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United States Government Accountability Office
Washington, DC 20548

November 30, 2005

The Honorable Lane Evans
Ranking Democratic Member
Committee on Veterans' Affairs
House of Representatives

Subject: Purpose Statute Violation: Veterans Affairs Improperly Funded Certain Cost Comparison Studies with VHA Appropriations

Dear Mr. Evans:

The Department of Veterans Affairs (VA) provides health care to about 4.7 million veterans primarily through its medical facilities—which include hospitals, nursing homes, outpatient clinics, and other health care facilities—and by contracting for care with other healthcare providers. To lower costs, increase access, and improve the quality of care provided to eligible veterans, VA evaluates the efficiency of its medical facilities, which includes performing studies to determine whether increased savings and efficiencies can be obtained from outsourcing certain segments of its operations. We have previously reported[1] that VA would benefit from examining certain aspects of its operations, including its medical and laundry facilities, to determine if operational efficiencies could be achieved through consolidations, competitive sourcing, or both.

While VA has the authority to conduct cost comparison studies and, when beneficial, to enter into contracts with commercial providers, VA may only finance cost comparison studies with funds that are legally available for this purpose. Under a provision in Title 38 of the U.S. Code,[2] VA is prohibited by law from using any one of its Veterans Health Administration (VHA) appropriations for medical care, medical and prosthetic research, and medical administration and miscellaneous operating

[1] GAO, *Veterans' Affairs: Progress and Challenges in Transforming Health Care*, GAO/T-HEHS-99-109 (Washington, D.C.: Apr. 15, 1999); and GAO, *VA Laundry Service: Consolidations and Competitive Sourcing Could Save Millions*, GAO-01-61 (Washington, D.C.: Nov. 30, 2000).

[2] The permanent law, which was enacted in fiscal year 1982 and is now codified at 38 U.S.C. § 8110(a)(5), states: "Notwithstanding any other provision of this title or of any other law, funds appropriated for the Department under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses may not be used for, and no employee compensated from such funds may carry out any activity in connection with, the conduct of any study comparing the cost of the provision by private contractors with the cost of the provision by the Department of commercial or industrial products and services for the Veterans Health Administration unless such funds have been specifically appropriated for that purpose."

expenses—which fund VHA's operations—to conduct cost comparison studies unless the Congress specifically makes these appropriations available to conduct such studies. The Title 38 cost comparison funding prohibition also provides that no employee compensated from these VHA appropriations may carry out any activity in connection with such studies unless the Congress makes these appropriations specifically available for that purpose.

In light of this, you asked us in April 2004 whether the limitations imposed by the Title 38 cost comparison funding prohibition applied solely to those studies conducted pursuant to the Office of Management and Budget (OMB) Circular No. A-76, *Performance of Commercial Activities*, which provides policies and procedures for determining whether commercial activities should be performed in-house using government resources or under contract with private contractor resources. If not, the request further asked whether the prohibition applied to such studies conducted as part of VA's Capital Asset Realignment for Enhanced Services[3] (CARES) process. In our October 2004 legal opinion,[4] we concluded that the Title 38 cost comparison funding prohibition was not limited to standard A-76 cost comparison studies in particular, or A-76 studies in general, and that the prohibition applies to CARES cost comparison studies. We further concluded that if VA had in fact obligated the VHA appropriations for the unavailable purpose of conducting cost comparison studies, then it would have violated the purpose statute. However, we noted in the opinion that we had not simultaneously undertaken an audit to determine if VHA had used these appropriations for this purpose.

After we issued our October 2004 legal opinion, you requested and we agreed with your office to evaluate VA's use of the VHA medical appropriations during fiscal years 2001 through 2004 to determine if VA had violated the Title 38 cost comparison funding prohibition and, consequently, the purpose statute, which requires that funds be used only for the purposes for which they were appropriated.[5] In this report, we also address VA's legal views on whether the Title 38 cost comparison funding prohibition applies to the specific cost comparison studies in the areas we reviewed. Finally, for any such areas that we found to violate the Title 38 cost comparison funding prohibition and the purpose statute based on our work, you asked that we consider whether VA would be required to report a violation of the Antideficiency Act (31 U.S.C. § 1341). The Antideficiency Act prohibits an agency from incurring an obligation in advance or in excess of appropriations and requires agencies to report violations to the Congress and the President (with a copy to the Comptroller General).[6]

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[3] CARES is a nationwide effort designed to assist in systematically assessing VA's medical facilities' capacity, services, and capital infrastructure to better align services with future VA needs. As part of the CARES assessment, VA researched and compared the costs and benefits of alternative sources, including private contractors, of providing different medical services and products to veterans.

[4] B-302973, Oct. 6, 2004.

[5] The purpose statute is codified at 31 U.S.C. § 1301(a).

[6] 31 U.S.C. § 1351.

We met with VA headquarters officials and obtained information and documentation regarding cost comparison studies performed as part of CARES and other cost comparison studies performed during fiscal years 2001 to 2004. The information and documentation VA provided in response to our audit inquiry, however, were limited because VA does not maintain comprehensive, centralized data on the number and type of activities related to cost comparison studies conducted in the past or currently underway. Because of this, we limited the scope of our evaluation to determine whether VA improperly used VHA medical care appropriations in the three areas in which VA reported that cost comparison activities were performed: (1) VA's CARES process, (2) VA's evaluation of its medical center laundry facilities, and (3) the 1,626 cost comparison studies referenced in VA's fiscal year 2002 Performance and Accountability Report (PAR). Based on these efforts, with the exception of how much VA spent on cost comparison studies, we concluded the information we obtained is reliable for addressing our reporting objectives. We conducted our work from February 2005 to October 2005 in accordance with U.S. generally accepted government auditing standards. Enclosure I contains further details on our scope and methodology. We requested comments on a draft of this report from the Secretary of Veterans Affairs or his designee. We received written comments from the Secretary of Veterans Affairs, which are presented and evaluated in the body of this report, and reprinted in enclosure II.

