, and oversight of service contracts.[2] In addition the IG issued other reports in recent years on weaknesses in VHA health care contracting.[3]

You requested that we review the recommendations made by the VA IG to improve the award and administration of service contracts for veterans' health care, and VA's efforts to implement these recommendations. In this report we identify (1) the recurring themes among the key recommendations from recent reports of the IG concerning VHA's award and administration of service contracts for veterans' health care, and (2) the current status of VHA's implementation of the recommendations, according to VA data.

To identify recurring themes among key recommendations from recent reports on VA's award and administration of veterans' health care service contracts, we used a multistep process. First, we identified relevant IG reports. We identified 190 IG reports on the IG's Web site concerning VHA during fiscal years 2004, 2005, and 2006. Second, we reviewed each report to identify the 410 recommendations that concerned the award and administration of service contracts for veterans' health care. Third, we identified which of these were key recommendations based on factors that our prior work has shown to be important components of a sound acquisition system, such as clear requirements, open competition, adequate contract surveillance, and sufficient numbers of trained acquisition professionals.[4] Fourth, we identified recurring themes among the key recommendations by analyzing whether there were any discernable patterns or logical groupings among those recommendations and determining the frequency with which the recommendations fell into various categories.

To determine the status of VA's implementation of the key recommendations, according to VA data, we reviewed the comments contained in the CAP reports from the responsible facility director on plans to implement each recommendation. We also reviewed the system maintained by the VA IG for tracking implementation of recommendations and VHA's system for tracking such implementation. To test the data in both systems, we compared the information from the IG's written reports to the information in both systems, compared information in each system to the other, and discussed the information with IG and VHA officials who maintain their respective systems to determine the disposition of any unimplemented recommendations as of March 31, 2007. We determined that the data were adequate for our purposes. We did not independently verify the implementation status of any of the recommendations, nor did we assess their merit. We conducted our review from March through October 2007 in accordance with generally accepted government auditing standards.

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[2]Department of Veterans Affairs, Office of Inspector General, *Review of Recurring and Systemic Issues Identified During Combined Assessment Program Reviews at VA Facilities*, Report No. 06-03441-227 (Washington, D.C.: Sept. 25, 2006).

[3]Department of Veterans Affairs, Office of Inspector General, *Issues at VA Medical Center Bay Pines, Florida and Procurement and Deployment of the Core Financial and Logistics System (CoreFLS)*, Report No. 04-01371-177 (Washington, D.C.: Aug. 11, 2004); *Evaluation of VHA Sole-Source Contracts with Medical Schools and Other Affiliated Institutions*, Report No. 05-01318-85 (Washington, D.C.: Feb. 16, 2005).

[4]See list of related GAO products at the end of this report.

Results in Brief

We identified five recurring themes among the 214 key recommendations contained in recent VA IG reports concerning service contracts for veterans' health care. Three of these themes track the phases of the procurement process—pre-award, award, and post-award—and account for about 61 percent of the key recommendations we identified. For the pre-award phase, the IG recommended that contracting officers request pre-award audits when needed, and that VHA facilities ensure that legal and technical reviews are conducted on large-dollar contracts. In awarding contracts, the IG recommended that contracting officers explain the rationale for the award in price negotiation memoranda and conduct background checks once a contractor is selected prior to contract performance. The post-award recommendations focused mostly on payment issues such as verifying invoices and taking action to identify and recover overpayments. In addition to these themes, we also identified two other overarching recurring themes—human capital and management concerns—that account for about 39 percent of the key recommendations we identified. About one quarter of the key recommendations involved human capital issues—such as ensuring the timely appointment and ongoing training of contracting officers' technical representatives, the staff who oversee contractor performance—while the remainder focused on the need to ensure compliance with applicable laws and regulations through management oversight of contracting activity.

According to VA data, all the key acquisition-related recommendations we identified in recent VA IG reports have been implemented. In general, managers of the VHA facilities that were reviewed as part of the IG's Combined Assessment Program had taken at least some action in response to the IG's recommendations before the reviews had been completed or in some cases had prepared plans for taking action, as detailed in the IG reports. Our analysis of the key recommendations shows that the IG made the same or similar recommendations at many VA facilities. The VA IG Office of Audit told us that the issues that led to the same or similar recommendations being made at many facilities may be evidence of recurring and systemic issues throughout VA, and is therefore changing the way it conducts reviews to take a more agencywide approach to these issues.

