Department of Veterans Affairs

# Office of Inspector General

## Audit of VA Medical Center Use of Intergovernmental Personnel Act Assignments

***VHA needs additional policy guidance to help ensure the appropriate use of IPA assignments.***

**Report No. 7R8-A19-044**
**Date: February 27, 1997**

**Office of Inspector General**
Washington DC 20420

**DEPARTMENT OF VETERANS AFFAIRS**
Office of Inspector General
Washington DC 20420

# Memorandum to the Under Secretary for Health (10)

## Audit of VA Medical Center Use of Intergovernmental Personnel Act Assignments

1. The Office of Inspector General performed an audit to evaluate VA medical center (VAMC) use of Intergovernmental Personnel Act assignments (IPAs). This audit was conducted as part of our ongoing review of affiliation issues. The purpose of IPAs is to facilitate Federal-State-local cooperation through the temporary assignment of skilled personnel. Within VA, the Veterans Health Administration (VHA) has made the most extensive use of IPAs, primarily for assigning medical school employees to work on research projects. In recent years VAMCs have increased their use of IPAs. Using the best available information, we estimate that in Fiscal Year 1996 VAMCs had more than 1,000 IPAs with total costs of at least $34.7 million.

2. We initiated our audit by reviewing the use of IPAs at one VAMC which was the largest known user of IPAs nationwide. We found that the VAMC's use of IPAs for supporting research activities met Federal policy requirements. All of these IPAs were for temporary assignments to work on VA-approved research projects, and the VAMC's Research Service had adequate controls to ensure that IPA assignees worked the required time and that IPA payments were correct. However, IPAs were inappropriately used to obtain clinical services and for administrative and support positions. The VAMC's use of IPAs to procure medical specialist services did not meet Federal policy requirements and did not provide the procurement integrity and pricing protections built into VHA's contracting and sharing policies and procedures. As a result, the VAMC paid more for clinical services obtained through IPAs than it would have paid using properly negotiated and administered contracts or sharing agreements. In addition, the VAMC inappropriately used IPAs as a means of filling administrative and support positions during a personnel ceiling reduction and hiring freeze.

3. To confirm that the use of IPAs to obtain clinical services was a national issue and not isolated to one VAMC, we performed further reviews of IPA documents obtained from two other VAMCs that were also large users of IPAs. These two VAMCs had also used IPAs to inappropriately obtain clinical services.

4. In response to our initial findings, VHA top management agreed that we had identified a national issue and that no further detailed audit work was necessary. In view of VHA top management's agreement to take corrective action, we ended the planned audit. VHA top management took action to remind VAMCs of the importance of complying with IPA regulations. VHA management also required the VAMCs reviewed to discontinue their use of

clinical IPAs and expressed agreement with our view that VAMCs needed more detailed policy guidance on the use of IPAs. We recommended that this guidance be developed to help prevent misinterpretation of the intent of the IPA authority and the purpose of IPA assignments. We suggested that the new guidance should largely restrict the use of IPAs to their traditional purpose of supporting VA research activities. Most importantly, the new guidance should specify that IPA agreements may not be used to procure clinical services that would normally be obtained through staff appointments, scarce medical specialist (SMS) contracts, sharing agreements, or other recognized methods of obtaining these services.

5. The Under Secretary for Health concurred with the audit recommendation and provided an acceptable implementation plan. We consider all audit issues resolved and we will follow up on the completion of planned corrective actions.

[Signed]
MICHAEL G. SULLIVAN
Assistant Inspector General
for Auditing

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# Results and Recommendation

# Additional Policy Guidance Could Ensure the Appropriate Use of IPA Assignments

In recent years VA medical centers (VAMCs) have increased their use of Intergovernmental Personnel Act assignments (IPAs). Some VAMCs have used IPAs for purposes not intended by the Act. Our review at one VAMC found that IPAs used to support research activities met policy requirements and were properly administered. However, IPAs used to obtain clinical services did not meet requirements, and the VAMC did not have adequate controls to prevent overpayments on these IPAs. In addition, the VAMC inappropriately used IPAs as a means of circumventing personnel ceiling limitations in the hiring of administrative and support staff. VHA top management has taken action to remind VAMCs about IPA regulations and has agreed that additional policy guidance is needed to ensure the appropriate use of IPAs.

## VAMCs Have Increased Their Use of IPAs

**Purpose of IPA Assignments.** The Intergovernmental Personnel Act of 1970 authorized the temporary assignment of personnel between the Federal Government and State or local governments, institutions of higher learning, and other eligible institutions. Such assignments are commonly called "intergovernmental mobility assignments," "IPA assignments," or simply "IPAs." The intended purpose of IPAs is to facilitate Federal-State-local cooperation through the temporary assignment of skilled personnel. Within VA, VHA has made the most extensive use of IPAs, primarily for assigning medical school employees to work on VA research projects.

The Federal Personnel Manual (FPM) specifies four objectives for IPAs: (1) strengthening the management capabilities of Federal agencies and participating non-Federal institutions; (2) assisting the transfer and use of new technology and approaches to solving governmental problems; (3) serving as a means of involving non-Federal officials in developing and implementing Federal programs; and (4) providing developmental experience to enhance the job performance of IPA assignees.[1]

**Increase in VAMC Use of IPAs.** Because there is no requirement to maintain centralized data on IPAs, the precise number of IPAs used by VAMCs is unknown. However, it appears that the number has increased significantly in recent years. Based on the best available information, the number of IPAs increased from 33 in Fiscal Year (FY) 1984, to 200 by FY 1988, to more than 1,000 in FY 1996. The only available record of currently active IPAs is an informal VHA list which showed that as of February 1996, 57 VAMCs reported having a total of 1,010 IPAs with

[1] In December 1993, in response to a National Performance Review recommendation, the Office of Personnel Management decided to "sunset" FPM Chapter 334, which covered IPAs. However, the governing IPA laws and regulations are still in effect, and the FPM is still the best available guidance on the use of IPAs.

a total cost of $34.7 million. However, VHA officials recognized that this list was not accurate, and our audit confirmed that many active IPAs were not recorded on the list.

Because of the increase in the use of IPAs, we were concerned that some VAMCs might not understand IPA requirements and might be inappropriately using IPAs to obtain specialized medical services, to avoid physician timekeeping requirements, or to circumvent staff ceiling limitations. We discussed these concerns with the Under Secretary for Health, and he agreed that we should perform an audit to determine if VHA needed better policy guidance on IPAs.

## Some VAMCs Have Misinterpreted the Intent of the IPA Program

We selected a VAMC that was the largest known user of IPAs. After completing this review, we discussed the results with VHA top management. They concluded that our findings demonstrated the need for better guidance nationwide on IPAs and indicated that VHA would take action on this issue.