Results in Brief

VA employees compensated from the VHA medical care appropriation accounts performed activities in support of cost comparison studies in connection with the CARES process, VA's evaluation of its medical center laundry facilities, and for some of the 1,626 studies referenced in VA's fiscal year 2002 PAR. Because the Congress did not specifically make VHA's medical care appropriations available for cost comparison studies, VA violated the Title 38 cost comparison funding prohibition and, consequently, the purpose statute. Although funds were specifically appropriated for performing such cost comparison studies for fiscal years 1983 through 2000, no similar specific appropriations were made available in subsequent fiscal years. For fiscal years 2001 to 2004, VA requested from the Congress but did not receive specific appropriations—ranging from $16 million to $50 million—to conduct cost comparisons studies.[7] To successfully continue its competitive sourcing activities while complying with the Title 38 cost comparison funding prohibition, VA could have used other available VA appropriations to fund these activities, such as those for major projects construction, minor projects construction, or departmental administration.

[7] For this purpose, the administration requested $16 million in its budget request for fiscal year 2001, $25 million in its supplemental budget request for fiscal year 2003, and $50 million in its amendment to its budget request for fiscal year 2004. *See*, respectively, *Budget of the United States Government—Appendix*, *Fiscal Year 2001*, at 1; and *Budget of the United States Government—Fiscal Year 2003 Appropriation Law Change and Fiscal Year 2004 Budget Amendment*, at 4-5. Congress did not accept these requests, as reflected in the fiscal years 2001, 2003, and 2004 appropriations for VA. *See*, respectively, Pub. L. No. 106-377, 114 Stat. 1441A-3, 1441-A-5-6 (Oct. 27, 2000); Pub. L. No. 108-7, div. K, 117 Stat. 475, 477-78 (Feb. 20, 2003); and Pub. L. No. 108-199, div. G, 118 Stat. 363, 365-66 (Jan. 23, 2004).

According to VA, the cost comparison activities we reviewed were not subject to the Title 38 cost comparison funding prohibition because VA interprets the prohibition as applying only to "formal" (i.e., standard) A-76 studies. This is the same position VA asserted to GAO in 2004[8] in response to our inquiry related to our October 2004 legal opinion. We continue to disagree with VA's interpretation. In our October 2004 legal opinion, we concluded that the Title 38 cost comparison funding prohibition applies to any VA studies comparing the costs of commercial services and products provided by private contractors with those provided by VA personnel whether or not they are "formal" studies under OMB Circular No. A-76. According to VA's fiscal year 2003 PAR, it halted the bulk of its competitive sourcing studies in August 2003 because the VA General Counsel had concluded that the Title 38 cost comparison funding prohibition prevents VA from conducting cost comparisons studies using the VHA medical appropriations unless the Congress provides specific funding for that purpose.[9] According to VA, it is seeking legislative relief so that it can restart its planned competitive sourcing program.

VA can correct its purpose statute violations through account adjustment by deobligating the amounts that were improperly charged to the VHA medical appropriations and charging these amounts to otherwise available appropriation accounts. This requires that VA know the amount of VHA medical appropriations used in connection with cost comparison studies. However, VA did not track the time and expense associated with performing cost comparison studies in-house and was thus unable to provide us with a reliable estimate of this amount. Therefore, we were unable to determine whether VA would have sufficient budget authority available in other appropriations to correct the amount of each purpose statute violation. As such, we were also unable to determine if VA could avoid violations of the Antideficiency Act by making account adjustments. Nonetheless, based on documentation provided by VA, the amount of time and effort spent in support of cost comparison studies likely was substantial. For example, according to VA's Draft National CARES Plan, issued on August 4, 2003, hundreds of staff across VA devoted a great deal of time and energy to the CARES implementation process, which lasted 14 months.

We are making four recommendations dealing with VA's compliance with the Title 38 cost comparison funding prohibition. In commenting on a draft of this report, VA disagreed with our conclusions and did not concur with our recommendations. VA said it continues to disagree with our interpretation that the Title 38 cost comparison funding prohibition applies to all cost comparison studies, whether or not they are A-76 studies. We stand by our interpretation and our conclusion that VA violated the purpose statute. In addition, VA's disagreement with our conclusions is not a sound basis for rejecting our recommendations. Implementing the recommendations included in this report would improve VA's funds control capability, provide a mechanism to track costs associated with performing cost comparison studies, and assist in making a determination of future funding needs for such studies.

[8] *See* Letter from Tim S. McClain, General Counsel, VA, to GAO, June 15, 2004.

[9] The VA General Counsel subsequently modified his opinion.

Background

The long-standing policy of the federal government has been to rely on the private sector for needed commercial services. To ensure that the American people receive maximum value for their tax dollars, commercial activities should be subjected to the forces of competition. Since 1966, OMB has issued various versions of OMB Circular No. A-76, *Performance of Commercial Activities*, which provides policies and procedures for determining whether commercial activities should be performed in-house using government resources or under contract with private contractors. In accordance with OMB Circular No. A-76 and, since 1998, the Federal Activities Inventory Reform Act of 1998 (FAIR Act), agencies have been required to identify all activities performed by government personnel as either commercial or inherently governmental.[10]

For those activities identified as commercial, agencies are required to determine, through cost comparison studies, whether it is more cost-effective for the government or the private sector to perform these activities. The versions of OMB Circular No. A-76 that would have governed the cost comparison studies reviewed by this audit are those OMB issued in 1999 and 2003, whereas the 1979 version was in effect when the Title 38 cost comparison funding prohibition was enacted.[11] Streamlined cost comparisons were first added to OMB Circular No. A-76 in the 1983 version. A streamlined A-76 cost comparison study is a modified version of a standard cost comparison study that reduces the administrative activities required to complete the study and as a result generally lowers the study's costs. A streamlined study can only be performed if it meets the criteria set out for its use in OMB Circular No. A-76.[12]

In August 2001, President Bush established the President's Management Agenda (PMA), which included five governmentwide initiatives intended to improve performance and management in the federal government. One of the initiatives involves competitive sourcing—or using the competitive process to determine whether the government or a private sector contractor should perform a particular commercial activity. Although the requirements of OMB Circular No. A-76 have been in place for decades, the PMA competitive sourcing initiative places additional pressure on agencies to use the private sector to perform activities that are considered commercial activities and, thus, not inherently governmental.[13] For example, in 2001, in response to the new competitive sourcing initiative, OMB issued directives stating that during the 2-year period of fiscal years 2002 and 2003, agencies

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[10] OMB Circular No. A-76 was updated in 1999, in part, to reflect changes generated by the Federal Activities Inventory Reform (FAIR) Act of 1998, Pub. L. No. 105-270, 112 Stat. 2382 (Oct. 19, 1998)(31 U.S.C. § 501 note), which added the FAIR Act's requirements to the policy expressed in the circular.

