STATEMENT OF
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U.S. DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
"INSPECT WHAT YOU EXPECT: CONSTRUCTION CONTRACTING
PRACTICES AT VA"
APRIL 13, 2011

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to testify on the findings of the Office of Inspector General (OIG) related to the Department of Veterans Affairs (VA) procurement processes. I am accompanied today by Cherie Palmer, Director, Chicago Office of Audits and Evaluations.

Background
Procurement continues to be one of VA's major management challenges. Our oversight of VA's procurement activities including information systems and the Construction Program is performed through audits and reviews.   Since 2003, we have reported that VA still has much work to do to leverage its purchasing power acquiring goods and services. We have consistently reported on the need for increased management visibility and transparency to manage acquisitions nationwide, make good procurement decisions, and to address the reliability and completeness of the information VA relies upon to make acquisition decisions.

VA has one of the largest procurement programs in the Federal government with annual expenditures of more than $10.3 billion for supplies and services, including construction. Drugs, medical supplies and equipment, automated data processing equipment and services, and other critical patient care items must be procured and distributed to VA's health care facilities that comprise the largest health care delivery system in the country. The Office of Acquisition and Logistics (OAL) is responsible to the VA Secretary for providing goods and services to support the mission of VA through the Executive Director, Office of Acquisition, Logistics, and Construction (OALC).

The OALC Executive Director implemented VA's Electronic Contract Management System (eCMS) as the single mechanism for generating and managing procurement actions. OALC issued Information Letter 049-07-06, dated June 15, 2007, implementing and mandating the use of eCMS. The eCMS provides a centralized database for procurement actions and replaces a primarily manual and paper-based contract management operation used throughout VA. Using a web-based platform, it was designed to provide a fully integrated electronic acquisition platform that includes the seamless flow of information and data from all stakeholders and systems from initial requisitioning through closeout. The benefits of the system included the ability to

reduce costs, integrate and standardize procurement processes, reduce workload, and improve communications. Additionally, the system provides the functionality to create management reports and improve the capability of consolidating requirements to support strategic sourcing and acquisition decisions. Unfortunately, we continue to see low levels of compliance associated with contracting staff using this mandated system and when the system is used, the information in the system is often incomplete.

OIG Audit Results on eCMS

In July 2009, we issued *Audit of VA Electronic Contract Management System* (Report Number 08-00921-181, published July 30, 2009). Specifically, we examined whether information in eCMS enables VA to use the system as a comprehensive management tool to improve its procurement processes and information. We found that eCMS was not used effectively and procurement information in eCMS was incomplete. Management did not ensure the required use of eCMS and there was no oversight program to monitor staff compliance with Information Letter (IL) 049-07-06. We reported that VA cannot achieve the expected benefit of eCMS, including the ability to integrate and standardize procurement processes, reduce workload, and improve communication without complete information. VA cannot rely on eCMS to determine the total number of procurements accurately or the total estimated value of these procurements when information in the system is incomplete.

During our audit, we compared just over 6,700 procurement actions valued at about $1.7 billion in VA's Integrated Funds Distribution, Control Point Activity, Accounting and Procurement (IFCAP) system to information in eCMS. We found that just over 1,150 (17 percent) of the procurement actions (valued at about $319 million) were recorded in eCMS, while the remaining, nearly 5,600 (83 percent) of actions (valued at about $1.4 billion) were not.

We also compared 1,450 awarded procurement actions from the General Services Administration Federal Procurement Data System-Next Generation (FPDS-NG) and found just over 700 (49 percent), valued at about $1.4 billion, were recorded in eCMS and nearly 300 (21 percent) of 1,450 procurement actions, valued at about $91 million, were only partially completed in eCMS. Information on nearly 450 (30 percent) of 1,450 procurement actions (valued at about $234.7 million) were not recorded in eCMS. Therefore, we concluded that the reports generated by eCMS were unreliable and could not be used when making management decisions.

To better understand why VA contracting staff were not effectively leveraging the use of eCMS, we conducted a survey of eCMS users. Responses to our survey indicated staff needed additional training to fully understand and comprehensively use the capability of eCMS. Twenty-two percent of the respondents considered the quality of training provided inadequate. Also, management and staff told us the system is cumbersome and takes too much time to process procurement actions.