As of January 1, 1996, the VAMC we reviewed had a total of 77 IPAs to obtain the services of employees of non-Federal institutions.[2] The total annual cost of these IPAs was about $5.13 million. The 77 IPAs fell into three categories: 21 for research activities; 40 for clinical services; and 16 for administrative and support positions. Most of the research and clinical IPA assignees were employees of the affiliated medical school. The administrative and support IPA agreements were with the VAMC's non-profit Research Corporation and with an associated hospital. Under all the agreements the VAMC made monthly payments to the participating institutions as reimbursement for the IPA employees' salaries and benefits.

We reviewed a judgment sample of 40 of the 77 IPAs (12 research, 18 clinical, and 10 administrative and support). The total cost of the 40 IPAs in our sample was $2.81 million, or 54.8 percent of the $5.13 million cost of all 77 IPAs. Our review covered the 4-month period January 1, 1996, through April 30, 1996. We focused on two questions: (1) Did the VAMC use IPAs as intended by Federal Regulations and VA policy? and (2) Did the VAMC have controls to ensure that IPAs were properly administered and that payments were correct?

**Research IPAs Were Appropriately Used.** We found that the VAMC appropriately used IPAs to support research activities. All of the IPA assignees were skilled, career employees, such as research scientists and laboratory technicians. All of the IPAs were used for temporary assignments to work on VA-approved research projects, and the VAMC's Research Service had adequate controls to ensure that IPA employees worked the required time and that IPA payments were correct.

[2] In addition to the 77 IPAs to obtain services, the VAMC had 3 IPAs to provide services. Under these IPAs the VAMC assigned dental technicians to work at a laboratory operated by an affiliated University.

**IPAs Were Inappropriately Used to Obtain Specialized Medical Services.** The VAMC used IPAs to procure medical specialist services that would normally be obtained by either hiring the required specialist, contracting for the services, or establishing sharing agreements. This practice did not provide the procurement integrity and pricing protections built into VHA's contracting and sharing policies and procedures. The VAMC had not established adequate internal controls to ensure that services required under IPA agreements were received, that IPA payments were correct, and that potential conflicts of interest were avoided. As a result, VA's interests and resources were not adequately protected, and the VAMC paid more for clinical services obtained through IPAs than it would have paid using properly negotiated and administered scarce medical specialist (SMS) contracts or other recognized methods of procuring clinical services.

In addition to not meeting VA procurement policies, the VAMC's use of clinical IPAs did not meet IPA policy requirements. There were two reasons for this. First, the clinical IPAs did not meet any of the four objectives cited by the FPM guidance (see page 1). Second, the VAMC's use of clinical IPAs did not meet the spirit of the FPM requirement that IPA assignments be temporary. The VAMC used IPAs as a long-term method of obtaining services. This can be illustrated by the neurosurgery IPAs, which the VAMC had used for 8 years, since 1988.

**The Cost of Clinical IPAs Was Excessive.** For 2 of the 18 clinical IPAs reviewed the VAMC received the services specified in the agreements, and payments were correct. For the remaining 16 IPAs, the VAMC overpaid the medical school. These excessive payments fell into two categories:

- **Services Not Received.** On 16 IPAs there were excessive payments made for services not received. Under these IPAs, the VAMC paid a total of $629,149 during the 4-month review period and should have received a total of 6,612 hours of service. The VAMC actually received 4,524 hours (68.4 percent of the required time). The amount the VAMC should have paid was $445,814. Therefore, the payment for services not received was $183,335, or 29.1 percent of the total amount paid.

- **Payment For Substitutes.** On eight IPAs excessive payments occurred because the VAMC paid based on the IPA assignee's salary when a lower paid substitute actually provided the services. The excessive payment attributable to the use of substitutes was $7,504, or 1.2 percent of the total paid. (All eight of these IPAs also had excessive payments for services not received.)

The total amount of excessive payment for the 4-month period was $190,838, or 30.3 percent of the total payment of $629,149. If the 4-month payment were to continue for the entire year, then the estimated excessive payment would be about $572,000. If the average excessive payment rate found for all 18 clinical IPAs reviewed were to hold true for all 40 of the VAMC's clinical IPAs, then the annual excessive payment could be as much as $1.3 million.

The example of the neurosurgery IPA illustrates how overpayments occurred:

> The IPA agreement required the neurosurgeon to provide 2 days of service per week. During the 4-month review period this equated to 35 days. The VAMC paid the school $40,000 for the 35 days. However, our review of workload documents and discussions with the neurosurgeon and six substitutes found that they had actually provided only about 13.25 days of service. Based on the 13.25 days provided, the payment should have been $15,140. The overpayment attributable to services not received was $24,860, or 62.1 percent of the $40,000.
>
> The use of substitutes also resulted in an overpayment. During the 4-month period, the substitutes provided 8.5 days of service. The VAMC paid about $17,379 for the 8.5 days (based on the IPA neurosurgeon's medical school compensation). However, for the six substitutes the school incurred costs of about $10,377 for the 8.5 days, so the overpayment attributable to the use of substitutes was $7,002.

**Using Contracts Would Prevent Excessive Payments.** The excessive IPA payments could have been avoided if the VAMC had used properly negotiated and administered SMS contracts to obtain clinical services. The following three contracting requirements were particularly relevant to the VAMC's use of IPAs:

- **Workload Analysis.** SMS contracting policy requires that VAMCs analyze current and projected workloads to determine the types and levels of services needed under SMS contracts. The VAMC had not determined the levels of services needed under IPAs. The lack of a workload analysis caused needed service levels to be overestimated and, in turn, contributed to excessive payments -- that is, services were not received simply because they were not needed.

- **Cost or Pricing (C/P) Data.** The payments that resulted from the use of substitutes could have been avoided if the VAMC had obtained C/P data from the school, as is required by SMS contracting policy. C/P data would show the costs that the school would incur in providing the services. With this information, the contracting officer could have established reasonable contract prices and could have adjusted contract payments based on the school's costs for the physicians who actually worked during any particular time period.

- **Performance Monitoring.** SMS contracting policy requires that the VAMC have reliable procedures for ensuring that services are provided in accordance with the contract. The VAMC did not have such procedures for the IPAs. This can be illustrated by the neurosurgery IPA. Neither the neurosurgeon nor the substitutes prepared timesheets. Instead, the Surgical Service timekeeper reviewed the surgical and attending logs. If the logs showed any time on a given day, then the timekeeper gave credit for a full day of service and recorded this on the IPA attendance report. This attendance report was not used for any management purpose. The VAMC paid the school's bill even if the report showed that the required levels of service had not been received.

**Sharing Agreements May Be an Alternative to SMS Contracts.** The VAMC could also have used sharing agreements to obtain some specialized services. Properly negotiated and administered sharing agreements provide internal control protections similar to those of SMS contracts. However, sharing agreements offer more pricing flexibility because prices can be based on Medicare rates instead of C/P data.