[11] OMB Circular No. A-76, § 4(b) (1999).

[12] OMB Circular No. A-76, *Revised Supplemental Handbook* at part II, Ch. 5(1999); and OMB Circular No. A-76, Att.B, at pp (A)(5), (c) (2003).

[13] Under the FAIR Act and OMB Circular No. A-76, an activity qualifies as inherently governmental if its performance is so closely related to the public interest that it should only be done by federal government employees, such as activities involving significant discretion, value judgments, decision making, and interpretation of laws.

should undertake public-private competitions or conversions of at least 15 percent of personnel associated with commercial activities.[14] These directives stated that the President's long-term goal was to open at least one-half of the federal positions that are not inherently governmental to competition with the private sector.

To implement the PMA competitive sourcing initiative and achieve VA's goal of having a systematic, timely, and cost-effective competitive sourcing process, VA issued Directive 7100, "Competitive Sourcing," on August 5, 2002. VA used Directive 7100 to implement a three-tiered process for competitive sourcing which, according to VA, was approved by OMB.[15]

- The Tier 1 process is only available for situations involving 10 or fewer full time equivalent employee (FTE) positions, as a "cost-benefit analysis"—intended to determine whether VA derives the "best value" from conducting an activity in-house or contracting it out.[16] Directive 7100 requires documentation supporting this decision regarding what was considered and evaluated, the effects on the quality of service to be provided, and any cost savings.

- The Tier 2 process was created for activities involving 11 or more FTEs that are "commercial exempt," which Directive 7100 defines as commercial activities that are exempt from the provisions of OMB Circular No. A-76 by the Congress, executive order, or OMB guidance. For commercial exempt activities under Tier 2, there is no upper limit on the number of FTEs. VA Directive 7100 describes the Tier 2 process as a "cost-benefit analysis" that is intended to provide a "streamlined A-76-like" process that would result in a level of analysis that is more detailed than a Tier 1 analysis but less detailed than a Tier 3 analysis. Many of the same forms and processes required in the Tier 2 analysis are also required under the streamlined and standard OMB Circular No. A-76 processes.[17]

- The Tier 3 analysis reflects VA's implementation of OMB Circular No. A-76 for commercial activities involving 11 or more FTEs that do not meet Directive 7100's definition of "commercial exempt." Under Tier 3, VA decides to retain or outsource a commercial activity after conducting a study as prescribed by OMB Circular No. A-76, including its associated attachments or supplements.

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[14] *See* OMB, *Performance Goals and Management Initiatives for the FY 2002 Budget*, M-01-15 (Mar. 9, 2001); and OMB, *Implementation of the President's Management Agenda and Presentation of the FY 2003 Budget Request*, M-02-02 (Oct. 30, 2001).

[15] Letter from John H. Thompson, Deputy General Counsel, VA, to GAO, June 8, 2005; *see also* Letter from VA to OMB, Dec. 19, 2002.

[16] *See* Directive 7100, App. A., ¶ 2.a.(1).

[17] *See VA* Directive 7100, ¶ 5(f), App. A, ¶ 2.a.(2). This understanding of Tier 2 is consistent with Directive 7100 and the legal opinion issued by the VA General Counsel, at ¶ 3, on April 28, 2003, which states that "Tier 2 applies to activities of 11 or more FTEs classified as commercial exempt on the FAIR Act inventory (in essence VHA activities)." However, this understanding differs from the later characterization from the VA General Counsel's office provided to GAO, which states that Tier 2 is a streamlined A-76-like process available for "commercial activities of 11 or more FTE." Letter from John H. Thompson, Deputy General Counsel, VA, to GAO, June 8, 2005.

> For commercial activities involving 11 to 65 FTEs, a streamlined A-76 study may be conducted if it meets the requirements set out in OMB Circular No. A-76. However, for commercial activities involving 66 or more FTEs, Tier 3 requires that VA perform a standard cost comparison study, including all the formal steps involved such as the formal solicitation process.[18]

Title 38, Cost Comparison Funding Prohibition: We have identified five conditions that must be met for VA employees' participation in activities connected to cost comparison studies to violate the Title 38 cost comparison funding prohibition. First, VA must have conducted a study.[19] Second, the subject of the study must involve the provision of commercial or industrial products or services. This means in general that the service or good could be provided by the private sector. Third, the study must involve the comparison of the costs of providing the product or service. Fourth, the cost comparison must be between VA in-house and private contractor performance. Thus, for example, the prohibition would not apply if the alternative source were a federal, state, or local government agency. Fifth, the activity in connection with the study must have been paid out of one of the VHA appropriation accounts when there was no specific appropriation made for this purpose. This would include any activities done in anticipation of or that further the study, including administrative support activities, when performed by employees compensated from the VHA appropriation accounts. The prohibition would not apply if the activities were paid for with funds from other VA appropriation accounts, such as the accounts appropriating funds for major projects construction, minor projects construction, or departmental administration.[20]

Purpose Statute: When VA violates the Title 38 cost comparison funding prohibition, it also violates the purpose statute, which states that appropriations can only be used for the purposes for which they were made. The VHA appropriations were not available for cost comparison studies or to pay employees for activities connected to any such studies. Even activities the agency is otherwise authorized to perform violate the purpose statute if their expenses are charged to the wrong appropriation account.

Antideficiency Act: Section 1341(a) of Title 31 of the U.S. Code, together with other provisions, is commonly referred to as the Antideficiency Act. The Antideficiency

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[18] *See VA* Directive 7100, App. A, ¶ 2.a.(3). This understanding of Tier 3 is consistent with Directive 7100 and the legal opinion issued by the VA General Counsel, at ¶ 3, on April 28, 2003 ("Tier 3, applicable to commercial competitive activities over 11 FTE equivalents, requires a full A-76 study.") However, it differs from the later characterization from the VA General Counsel's office provided to GAO, which states that Tier 3 constitutes only standard A-76 studies. Letter from John H. Thompson, Deputy General Counsel, VA, to GAO, June 8, 2005.

[19] See discussion and GAO's interpretation of "study" in the section entitled VA Asserts Limited Application of Title 38 Cost Comparison Funding Prohibition.

[20] For example, the major projects construction appropriation is available, in part, for advance planning activities funded through the advance planning fund (e.g., needs assessments related to potential capital investments, other capital asset management related activities, and investment strategy studies) and planning and design activities funded through the design funds and CARES funds. It is also available for any of the purposes set out in 38 U.S.C. § 8110, among other provisions. *See, e.g.*, Pub. L. No. 108-199, div. G, 118 Stat. 363, 367 (Jan. 23, 2004).

