



Department of Veterans Affairs Office of Inspector General

Audit of VA Acquisition Practices for the National Vietnam Veterans Longitudinal Study

VA program and contracting officials should effectively plan, procure, and manage the remaining work if the Study is to be resumed and should secure the appropriate disposition of project assets in the contractor's possession.

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Executive Summary

Introduction

The Office of Inspector General (OIG) conducted an audit to assess the effectiveness of the procurement and project management processes used for the National Vietnam Veterans Longitudinal Study (the Study). Congress established the requirement for the Study in the Veterans Benefits and Health Care Improvement Act of 2000, Public Law (PL) 106-419. The purpose of the Study was to provide information on the long-term effects of post-traumatic stress disorder (PTSD) among Vietnam Era veterans and on the utilization and effectiveness of VA medical services for PTSD. The Study was to take a longitudinal¹ approach by evaluating the same veterans who had participated in the 1988 National Vietnam Veterans Readjustment Study (Readjustment Study).

In September 2001, VA awarded a noncompetitive sole source contract to Research Triangle Institute (RTI) to conduct the Study. However, in November 2003, after the contractor had worked on the Study for more than 2 years, VA officials chose not to exercise the third year of the contract. They made this decision because of concerns about the lack of competition in the contract award and about the estimated costs of completing the Study, which had increased from the original estimate of \$4.9 million to \$17.0 million. As of August 2005, planning for a subsequent procurement to finish the Study has not been completed, and a new contract has not been awarded.

Results

The Study was not properly planned, procured, or managed by Office of Acquisition and Materiel Management (OA&MM) Acquisition Operations Service (AOS) contracting officials and Veterans Health Administration (VHA) project managers and other responsible officials. The Study contract solicitation, award, and administration did not protect VA's interests, demonstrate sound business practices, or comply with Federal and VA acquisition regulations (FAR and VAAR). The justification for the sole source contract was inaccurate. This contract had an inadequately defined statement of work and deliverables and was based on inadequately developed cost estimates. The contracting officer did not ensure that negotiated prices for the contract and subsequent modifications were reasonable.

In addition, the contracting officer and the contracting officer's technical representative (COTR) did not effectively administer the contract. Payments were not tied to definitive requirements or substantial deliverables, as is appropriate for a fixed-price contract. Instead, the contracting officer authorized payments for unspecified levels of effort.

¹A longitudinal study approach involves the repeated examination of a set of participants over time for one or more variables.

Several inappropriate contract modifications to extend the contract and increase the price were requested and issued without defining the scope of work and deliverables or determining price reasonableness.

Responsible VHA officials did not apply a structured project management approach that would have resulted in well-defined project requirements, reasonable project cost estimates, or funding requests that were consistent with the proposed scope of work and estimated costs. They did not keep higher-level officials informed about significant project issues, such as the substantial increases in the estimated cost to complete the Study. Project managers also allowed the contractor to continue work when no contract was in effect and funding had not been obligated. These deficiencies resulted from the lack of formal acquisition planning, poor contracting practices, and ineffective project management.

VA did not meet the October 1, 2004, due date for reporting the Study results to Congress, and the Study could take another 1–2 years to complete. Depending on how much of the original project work completed by the contractor will be used if the Study is resumed, all or a substantial portion of the \$4.7 million in Study costs incurred, including \$3.9 million paid to the contractor and \$770,000 in VA project management costs, may have been wasted. In addition, VA officials have not resolved concerns about the ownership and disposition of project assets, including computers and other equipment purchased by the contractor with VA-provided funds.

Recommendations

We recommended that the Under Secretary for Health and the Chief Management Officer:

- Initiate formal acquisition planning and proper contracting processes to expeditiously and successfully complete the Study and ensure that assigned project management and contracting staff have the required knowledge and skills to effectively plan, procure, administer, and manage the Study in accordance with pertinent legal, procedural, and technical requirements.
- Take appropriate administrative action against officials responsible for the contracting and project management problems associated with the uncompleted Study.
- Work with the General Counsel to secure the appropriate disposition of equipment and other assets in the contractor's possession or to recover the value of the equipment from the contractor.

Comments

The Acting Under Secretary for Health and the Chief Management Officer agreed with the recommendations and provided acceptable implementation plans. (See Appendix C, page 21, for the complete text of the Acting Under Secretary for Health’s comments and Appendix D, pages 22–24, for the complete text of the Chief Management Officer’s comments.) We will follow up on the planned actions until they are completed.

(original signed by:)

MICHAEL L. STALEY
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Introduction

Purpose

The purpose of the audit was to evaluate the effectiveness of the contracting and project management processes used to procure and conduct the Study.

Background

Enacted in November 2000, PL 106-419 required VA to contract with a non-VA entity to conduct a new study of PTSD in Vietnam veterans. The Study was to provide information on the long-term course and medical effects of PTSD, the risks for aggravated conditions among particular veteran subgroups, and the utilization and effectiveness of VA medical services for this disorder. The Study was intended to follow up on the results of the earlier Congressionally-mandated Readjustment Study that was completed in 1988. The law required that the new Study use the database and sample population from the original Readjustment Study, that a contract to conduct the Study be awarded by September 2001, and that a report of the Study results be transmitted to Congress by October 1, 2004. The original Readjustment Study is generally considered a landmark study that produced significant research on PTSD and related psychological disorders of Vietnam veterans.

In January 2001, VHA assigned Study planning and management responsibilities to the Mental Health Strategic Healthcare Group (Mental Health Group), which established a project management organization to plan and oversee the Study. The project management structure included:

- An Executive Committee made up of the Chief Consultant, Mental Health Group; the Director of the Office of Readjustment Counseling; three senior mental health professionals from different VA medical facilities; and a veterans service organization representative.
- A project coordinator (the Associate Chief of Staff for Research at the VA Boston Healthcare System) and a project officer (a psychologist at the VA Maryland Healthcare System) who had primary project management responsibilities. Both had served in similar capacities for the Readjustment Study. (In this report, we refer to them collectively as the VHA project managers.)
- A scientific advisory board of 10 expert consultants in several disciplines, including psychiatry, cardio-epidemiology, and biomedical statistics to provide technical reviews and advice to the VHA project managers. An advisory board had been similarly used for the Readjustment Study.