As a general rule, sharing agreements are most appropriate for obtaining low-demand services that can best be purchased on a per-procedure basis, with Medicare reimbursement rates used as benchmarks for setting procedure prices. At the VAMC reviewed, neurosurgical services are an example of the type of low-demand services that could be procured through sharing agreements:

> During the 4-month review period, the IPA neurosurgeon and the six substitutes performed or supervised 18 surgical procedures. The Medicare reimbursement for the 18 procedures would have been $23,240, or $16,760 less than the $40,000 the VAMC paid under the IPA.

**Use of Contracts or Sharing Agreements Would Help Avoid Conflicts of Interest.** In recent years VA has placed special emphasis on the importance of VAMC employees who are also employees of affiliated medical schools avoiding conflicts of interest in business relationships with the schools. In our opinion, the VAMC's use of IPAs for procuring clinical services presented the appearance of possible conflicts of interest and increased the risk that actual conflicts could occur. The reason for this is that the IPAs were, in effect, contracts with the medical school, and VAMC employees who would logically be involved in the IPA decision-making process received remuneration from the school.

Our review found no evidence of actual violations of conflict of interest rules. However, given the absence of controls to prevent conflicts of interest, there was a risk that these employees could become involved in IPA decisions such as determining how many IPAs a clinical service would use or who would be placed on IPAs. If the VAMC had used SMS contracts or sharing agreements, there would have been less conflict of interest risk because contracting requirements help ensure an "arms length" relationship between the VAMC and the school.

**The VAMC Inappropriately Used IPAs to Avoid Personnel Ceiling Reductions.** The VAMC inappropriately used IPAs as a mechanism for filling administrative and support positions during a personnel ceiling reduction. To accomplish this, the VAMC used the VA Research Corporation as the non-Federal employer when, in fact, the IPA assignees did not work for the corporation.

The FPM guidance states that IPA assignments arranged "to circumvent personnel ceilings are contrary to the spirit and intent" of the IPA program (FPM 334, 1-2b). In FY 1993 VHA reduced the VAMC's personnel ceiling and imposed a hiring freeze. During the freeze the VAMC used a total of 45 IPAs for administrative and support services.

In establishing these IPAs, the VAMC inappropriately used the VA Research Corporation as the IPA assignees' employer. Under this process the VAMC recruited the employee, arranged for the corporation to act as the non-Federal "employer," and then used an IPA to assign the employee from the corporation to the VAMC. This practice did not meet IPA requirements because the employees never actually worked for the corporation. The FPM guidance requires that an IPA assignee must have been a permanent career employee with the non-Federal employer for at least 90 days before the IPA. As a result of the audit, research corporation management has discontinued the practice of using the corporation as an "employer" of administrative and support IPA assignees.

**Other VAMCs Have Used IPAs to Obtain Clinical Services.** To determine if IPA problems existed in other VHA facilities, we performed reviews of IPA documents obtained from two other VAMCs that were also large users of IPAs. We found that these two VAMCs had also used IPAs to inappropriately obtain clinical services. One VAMC had 15 IPAs for various surgical specialties, and the other VAMC had 9 IPAs for specialties such as nuclear medicine, psychiatry, and surgery.

After we briefed VHA top management on the results of our initial review, VHA initiated immediate action to address the issues identified by our audit. In view of VHA top management's agreement to take corrective action, we ended the audit.

## Conclusion -- VAMCs Need Additional Guidance on IPAs

The Under Secretary of Health sent all facilities a memorandum reminding them of the purpose of IPA assignments and emphasizing the importance of compliance with IPA regulations. VHA management also required the VAMC we reviewed onsite to discontinue its use of clinical IPAs. (Because the primary responsibility for the accuracy of IPA payments rested with the VAMC, we did not think it reasonable to recommend pursuing recovery of excessive payments from the school.)

In addition, VHA top management expressed agreement with our view that more detailed policy guidance on the use of IPAs was needed. We believe that this guidance is necessary because some VAMC managers have misinterpreted the intent of the IPA authority and the purpose of IPA assignments. VHA officials have told us that they are concerned that the misuse of IPAs might endanger their continued use to support VA research. The recommended additional guidance will help ensure that this does not occur.

In our opinion, the new guidance should largely restrict the use of IPAs to their traditional purpose of supporting VA research activities. The guidance should require that VAMCs have procedures to ensure that salary rates shown on IPA agreements are accurate, that duty and time requirements are specified, that payments for IPA services are correct, that conflicts of interest are avoided, and that timekeeping records are accurate and available for audit or other review. Although the use of IPAs for administrative and support positions is not a widespread practice, the policy should state that IPAs should not be used for such positions. Most importantly, the

new guidance should specify that IPA agreements may not be used to procure clinical services that would normally be obtained through staff appointments, SMS contracts, sharing agreements, or other recognized methods of obtaining these services.

## For More Information

- The purpose of IPA assignments, procedures for establishing and administering IPA agreements, and other background information are discussed in Appendix 1, pages 8-11.
- The audit objectives, scope, and methodology are discussed in Appendix 2, pages 12-13.
- The results of our onsite VAMC audit are discussed in detail in Appendix 3, pages 14-24.

## Recommendation 1

We recommend that the Under Secretary for Health issue detailed guidance on the use of IPA assignments, with emphasis on the issues identified by this audit.

The associated monetary benefits for Recommendation 1 are shown in Appendix 4, page 25.

## Under Secretary for Health Comments

The Under Secretary for Health concurred with our findings and recommendation and did not disagree with our estimated monetary benefit.

## Implementation Plan

The Under Secretary agreed to revise VHA policy as recommended in this report. Representatives from VHA's Management and Support Office and Chief Network Office have been working with the Office of the Deputy Assistant Secretary for Human Resources Management and the Office of the General Counsel to revise IPA guidance. The revised guidance will specifically cite the concerns raised by the audit. VHA plans to issue the revised guidance in April 1997. (See Appendix 5, pages 26-27, for the full text of the Under Secretary's comments and implementation plan.)

## Office of Inspector General Comments

The Under Secretary accepted our audit findings, concurred with our recommendation, and provided an acceptable implementation plan. We consider all audit issues resolved and we will follow up on the completion of planned corrective actions.

# Background

## Legislative Authority for IPA Assignments

In 1970 Congress passed the Intergovernmental Personnel Act (Public Law 91-648). The Act authorized grants, technical assistance, and training programs aimed at improving Federal-State-local government cooperation by strengthening the personnel capabilities of State and local governments. Title IV of the Act authorized the temporary assignment of personnel between the Federal Government and State or local governments, institutions of higher learning, Indian tribal governments, or other eligible institutions.