Act prohibits U.S. officers and employees from obligating or expending an amount in advance or in excess of appropriations available for the given purpose. If an appropriation is not available for a given purpose and any amount of funds from that appropriation is used for the prohibited purpose, then the obligation or expenditure is a violation of the purpose statute and an agency must "cure" the purpose statute violation to avoid an Antideficiency Act violation. Agencies "cure" violations by deobligating those amounts charged to the wrong appropriation and obligating the amounts to an appropriation available for that purpose.[21] An agency may be unable to "cure" the purpose statute violation if it either (1) lacked any appropriation available for the object charged or (2) lacked sufficient budget authority in an otherwise available appropriation.[22]

If an agency is not able to "cure" the purpose statute violation, then it violates the Antideficiency Act. This would require the agency to report the Antideficiency Act violation to the President and the Congress and provide a copy of the report to the Comptroller General on the same day.[23] In addition to the reporting requirement, violations of the Antideficiency Act can result in imposition of penalties on agency officials responsible for the actions that resulted in the violation.[24]

VA Improperly Funded Cost Comparison Studies Using VHA Medical Appropriations

As noted before, we have previously reported that VA would benefit from examining certain aspects of its operations to determine if operational efficiencies could be achieved through consolidations, competitive sourcing, or both.[25] However, in performing these activities during fiscal years 2001 to 2004, VA improperly used funds from the VHA medical appropriation accounts in connection with cost comparison studies performed related to the CARES process, its evaluation of the medical laundry facilities, and the studies referenced in VA's fiscal year 2002 PAR. Such usage violated the Title 38 cost comparison funding prohibition and, consequently, the purpose statute. Specifically, VA employees compensated from the medical care appropriation performed activities in support of cost comparison studies—which is prohibited under the Title 38 cost comparison funding prohibition because the Congress did not specifically make the funds available for that purpose.

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[21] An agency could also "cure" purpose statute violations by transferring the amount from the wrong appropriation account to an available appropriation account, provided the agency has statutory authority for the transfer. 31 U.S.C. § 1352.

[22] *See* 63 Comp. Gen. 422, June 22, 1984.

[23] *See* 31 U.S.C. § 1351. *See also* OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, § 145.

[24] *See* 31 U.S.C. §§ 1349, 1350.

[25] GAO, *Veterans' Affairs: Progress and Challenges in Transforming Health Care*, GAO/T-HEHS-99-109 (Washington, D.C.: Apr. 15, 1999); and GAO, *VA Laundry Service: Consolidations and Competitive Sourcing Could Save Millions*, GAO-01-61 (Washington, D.C.: Nov. 30, 2000). These reports did not discuss funding issues**;** VA had been receiving funding to perform cost comparison studies.

In-house Cost Comparison Activities Performed in Connection with CARES Violated the Purpose Statute

Although VA's initial work related to CARES was contracted out and funded by non-VHA appropriations that were available for the purpose of implementing CARES, later CARES-related cost comparison activities relied primarily upon VA in-house support. This work was carried out by VA personnel whose salaries and expenses are paid from VHA medical care appropriations. In doing so, VA violated the Title 38 cost comparison funding prohibition and, thus, the purpose statute. Because VA did not track the time or expense associated with the in-house support provided by VA staff, we were unable to determine the extent to which VHA appropriations were used in support of CARES-related cost comparison studies.

In October 2000, VA initiated CARES. Through CARES, VA compared the sizes, locations, and available health care services of VA's existing medical facilities to projected demand for health care services through fiscal year 2022. Simply put, the CARES process involves: (1) analyzing veterans' health care needs—referred to as market analysis, (2) developing options to address those needs, (3) evaluating each option, and (4) implementation. However, before CARES decisions are implemented, VA undergoes an extensive process for vetting these decisions. This includes the review of CARES decisions by a 16-member independent CARES commission as well as congressional oversight.

In fiscal year 2001, VA contracted out the initial CARES work, which was funded through a non-VHA appropriation, for a total contract cost of $3.6 million. This included contractor support for developing the criteria, methodology, and tools used in evaluating various restructuring options and piloting the process at 1 of VA's 21 networks. VA completed the pilot phase of the CARES process in February 2002. To coordinate and carry out the CARES process for the remaining 20 VA networks, VA used in-house personnel, rather than contractor staff. Specifically, VA divided its CARES initiatives by markets—focusing on areas where major gaps in healthcare services existed, such as primary care, specialty care, and mental health care. The process used standardized methods, such as a forecasting model and a computerized market template created by a contractor, that allowed different cost alternatives to be analyzed—including decisions on whether to renovate, lease, build, or contract out for service.[26] As part of this process, VA staff, whose salaries and expenses are paid through the VHA medical care appropriations, completed the market plan templates, which included comparing the cost of contracting out services or performing those services in-house. The conduct of this component of the market plan analysis is a study that violated the Title 38 cost comparison funding prohibition and, thus, the purpose statute.

VA could not provide an estimate of the personnel costs involved in the cost comparison portion of the CARES process because VA does not track time spent by

[26] VA awarded two contracts to help develop a tool for forecasting data to be used in Phase II of CARES and to help develop the project costs for the VISN (Veterans Integrated Service Network) centers, which were funded out of the major projects construction appropriation account.

jobs or tasks. Further, the market plan templates are an integral part of the CARES process, and we could not discern from the documentation provided the time and effort devoted to performing these tasks. However, according to VA's Draft National CARES Plan, issued on August 4, 2003, hundreds of staff across VA devoted a great deal of time and energy to the CARES implementation process, which lasted 14 months. Further, given that the pilot study for one VA network totaled $3.6 million, the time and effort involved in implementing the CARES process at the remaining 20 VA networks is likely to have been substantial. It is important to note, however, that only a portion of the $3.6 million spent on the pilot was associated with performing cost comparison studies.

Laundry Facility Outsourcing Studies Violated the Purpose Statute

During fiscal years 2002 and 2003, personnel from VA's Central Office and medical centers, whose salaries and expenses were paid out of the VHA medical care appropriations, performed cost comparison studies of VA's medical center laundries to determine if the work at the facilities should be retained in-house or contracted out to the private sector. In doing so, VA violated the Title 38 cost comparison funding prohibition, and consequently, the purpose statute. Again, because VA does not track the time or expense associated with performing cost comparison studies, we were unable to determine the extent to which VHA funds were used in support of the laundry studies.