In May 2001, AOS, which conducts most major VA Central Office (VACO) procurements, began the formal contracting processes to procure the Study. The

solicitation requirements anticipated that the design and methodology would be developed in the base year, data collection would occur in the first option year, analysis and report preparation would occur during the second option year, and Study data would be finalized and submitted to VA in the third option year. Meeting this schedule would have allowed VA to submit the Study report to Congress by the October 2004 due date. In September 2001, VA entered into a noncompetitive sole source fixed-price contract with RTI, the same contractor that had conducted the Readjustment Study. The contract included a base year priced at \$460,625 and 3 option years to be negotiated later. VHA initially approved funding of \$4.9 million for the Study.

In July 2002, after the contractor had worked for about 9 months developing several Study alternatives, the Under Secretary for Health approved an approach estimated to cost \$12.7 million. In July 2003, a year later, the contractor was completing the latest VA-requested design and scope changes and had not yet started the fieldwork to gather the Study data. VHA had not yet provided full project funding, and the contractor indicated work would have to stop if the needed funding was not provided. At this point, the Study was about a year behind schedule, and its estimated total cost had increased to \$17.0 million. After being briefed on the status of the Study, the Under Secretary expressed concern about the substantial increase in the estimated Study costs and requested an internal VHA review. The internal reviewers raised additional questions about the costs and benefits of the Study design.

In September 2003, for reasons unrelated to the Study, AOS assigned a new contracting officer to the Study. The new contracting officer had concerns about the propriety of allowing work to continue under the existing contract. In November 2003, after consulting with VHA internal reviewers and managers, the contracting officer decided that VA should not allow Study work to continue under the original contract and that a new procurement should be developed. VA had paid the contractor \$3.9 million. As of August 2005, planning for the new Study procurement has not been completed, and a new contract has not been awarded.

Scope and Methodology

In conducting the audit, we interviewed responsible AOS contracting officials, project managers, and other VHA and OA&MM officials. We examined the contract file and other documents pertaining to the planning, procurement, and management of the Study. We obtained written comments on Study management and contracting issues from the contractor. We also reviewed applicable laws, the FAR and VAAR, and VA procurement policies. We performed our review work at VACO and at VA medical facilities at Perry Point, MD, and Boston, MA. The audit was conducted during the period May–November 2004 in accordance with generally accepted government auditing standards.

Results and Conclusions

Planning, Contracting, and Project Management Practices Were Not Effective

Acquisition Planning Was Not Done and Project Management Was Not Effective

Formal Acquisition Planning Not Conducted. Acquisition planning was not conducted for the Study procurement as required. Federal acquisition regulations require agencies to perform acquisition planning and conduct market research for all acquisitions. The purpose of acquisition planning is to ensure that the agency meets its needs effectively, economically, and on time. Acquisition planning should integrate the efforts of all personnel responsible for significant aspects of the procurement. In developing the plan, the planner shall form a team of individuals responsible for significant aspects of the procurement, such as contracting, technical, legal, and fiscal personnel. The plan should include the procurement objectives, address all technical, business, and management considerations that will control the acquisition, and identify major decision points and milestones. Planners should review and revise the plan as needed at key dates, when significant changes occur, or at least annually. (FAR 7.101–7.105) For VA procurements of \$1 million or more, written acquisition plans should be prepared and followed (VAAR 807.105). As head of the VACO contracting activity, the Director of AOS was the designated planner responsible for acquisition planning for the Study (VAAR 802.100 and 807.103).

However, for the Study procurement, an acquisition team was not established and a plan was not prepared. According to OA&MM officials, acquisition planning requirements have not been consistently enforced, and there has been confusion on the part of some VA contracting and program officials concerning acquisition planning responsibilities and requirements. Although the AOS contracting officials were responsible for ensuring that an acquisition plan was prepared, VHA should have been heavily involved in the acquisition planning process. VHA was responsible for defining the objectives and technical requirements, developing the project budget, and providing the necessary funding, which are important aspects of acquisition planning. Because of the absence of formal acquisition planning, the following key planning elements essential to a successful procurement were not adequately addressed, which led to many of the later problems with the Study:

- Conditions. The procurement objectives and applicable cost, schedule, performance, or capability constraints.
- Costs. The established cost goals and supporting rationales.

- Risks and Trade-offs. Trade-offs among cost, performance, and schedule goals and efforts to reduce risks associated with failure to achieve goals.
- Budgeting and Funding. Budget estimates and schedule for obtaining required funding.
- Sources. Assessment of prospective sources that could meet the acquisition need, including the extent and results of market research.
- Competition. Discussion of how competition would be sought and, if contemplated, the authority for less than full and open competition.
- Contracting Considerations. Selection of the type of contract, contracting methods, and any special provisions such as exceptions or deviations from acquisition regulations.
- Contract Administration. Contract administration procedures, including inspection and acceptance corresponding to performance criteria in the statement of work.

If these planning elements had been effectively addressed by a properly convened acquisition planning team when the need to procure the Study first became known, many of the problems and issues discussed in this report that ultimately led to the cessation of Study work could have been recognized, avoided, or addressed more effectively.

VHA Project Management Not Effective. As the organization sponsoring the Study, VHA was responsible for overall project management. However, VHA never developed a formal project management framework that would have ensured effective project planning, organization, and control. VHA project officials used an informal approach that did not provide adequate structure for VA oversight and management of the Study. This informal approach did not ensure that the objectives and technical requirements were adequately defined or that a realistic project budget was developed. Oversight and communication within VHA did not ensure that that funding was available to meet project needs and did not keep VHA decision makers and other interested officials informed of important Study issues, such as changes in scope, design revisions, cost increases, schedule changes, and delays. Instead, the VHA project managers focused most of their efforts on working collaboratively with the contractor and the scientific advisory board to address the various technical and scientific aspects of designing and producing another major PTSD study.

Study Contracting Practices Did Not Protect VA's Interests

Noncompetitive Sole Source Contract Inadequately Justified. The justification for the sole source Study contract was inaccurate and did not provide information that met the requirements for limiting competition. With limited exceptions, Federal contracting officers are required to promote and provide for full and open competition when awarding Government contracts (FAR 6.100). Before awarding a sole source contract or otherwise limiting competition, the contracting officer must prepare and certify a written

justification and approval (J&A). The J&A should include certain required elements such as: the statutory authority permitting other than full and open competition, demonstration that the contractor's qualifications or the nature of the acquisition requires use of the authority cited, efforts made to solicit offers from as many sources as possible, a description of market research conducted, and a determination that the anticipated cost will be fair and reasonable. Technical and requirements personnel are responsible for providing and certifying the accuracy and completeness of data to support their recommendation for other than full and open competition used in the J&A. The accuracy and completeness of the J&A must be certified by the contracting officer. The J&A must also be approved by the contracting activity's competition advocate (FAR 6.303–6.304).