## Purpose of IPA Assignments

The intended purpose of IPA assignments is to facilitate Federal-State-local cooperation through the temporary assignment of skilled personnel. Federal agencies may use IPAs either to assign agency employees to work at participating institutions or to have employees of participating institutions work at Federal agencies. IPA assignments should be made for sound public purposes and should be of mutual benefit to the Federal agency and to the participating non-Federal agency. The Federal Personnel Manual specifies four appropriate objectives for IPA assignments:

1. Strengthening the management capabilities of Federal agencies and non-Federal participating institutions.

2. Assisting the transfer and use of new technology and approaches to solving governmental problems.

3. Serving as a means of involving non-Federal officials in developing and implementing Federal programs.

4. Providing program and developmental experience which will enhance the IPA assignee's job performance. (FPM 334, 1-2)

## Requirements for IPA Agreements

IPA assignments are required to be formalized with written IPA agreements. In VA, these agreements are typically made using the Office of Personnel Management (OPM) Optional Form 69, "Assignment Agreement: Title IV of the Intergovernmental Personnel Act of 1970." The rules for IPA assignments and agreements are set forth in Title 5 United States Code, Section 3371-3376; Title 5, Code of Federal Regulations, Part 334; and the FPM, Chapter 334.

The most important rules and criteria for IPA assignments and agreements are:

- Each agreement may cover only one specific employee.
- Assignments should normally be for no more than 2 years. However, the Federal agency head may extend the assignment to a maximum of 4 years.
- Before taking an IPA assignment to a Federal agency, the assignee must have worked for the participating non-Federal institution for at least 90 days in a career position.
- Agreements must record the responsibilities of all the agreeing parties -- the Federal agency, the participating institution, and the assignee.

## VA Policy on the Use of IPAs

VA policy on the use of IPAs is set forth in VA Manual MP-5, Part I, Chapter 334 and states that VA will follow the guidance provided in the FPM, Chapter 334. The VA policy emphasizes the requirements for temporary assignments of VA employees to non-Federal institutions. However, in VA most IPA agreements are used for assigning medical school employees to VAMCs. VA policy does not provide any specific guidance on this use of IPAs and only states that assignments from non-Federal institutions will be made in accordance with the FPM guidance (VA Manual MP-5, Part I, 334.3b).

## Program Data on VAMC Use of IPAs

As of October 1996, neither VHA nor the Office of the Assistant Secretary for Human Resources and Administration maintained reliable data on the number of active IPAs or on the cost of those IPAs. No element of either organization had been specifically charged with collecting this information. In addition, IPA data was not captured in any of VHA's accounting or workload measurement systems, such as the Financial Management System or the Resource Planning and Management system.

In our view, this absence of data was understandable -- IPA data was not a significant issue because VAMCs had historically used very few IPAs. Traditionally, the use of IPAs had been limited to the purpose of obtaining the services of affiliated medical school employees who had the specialized skills needed to provide temporary support for specific VA medical research projects. Employees typically hired through IPAs included scientists, laboratory technicians, research assistants, and technical writers. In our opinion, the use of IPAs for research activities was appropriate because assignments were short-term, mutually beneficial to the agreeing parties, and served the sound public purpose of furthering VA research.

**Increase in Use of IPAs.** Before Fiscal Year (FY) 1994 Federal agencies were required to report data on their usage of IPAs to OPM. This requirement was discontinued in FY 1994. (The last required report covered FY 1993.) It appears that in about FYs 1993-1994 VAMCs began increasing their use of IPAs and some VAMCs began using IPAs to hire non-research

staff, such as clinical and administrative personnel. The current VHA top management was not aware of this increased usage of IPAs.

The precise number of IPAs used by VAMCs is unknown. However, it is certain that the number has increased significantly in recent years:

- In a FY 1989 report on the Government-wide use of IPAs, the General Accounting Office (GAO) reported that in FY 1984 VA had 33 IPAs and that the number had increased to 200 by FY 1988.[3]

- In its FY 1993 report to OPM on IPA usage, VA reported a total of 460 IPAs.

- VHA's Office of the Associate Chief Medical Director for Research and Development (R&D) maintained an informal list of active IPAs. This list showed that as of February 1996, 57 VAMCs reported having a total of 1,010 IPAs with a total cost of $34.7 million.

**R&D List Not Accurate.** Although the R&D list represented VHA's most up-to-date information on IPA's, VHA officials knew that the list was not accurate or complete. R&D began keeping the list several years ago in a effort to account for IPAs used to support research activities.

While we recognized that VHA knew the R&D list was inaccurate, we considered it important to compare the list to more accurate data in order to get a better sense of how much VAMC usage of IPAs had increased in recent years. To make this comparison we obtained data from three VAMCs shown to be large users of IPAs according to the R&D list. The list showed that the three VAMCs had 141 IPAs, but we found that the VAMCs actually had 194 IPAs (37.6 percent more):

| | VAMC Records | | R&D List | | Difference | |
|---|---|---|---|---|---|---|
| VAMC | Number | Cost | Number | Cost | Number | Cost |
| A | 77 | $5,135,839 | 66 | $3,018,717 | 11 | $2,117,122 |
| B | 63 | 1,945,491 | 45 | 1,361,186 | 18 | 584,305 |
| C | 54 | 1,964,701 | 30 | 861,356 | 24 | 1,103,345 |
| Total | 194 | $9,046,031 | 141 | $5,241,259 | 53 | $3,804,772 |

Sources: R&D list of IPAs and the selected VAMC IPA documents.

With 194 IPAs, the three VAMCs had almost as many as the 200 IPAs reported for the entire VA in 1988. In our opinion, this data strongly indicates that VAMCs have significantly increased their use of IPAs.

[3] June 1989 GAO report entitled Intergovernmental Personnel Act of 1970: Intergovernmental Purpose No Longer Emphasized, page 32.

## Reason for Audit

During work on an audit of affiliation issues, we noted that some VAMCs had apparently used IPAs to hire physicians and other clinical staff whose services would normally have been obtained either through part-time appointments, SMS contracts, or sharing agreements. In addition, as discussed above, VAMCs had significantly increased their use of IPAs in recent years. We were concerned that some VAMCs might view IPAs as a means of circumventing: (1) SMS contracting rules; (2) physician timekeeping requirements; (3) physician salary limitations; and (4) VHA staffing restrictions, such as hiring freezes and staff ceiling limitations. We discussed these concerns with the Under Secretary for Health, and he agreed that we should perform an audit to determine if VHA needed better policy guidance on IPAs.

# Objectives, Scope, and Methodology

## Objectives

The purpose of the audit was to evaluate the use of IPA assignments by VAMCs. Specific audit objectives were to determine if:

- VAMCs used IPAs in accordance with the authorizing legislation and VA policy.
- VHA needed to strengthen policy guidance on the use of IPAs.

## Scope and Methodology

To meet the audit objectives we audited selected IPAs at a VAMC. We chose this VAMC because VHA records indicated that this VAMC had the largest number of IPAs, the highest IPA costs, and the largest number of physicians on IPAs. Our review focused on two questions: (1) Did the VAMC use IPAs as intended by IPA regulations and VA policy? (2) Did the VAMC have adequate controls to ensure that IPAs were properly administered and that payments were accurate?