In fiscal year 2002, VA began to evaluate selected laundry facilities on a pilot basis to determine whether to outsource laundry facilities to the private sector or to retain them in-house. During fiscal year 2003, to meet the administration's goals for competitive sourcing as required by the President's Management Agenda, VA extended the laundry study to all remaining laundry facilities.[27] To carry out these studies, VA formed the Laundry Advisory Work Group comprised of field, VA Central Office, and departmental members. The advisory group issued additional guidance under Directive 7100, which provided guidance for VA's new three-tiered process for outsourcing commercial activities, such as those conducted at the laundry facilities. The laundry studies involved developing in-house estimates calculating the costs of operating the facilities, including equipment and personnel, and comparing them to the costs of consolidating certain facilities or contracting the laundry workload to a private sector contractor in order to determine the most cost-efficient alternatives. The cost comparison process was structured and standardized under the new Tier 2 process developed by VA using forms and schedules that resemble the processes defined in OMB Circular No. A-76, *Performance of Commercial Activities*.

After completing cost comparison studies for 18 of the laundry facilities, in August 2003, these evaluations were terminated by order of the VA Deputy Secretary in response to a legal opinion provided by VA's Office of General Counsel. Specifically, the VA Deputy Secretary ordered staff at the Central Office and at the Veterans Integrated Service Networks (VISNs) to terminate any competitive sourcing studies

[27] Prior to the fiscal year 2002 and 2003 laundry studies, VA had already contracted out a number of its laundry facilities. We did not evaluate the use of VHA funds in connection with any cost comparison analyses performed related to these facilities.

funded from any of the three VHA medical care appropriations mentioned above until specific funds had been appropriated for these studies, consistent with the Title 38 cost comparison funding prohibition.[28]

For 6 of the 18 completed laundry facilities studies, VA estimated the time and money spent in conducting the studies was $14,725.[29] However, VA did not have a methodology to develop these estimates and provided limited documentation to support these estimates; therefore, we have no reasonable assurance of the accuracy of these estimates. In addition, as mentioned before, we could not verify any amounts because VA does not track time spent by jobs or tasks.

Competitive Sourcing Activities Conducted to Meet Requirements of the President's Management Agenda Violated the Purpose Statute

In its fiscal year 2002 PAR, VA takes credit for performing 1,626 cost comparison studies related to 4,061 FTE positions. VA provided documentation for 1,352 of these studies.[30] According to VA officials, the remaining studies were in connection with the VA's benefits programs, which are not funded through the VHA medical appropriations. Based on the documentation provided for the medical care-related cost comparison studies, we determined that at least 16 studies violated the Title 38 cost comparison funding prohibition and, thus, the purpose statute. Specifically, VA employees, whose salaries and expenses were paid through the VHA medical care appropriations, performed work in connection with these 16 studies. However, for the remaining 1,336 VA studies, the documentation VA provided was not sufficiently detailed to allow us to determine whether cost comparison studies were actually performed and, therefore, subject to the Title 38 cost comparison funding prohibition.

The documentation provided for the 1,352 VA cost comparison studies cited in the fiscal year 2002 PAR included the following information: (1) description of the facility, (2) study completion date, (3) description of services being evaluated, (4) contract cost, (5) in-house costs, (6) savings, (7) number of FTEs evaluated, and (8) the type of study performed—Tier 1 or Tier 2. According to VA's documentation, VA classified 16 of the 1,352 studies as Tier 2 studies. As discussed previously, Tier 2 studies—as defined by VA—involve the same analyses, processes, and forms required under the streamlined and standard OMB Circular No. A-76 processes.

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[28] The VA General Counsel subsequently modified his opinion.

[29] VA estimated that $11,225 was spent in performing the cost comparison studies related to the medical laundry facilities located in one of VAs VISNs. This VISN study included the Huntington, W. Va; Louisville, Ky; Mountain Home, Tenn.; and Nashville, Tenn., laundry facilities. For two additional facilities located in Sioux Falls, S. Dak., and Fargo, N. Dak., the agency estimated a total of $3,500. However, VA did not use a reliable methodology to estimate these amounts. Instead, the estimate of $11,225 was calculated based on the pay scale of the staff involved in the project, and individuals' recollection of how much time was allocated (in percentage) to working on this project.

[30] Documentation consisted of a schedule where information on cost comparison studies was gathered as a result of a data call to the VA networks in an effort to obtain information for the President's Management Agenda. We did not the audit the cost comparison studies included in this schedule.

According to VA officials, employees whose salaries and benefits were paid through the VHA medical care appropriations performed work in support of the 16 Tier 2 cost comparison studies. As a result, because appropriations were not made specifically available for this purpose, VA violated the Title 38 cost comparison funding prohibition and, consequently, the purpose statute. As was the case for the studies discussed previously, VA was unable to determine costs involved in performing this analysis because it does not track this type of information.

According to VA officials, most of the studies cited in the fiscal year 2002 PAR were Tier 1 equivalents or A-76 direct conversions, which they assert do not constitute cost comparison studies. Under a direct conversion, which until 2003 was expressly allowed by OMB Circular No. A-76, an agency could decide to contract out a commercial function without performing a standard or streamlined cost comparison study so long as the contracting officer had made a determination that the potential contractors would provide the given service at the required level of quality for a fair price and applicable contracting procedures were followed. Based on the documentation provided, we could not verify VA's assertion that these were direct conversions and that they did not involve studies comparing costs that would be subject to the Title 38 cost comparison funding prohibition.

VA Asserts Limited Application of Title 38 Cost Comparison Funding Prohibition

According to VA, the cost comparison activities we reviewed did not violate the Title 38 cost comparison funding prohibition. VA interprets this funding prohibition as applying only to "formal" studies, which it has interpreted as meaning only the standard (i.e., not streamlined) studies conducted in accordance with OMB Circular No. A-76, *Performance of Commercial Activities.* We disagree with VA's interpretation of the Title 38 cost comparison funding prohibition, as discussed in our legal opinion, and instead interpret the law to apply to any VA studies comparing the costs of commercial services and products provided by private contractors with those provided by VA, whether or not they are "formal" studies under OMB Circular No. A-76.