Study documentation showed that as early as February 2001 the VHA Study Executive Committee and the project coordinator had expressed their preference for contracting with RTI, the contractor that had conducted the Readjustment Study. Using material provided by the project officer in June 2001, the contracting officer prepared a J&A to support a sole source contract with the contractor. In July 2001, the VHA project officer certified the accuracy and completeness of the technical requirements, the supervisory contracting officer certified the J&A as complete and accurate, and the acting Director of AOS, the contracting activity's designated competition advocate, approved it. However, key elements of the J&A were inaccurate and did not provide the necessary justification to meet the regulatory requirements for a sole source procurement. As discussed below, the J&A incorrectly cited two statutory exemptions that would have allowed less than full competition, was not supported by market research to identify other potential sources, and did not include analysis of price reasonableness:

- Source Authorized by Statute. The J&A indicated that full and open competition was not necessary because a statute expressly authorized or required the procurement be made from a specified source (FAR 6.302-5). This was not correct because PL 106-419, the law authorizing the Study, directed VA to contract with a non-VA entity but did not specify RTI or any other vendor as the required source.
- Only One Responsible Source. The J&A also indicated that one responsible source and no other could satisfy agency requirements (FAR 6.302-1). Although the J&A listed several purported advantages if RTI were used, it did not provide any specific information addressing the one responsible source requirement. Contract documentation showed that the VHA project officer was aware of several potential sources that may have been qualified to perform the Study.
- Market Research. Neither the contracting officer nor the VHA project managers conducted market research to identify what responsible sources might be available in the marketplace that could possibly meet the Study requirements or to determine cost estimates.
- Determination of Fair and Reasonable Cost. The J&A did not include a determination that the anticipated cost was fair and reasonable. The J&A cited a cost estimate of \$4

million, which was \$900,000 less than the approved VHA estimate of \$4.9 million. The contract file did not explain the difference between the estimates or contain any documentation about the \$4 million figure or its appropriateness. The contracting officer could not recall the source of this estimate. Instead, the J&A stated that the contracting officer would "...determine the price fair and reasonable by utilizing costs paid for this service from the past five years." However, contract documentation did not include any cost comparisons or analyses.

Contract Requirements and Deliverables Not Adequately Defined. The statement of work and other contract provisions did not adequately define the work to be performed or the deliverables to be provided under the contract. In September 2001, the contracting officer issued a solicitation for a firm-fixed-price contract to design and conduct the Study with a performance period of 1 year with three 1-year options. The solicitation included a 10-page statement of work developed by the VHA project managers that described extensive and ambitious requirements for the Study, including:

- Purpose, Scope, and Goals. The purpose of the procurement was to conduct a longitudinal study of the physical and mental health of a sample population of Vietnam Era veterans originally assessed in the Readjustment Study. The required work included development of standardized protocols for structured interviews, physical examinations, and medical history reviews. Other major tasks included locating, contacting, and interviewing about 2,348 of the subjects from the Readjustment Study.
- Time Frame and Phases. The solicitation anticipated a 3-year time frame to complete three major phases of the Study: Phase One—develop and test methodology and assessment protocols, hire and train field staff, and locate and contact Study subjects; Phase Two—collect data and review participant medical records; and Phase Three—analyze data and issue Study report.
- Contractor and VA Responsibilities. The contractor was to have primary responsibility for defining objectives and approaches; planning, conducting, analyzing, and publishing results; and interpreting results and determining conclusions. The contractor was to engage in "collaborative activities" with VA and its scientific advisory board in developing and implementing an effective protocol. VA was to be involved in the Study development and design, including technical assistance, scientific monitoring, quality control, and coordination activities.
- Deliverables. The statement of work required the contractor to provide a project briefing within 60 days of contract award and monthly and annual progress reports. The reports were to describe work accomplished, problems encountered, and schedule status. The contractor was to deliver the Study final report to VA by July 31, 2004, and to provide the Study data in a public use format at an unspecified later date.

Citing concerns about the nonspecific scope of work, the contractor submitted a proposal that covered only a portion of the first phase of the Study—developing a Study design and protocols and other preparation work for the data-gathering phase. The contractor suggested a 9-month schedule to complete the first-phase work at a price of \$599,062. After some negotiation, on September 24, 2001, the contracting officer awarded a firm-fixed-price contract for 1 year at a price of \$460,625 with 3 option years to be negotiated in the future.

However, the contract requirements were inadequately defined. The base year deliverables consisted only of process-oriented progress reports and a briefing. These deliverables were not specifically tied to the substantive requirements and schedules outlined in the solicitation and the contractor's proposal, such as completing the Study design, developing the methodology and protocols, and beginning other activities such as hiring interviewers, preparing fieldwork materials, and pilot testing. Further, the contract payment schedule allowed equal monthly payments without requiring completion of any discrete functional component of the Study or defining a specific level of effort.

Reasonableness of Contract Price Not Determined. The contracting officer awarded the contract without performing sufficient analysis to determine whether the contract price was fair and reasonable. Before awarding a contract, the contracting officer should determine whether the contractor's proposed prices are fair and reasonable based on an analysis of competitive pricing, market research, or cost or pricing data (FAR 15.402). The contracting officer's price negotiation memorandum (PNM) for this award stated that the price was fair and reasonable based on the negotiated reduction in price from \$599,062 to \$460,625. The contracting officer told us that she had based her determination of price reasonableness on the project officer's knowledge of the 1984 Readjustment Study contract. She did not compare the proposed price with market prices for similar services or conduct any other analysis of vendor cost or pricing data.

Approved Study Budget and Funding Inadequate for Proposed Scope of Work. The initial Study funding request of \$4.9 million that had been approved by VHA in June 2001 significantly understated the potential cost of conducting the Study as described in the September 2001 solicitation. The VHA project officer told us that he had developed the \$4.9 million estimate based on the assumption that interviews and medical examinations would be required for only about 340 subjects. However, for the solicitation's statement of work the project managers developed a more extensive and expensive project scope and approach calling for interviews and examinations for up to 2,348 subjects.