VA reviewed a draft of this report and stated that it agreed with the facts as presented.

Background

VA's Office of Inspector General (IG) was established under the Inspector General Act of 1978.[5] Under this act, the IG is responsible for, among other things: (1) conducting and supervising audits and investigations; (2) recommending policies to promote economy and efficiency in program administration, and to prevent and detect criminal activity, waste, abuse, and mismanagement in VA programs and operations; and (3) keeping the Secretary of Veterans Affairs and Congress fully informed about problems and deficiencies in VA programs and operations and the need for corrective action. In addition, the IG has the authority under the Inspector General Act to inquire into all VA programs and activities as well as the related activities of persons or parties performing under grants, contracts, or other agreements. These inquiries may include audits, investigations, inspections, or other special reviews.

[5]Pub. L. No. 95-452, 92 Stat. 1101 (codified as amended at 5 U.S.C. app. 3, §§ 1-12).

In January 1999, the Combined Assessment Program (CAP) was established as part of the IG's efforts to ensure that quality health care services are provided to our nation's veterans by fostering integrity, accountability, and excellence and to recommend actions to address issues impacting VA's programs and activities. CAP reviews from fiscal year 1999 through fiscal year 2006 provided for oversight of services provided to veterans through Veterans Administration Medical Centers (VAMC) and VA health care system operations. Assessments of key operations and programs at VA medical facilities were conducted by IG teams that consisted of representatives from the Offices of Healthcare Inspections, Audit, and Investigations, who

- evaluated how well VA facilities were accomplishing their missions of providing veterans convenient access to high quality medical services;

- determined if management controls ensured compliance with VA and executive-branchwide regulations and VA policies, assisted management in achieving program goals, and minimized vulnerability to fraud, waste, and abuse; and

- provided fraud and integrity awareness training to increase employee understanding of the potential for program fraud and the requirement to refer suspected criminal activity to the IG.

Between fiscal years 2004 and 2006, the focus of our report, the IG conducted CAP reviews at virtually all 160 VA facilities. The IG also did 15 revisits. In total, this effort resulted in the issuance of 178 CAP review reports. The IG also issued 12 other reports on VHA service contracting. In addition, the IG submitted semiannual reports to Congress highlighting the activities and accomplishments of the IG for the period, including a summary of the CAP reports issued as well as the disposition of unimplemented recommendations.

The requirements that apply to VHA service contracting are contained in the Federal Acquisition Regulation (FAR) and in the agency-specific Veterans Affairs Acquisition Regulation (VAAR). For example, Part 873 of the VAAR implements 38 U.S.C. § 8153, which provides authority for VA to enter into contracts for the mutual use or exchange of use of health care resources between the department and any health care provider or other entity. In addition, VA has various departmental policies and guidance materials that govern specific aspects of the acquisition process.

Five Recurring Themes Identified Among Key IG Recommendations

We identified five recurring themes among the 214 key recommendations contained in recent VA IG reports concerning service contracts for veterans' health care.[6] Three of these themes track the phases of the procurement process—pre-award, award, and post-award—and account for about 61 percent of the key recommendations we identified. Two other overarching recurring themes—human capital and management concerns[7]—account for

[6]There were also 196 non-key recommendations, which focused mainly on documentation issues.

[7]Human capital permeates virtually every effort within an agency, including successfully acquiring goods and services and executing and monitoring contracts. Management of the acquisition function is generally dictated by regulations, policies, and processes that focus on assuring that agencywide objectives are achieved.

about 39 percent of the key recommendations we identified. See table 1 for recurring themes and their component key recommendations.