We also found the Information Letter provided unclear guidance pertaining to the types of procurements that are required to be recorded in eCMS and does not ensure

consistency and compliance across all VA business lines that could potentially be misinterpreted. Finally, we reported that award data for contracts in eCMS does not electronically transfer to IFCAP resulting in a duplication of input effort for procurement staff. We recommended integrating eCMS with IFCAP to provide VA with improved acquisition efficiency and reporting. In total, we made eight recommendations of which three remain unimplemented (or "open") today; these open recommendations include implementing a VA-wide eCMS policy; establishing a plan to evaluate the technical performance of eCMS; and integrating eCMS with IFCAP.

In subsequent audit work and as VA focused on deploying funds for the *American Recovery and Reinvestment Act of 2009* (ARRA), we focused on how well VA monitored the process for awarding ARRA non-recurring maintenance contract awards. To accomplish this work, auditors attempted to review related procurement information in eCMS. On February 18, 2009, OMB issued Memorandum M-09-10, the initial Government–wide guidance for Recovery Act programs and activities. On March 17, 2009, OALC issued IL001AL-09-07, "Implementing Guidance for Contracting Awards under *American Recovery and Reinvestment Act of 2009*", which states that "without exception all Recovery Act contracts regardless of dollar value, must be generated in eCMS".

On March 15, 2010, we published the *American Recovery and Reinvestment Act Oversight Advisory Report – Non-Recurring Maintenance Contract Award Monitoring Processes* (Report Number 09-01814-97). We found eCMS data reliability and system problems were continuing to inhibit OALC's ability to effectively monitor Recovery Act procurements and to ensure non-recurring maintenance contract awards met Recovery Act requirements and accountability, efficiency, and transparency objectives. Our audit showed that OALC needed to work with Veteran Health Administration (VHA) contracting officers to promote uniformity in the usage of eCMS, improve the completeness and accuracy of eCMS data, and increase awareness of eCMS system problems that affect the reliability of eCMS information.

During work on our national *Audit of Oversight of Patient Transportation Contracts* (Report Number 09-01958-155 published, May 17, 2010), we found that VHA missed opportunities to solicit new competitive contracts and make contract awards. While performing audit work we experienced significant challenges in obtaining a complete universe of contracts due to the incomplete data in eCMS. Because VA lacked a system-wide inventory of contracts, we developed a technique to use the FPDS-NG system information to identify patient transportation contracts by using the product service code. We reported that Veterans Integrated Service Network contract managers did not provide the oversight to ensure that new solicitations were timely to avoid granting extensions in order to prevent a lapse of service. Further, contracts were extended that circumvented the Federal Acquisition Regulation (FAR) instead of ensuring full and open competition. These conditions clearly inhibit VA from obtaining the best price and or value for the goods and services being acquired. According to the Director of VA's eCMS Project, the milestone function capabilities in eCMS should be used to monitor and plan for contracts that are due to expire. Utilizing this function will

help ensure timely follow-up on procurement actions. VA officials recognized that it is important to establish milestones within eCMS to provide increased management visibility and oversight, but information supporting some contracting actions was missing.

In a review of the National Cemetery Administration (NCA) we assessed how well NCA implemented effective policies and procedures to ensure accountability and transparency for $50 million in ARRA funds. We published *Review of the Management of Recovery Act Funds for Monument and Memorial Repairs* (Report Number 09-01814-263), on September 30, 2010. We again found and reported that NCA did not ensure complete procurement information on ARRA-funded projects was recorded in eCMS.

Our results showed non-compliance with the requirement that all contracts, regardless of dollar value, must be recorded in eCMS. As a result, we concluded VA lacks effective management and oversight controls needed to monitor national contract awards. For this project, we reviewed 36 of the 56 ARRA projects (obligated as of July 10, 2009) and identified 34 equipment and national shrine repair projects valued at $2.5 million that did not have the required procurement information, such as acquisition plans, contracts, purchases orders, price quotes, and price analysis recorded in eCMS.