The VHA project managers did not revise the cost estimate or funding request to be consistent with the scope of work outlined in the solicitation. The project managers told us that when they developed the original estimate and the proposed statement of work they recognized that the estimate would have to be revised later. The difference between

the approved \$4.9 million estimate and the later, substantially higher estimates contributed to VHA management's concerns about excessive cost increases.

Project Management and Contract Administration Did Not Effectively Control Study Activities

Funding Not Obtained to Cover Cost of Approved Study Approach. Although a Study design approach was developed and approved during the base year, funding was not requested to cover the increased cost to complete the Study. In September 2001, as contemplated in the original solicitation and the contractor's proposal, the contractor began working "collaboratively" with VHA project managers and the scientific advisory board to develop the Study design and protocols. This work involved developing and evaluating several approaches that reflected various scientific goals and budgetary constraints. In May 2002, the contractor submitted three Study alternatives, described as the "minimal," "good," and "better" approaches, for VHA consideration:

- The minimal approach included telephone interviews of the subjects and a limited number of mental health examinations and in-home cardiovascular risk assessments. This approach was considered only minimally responsive to the Congressional mandate. The estimated cost was \$5.1 million, which was close to the original estimate and the approved VHA funding of \$4.9 million.
- The good approach increased the number of subjects and included study enhancements such as conducting subject interviews in person rather than by telephone (estimated cost = \$12.6 million).
- The better approach included the components of the good approach, with more extensive and expensive clinic-based medical assessments of cardiovascular disease status and expanded physical health outcome assessments (estimated cost = \$17.0 million).

In evaluating the three alternatives, the scientific advisory board found the minimal approach to be unacceptable because it would not produce scientifically significant results. The board recommended that VHA approve the good study approach, which they felt would meet the intent of the law but at less cost than the better approach.

In July 2002, the project coordinator briefed the Under Secretary for Health and the Study Executive Committee on progress and design alternatives. According to the project coordinator, the Under Secretary orally approved proceeding with the good study approach but advised them that additional funding would probably not be available in the current fiscal year (FY). However, this approval was not obtained in writing. In July 2002, the project officer forwarded to the Chief Consultant of the Mental Health Group a request to increase the total project funding to \$12.7 million, including \$7.7 million needed for FY 2003 to cover the approved project approach. The Mental Health Group deferred the request for additional funding pending enactment of the FY 2003 VA

appropriations authorization, which did not take place until February 2003. However, the Chief Consultant did not submit the request after the 2003 appropriations became available. Consequently, because funding had not been requested to cover the most recent cost estimate of \$12.7 million, a funding shortfall of \$7.8 million existed as the project moved into the second half of FY 2003 (\$12.7 million estimated costs – \$4.9 million approved funding = \$7.8 million).

Modification to Increase Base Year Price Not Adequately Justified. In addition to the problems discussed above, contract administration issues arose during the base year. The contracting officer is responsible for ensuring that contractor performance complies with contract requirements (FAR 46.103). The contracting officer increased the price of the fixed-price contract based on an erroneous assumption and without adequate justification. On September 11, 2002, the contracting officer issued Modification 1 to extend the contract period and increase the contract price by \$150,000, a 33 percent increase. This modification was questionable for two reasons. First, the modification erroneously indicated that the purpose was to extend the contract period from June 23, 2002, to September 23, 2002. However, the original contract awarded September 24, 2001, already showed an ending date of September 23, 2002. In explaining this inconsistency, the contracting officer told us that she must have made a mistake in considering this action to be an extension of the contract period.

Second, the price increase and the associated costs were not adequately justified or reviewed. On September 6, 2002, the project officer had sent a brief e-mail to the contracting officer requesting the additional \$150,000 for the contractor to continue work on the Study instrumentation package (interview questionnaires) through September 23, 2002, and that this cost was reasonable and necessary. However, the contracting officer did not determine if the work described was within or outside the scope of the existing contract, did not request additional explanation of why the work was necessary, and did not prepare an analysis to determine if the price was reasonable. The contracting officer told us that under this modification the contractor was not required to provide VA anything other than extended service.

In addition, the contracting officer did not submit the proposed modification to the Office of General Counsel (OGC) for legal review and concurrence (VAAR 801.602-70(b)). The contracting officer told us that she did not request a legal review because AOS did not usually do so for contract modifications.

Modifications to Extend Study Contract Not Properly Developed or Awarded. The contracting officer issued two modifications to extend the contract into the first option year without appropriately defining contract requirements and deliverables, considering competition, or determining if prices or costs were reasonable. These deficiencies were similar to those noted for the initial contract and the first modification.

Modification 2. In September 2002, the contracting officer issued Modification 2 to exercise the first option year, September 24, 2002–September 23, 2003, but provided only partial funding of \$1,549,999 (\$1.55 million) for the year. The modification’s description of work was vague—only requiring the contractor to “...focus on tracing and locating subjects” from the original Readjustment Study for inclusion in the interview, medical examination, and mortality review components of the current Study. Although the contractor had submitted a nonbinding budget estimate and a description of the budget assumptions for the option year, the details were not incorporated into the modification as a description of the tasks to be completed, a schedule of deliverables, milestones, or a total price for the option year. Furthermore, the contracting officer did not prepare a price reasonableness determination or develop a payment schedule tied to completion of specific substantive tasks.

Modification 3. In November 2002, at the request of the contractor, the contracting officer issued Modification 3 establishing a schedule of payments for the funds previously authorized by Modification 2. A payment of \$1.0 million was to be made to the contractor upon delivery of the first annual report and a payment of \$550,000 upon delivery of the December 2002 monthly progress report. Although ostensibly made to compensate the contractor for providing the two deliverables as would have been appropriate for a fixed-price contract, the real purpose of the two large payments was to provide the contractor funds to purchase equipment and to continue work on the Study. Using the annual report as a deliverable for the \$1.0 million payment was inappropriate because the report was already a required deliverable for the base year under the original contract. In addition, this modification incorrectly gave the impression that the combined payments of \$1.55 million were for the two completed deliverables. The modification made no reference to the intended use of the funds to cover equipment purchases and other expenditures, as the contractor had made clear in the request for this modification. Although \$1.0 million of the \$1.55 million authorized for Modification 2 for locating Study subjects was reallocated to fund equipment purchases, the contracting officer did not determine how this reallocation affected the locator work required under Modification 2.