To address these questions we selected a judgment sample of 40 of the VAMC's 77 IPA assignments and we reviewed various records pertaining to the assignments. These records included clinic schedules, research activity reports, surgical logs, timesheets, payroll records, duty schedules, and billing and payment documents. We reviewed records pertaining to the university's compensation of IPA employees. We also conducted interviews with VAMC management, IPA employees, their VAMC supervisors, university officials, and VA Research Corporation officials. Our review covered the 4-month period January 1, 1996, through April 30, 1996. We used this period because it was recent and because some records were available for this period that may not have been available for other periods.

We had originally planned to review all the IPA assignments at the VAMC and to perform similar reviews at several other VAMCs. However, after reviewing the judgment sample of the VAMC's IPAs we briefed VHA top management. They concluded that our findings were sufficient to demonstrate the need for better guidance on IPAs and indicated that VHA would take action on this issue.

Based on this commitment, we did not perform any additional onsite reviews. However, to confirm that IPA problems were not isolated to one VAMC, we performed limited reviews of IPA documents obtained from two other VAMCs. Our reviews of these documents and our discussions with officials of the two VAMCs indicated problems similar to those identified during our onsite review.

Our onsite audit of the VAMC included evaluations of IPA internal controls and compliance with applicable laws and regulations. We performed the audit in accordance with generally accepted government auditing standards.

# Details of Audit

# The VAMC Needed to Discontinue the Use of IPAs for Procuring Clinical Services and Hiring Administrative Staff

## Purpose of Review of VAMC IPAs

As discussed on page 12, before we began our onsite review of IPAs, VHA top management had agreed that the OIG needed to review VAMC use of IPAs. Because of this, the major purpose of our onsite audit of the VAMC was to identify issues and concerns that VHA needed to address.

## VAMC IPA Data

As of January 1, 1996, the VAMC had 77 IPAs to obtain services at a total cost of about $5.13 million. The 77 IPAs fell into three categories:

- 21 for research projects (cost = $594,000)
- 40 for clinical services (cost = $3.99 million)
- 16 for administrative and support positions (cost = $550,000)

## Audit Approach for Evaluating IPAs

We reviewed a judgment sample of 40 of the VAMC's 77 IPAs to obtain services. The major objectives of our review were to determine if the VAMC (1) had used IPAs as intended by Federal regulations and VA policy and (2) had established adequate controls to ensure that IPAs were properly administered and that payments were accurate. Our sample of 40 IPAs consisted of 12 research IPAs (cost = $374,000); 18 clinical IPAs (cost = $2.06 million); and 10 administrative and support IPAs (cost = $378,000). The total cost of the IPAs in our sample was $2.81 million, or 54.8 percent of the $5.13 million cost of all 77 IPAs. (As discussed on page 13, we had originally planned to review all of the VAMC's IPAs. However, based on our discussions with the Deputy Under Secretary for Health we determined that this was not necessary.)

We based our evaluation of IPAs on the following four principles:

- IPAs should be used for the temporary assignment of skilled personnel.
- IPAs should address one or more of the four objectives cited by the FPM (see page 8).

- IPAs used to obtain scarce medical specialist services or other services should provide the same protections and controls that VA has established for SMS contracts, sharing agreements, and other means of obtaining services. Specifically, the VAMC's IPA procedures should ensure that prices paid for services are reasonable, that services required by IPA agreements are received, that conflicts of interest are avoided, and that other procurement integrity requirements are met.

- Time and attendance requirements should be the same for IPA employees as for all other VA staff and contract employees. The VAMC should specify tours of duty and should maintain accurate and complete timekeeping records for IPA employees.

## Research IPAs

Our review found that the VAMC's use of IPAs to support research activities was appropriate. Most of the research IPA agreements were with employees of the affiliated medical school although there were a few agreements with employees of another eligible education institution. All of these IPA assignees were skilled, career employees such as research scientists and laboratory technicians. All of the IPAs were temporary assignments to work on VA-approved research projects. These IPAs met the program objectives of assisting in solving VA research problems and, in some instances, of enhancing the assignee's job performance. The VAMC's Research Service had adequate controls to ensure that IPA employees worked the required time and that IPA payments were correct.

## Clinical IPAs

The VAMC inappropriately used clinical IPAs to procure scarce medical specialist services that would normally be obtained by either hiring the required specialist, contracting for the services, or establishing sharing agreements.

**No Authority to Use IPAs Instead of SMS Contracts or Sharing Agreements.** We reviewed 18 clinical IPAs (10 surgeons, 6 anesthesiologists, and 2 perfusionists). VAMC management acknowledged that these IPAs had been used instead of SMS contracts to obtain the services of medical specialists. None of these 18 IPAs met policy requirements or represented an appropriate use of the IPA authority. In our opinion, nothing in the IPA regulations, FPM policy guidance, Federal Acquisition Regulations, or VA Acquisition Regulations suggests or authorizes the use of IPAs to obtain services that would normally be procured through contracts or sharing agreements.

Furthermore, VHA top management does not support the use of IPAs to obtain medical specialist services. As a result of our audit, on August 15, 1996, the Under Secretary for Health issued a memorandum instructing all VAMCs to review all IPAs. This memorandum states: "IPA assignments should not be used as a substitute for scarce medical specialist contracts."

**IPA Objectives Not Met.** In addition to not meeting VA procurement policies, the VAMC's use of IPAs in lieu of SMS contracts did not meet IPA policy requirements. There were two reasons for this. First, the use of clinical IPAs did not meet any of the four objectives cited by the FPM guidance. Specifically, these IPAs did not: (1) strengthen VA's management capability; (2) assist in the transfer and use of new technologies and approaches to solving governmental problems; (3) involve State officials in developing and implementing Federal policies and programs; or (4) provide experience that enhanced the IPA employees' performance in their regular jobs. At the VAMC, the IPA clinicians provided the same types of services they did in their private practices or in their work at other hospitals involved in the medical school affiliation. There was nothing unique about the services provided to the VAMC. As further evidence of this, it should be noted that several of the IPA clinicians had previously worked for the VAMC as part-time or contract employees before they were placed on IPAs.

**IPAs Not Temporary.** The second reason the clinical IPAs did not meet policy requirements is that they were, in fact, not temporary. VAMC management viewed IPAs as a long-term, if not permanent, method of procuring services. Although the VAMC would change the names of clinicians on IPA agreements to meet the requirement that the agreements normally not exceed 2 years, the clinicians were always selected from the cadre of medical school employees. Even though agreements with the individuals named in the IPA were temporary, the underlying arrangement was long-term.

Since FY 1988 the VAMC has had an informal agreement with the medical school to use IPAs to obtain some clinical services. As recently as May 1996, management informed the school that they intended to continue the arrangement (May 24, 1996, letter from the VAMC Director to the Chairman of the affiliated medical school's Department of Surgery). In addition, in a September 1996 letter to VHA management the VAMC Director indicated that the VAMC would continue the arrangement (September 16, 1996, letter from the VAMC Director to the Under Secretary for Health).