Table 1: Recurring Themes and Key Recommendations

Recurring themes	Key types of recommendations	Frequency of key recommendations
Phases of the procurement process (61 percent of all key recommendations)		
Pre-award	Pre-award audits should be done for all noncompetitive contracts with estimated values of $500,000 or more	22
	Obtain required legal and technical reviews	20
Award	Prepare price analyses and document the rationale for awarding contracts in price negotiation memorandums	31
	Contracting officers must initiate background investigations prior to contract performance	12
Post-award	Verify and certify the accuracy of invoices prior to payment	29
	Review all contracts to identify and collect actual overpayments	17
Overarching themes (39 percent of all key recommendations)		
Human capital	Provide contracting officers (CO) and COs Technical Representatives (COTR) initial and annual refresher training on their roles and responsibilities	34
	Ensure COTRs are designated in writing and verify that appointments are current and appropriate	11
Management	Ensure all applicable Federal Acquisition Regulation and Veterans Affairs Acquisition Regulation requirements are met	29
	Ensure contracting officers do not exceed their warrant authority	9
Total key recommendations		**214**

Source: GAO analysis of VA IG reports.

With respect to the pre-award phase, we identified two types of key recommendations. The first is that pre-award audits should be done for all noncompetitive contracts with estimated values of $500,000 or more. The IG found 22 occasions where contracting officers had awarded this type of contract without requesting the required audits. These practices were not consistent with VHA Directive 99-056, which expired in 2004, and are not consistent with VA Directive 1663, which was issued in August 2006. These directives require that a pre-award audit be done by the IG's Contract Review and Evaluation Division on all contract proposals valued at $500,000 or more that were awarded on a sole-source basis. According to IG CAP reports, historically pre-award audits have resulted in contract prices significantly lower than what had been proposed.[8]

[8]For example, see discussion of a summary of historical results of such IG audits in Department of Veterans Affairs, Office of Inspector General, *Combined Assessment Program Review of the Ralph H. Johnson VA Medical Center Charleston, South Carolina*, Report No. 05-00048-84 (Washington, D.C.: Feb. 14, 2005). In addition, our work at the General Services Administration has shown that pre-award audits there similarly result in lower prices. See GAO, *Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts*, GAO-05-229 (Washington, D.C.: Feb. 11, 2005).

The second type of key recommendation in the pre-award area concerned the failure to obtain required legal and technical reviews—which help ensure that contracts meet all relevant requirements. The IG found several situations in which contracting officers failed to obtain such reviews in the pre-award phase, and made 20 related recommendations. The VAAR requires legal and technical reviews by the VA Office of Acquisition and Materiel Management for contracts for the acquisition of health care resources with an estimated value of $1.5 million or more. Such reviews are also required for sole-source solicitations of $500,000 or more for the acquisition of health care resources, in addition to an IG pre-award audit.

For the contract award phase, there were also two key types of recommendations. The first relates to preparing price analyses and documenting the rationale for contract pricing. To help ensure that prices are fair and reasonable, the FAR requires that contracting officers prepare price negotiation memoranda (PNM) and conduct cost or price analyses for negotiated procurement contracts. The FAR also requires that the contracting officers document any significant differences between a contractor's and a contracting officer's positions. Despite this requirement, 31 IG recommendations addressed situations in which contracting officers had failed to prepare price analyses or document the rationale for awarding contracts in price negotiation memoranda.

The second key type of recommendation for the contract award phase was related to background investigations once a contractor is selected prior to contract performance. VA policy requires contracting officers to initiate background investigations of contract personnel with access to VA computer systems and sensitive information. The IG made 12 recommendations related to contracting officers not initiating such investigations prior to contract performance.

For the post-award phase, we identified two key types of recommendations concerning the FAR requirement that contracting officers protect the government's interests. In several reviews, the IG determined that a number of sites under review had not:

- verified and certified the accuracy of invoices prior to payment, or
- reviewed all invoices to identify and collect actual overpayments.

As a consequence, the IG made 29 recommendations concerning invoices that had not been certified for accuracy, resulting in inaccurate payments for services rendered. Such practices are in conflict with provisions of the Contracting Officer's Technical Representative (COTR) Handbook, which recommend the review of contractor invoices to ensure that the services provided were authorized and amounts billed complied with contract terms. Seventeen other recommendations addressed situations in which invoices had been improperly certified and contractors overpaid after the contracts had expired, and called for identification and collection of actual overpayments.