The original September 2001 contract did not contain provisions addressing the purchase of equipment to be used in the Study. Previously, in June 2001, VHA had requested that the contracting officer include “all assets” purchased or developed during the Study as contract deliverables. The contract covered some assets, such as describing the Study data and report as deliverables, but did not include the requested statement about “all assets,” or define other assets, such as diagnostic equipment, instrumentation, or computers. VHA’s original 2001 funding estimate did not specifically include equipment purchases. Realistically, the equipment requirements could not have been precisely determined until a more detailed Study scope had been developed, which was supposed to be accomplished in the contract base year. The contract file did not contain any information that the contracting officer or the VHA program managers attempted to

further define project assets or address the issue of equipment or its disposition in the negotiations for the original contract or subsequent modifications. In November 2002, when the contracting officer approved Modification 3, she was aware of the significant planned expenditures for equipment. However, she did not negotiate contract provisions specifying the equipment that was to be purchased, equipment ownership, or accounting and disposition procedures. In addition, the contracting officer did not consider the alternative of purchasing the equipment directly, determine price reasonableness, or obtain a legal review for this modification. After contract work was stopped in November 2003, VA officials became concerned about the disposition of the equipment when they realized that there was no provision for this in the contract.

By January 2003, about 16 months into the Study procurement, the contracting officer and COTR had made a series of serious procedural errors in the original contract and the first three modifications. The contracting officer had not provided substantive administration or oversight for the Study procurement and did not know whether the contractor's performance was satisfactory, whether the project was on schedule, or whether Study costs were within funding limits. The attempt to conduct this procurement as a fixed-price contract had been essentially abandoned, and the contract modifications did little more than serve as a means of channeling funds to the contractor to finance the ongoing work.

Contractor Allowed to Continue Work without Contract or Funding. The contracting officer and the VHA project managers allowed the contractor to continue work on the Study even though the contract had not been extended and funds were not available. A contracting officer should not authorize an obligation in excess of available funds or in advance of appropriations (FAR 32.702). Only contracting officers acting within their authority may execute contract modifications, which must be in writing and, with limited exceptions, be priced before execution. Employees other than contracting officers are prohibited from directing a contractor to perform work that should be subject to a contract modification (FAR 43.1). In October 2001, the contracting officer designated the VHA project officer to serve as the contracting officer's technical representative (COTR) for the contract. The designation stated that only the contracting officer could change contract provisions, require work outside the scope of work, extend the completion time, or make commitments on behalf of the Government.

The \$1.55 million paid in January–February 2003 exhausted the balance of the \$2.1 million VHA had obligated for the Study. VHA had obligated the \$1.55 million from FY 2002 funds and provided no additional funding while VA operated under continuing budget resolutions pending enactment of the FY 2003 appropriations.

However, at the direction of the VHA project managers, the contractor was allowed to continue work for several months without a contractual agreement or obligated funds. In addition, the contracting officer was aware of the work for at least part of the period. As

detailed in monthly progress reports, the contractor continued working during the period January 2003–July 2003 on various tasks, such as locating Study subjects, beginning the mortality review, continuing development of interview and medical examination protocols, preparing the required request for Office of Management and Budget (OMB) approval of the data gathering instruments, and negotiating agreements with subcontractors.

In addition, the contractor continued working on design issues with the project managers and the scientific advisory board. As requested by the VHA program managers in April 2003, the contractor made revisions to the Study design and scope, which also necessitated changes to interview protocols, resubmission of the OMB request package, and preparation of new Study cost estimates. This redesign work was not within the scope of the original contract, modifications, or other documented agreements approved by the contracting officer. The program managers did not ask the contracting officer to issue a modification that specified the requirements, established a price, or authorized additional work or payments for the remainder of the option year. The contracting officer was made aware of the work by a contractor's May 2003 progress report, but took no action to stop the work or otherwise assert control over the work being done by the contractor.

Although continuing with Study work, the contractor repeatedly expressed concerns about funding delays. For example, in January 2003, the contractor reported that the award of some subcontracts had been delayed until funding issues were resolved. In April 2003, the contractor submitted a formal request for \$6.0 million to cover the remainder of the first option year (through September 2003). In May 2003, the contractor made a follow-up contact with the contracting officer indicating that the funding delay had caused serious cash flow problems and that work would have to stop if the funding issues were not resolved quickly.

When VA's FY 2003 appropriations were finally enacted in February 2003, the Mental Health Group did not request that additional funding be obligated for the ongoing Study work. In April 2003, the project officer reminded the Mental Health Group to request obligation of the funds. However, action to obligate additional funds for the remainder of the first option year was delayed for several months while the project managers and the Mental Health Group prepared an explanation of the changes in the Study design and scope and the increase in the estimated costs for presentation to the Under Secretary for Health.

In September 2003, the contracting officer issued Modification 4 authorizing payment of \$1.7 million to the contractor as an adjustment or settlement after VHA obligated additional FY 2003 funds. The \$1.7 million was the amount requested by the contractor to cover the costs associated with work for the period January–July 2003. During this period, the contracting officer, without sufficient justification, allowed the VHA project managers to extend contract work without the necessary written authorization, such as a

change order or contract modification. In addition, the contracting officer issued the modification without determining the price reasonableness for the \$1.7 million or seeking a legal review, as required.

Study Scope Revised and Cost Increased without Appropriate Project Management Actions. Continued design changes and refinements requested by the VHA project managers resulted in additional contractor work, such as revisions to protocols and resubmission of the OMB approval package, caused schedule slippage, and significantly increased the estimated cost to complete the Study. As the first option year (FY 2003) progressed and the contractor made preparations for the fieldwork and data gathering phase of the Study, the VHA project managers and the scientific advisory board continued reviewing the Study design and requesting changes. Some changes, such as increasing the number of subjects to be included in various components of the Study, were requested to improve the statistical power of the data. The Study's scope was also expanded to include an evaluation of possible Agent Orange exposure, which was not a part of the original Study design. In April 2003, a significant amount of redesign work was done to reduce the estimated cost of the project design, which had increased to about \$20.0 million. After this redesign, the estimated total cost of the Study was about \$17.0 million, which meant that the July 2002 funding shortfall of \$7.8 million had increased to about \$12.1 million (\$17.0 million total estimated costs – \$4.9 million approved funding = \$12.1 million).