In a June 8, 2005, letter from VA's Deputy General Counsel, VA asserts that the Title 38 cost comparison funding prohibition applies only to "formal" (i.e., standard) OMB Circular No. A-76 cost comparison studies and not to other competitive sourcing activities because those were the studies the Congress addressed by enacting the provision in 1981. The streamlined A-76 studies did not exist in 1981 when the provision was enacted. In the June 2005 letter, VA's Deputy General Counsel argued that the words used by the Congress in 1981 must be interpreted consistent with the common and ordinary meaning contemporaneous with the date of the statute's enactment.[31] VA also argues that application of the prohibition to other than standard A-76 studies would conflict with statutory authority for it to make sourcing decisions and provide cost-effective medical care. Further, VA argues that the legislative history of the provision reflects the Congress' intent only to curb standard A-76

[31] The VA Deputy General Counsel cited *Bedroc Limited, LLC v. United States*, 541 U.S. 176, 184 (2004), as support, but did not point to any specific words in the Title 38 cost comparison funding prohibition.

studies such as the many underway in 1981. Therefore, according to VA, its Tier 1 and 2 processes and its A-76 streamlined studies would not be subject to the Title 38 cost comparison funding prohibition. As a result of applying VA's interpretation of the law, most (but not all) of VA's competitive sourcing activities would fall outside of the Title 38 cost comparison funding prohibition.

We disagree with VA's argument. In October 2004, we concluded that the Title 38 cost comparison funding prohibition was not limited to standard A-76 cost comparison studies in particular, or A-76 studies in general, and that the prohibition applies to CARES cost comparison studies. We said that the VA cost comparison funding prohibition addresses *any* study, A-76 or otherwise, as clearly reflected in the legislative history related to the provision's enactment. We agree with VA that, absent an indication to the contrary, we should interpret words in the statute to have their common, ordinary, and contemporary meaning. At the crux of our disagreement with VA is the meaning of the word "study." According to a well-recognized dictionary[32] of the sort that might have been available to the Congress in 1981, a "study" is defined broadly as a careful examination or analysis of a phenomenon, development, or question, or the publication of a report of such an examination or analysis. The other important word in the language of the prohibition is the word "any," which modified the word "study." In our October 2004 legal opinion, we construed "any" to mean "every" and "all." We found no evidence in the legislative history that the Congress intended the words "any" and "study" in their common, ordinary, and contemporary usage to mean only a "formal" (i.e., standard) A-76 study. Further, application of the prohibition to all studies would not prevent VA from carrying out its competitive sourcing activities, provided it receives sufficient appropriations.

According to VA, its efforts to satisfy PMA competitive sourcing requirements are stymied by the Title 38 cost comparison funding prohibition. In its fiscal year 2003 PAR, VA reported that the bulk of VA's competitive sourcing studies were halted in August 2003 because the VA General Counsel had issued a legal opinion stating that the Title 38 cost comparison funding prohibition prevents VA from conducting cost comparisons studies using the VHA medical appropriations unless the Congress provides specific funding for that purpose. In August 2003, the VA General Counsel confirmed his April 2003 legal opinion that the Title 38 cost comparison funding prohibition applied to Tier 1, 2, and 3 studies and to all A-76 studies, but he subsequently modified his legal analysis and conclusion in a January 2004 legal opinion. In the January 2004 legal opinion, the VA General Counsel asserted that the Title 38 cost comparison funding prohibition applies only to "formal" A-76 studies. The fiscal year 2004 PAR, which was published on November 15, 2004, does not indicate whether the more recent legal opinion has influenced VA's competitive sourcing activities.

Although funds were specifically appropriated for performing such cost comparison studies for fiscal years 1983 through 2000, no similar specific appropriations were

[32] Webster's *Third New International Dictionary of the English Language* unabridged (Springfield, Mass.: 1965).

made available in subsequent fiscal years.[33] As previously noted, for fiscal years 2001 to 2004, VA requested but did not receive from the Congress specific appropriations—ranging from $16 million to $50 million—to conduct cost comparison studies. According to VA, it is seeking legislative relief so that it can restart its planned competitive sourcing program. However, VA would also be authorized to fund these activities with other available appropriations, such as its major projects construction or minor projects construction appropriations.

VA May Have to Report Antideficiency Act Violations

We were unable to determine if VA would be required to report Antideficiency Act violations because it was unclear whether VA could correct its purpose statute violations through account adjustment. VA can correct its purpose statute violations through account adjustment by deobligating the amounts that were improperly charged to the VHA medical care appropriations and charging these amounts to otherwise available appropriation accounts. VA's SF-133s, *Report on Budget Execution and Budgetary Resources*, show available budget authority (unobligated balances) in the major projects construction and minor projects construction accounts from prior fiscal years. However, because these reports do not itemize the available amounts in these accounts for each prior fiscal year, we cannot determine the amount, if any, of budget authority that remains available for each fiscal year from 2001 to 2004. To make account adjustments, VA must know the amount of VHA medical care appropriations used in connection with performing cost comparison studies. However, VA does not track the in-house cost associated with performing cost comparison studies and was unable to provide us with a reliable estimate of this amount. Therefore, we were unable to determine whether VA would have sufficient budget authority available in other appropriations accounts to correct the amount of each purpose statute violation. As such, we were also unable to determine if VA could avoid violations of the Antideficiency Act.

Although VA estimated that the time and money spent conducting the laundry facility studies for 6 of the 18 completed laundry facility sites was $14,725, VA provided no detailed documentation to support these estimates and, therefore, we have no reasonable assurance of their accuracy. Moreover, VA was unable to provide us with any estimate, no matter how rough, of the time its VA employees spent on activities in connection with the cost comparison studies cited in the fiscal year 2002 PAR or the CARES process. As discussed previously, this amount is likely to be substantial given the amount VA spent contracting out similar activities. Nonetheless, we were unable to determine whether VA would have sufficient budget authority to cover all obligations incurred after adjusting its accounts by deobligating the amounts that were improperly charged to the VHA medical care appropriations and correctly charging these amounts to other available appropriations accounts or through any possible transfer of funds from another account. As such, we were also unable to

[33] In fiscal year 2000, the VHA medical care appropriation included a specific appropriation—not to exceed $8,000,000—for cost comparison studies as referred to in 38 U.S.C. § 8110(a)(5). Pub. L. No. 106-74, 113 Stat. 1047, 1049-50 (Oct. 20, 1999).

determine if VA would be required to report an Antideficiency Act violation for any specific activity.