The long-term nature of IPA arrangements can be illustrated by the IPA for neurosurgical services. The VAMC awarded its first neurosurgery IPA in 1988 and has used IPAs to obtain neurosurgical services ever since.

**IPA Services Not Received.** To determine if the VAMC had received the services paid for under the 18 clinical IPAs reviewed, we examined pertinent workload and timekeeping records for the 4-month period January-April 1996. We discussed work activities with all 18 employees named on the IPAs and, as appropriate, with other university employees who substituted for those named on IPAs. We gave IPA and substitute employees credit for any work time that was shown on VAMC records or that the employees told us they spent on VA duties or VA-related activities (even if these were not documented).

One problem we encountered was that 10 of the 18 IPAs did not specify a work time or level of service requirement for the IPA employee. In these cases, we estimated the employee's time requirement based on the proportion of the university compensation costs that the VAMC's IPA payment represented. For example, if the medical school incurred compensation costs that totaled $100,000 for a specific physician during the 4-month review period and if the VAMC

paid the medical school $50,000 under the IPA agreement, then the VAMC should have received 50 percent of the physician's time based on a 40-hour work week (that is, the VAMC should have received 20 hours of service).

For 2 of the 18 clinical IPAs the VAMC received the level of services specified in the agreements, and payments for these services were correct. For the remaining 16 IPAs, the VAMC made overpayments. These overpayments fell into two categories: (1) payments for services not received, and (2) payments for the IPA employee when a lower paid substitute actually provided the services.

**Payments Made for Services Not Received.** For 16 of the 18 IPAs there were payments made for services not received. Under the 16 IPAs the VAMC paid a total of $629,149 during the 4-month review period and should have received a total of 6,612 hours of service. The VAMC actually received 4,524 hours (68.4 percent of the required time). The amount the VAMC should have paid was $445,814. Therefore, the amount of payments made for services not received was $183,334 (29.1 percent of the total amount paid).

During the audit VAMC management disagreed with our conclusions about services received, stating that they believed that they had received the appropriate levels of services under the IPAs.

We believe that our conclusions are correct. It should be recognized that the IPAs we reviewed covered employees who provided surgical and anesthesia services. As required by VA policy, most of their clinical time was recorded in operating room logs, anesthesia logs, and other required records. In addition, we gave the IPA employees and their substitutes credit for any time they stated they spent on VA-related activities, such as pre- and post-operation time, VA committee meetings, and other meetings and conferences where they represented VA interests or discussed VA patients.

**Overpayment for Substitutes.** In addition to the overpayments made for services not received, the VAMC also overpaid because the medical school substituted lower paid employees for those named in the IPA agreements. This occurred on 8 of the 16 IPAs with overpayments. (All eight of these IPAs also had overpayments for services not received.) The amount of overpayment attributable to the use of substitutes was $7,504 (1.2 percent of the total paid).

**Estimated Annual Amount of Overpayments.** For the 18 clinical IPAs reviewed, the total amount of overpayments for the 4-month period was $190,838, or 30.3 percent of the total payment of $629,149. ($183,334 for services not received + $7,504 for lower paid substitutes = $190,838). If the 4-month overpayment were to continue for the entire year, then the estimated overpayment would be $572,000. If the average overpayment rate found for all 18 clinical IPAs reviewed were to hold true for all 40 of the VAMC's clinical IPAs, then the annual amount of overpayment could be as much as $1.3 million ($190,838 overpayment for 4-month period ÷ 18 clinical IPAs reviewed = $10,600 average overpayment × 40 total clinical IPAs = $424,000 × 3 (4-month periods) = $1,272,000).

## Use of SMS Contracts or Sharing Agreements Would Provide More Equitable Payments

As discussed above, there were two components to the excessive IPA payments: (1) the VAMC paid for services not received (or time not worked), and (2) the VAMC paid for substitutes whose university compensation was less than that of the IPA employees. Both of these problems would have been avoided if the VAMC had followed SMS contracting requirements pertaining to analyzing workloads to determine the services needed, basing contract reimbursement rates on cost or pricing data, and monitoring contractor performance (VA Manual M-1, Part I, 34.02 and 34.04). The relationship between these requirements and the VAMC's IPA practices is discussed below. (As discussed on page 5, sharing agreements have essentially the same internal control requirements as SMS contracts, except that Medicare rates may be used instead of C/P data to set procedure prices.)

**Workload Analysis Requirement.** VHA policy on SMS contracting requires that VAMCs analyze current and projected workloads to determine the types and levels of services needed under SMS contracts. VAMC staff acknowledged that they had not performed workload analyses to determine the levels of services needed under IPAs. This lack of workload analysis caused IPA service levels to be overestimated and this, in turn, contributed to IPA excessive payments -- that is, services were not received simply because they were not needed. The IPA agreements either stated or implied specific levels of service and specific payment obligations. The VAMC's actual workloads were usually less than the estimated levels of services. However, payments were based on the estimated levels, not on the actual services received. If workload analyses had been done, estimated service needs would have been more accurate and excessive payments could have been avoided or significantly reduced.

**Cost or Pricing Data Requirement.** Part of the excessive IPA payments occurred because the VAMC paid for substitutes who received less university compensation than the IPA employee. This problem could have been avoided if the VAMC had obtained C/P data from the school, as is required by SMS contracting policy. (The university readily provided this data to us for use in reviewing IPA payments.) C/P data shows the costs that the school will incur in providing the services (plus any profit the school proposed to make on the contract). Typically, almost all the school's costs would be for the compensation (salary and benefits) of the clinicians working under the contract. With this information, the contracting officer could have established reasonable contract prices and could have adjusted contract payments based on the school's costs for the physicians who actually worked during any particular time period. The following examples illustrate how the use of C/P data could have prevented excessive payments (also see the example on page 4):

- **Perfusionist IPA.** The VAMC had an IPA to obtain perfusionist services at a cost of $90,000 per year, or $30,000 for the 4-month review period. For this IPA, we identified two types of payments that could have been avoided if the VAMC had used C/P data. The first problem was that the $90,000 cost shown on the IPA agreement was overstated. University records showed that during the review period the school incurred costs of $27,905 for the perfusionist's salary and benefits. This would equate to an estimated annual

cost of $83,715, or $6,285 less than the $90,000 shown on the agreement. If the VAMC staff had obtained C/P data, they would have known that the $90,000 cost was too high and could have avoided a $2,095 excessive payment for the 4-month period and a possible $6,285 excessive payment for the entire year.

The second problem pertained to the use of substitutes. During the review period, four substitutes worked under the IPA, providing 376 hours of service. The medical school compensation for the four substitutes ranged from $30.59 to $37.39 per hour. For the 376 hours the school incurred costs of $12,891. As stated above the university compensation costs for the perfusionist was $27,905. This equates to a rate of about $41.52 per hour. Based on the differences in the hourly compensation rates, we estimate that use of C/P data could have prevented an additional excessive payment of $2,721.