As discussed on pages 8–9, the Mental Health Group had delayed requesting funding to cover the \$12.7 million cost estimate for the Study approach approved by the Under Secretary for Health in July 2002. The Chief Consultant of the Mental Health Group held up the request for additional funding and asked that the project managers provide information to explain the Study activities, design changes, schedule delays, cost increases, and the funding gap. In July 2003, the project coordinator briefed the Under Secretary for Health and other senior VHA officials on the status of the Study. The Under Secretary expressed concern about the current cost estimate of \$17.0 million and the availability of VHA funds and requested an internal VHA review. After a period of fact gathering, the internal reviewers expressed concerns about Study project management and the costs and benefits of the Study design. After considering various alternatives, the VHA reviewers developed three options for the Under Secretary's consideration: continue with the current contract, renegotiate the existing contract with a defined set of requirements, or develop a new competitive procurement with a defined set of requirements. In November 2003, the Under Secretary decided that a new procurement should be pursued.

In September 2003, for reasons unrelated to the various contracting issues, a new contracting officer was assigned to the Study. After reviewing the history of the contract, the new contracting officer found that the original justification for excluding competition was in error. In November 2003, after discussions with the project managers and various

VHA officials, the contracting officer determined that a new procurement should be initiated to complete the Study and informed the contractor that VA would not exercise the third year of the contract.

Planning and Procurement Actions to Resume Study Not Completed. In December 2003, VHA officials informed staffs of the House and Senate Committees on Veterans' Affairs about the Study delays and indicated that VA intended to award a new competitive contract by June 2004. In February 2004, the contracting officer requested comments to a draft Statement of Objectives for the new procurement from eight Federal Supply Schedule vendors, including RTI, that she had identified as potential sources through market research. The purpose of the request was to obtain vendor comments on the clarity, feasibility, and completeness of the draft statement, rough order of magnitude cost estimates, and timelines for performing the Study. The draft statement presented the anticipated procurement as a continuation of the design and approach begun by RTI, a fixed-price contract approach, and a 2-year period for completion. In March 2004, four vendors, including RTI, responded expressing interest in the Study. The vendors generally indicated that they would need more detailed information on the Study requirements in order to prepare proposals, and they either declined to submit cost estimates or submitted conditional estimates subject to obtaining more information.

A number of staff reassignments affecting the Study took place after December 2003. In May 2004, an acting Chief Consultant of the Mental Health Group was named. In July 2004, the second contracting officer retired. In August 2004, VHA assigned a member of the Mental Health Group to replace the COTR. However, as of March 2005, a new solicitation for the Study had not been completed.

Conclusion—Improved Acquisition Planning, Contracting, and Project Management Are Needed to Complete the Study

The Study was not properly planned, procured, or managed. Contracting officials did not conduct acquisition planning to ensure that the Study was effectively and economically designed and completed. The procurement processes used to plan, solicit, award, and administer the Study contract did not protect VA's interests, demonstrate sound business practices, or comply with acquisition regulations. VHA project management officials did not provide effective oversight to control project activities or keep higher-level decision makers informed of project status and issues. This combination of planning, contracting, and project management weaknesses eventually led VA to stop the contract work before the Study was completed. (See Appendix A, pages 18–19, for a chronology of significant Study procurement and project management events.)

We found no evidence that the contractor's performance was less than acceptable to project officials or was not in substantial compliance with contract requirements. Subject to VA decisions on proceeding with the Study, completing the project could take at least

another 1–2 years. Depending on how much of the completed work will be used when the Study is resumed, all or a substantial portion of the \$4.7 million in Study costs incurred, including \$3.9 million paid to the contractor and \$770,000 in VA project management costs, may have been wasted.

VHA should move ahead and develop the requirements to finish the Study. In doing this, VHA should also develop and implement a project management structure that provides oversight of project scope and design; identifies key events and decision points; monitors progress and maintains control; provides periodic reports of schedule performance; tracks efforts and expenditures against plans, schedules, and budget; identifies variances and delays; and formally communicates project status to management and other interested officials at regular intervals.

To avoid the recurrence of past problems, AOS officials should ensure that an acquisition planning team is formed and a comprehensive plan is prepared that appropriately identifies and integrates planning elements for the procurement, including: goals, objectives, and technical requirements; contracting considerations; competition and source selection; risks and trade-offs; schedule and costs; and budget and funding. The roles and responsibilities of the contracting officer, the COTR, project managers, and program offices should be clearly defined and communicated to all parties involved in the planning, managing, and monitoring of the Study. If a scientific advisory board will continue to be used, it should be formally chartered and its advisory role and responsibilities defined.

In addition, AOS should ensure that the assigned contracting officer has the requisite knowledge and skill to develop, award, and administer a contract that protects VA's interests and provides the best possible opportunity for the procurement to be completed successfully. Of particular importance, the contracting officer, VHA program officials, and project managers should communicate with each other on the major planning and procurement requirements for this type of procurement. In addition, AOS and VHA should address the concerns about the ownership and disposition of project assets, such as the Study design, protocols, other contractor-developed work products, and equipment purchased with VA-provided funds. These officials should consult with OGC to develop an appropriate course of action and work with the contractor to equitably resolve the issues.

Because of the seriousness of the problems with the Study procurement, OA&MM and VHA should initiate appropriate administrative actions for officials responsible for the contracting and project management problems.

Recommendations

We recommended that the Under Secretary for Health and the Chief Management Officer:

1. Initiate formal acquisition planning and proper contracting processes to expeditiously and successfully complete the Study and ensure that assigned project management and contracting staff have the required knowledge and skills to effectively plan, procure, administer, and manage the Study in accordance with pertinent legal, procedural, and technical requirements.
2. Take appropriate administrative action against officials responsible for the contracting and project management problems associated with the uncompleted Study.
3. Work with the General Counsel to secure the appropriate disposition of equipment and other assets in the contractor's possession or to recover the value of the equipment from the contractor.

Acting Under Secretary for Health Comments

The Acting Under Secretary for Health agreed with the recommendations and monetary benefits estimate. The Acting Under Secretary noted that VHA suspended action to resume the Study at the direction of the former Secretary. Further action to initiate acquisition planning and contracting to complete the Study is dependent on the Secretary's approval to resume the Study. He indicated that VHA is reviewing the appropriate administrative actions for the identified individuals. In addition, VHA will continue to provide support and information to OA&MM and OGC in the effort to recover the value of the equipment and other assets from the contractor. (See Appendix C, page 21, for the complete text of the Acting Under Secretary's comments.)