The fact that VA did not track the time and expense associated with using in-house personnel to conduct the cost comparison studies in the areas we evaluated is not surprising given VA's narrow interpretation of the Title 38 cost comparison funding prohibition. However, as discussed previously, under our interpretation of the law, it would be critical to track the in-house time and expense spent on cost comparison studies so that these costs could be funded using available appropriations—and not through VHA medical appropriations. This is a critical funds control measure that would help VA comply with the Title 38 cost comparison funding prohibition. Similarly, if VA receives—as it has in the past—a specific appropriation authorizing use of a specific amount from its VHA medical appropriations for the purpose of conducting cost comparison studies, VA would be required to track all costs, both in-house and contract costs, associated with conducting these studies to ensure that it did not exceed its funding limit for this specific purpose.[34]

This is part of a bigger problem at VA. VA lacks reliable cost accounting information needed to manage its operations and budget effectively. In our recent testimony before the House Committee on Government Reform dealing with cost accounting at federal agencies, we pointed out differences in leadership and capabilities in generating reliable cost data for decision making.[35] Related to our testimony, the Committee pointed out that in June 2005, the Congress had provided $1.5 billion in emergency funding for VA's health care programs for fiscal year 2005. In testifying before the House Committee on Veterans' Affairs, VA's Secretary attributed the shortfall to inaccurate data and outdated assumptions. The Committee noted that timely, accurate cost accounting data are integral to effective budgeting.

The Statement of Federal Financial Accounting Standard (SFFAS) No. 4, *Managerial Cost Accounting Standards and Concepts*, provides that each reporting entity should accumulate and report the costs of its activities on a regular basis for management information purposes. VA was unable to provide us with accurate estimates or other cost data because it did not track costs associated with the various projects. SFFAS No. 4 also states that alternatively the entity can use appropriate "cost finding" techniques, such as analytical or sampling methods to accumulate costs.

Conclusion

VA violated the Title 38 cost comparison funding prohibition and, thus, the purpose statute. As VA implements the CARES process and attempts to achieve its President's Management Agenda competitive sourcing goals, VA must use the appropriations the Congress has provided to fund these activities, such as through specific appropriations made to the VHA accounts or through other available

[34] See GAO's *Policy and Procedures Manual for Guidance of Federal Agencies*, Title VII, Fiscal Guidance, § 2.3.B., at 7.2-6-7 (May 1993).

[35] GAO, *Managerial Cost Accounting Practices: Departments of Labor and Veterans Affairs*, GAO-05-1031T (Washington, D.C.: Sept. 21, 2005).

appropriations, such as the major projects construction or minor projects construction appropriation accounts. Going forward, VA has a responsibility to (1) avoid using its VHA medical appropriations to fund cost comparison activities, (2) cure prior purpose statute violations, and (3) report all violations of the Antideficiency Act.

Recommendations for Executive Action

To avoid future noncompliance with the Title 38 cost comparison funding prohibition, we recommend that the Secretary of Veterans Affairs establish a process to:

- identify all planned cost comparison studies and activities—whether stand-alone or as an integral part of a larger effort,
- estimate the amount of resources required to perform such cost comparison studies and activities,
- fund such activities using only appropriations available to fund such activities, and
- implement a mechanism to track all costs associated with conducting such studies—including in-house and contract costs.

Agency Comments and Our Evaluation

In responding to a draft of this report, VA disagreed with our conclusions and did not concur with our recommendations. VA stated that it strongly disagrees with our interpretation that the Title 38 cost comparison funding prohibition applies to all cost comparison studies, whether or not they are A-76 studies. VA stated that we have ignored the prohibition's legislative history and the rest of Title 38 of the U.S. Code. In support of its view, VA stated that "Congress clearly did not intend to preclude all manner of cost analysis necessary for the day-to-day administration of our health-care system and, to the contrary," has directed or permitted VA to contract for care in circumstances covered by other Title 38 authorities, such as sections 1703, 1706(a), and 8153.[36] VA also stated that a standard A-76 study is the type of study that the Congress intended to prohibit under the Title 38 cost comparison funding prohibition because "there is no indication whatsoever in the extensive legislative history that the Congress meant to foreclose other cost analyses of the sort [the] draft report calls unauthorized."

VA mischaracterized our views on VA's authority to conduct cost comparison studies. We agree with VA that in enacting the Title 38 cost comparison funding prohibition, the Congress did not preclude all cost comparison studies. As we stated at the

[36] Section 1706(a) of Title 38 charges the VA Secretary with designing, establishing, and managing the provision of medical care "to promote cost-effective delivery of health care services in the most clinically appropriate setting." 38 U.S.C. § 1706(a). Sections 1703 and 8153 of Title 38 grant the VA Secretary authority to contract for services when necessary to fulfill VA's responsibility under section 1706(a).

beginning of our report, the Congress prohibited VA from using particular appropriations—the VHA appropriations for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses—to pay for cost comparison studies. As we have stated previously in this report and in our October 2004 legal opinion, in enacting the prohibition, the Congress intended to restrict only the use of *VHA appropriations* to fund these activities, not VA's authority to conduct cost comparison studies. Other VA appropriations remain available for cost comparison studies, such as the major projects construction and minor projects construction appropriations. Thus, it is the use of the VHA appropriations to conduct cost comparison studies that is unauthorized, not the studies themselves. Therefore, the Title 38 cost comparison funding prohibition does not conflict with the other provisions of Title 38, such as sections 1703, 1706, and 8153 of Title 38, which VA cited in its comments. Furthermore, even if the Title 38 cost comparison funding prohibition was construed to conflict with VA's authorities and duties set out in Title 38, as VA argues, the Congress specifically stated that the prohibition was to apply "[n]otwithstanding any other provisions of this title or any other law."[37] Thus, the funding prohibition would take precedence over the other Title 38 authorities that VA cited in its comments.

Contrary to VA's assertions, there is clear evidence that the Congress intended the prohibition on VHA funding of "any study comparing the costs" to apply to any cost comparison studies, not solely the A-76 related studies. For example, the joint explanatory statement published in the October 1, 1981, C*ongressional Record* states that the prohibition applies to "activities under Office of Management and Budget Circular A-76 *or otherwise* (emphasis added) in connection with the contracting-out (and studies of the feasibility of such contracting) of functions carried out by VA employees."[38] The legislative history also shows that the primary objective of the Congress was to prevent the diversion of VHA appropriations from the delivery of quality medical care to the conduct of cost comparison studies, and not the preclusion of the many A-76 studies in progress at the time. However, as we stated in our October 2004 legal opinion and this report, it is not necessary to resort to the legislative history because, in applying the plain meaning rule for statutory interpretation, the clear and unambiguous words in the Title 38 cost comparison funding prohibition must be interpreted according to their common, ordinary, and contemporary meaning.