We are currently conducting an audit at VA's National Acquisition Center (NAC) — VA's largest contracting activity and a major organizational component reporting directly to OALC. Again, we have concerns that eCMS is not fully utilized to develop and maintain national contracts and related files at the NAC. Although OALC mandated eCMS usage, it did not adequately ensure the required use of eCMS by providing the oversight needed to monitor eCMS compliance at the NAC. We are reviewing 30 national contracts with a total estimated value of $2.4 billion. Our preliminary results show that contract information was not in eCMS for a number of contracts. These contracts included acquisitions for high cost technical medical equipment, such as magnetic resonance imaging, radiation therapy, diagnostic ultrasound, and nuclear imaging. Further, while our preliminary review of hard copy contract files shows that contract development and award actions were generally in accordance with Federal and VA Acquisition Regulations, but documentation was missing in eCMS. For example, eCMS information did not include the solicitations, price negotiation memorandums, and awarded signed contracts for all national contracts.

We also learned that the NAC utilizes its own Contract Management (CM) system and requires NAC contracting officers to enter and maintain data into this system in addition to eCMS. This is because the other Government agencies that purchase from the NAC's national contracts cannot access the contract information available in eCMS. The CM system also provides an Internet electronic catalog function that allows non-VA customers to access NAC contract data. According to the NAC Executive Director, neither the CM system nor eCMS offers a complete acquisition solution; therefore, both systems are needed.

Reports generated from eCMS, such as the Procurement Action Lead Time, cannot be relied upon when making procurement decisions because the information in eCMS is either missing or incomplete. In addition, reliance upon two incompatible systems creates a duplication of effort resulting in an inefficient use of time and resources. OALC is developing an upgrade to eCMS that includes integrating the functions available in the CM system into eCMS and making the eCMS contract data available to its non-VA customers. The upgrade has been delayed from its initial September 2010 completion date until August 2011. OALC provided limited oversight to monitor eCMS compliance and ensure eCMS system capabilities adequately support NAC operations. Without senior leadership's attention focused on ensuring eCMS usage and capturing VA procurement information in a reliable central database, VA will not achieve the improvement needed in acquisition service from an enterprise-wide perspective.

We have reported significant lapses in VA contracting staff leveraging the use of eCMS since 2009. VA's own internal auditors have also reported on how information is incomplete in the eCMS system. For example, the Acquisition Assessment of the NAC published July 20, 2010, performed by contractors supporting VA's Office of Business Oversight in accordance with the Office of Management and Budget's Circular A-123, found that NAC staff were not consistently using eCMS to document contract actions as required. The NAC cannot achieve the expected benefits of eCMS without complete documents and files related to each procurement action being entered into the system.

In spite of numerous OIG reports citing deficiencies in the use of eCMS, VA still needs to improve compliance and use of this mandatory system to better leverage VA's buying power. Since our reviews, VA has moved forward with the testing for integration of eCMS and IFCAP to ensure that technical performance of eCMS improves. VA has acknowledged that it cannot fully realize the benefits of eCMS without ensuring that the tool performs to technical specifications, that staff receive the necessary training, and that eCMS properly integrates with existing and planned financial systems. However, in spite of this acknowledgement, several of our recommendations remain unimplemented and we continue to find a lack of compliance, accountability, and transparency with eCMS in our audit work.

OIG Audits on VA's Construction Program
In FY 2009, we performed a follow-up audit to determine whether VA implemented the corrective action plans in response to recommendations made in our *Audit of Veterans Health Administration Major Construction Contract Award and Administration Process* (Report Number 02-02181-79, February 8, 2005). Our 2005 report included 12 recommendations that addressed needed improvements in contract award, administration, and project management. At that time, the Under Secretary for Health concurred with the 2005 report recommendations and provided corrective action plans. We reported that VA had strengthened management control and oversight of the major construction contracting process with the implementation of 10 of the 12 recommendations from the OIG's 2005 report. Specifically, we found that VA had addressed 10 of the 12 recommendations through the establishment of a Quality

Assurance (QA) program and procedures to resolve significant differences between bid prices and Architecture and Engineering (A/E) estimates.

VA established the QA Service to oversee VA's major construction contracts and ensure the contracts complied with Federal and VA acquisition regulations and VA policies and procedures. However, we reported that VA had no assurance that the QA Service is effectively monitoring major construction contracts because it had no written policies, procedures, and performance measures. Further, the QA Service did not have a staffing plan to ensure it met all of its QA program responsibilities[1].