Chief Management Officer Comments

The Chief Management Officer agreed with the recommendations, stating that OA&MM has taken important and fundamental steps over the past several months to improve the overall effectiveness and efficiency of contracting in AOS that specifically address many of the audit findings. Some of the cited improvements include: reorganizing AOS along discrete customer lines and increasing contracting officer resources; establishing an agreement with OGC to fund a dedicated staff attorney to provide ongoing legal advice to AOS contracting staff; establishing standard operating procedures on topics such as advance procurement planning and independent Government estimating; establishing monthly "mini-training" on topics such as options and use of GSA schedules to ensure AOS staff are current on procurement techniques, policies, and procedures. Other initiatives include: establishing a 40-hour COTR course that was provided to VHA

COTRs in 2004; establishing bi-weekly meetings with major customers to facilitate acquisition strategy development; developing a VA acquisition planning guide that can be used by both contracting staff and program offices; planning to provide customer training on submitting complete procurement packages; and updating the AOS customer guide.

The Chief Management Officer also indicated that once approval to resume the Study has been received from the Secretary, AOS will work with VHA to formulate an acquisition plan and to develop a formal statement of work. The Chief Management Officer agreed to take administrative action against officials responsible for the contracting problems. The former Director of AOS was reassigned, and the original contracting officer's warrant was suspended. In addition, the Chief Management Officer indicated that a letter has been sent to the contractor requesting that Study equipment be delivered to VA. (See Appendix D, pages 22–24, for the complete text of the Chief Management Officer's comments.)

Office of Inspector General Comments

The implementation plans are acceptable, and we consider the audit issues to be resolved. We will follow up on the implementation of planned actions, including the status of any action relating to the supervisory contracting officer for the Study procurement, which was not specifically mentioned in the Chief Management Officer's comments.

Study Procurement and Project Management Events

Date	Event
1984–1988	Original National Vietnam Veterans Readjustment Study was conducted.
November 2000	Congress enacted PL 106-419, requiring VA to conduct new National Vietnam Veterans Longitudinal Study.
January 2001	VHA formed Executive Committee to oversee new Study.
February 2001	<p>Executive Committee began planning for Study and indicated preference for sole source fixed-price contract with contractor who conducted original Readjustment Study. Funding was to be requested from annual medical care appropriations.</p> <p>Project officer met with AOS contracting officer to discuss contracting issues, including use of a fixed-price contract.</p>
May 2001	At first meeting, scientific advisory board endorsed sole source contract approach.
June 2001	<p>VHA approved funding of \$4.9 million for the Study, including \$460,625 for FY 2001.</p> <p>Project officer forwarded proposed requirements for solicitation statement of work to the contracting officer.</p>
July 2001	Inadequate J&A approved to exclude the Study procurement from full and open competition.
September 2001	<p>Contracting officer issued solicitation.</p> <p>Contractor submitted proposal expressing concerns about fixed-price type of contract for a research-type project and the potentially expensive approach outlined in the solicitation.</p> <p>Contracting officer awarded fixed-price contract for base year without an overall agreement on the project scope or price.</p>
May 2002	Contractor presented three alternative Study approaches, with estimated costs of \$5.1 million, \$12.6 million, and \$17.0 million.
July 2002	<p>Executive Committee and the Under Secretary for Health approved mid-priced study approach.</p> <p>Project officer submitted to the Mental Health Group a funding request of \$12.7 million for the approved approach. Request was held up pending availability of FY 2003 appropriations.</p>
September 2002	<p>Modification 1 issued at request of project managers to increase the fixed-price contract by \$150,000 to allow contractor to perform unspecified work.</p> <p>Modification 2 issued to exercise the second year for \$1.55 million in partial-year funding.</p>
October 2002	<p>VA operated under continuing resolutions until FY 2003 appropriations were approved in February 2003.</p> <p>Contractor submitted materials to VA for required OMB clearance review in October and December 2002.</p>

Date	Event
November 2002	Modification 3 authorized payments of the \$1.55 million provided by Modification 2, ostensibly for delivery of progress reports but actual purpose was to provide funds to cover contractor's purchase of equipment for the Study.
January 2003	Contractor billed for \$1.55 million under Modification 3. Project managers continued to work with the contractor, but contractor warned that insufficient funding was delaying progress.
April 2003	Project managers directed contractor to revise project design, which necessitated withdrawing and redoing the submissions for the OMB review. Mental Health Group prepared to request approval of \$12.7 million in total funding, but the request was again delayed to obtain more information about status of project.
July 2003	After being briefed on latest cost estimate of \$17.0 million, Under Secretary for Health initiated internal review of Study. Contracting officer informed the contractor that VA intended to exercise the third year of the contract. Contractor resubmitted a revised package to VA for the OMB review.
September 2003	Contracting officer issued Modification 4 to authorize payment of \$1.7 million for services performed in January–July 2003, raising contract cost to \$3.9 million. New contracting officer replaced the original Study contracting officer. Contracting officer issued a no-cost modification to extend contract period through November 2003 to allow additional time for the contractor to complete annual report and for VA officials to make decisions on how to proceed with Study.
November 2003	Contracting officer told contractor to stop work on new activities and to prepare for contract closeout. Contracting officer determined that competitive procurement was needed to continue Study and the Under Secretary for Health determined that a new approach should be developed to complete the Study.
December 2003	In response to VA inquiry, contractor advised VA that equipment purchased with VA funds was the contractor's property under terms of the contract. VA officials met with staffs of the House and Senate Committees on Veterans' Affairs to advise them of the delay in completing the Study. As required for OMB approval, VA published Study data collection information with comments due by February 13, 2004.
February 2004	Contracting officer requested comments to a draft Statement of Objectives for the new procurement from eight vendors identified as potential sources through market research. In March 2004, four vendors, including RTI, responded expressing interest in the Study but generally indicating they needed more information on scope of work in order to develop proposals and prices.