VA's disagreement with our conclusions is not a sound basis for rejecting our recommendations. Implementing the recommendations included in this report would ensure VA uses only available funding to perform cost comparison studies and avoid future purpose statute violations. VA's funds control would be improved by having a mechanism in place to track the number of studies and costs associated with performing these cost comparison studies. Further, VA should be able to track and ensure compliance with any specific appropriations that the Congress may make for cost comparison studies, as VA has recently requested. Finally, tracking the cost of these studies provides a tool for determining future funding needs for this purpose. VA's comments are reprinted in enclosure II of this report.

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[37] 38 U.S.C. § 8110(a)(5).

[38] This can be found in the Joint Explanatory Statement, Oct. 1, 1981 (127 Cong. Rec. S22,704 at 22,713).

We are sending copies of this report to the Secretary of Veterans Affairs, interested congressional committees, and other interested parties. We will make copies of the report available to others upon request. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-6906 or williamsm1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in enclosure III.

Sincerely yours,

McCoy Williams
Director, Financial Management and Assurance

Enclosures

Enclosure I

Scope and Methodology

To achieve our objectives and determine whether the Department of Veterans Affairs (VA) violated the purpose statute by using funds from the Veterans Health Administration (VHA) medical care, medical and prosthetic research, or medical administration and miscellaneous operating expenses appropriation accounts during fiscal years 2001 through 2004 to fund cost comparison studies, we reviewed pertinent sections of the law and GAO's October 2004 legal opinion. We also reviewed the pertinent appropriations from fiscal years 2001 to 2004 to determine if funds had been provided in these medical accounts to perform cost comparison studies.

To determine the process and steps involved in performing cost comparisons, we reviewed applicable guidance included in the Office of Management and Budget (OMB) Circular No. A-76, *Performance of Commercial Activities*; VA policies and procedures on outsourcing such as VA Directive 7100; and pertinent sections of the Capital Asset Realignment for Enhanced Services (CARES) Guidebook. We also compared guidance included in OMB Circular No. A-76 to outsourcing guidance included in VA Directive 7100 to analyze any similarities.

To determine what cost comparison activities had been conducted by VA, we met with VA headquarter officials and discussed areas in which VA performed cost comparisons as part of the CARES process or other areas such as VA laundry services from fiscal years 2001 to 2004. We reviewed CARES contracts to determine if cost comparison studies were performed and if VHA medical appropriations were used to fund these contracts. We also reviewed VA's Performance and Accountability Reports (PAR) from fiscal years 2001 to 2004 to determine what additional cost comparison studies had been performed as part of making progress toward the competitive sourcing goals of the President's Management Agenda.

We conducted structured interviews with key VA personnel involved in the laundry facilities studies, the CARES process, and the 1,626 cost comparison studies reported in the fiscal year 2002 PAR to determine the time and expenses incurred by VHA personnel while performing cost comparison activities. However, we were unable to obtain or verify VA information about the number of staff and expenses involved in performing these activities because VA does not have a payroll or other system in place to track these costs. We conducted our review from February 2005 to October 2005 in accordance with U.S. generally accepted government auditing standards.

The Department of Veterans Affairs provided written comments on a draft of this report. These comments are presented and evaluated in the body of this report and are reprinted in enclosure II.

Enclosure II

Comments from the Department of Veterans Affairs

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
November 4, 2005

Mr. McCoy Williams
Director
Financial Management and Assurance
U. S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Williams:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office's (GAO) draft report, ***PURPOSE STATUTE VIOLATION: Veterans Affairs Improperly Funded Certain cost Comparison Studies with VHA Appropriations*** (GAO-06-124R) and disagrees with your conclusions and does not concur with your recommendations.

As the draft report acknowledges, VA strongly disagrees with the interpretation of 38 U.S.C. § 8110(a)(5) that GAO's report rests upon – an interpretation that makes sense only if one ignores its legislative history and the rest of title 38. However, it is to this history and context one must turn in order to understand what Congress intended by the words "study comparing the cost" in the statute.

Congress clearly did not intend to preclude all manner of cost analysis necessary for the day-to-day administration of our health-care system and, to the contrary, has *directed* me in 38 U.S.C. §1706(a) to establish and manage our programs in a manner promoting cost-effective care delivery. That requires us to frequently take our costs, and costs of obtaining health resources from others, into account to ensure veterans derive maximum value from our health-care budget.

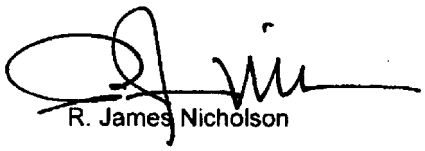
By enacting what is now 38 U.S.C. §8110(a)(5), Congress in 1981 was addressing a very particular concern of the day – that VA appeared poised to conduct multiple A-76 competitions and, by so doing, divert many millions of dollars of funding away from direct care. These standard A-76 studies are the "stud[ies] comparing the costs . . ." that Congress had in mind, and there is no indication whatsoever in the extensive legislative history that Congress meant to foreclose other cost analyses of the sort your draft report calls unauthorized. We have previously advised GAO that to responsibly exercise both our resource-sharing responsibilities under section 8153 and our authority to purchase fee-basis care under section 1703 of title 38, we necessarily must consider certain of

Mr. McCoy Williams

our operating costs in comparison to others'. Absent very persuasive legislative evidence, we should not and will not presume Congress, having exhorted us to employ these and other authorities in the most cost-effective manner feasible, meant to broadly impair our ability to make sound business judgments in our day-to-day health-care operations.

VA appreciates the opportunity to comment on your draft report.

Sincerely yours,



R. James Nicholson

GAO Contact and Staff Acknowledgments

GAO Contact

McCoy Williams, Director (202) 512-6906

Acknowledgments

In addition to those named above, Diane Handley, Assistant Director; F. Abe Dymond, Assistant General Counsel; Francine DelVecchio; Lauren Fassler; Danielle Free; and Elizabeth Martinez made key contributions to this report.

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