For this IPA, the total 4-month excessive payment resulting from C/P data errors was $4,816 ($2,095 for overstated salary + $2,721 for use of substitutes = $4,816). It should be noted that in addition to the excessive payments resulting from not using C/P data, there was an excessive payment of $4,816 because the VAMC paid for services not received. During the review period the VAMC paid for 672 hours of service and received 556 hours, a difference of 116 hours ($41.52 per hour rate × 116 hours = $4,816). The total excessive payment on this IPA was $9,632 ($4,816 + $4,816 = $9,632).

- **Ophthalmology IPA.** The VAMC had an IPA agreement to obtain the services of an ophthalmologist at a cost of $31,250 per year, or $10,417 for the 4-month review period. During the period the VAMC received 37.5 hours of services under this IPA. The ophthalmologist named on the IPA agreement provided 21.1 hours of service, and a substitute ophthalmologist provided 16.4 hours. The medical school paid the IPA ophthalmologist an hourly rate of $152.76 (based on a 40-hour week), so the cost of the 16.4 hours would have been about $2,505. Our review of UTSMC compensation records found that for the substitute the school incurred costs of about $1,579 for the 16.4 hours. In this case, the use of C/P data would have prevented an excessive payment of about $926.

**Performance Monitoring Requirement.** VHA policy on SMS contracts requires that the VAMC have reliable procedures for ensuring that services are provided in accordance with the contract. Contract monitoring and record keeping procedures must be sufficient to ensure accurate payments and to allow audit verification that services were provided. The VAMC's practice of using IPAs instead of SMS contracts did not have these safeguards. We identified the following deficiencies in monitoring performance under IPA agreements:

- As mentioned above, the IPA agreements did not consistently specify the level of service expected from the IPA employee. Of the 18 IPAs reviewed, only 8 specified the work time required. The other 10 IPAs did not show any service requirement.

- The VAMC did not have a written policy on monitoring performance under IPAs, and no employee was assigned responsibility for monitoring performance. (Under SMS contracting policy this responsibility is typically assigned to the Contracting Officer's Technical Representative.)

- The VAMC did not require accurate time and attendance records for the clinical IPA employees. Surgical Service did maintain a local report called the "IPA Attendance in Days" report. However, this report was highly inaccurate, there was no standard method for gathering information used to complete the report, and the report was not used for any management purpose.

Each month the medical school sent the VAMC a bill for the IPA employees' services. The monthly billed amount was based on the total cost of the IPA divided by the months of duration shown on the agreement. (For example, if the total cost shown on the IPA agreement was $120,000 and the duration of the agreement was 12 months, then each monthly bill would be for $10,000.) The VAMC paid the monthly bills without question. Even if the IPA attendance report showed that the employee had not provided the days of service required by the IPA agreement, the bill was paid in full.

The following examples illustrate how the absence of performance monitoring contributed to excessive payments (also see the example on page 4):

- **Plastic Surgeon IPA.** The plastic surgeon's IPA agreement did not show a specific time requirement. However, because the VAMC paid the university an amount equal to about 33 percent of the school's compensation costs for this physician, he should have devoted 33 percent of his time to VA duties. Based on a 40-hour workweek this 33 percent equated to about 223 hours, or about 28 days of service during the 4-month review period. The Surgical Service IPA attendance report showed that the plastic surgeon and one substitute provided 22 days of service during the period. The timekeeper told us that entries for the plastic surgeon were based on timecards that he submitted and on supplemental information the timekeeper obtained from surgical and attending logs.

  Our review of VAMC records showed that the plastic surgeon actually provided only about 5.25 days (42 hours) of service during the 4-month period. There was no evidence that a substitute had provided any services, and neither VAMC staff nor the plastic surgeon could identify the substitute. The 5.25 days of service actually provided was 16.75 days less than the IPA attendance report showed and 22.75 days less than the time requirement implied by the IPA agreement. The medical school billed the VAMC for 28 days of service. The VAMC paid the entire amount, even though the VAMC had information indicating that all 28 days were not provided. Based on our review, we concluded that the excessive payment attributable to services not received was $22,010.

- **Anesthesiology IPA.** The IPA agreement required the anesthesiologist to provide 50 percent of his time to the VAMC. During the 4-month review period this requirement equated to 42 days of service. The Surgical Service IPA attendance report showed that the anesthesiologist provided 39 days of service during the period. The Surgical Service timekeeper prepared the IPA attendance report by reviewing timecards and appropriate surgical and attending logs. If the timesheets or logs showed any time on a given day, then the timekeeper gave credit for a full day of service and recorded this on the IPA attendance report. Our review of anesthesiology workload documents and discussions with the anesthesiologist found that he had actually provided 28.24 days of service during the period.

This was 10.76 days less than the time shown on the IPA attendance report and 13.76 days less than the time commitment specified on the IPA agreement. The medical school billed the VAMC $27,665 for the 42 days of service. The VAMC paid this amount even though its records indicated that only 39 days of service had been provided. Based on our review, we concluded that the excessive payment attributable to services not received was $9,064, or 32.8 percent of the amount paid.

**Avoiding Conflicts of Interest.** VA has placed special emphasis on the importance of VAMC employees who are also employees of affiliated medical schools avoiding conflicts of interest in business relationships with affiliated schools (VHA Directive 10-93-119 dated September 22, 1993). In our opinion, the VAMC's use of IPAs as a mechanism of procuring scarce medical specialist services presented the appearance of possible conflicts of interest and increased the risk that actual conflicts could occur.

Federal law and VA policy prohibit VA employees who are also employed by a contractor from "participating personally and substantially on behalf of the Government through decision, approval, disapproval, recommendation, rendering of advice, certifying for payment or otherwise in that contract. No VA employee who is an employee, officer, director, or trustee of an affiliated university, or who has a financial interest in the contract, may lawfully participate in a VA contract or any other Government contract with the university." (VA Manual M-1, Part I, 34.01f; also 18 U.S. Code 208 and 41 U.S. Code 423)

As used by the VAMC, IPAs were, in effect, contracts. VAMC management acknowledged that they used IPAs as a mechanism for obtaining the same types of services that would normally be procured through SMS contracts. In addition, the contractual nature of the IPA arrangements was demonstrated by the facts that: (1) IPA agreements were formal agreements in which the VAMC agreed to pay the medical school for the services of its employees; (2) the VAMC used a series of IPAs over long periods of time to obtain services; and (3) the VAMC allowed the use of substitutes, indicating that there was never any expectation that services would be provided exclusively by the individual named on the IPA agreement, so the agreement could not reasonably be viewed as a "personnel action" (as opposed to a contract).

As our report shows, the school benefited from the use of IPAs because it received more in VA payments than it incurred in costs for providing services. Even if this benefit had not occurred, the use of IPAs would still be a business relationship between the VAMC and the school, and therefore there would be a need for controls to ensure the avoidance of conflicts of interest.