VA did not however, fully implement the 2005 report recommendations to implement more effective project management oversight to manage and reduce contract schedule slippage from a national perspective. In response to the 2005 report recommendation, VHA advised that the new QA Service oversight function would review the existing process for assessing contract slippage and the method by which feedback is provided to the field. However, we found that QA had not performed these assessments or provided oversight of contract schedule slippage because its efforts were focused on performing field acquisition reviews of construction contracts. This lack of oversight could result in significant contract slippage and increased construction costs. In addition, VA did not fully implement the 2005 report recommendation to establish an effective program to ensure the timely close out of major construction contracts and identify unused funds that could be returned to the construction reserve account.

In our follow-up report, we offered recommendations to the Executive Director for OALC to implement an effective mechanism to monitor contract schedule slippage and minimize construction contract delays and to establish an effective mechanism to ensure the timely close out of major construction contracts. We also recommended the Executive Director develop written QA policies and procedures, program performance measures addressing all QA Service areas of responsibilities, and a formal staffing plan to ensure all QA Service responsibilities are met. The Executive Director for OALC agreed with our findings and recommendations and provided plans to implement acceptable corrective actions. We will continue to assess the effectiveness of VA's construction program in future work.

Other OIG Work Related to VA Construction Contracts
Office of Contract Review - In FY 2011, our Office of Contract Review began conducting pre-award reviews of claims related to construction contracts. We do not yet have sufficient data upon which to base an opinion on the significance of performance issues

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[1] At the time OIG issued its 2005 report, VHA's Office of Facilities Management (FM) was responsible for managing all major construction projects. In February 2007, FM was reorganized and realigned to the Office of the Secretary as the new Office of Construction and Facilities Management (CFM) under the direction of the Deputy Secretary. In October 2008, VA established the Office of Acquisition, Logistics, and Construction (OALC), which now includes CFM. The new office is headed by the Executive Director reporting to the Deputy Secretary.

impacting VA construction activities from a national perspective. Once we have completed a sufficient number of reviews, we will offer the Subcommittee a briefing on our findings and conclusions.

Crime Awareness Briefings - In order to help deter crime, OIG criminal investigators provide approximately 200 crime awareness briefings each fiscal year to about 14,000 employees at VA facilities nationwide. These briefings are intended to ensure the attendees are aware of the many types of fraud and criminal activity that can victimize VA, VA employees, and veterans. These briefings have resulted in additional referrals of alleged criminal activity and have enhanced our partnership with VA Police in helping provide a safe and secure environment for veteran patients and employees.

Criminal Investigator Liaisons – Criminal investigators are assigned to VA facilities with contracts having a value of $10 million or more, to serve in a liaison capacity sharing information with contracting officers, contracting officer's technical representatives, program managers, and prime and sub-contractor staff to deter, detect, and investigate potential construction fraud.

VA Acquisition Academy – In concert with the Department of Justice Antitrust Division, the Counselor to the Inspector General and OIG investigators provide instruction to VA contracting officers and interns at the VA Acquisition Academy in Frederick, MD. The training covers the OIG's role, criminal conduct relating to procurement, audit issues relating to procurement, and how to avoid or prevail in disputes.

Procurement Fraud Task Forces – The OIG regularly participates in regional and national procurement fraud meetings and conferences to learn of effective programs and strategies to address procurement fraud Government-wide. In anticipation of fraud in connection with Recovery Act projects, we arranged for the Department of Justice's Antitrust Division to provide to VA's Deputy Assistant Secretary for Acquisition and Materiel Management and his staff.

Conclusion
While VA has recognized deficiencies in its acquisition processes and infrastructure, they have yet to exercise sufficient organizational discipline to ensure that its primary management oversight tool provides the needed transparency to manage a multi-billion dollar acquisition program. We believe VA should continue its efforts to leverage the full capacity of eCMS and integrate it into existing and future financial systems.

Mr. Chairman, this concludes my statement.   We would be pleased to answer any questions that you or other Members of the Subcommittee may have on these issues.