In addition to recurring themes related to the phases of the procurement process, there were two overarching themes of human capital and management issues among key IG recommendations. The human capital issues include two key types of recommendations. First, VHA needs to upgrade the skills of contracting officers and COTRs through more effective training. Although VHA policy requires that COTRs receive initial training and 40 hours of continuing education in acquisition subjects every 2 years, the IG's review of training records found that many COTRs had received neither. As a consequence, during the

last 3 fiscal years, the IG made 34 recommendations calling for initial and annual refresher training on roles and responsibilities for both contracting officers and COTRs.

Another key type of recommendation addressing the human capital theme involved findings by the IG of numerous instances in which the files contained no documentation that officially assigned employees as COTRs. VA policy requires that a COTR be assigned in writing to monitor contract performance to ensure that services are provided consistent with contract terms. That documentation should be maintained in the contract file. COTRs may not redelegate their authority, and if they can no longer perform their duties, the contracting officer should appoint new COTRs. The IG made 11 recommendations that COTR designations be in writing and that the appointments be current and appropriate.

The recurring management theme we identified includes two key types of recommendations. The first is to ensure that VHA is in compliance with the FAR, VAAR, and VA policy. In particular this key recommendation focuses on improving oversight of contracting through thorough and complete contract file reviews and by ensuring that contracting officers and COTRs perform duties as required. The IG made 29 recommendations to ensure all such requirements would be met, with the intention of protecting VA's interest and minimizing risk to the contracting process.

Second, the FAR and VAAR authorize limiting contracting officer authority to contract value thresholds as established in their warrants; these thresholds are established to ensure that the officers only engage in procurements commensurate with their level of education, experience, and training. The IG made nine recommendations to ensure that contracting officers not award contracts in excess of their established authority.

VA Data Show That IG Recommendations Implemented

According to VA data, all of the key acquisition-related recommendations we identified in recent VA IG reports have been implemented at the facilities for which the recommendations were made. In general, managers of the VHA facilities that were reviewed as part of the IG's Combined Assessment Program had taken at least some action in response to the IG's recommendations before the review had been completed, or in some cases had prepared plans for taking action, as detailed in the IG reports. The facility's action plan for addressing each recommendation is outlined in the CAP report along with the organization responsible for executing the action plan as well as the date by which the remedy is to be implemented.

Separate VA IG and VHA databases confirm that the key acquisition-related recommendations have been implemented.[9] In addition, VA has developed a buying guide to

[9]We found one instance where the IG and VHA do not agree on whether a recommendation should remain open or be closed, but we consider this disagreement to be outside the scope of our review because it does not address how VHA goes about awarding and administering service contracts. Specifically, in its report, *Audit of VA Acquisition Practices for the National Vietnam Veterans Longitudinal Study*, Rep. No. 04-02330-212 (Sept. 30, 2005), the IG identified a number of deficiencies concerning the award of a contract, which was subsequently terminated, for a legally mandated study. Although the IG recommended that VA use proper contracting procedures to expeditiously complete the study, VA officials have decided to attempt to satisfy the mandate through other means. In our view, the decision on how best to meet the mandate is a management issue, not an acquisition issue.

help VA improve its contracting for health care services.[10] According to VA officials, VA has also taken other steps to improve the acquisition process such as developing standard operating procedures for procurement and contracting. However, this does not mean that all contracting issues have necessarily been resolved agencywide. Our analysis of the key recommendations we identified shows that the IG made the same or similar recommendations at many VA facilities. Moreover, the IG's report on recurring and systemic issues identified during CAP reviews at VA facilities acknowledged that while facility managers have provided acceptable implementation plans and taken corrective actions in response to specific CAP review recommendations, there is a need to institute comprehensive and rigorous oversight to realize continuing improvements. The frequency with which certain deficiencies were identified during the CAP reviews suggests there may be systemic issues.