Monetary Benefits in Accordance with IG Act Amendments

<u>Recommendation</u>	<u>Explanation of Benefit</u>	<u>Better Use of Funds</u>	<u>Questioned Costs</u>
1 and 3	Better use of funds by developing formal acquisition plans, establishing effective project management, applying proper contracting procedures to complete the Study, and resolving ownership issues for equipment and other project assets.	\$4.7 million	

Acting Under Secretary for Health Comments

**Department of
Veterans Affairs**

Memorandum

Date: March 11, 2005

From: Acting Under Secretary for Health (10/10B5)

Subj.: OIG Draft Report, ***Audit of VA Acquisition Practices of the National Vietnam Veterans Longitudinal Study***, Report No. 2004-02330-VH-0391 (EDMS Folder 300964)

To: Assistant Inspector General for Auditing (52VH)

1. The appropriate program offices have reviewed the draft report and I concur with the recommendations and the estimate of monetary benefits. I am providing the following comments on the recommendations contained in the report.
2. Regarding recommendation one, at the direction of the former Secretary, VHA suspended further action on the National Vietnam Veterans Longitudinal Study (NVVLS). Further action by VHA to initiate acquisition planning and contracting for completion of the study is dependent on the Secretary's approval to resume the study.
3. VHA is currently reviewing the appropriate administrative actions for the identified individuals as stated in recommendation two. I anticipate appropriate administrative action for these individuals will be forwarded to the Acting Deputy Under Secretary for Health in April 2005.
4. Finally, the Office of Acquisition and Materiel Management (OA&MM) and the Office of the General Counsel (OGC) are responsible for securing and/or recovering the value of equipment and other assets from the contractor included in recommendation three. VHA has and will continue to provide support and information to OA&MM and the OGC in this recovery effort.
5. Thank you for the opportunity to review the draft report. If you have any questions, please contact Margaret M. Seleski, Director, Management Review Service (10B5) at 202-565-7638.

(original signed by:)

Jonathan B. Perlin, MD, PhD, MSHA, FACP

Automated VA Form 2105

Chief Management Officer Comments

**Department of
Veterans Affairs**

Memorandum

Date: **AUG 12 2005**
From: Chief Management Officer (004)
Subj: Draft Audit of VA Acquisition Processes for the National Vietnam Veterans Longitudinal Study (NVVLS) Project 2004-203330-VH-0391
To: Inspector General (50)

1. The Office of Management has reviewed the subject draft report. We appreciate your staff's commitment to working with us to ensure the accuracy of the report's findings and recommendations. Over the last several months, we have taken important and fundamental steps to improve the overall effectiveness and efficiency of our contracting practices and have addressed many of the findings in the draft audit. Improvements we have made and continue to make include:

- Reorganizing the Acquisition Operations Service (AOS) along discrete customer lines. This contributes to consistent customer interaction and building partnerships with our customer base. The reorganization includes an increase in the number of warranted contracting officers in AOS by approximately 49 percent; this has been fully implemented. I approved this reorganization on February 16, 2005.
- Establishing an agreement with the Office of the General Counsel to fund one fully dedicated staff attorney who is collocated with AOS and assigning a full-time contract review staff to AOS. These individuals are now fully integrated partners within AOS, giving ongoing advice and counsel to our contracting officers.
- Establishing bi-weekly meetings with major customers to identify major requirements early on in order to facilitate acquisition planning and strategy development, as well as monitor and manage ongoing procurements. We currently have three such bi-weekly meetings with the OI&T Office of Cyber and Information Security, Office of Information Technology Operations, and Office of Policies, Plans and Programs.
- Establishing standard operating procedures (SOP) on various topics, e.g., advance acquisition planning and independent government cost estimating. These SOPs will provide more uniformity within AOS. Draft SOPs have been submitted to the staff to implement while awaiting formal approval by the new director of AOS. In addition, the AOS Customer Guide has been updated and is undergoing final edits before reprinting.
- Establishing monthly "mini-training" on various acquisition topics to ensure all AOS contracting officers are current on various procurement techniques, policies, and procedures. Training has been provided on the exercise of contract options and the use of GSA schedules. In the near future, AOS will be providing customer training on submitting complete procurement packages.

2.

Draft Audit of VA Acquisition Processes for the NVVLS Project 2004-203330-VH-0391

- Establishing a comprehensive 40-hour Contracting Officer's Technical Representative (COTR) training course for all Central Office VHA COTRs. The training was also completed by AOS contracting officers in Calendar Year 2004.
- Putting SOPs in place to guide contracting officers in the proper performance of price analysis and the preparation of pricing negotiation packages.
- Establishing a formal acquisition planning guide for the Department that can be used by both contracting personnel and program offices.

These actions are examples of initiatives that will improve the overall effectiveness and quality of contracting in AOS. We are also working with the Federal Consulting Group, a Treasury franchise fund activity, to identify further opportunities for improvements within AOS and throughout OA&MM. The Associate DAS for Acquisitions reported for duty on May 1, 2005, and is in the process of filling other key acquisition positions, including the Director and Deputy Directors in AOS.

2. Following are responses that address specific OIG recommendations:

1. *Initiate formal acquisition planning and proper contracting processes to expeditiously and successfully complete the study and to ensure that assigned program management staff has the required knowledge and skills to effectively plan, procure, administer, and manage the Study in accordance with pertinent legal, procedural, and technical requirements.*

Concur. Once approval to move forward with this requirement is received from the Secretary, AOS will work with the program staff to formulate the acquisition plan.

AOS recommends that if the program office still requires the study, emphasis be placed on the development of a formal acquisition plan and the development of a formal statement of work. If the program office needs to obtain assistance from an outside source to do this, then actions should be taken to obtain it. However, AOS will work closely with the customer to fine-tune the statement of work.

2. *Take appropriate administrative action against officials responsible for the contracting and project management problems associated with the uncompleted study.*

Concur. The recommended administrative actions were implemented in 2004. The former director of Acquisition Operations was reassigned on April 18, 2004, and the new director will be reporting on August 8. The contracting officer's warrant has been suspended. We believe this recommendation should be considered closed.

3. *Work with the General Counsel to secure the appropriate disposition of equipment and other assets in the contractor's possession or to recover the value of the equipment from the contractor.*

3.

Draft Audit of VA Acquisition Processes for the NVVLS Project 2004-203330-VH-0391

Concur. We sent a letter to the contractor requesting that the equipment be delivered to VA and we received a response back. Final disposition of this recommendation is pending further guidance from the program office (VHA).

3. Once approval to move forward has been received from the Secretary and the results of the HHS audit have been reviewed, AOS will work with the program staff to formulate the acquisition plan.


Tim S. McClain

OIG Contact and Staff Acknowledgments

OIG Contact	Jay M. Johnson, Director, Veterans Benefits and Healthcare Audit Division, (202) 565-8283
Acknowledgment	Steven Wise, Project Manager

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