VA IG's Office of Audit is now concentrating more on broader audits encompassing more than one program site to take a more agencywide approach at addressing deficiencies.[11] For example, the IG has done a review on VA disbursement agreements for senior medical residents at four VA medical centers and another review on certain VA acquisitions for other government agencies.[12] These reviews involved multiple medical centers and facilities and the recommendations were implemented at the Veterans Integrated Service Network (VISN) level or agencywide. In addition, the IG conducted a local review with potential agencywide implications based on its review of mismanagement of federal funds at the VA Boston Healthcare System.[13] The recommendations resulted in procedural changes concerning contract administration that were implemented VISN-wide, which affected several facilities.

The IG is currently working on three other broader audits—VA purchases made on behalf of the Department of Defense, acquisition and management of surgical device implants, and VHA durable medical equipment. According to the IG, these broader audits will enhance the IG's efforts to provide effective oversight and address the complexity and scope of VA's diverse mission and help address issues agencywide.

Agency Comments

VA reviewed a draft of this report and sent us comments by e-mail. VA stated that it agreed with the facts presented in the draft.

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[10]Department of Veterans Affairs Directive 1663, *Health Care Resources Contracting—Buying*, Title 38 U.S.C. 8153, August 10, 2006.

[11]The IG Office of Health Inspections and the IG Office of Investigations plan to continue CAP reviews to identify specific facility deficiencies that need to be addressed.

[12]Department of Veterans Affairs, Office of Inspector General, *Audit of VA Disbursement Agreements for Senior Residents*, Report No. 05-01234-25 (Washington, D.C.: Nov. 15, 2006). Department of Veterans Affairs, Office of Inspector General, *Audit of VA Acquisitions for Other Government Agencies*, Report No. 04-03178-139 (Washington, D.C.: May 5, 2006).

[13]Department of Veterans Affairs, Office of Inspector General, *Audit of Alleged Mismanagement of Government Funds at the VA Boston Healthcare System*, Report No. 06-00931-139 (Washington, D.C.: May 31, 2007).

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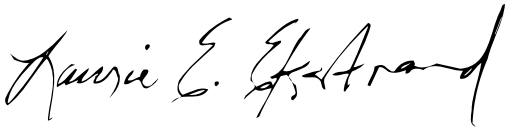
We will send a copy of this report to the Secretary of Veterans Affairs, appropriate congressional committees, and other interested parties. We will also make copies of this report available to others on request. In addition, this report will be available on GAO's Web site at http://www.gao.gov. If you or your staff have any questions, please contact Laurie Ekstrand at (202) 512-7114 or ekstrandl@gao.gov or William T. Woods at (202) 512-4841 or woodsw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were James Musselwhite, Assistant Director; Myra Watts Butler; Leanna Parkey; and Robert Swierczek.



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Related GAO Products

Federal Contracting: Use of Contractor Performance Information. GAO-07-1111T. Washington, D.C.: July 18, 2007.

Contract Management: Further Action Needed to Improve Veterans Affairs Acquisition Function. GAO-06-144. Washington, D.C.: October 19, 2005.

Guidance: Framework for Assessing the Acquisition Function at Federal Agencies. GAO-05-218G. Washington, D.C.: September 27, 2005.

Contract Management: Opportunities Continue for GSA to Improve Pricing of Multiple Award Schedules Contracts. GAO-05-911T. Washington, D.C.: July 26, 2005.

Contract Management: Opportunities to Improve Surveillance on Department of Defense Service Contracts. GAO-05-274. Washington, D.C.: March 17, 2005.

Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts. GAO-05-229. Washington, D.C.: February 11, 2005.

Contract Management: Further Efforts Needed to Sustain VA's Progress in Purchasing Medical Products and Services. GAO-04-718. Washington, D.C.: June 22, 2004.

Contract Management: Civilian Agency Compliance with Revised Task And Delivery Order Regulations. GAO-03-983. Washington, D.C.: August 29, 2003.

Acquisition Workforce: Agencies Need to Better Define and Track the Training of Their Employees. GAO-02-737. Washington, D.C.: July 29, 2002.

Contract Management: Service Contracting Trends and Challenges. GAO-01-1074R. Washington, D.C.: August 22, 2001.

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