Our review found no evidence of actual violations of conflict of interest rules. However, in our opinion there was a risk that such conflicts could occur. The reason for this is that a number of VAMC employees who would logically be involved in the IPA decision-making process received remuneration from the medical school. These employees included the Chief of Staff and the clinical service and section chiefs. They told us that they were not involved in the IPA decision-making process. However, given the absence of controls to prevent conflicts of interest, there was a risk that these employees could become involved in IPA decisions such as determining how many IPAs a clinical service would use or who would be placed on IPA agreements.

If the VAMC had followed SMS contracting or sharing agreement procedures, there would have been less risk of conflicts of interest or of the appearance of such conflicts. The reason for this is that SMS contracting policy includes requirements that help ensure an "arms length" contracting relationship between the VAMC and the medical school. These requirements include:

- Assigning the contracting officer primary authority and responsibility for overseeing the SMS contracting process (VA Manual MP-1, Part I, 34.02c).

- Prohibiting VA employees who receive any remuneration or benefit from the affiliated school from participating personally and substantially in the contracting process (VA Manual MP-1, Part I, 34.01f).

- Requiring that any VA employee who holds an academic title, even those who are not paid by the affiliated school, receive written authorization from the Regional Counsel to participate in the contracting process -- to include preparing statements of work to be performed under the contract (VA Manual MP-1, Part I, 34.01f).

- Requiring the VAMC Director and Chief of Staff to personally certify that the contracting officer conducted or controlled all contract negotiations and that there were no discussions between VA officials and the service provider at which the contracting officer was not present (VA Manual MP-1, Part I, Appendix 34A).

**VAMC Management Position on Use of IPAs in Lieu of SMS Contracts.** During the audit VAMC management told us that they used IPAs primarily because they were less costly than SMS contracts. Management believed that IPAs were less costly because they allowed the VAMC to avoid a "clinical overhead rate" that the State required the university to charge on all contracts. The school originally set the overhead rate at 10.18 percent but later agreed to reduce the rate to 8.70 percent. Management's position was that the school was doing the VAMC a favor by using IPAs as a mechanism to avoid collection of the indirect overhead rate, with the school's logic being that the State requirement covered contracts but not IPA agreements.

Our review found, however, that the university would not necessarily charge the overhead rate on SMS contracts with the VAMC. The pertinent State legislation directs agencies to recover indirect costs where these "reimbursement are an allowable part of the charges to the program." (emphasis added) However, under VA policy indirect overhead is not an allowable cost: "Unallowable costs include items such as general department or university overhead and other indirect costs." (VA Manual M-1, Part I, 34.02f)

When we discussed this issue with the university's Director of Contracts Management, he said that he was not aware that VHA policy did not allow payment of indirect overhead rates. After we provided him a copy of the VA policy, he told us that the university would not charge the overhead rate on contracts with the VAMC. Given this, the VAMC agreed with us that the use of clinical IPAs should be discontinued (October 28, 1996, letter from VAMC Director to the OIG).

## The VAMC Used Clinical and Support IPAs to Circumvent Personnel Ceiling Limitations

We reviewed 10 of the VAMC's 16 IPAs for administrative and support employees. The 10 IPAs covered positions such as chaplain's assistant, laboratory technician, administrative assistant, and fiscal clerk. Our review of these IPAs identified three issues that should be addressed by future VHA policy on the use of IPAs:

- The VAMC used IPAs to circumvent staff ceilings.
- The administrative and support IPAs did not meet FPM requirements.
- The VAMC used the VA Research Corporation as the non-Federal participating employer when, in fact, the IPA employees did not really work for the corporation.

**IPAs Used to Circumvent the Staff Ceiling.** The FPM guidance states that IPA assignments should not be used to circumvent personnel ceilings (FPM 334, 1-2b). In February 1993 the President directed Federal agencies to reduce the number of employees by at least 4 percent by September 1995 (Executive Order No. 12839). As part of VA's action to implement this order, VHA reduced the authorized personnel ceilings of some VAMCs and imposed a hiring freeze. During this hiring freeze (FY 1994-1995), the VAMC used IPAs as a mechanism for obtaining administrative and support staff. A total of 45 such staff were hired using IPAs. In a March 1996 memorandum to the OIG, the VAMC Director stated that the increased use of IPAs was "primarily the result of the VA Central Office mandate to reduce FTEE."

When the hiring freeze was lifted, the VAMC reduced its use of IPAs for administrative and support staff. In addition, VAMC management has stated that they have changed VAMC policy so that "IPAs will not be used to circumvent FTEE ceilings." (September 16, 1996, memorandum from the VAMC Director to the Under Secretary for Health)

**IPA Objectives Not Met.** None of the administrative IPAs met the four objectives cited by the FPM guidance -- that is, these IPAs did not strengthen management capabilities, assist in solving governmental problems, involve State or local officials in implementing Federal policies or programs, or provide developmental opportunities for the assignees. All of the IPA employees in question were doing routine administrative and support work.

**Research Corporation Used to Hire IPA Employees.** The VAMC used the VA Research Corporation as a mechanism for using IPA agreements to hire employees. Under this process the VAMC recruited the employee, arranged for the research corporation to act as the non-federal "employer," and then established an IPA agreement assigning the employee from the corporation to the VAMC. This process did not meet IPA requirements because the employees never actually worked for the research corporation. The FPM guidance requires that an IPA assignee must have been a permanent career employee with the participating non-federal employer for at least 90 days prior to the IPA assignment (FPM 334, 1-3d).

Research Corporation management has acknowledged that it was not appropriate to use the corporation as a mechanism for hiring VAMC employees, and they have discontinued the practice. In addition, in July 1996 the National Association of Veterans Research and Education Foundations (NAVREF), the VA research corporation professional organization, issued a newsletter reminding their membership of the proper use of and restrictions on the use of IPAs. (NAVREF Up-To-Date, "Nonprofit Research Corporations/VA IPAs -- Do It Right," July 3, 1996)

# Monetary Benefits
# In Accordance With IG Act Amendments

**Report Title:** Audit of VA Medical Center Use of Intergovernmental Personnel Act Assignments

**Project Number:** 6R8-176

| Recommendation Number | Category/Explanation of Benefits | Better Use of Funds | Questioned Costs |
|---|---|---|---|
| 1 | Better use of funds by issuing guidance that restricts the use of IPAs to their traditional purpose and specifies that IPAs may not be used to procure clinical services that are normally obtained through other recognized methods. | $1.3 million | |

**Note:** The monetary benefit pertains to the VAMC covered by our detailed review of IPAs.

# Under Secretary for Health Comments

Department of Veterans Affairs

# Memorandum

Date: February 4, 1997

From: Under Secretary for Health (10/105E)

Subj: OIG Draft Report, ***Audit of VA Medical Center Use of Intergovernmental Personnel Act Assignments***, Project No. 6R8-176

To: Assistant Inspector General for Auditing (52)

1. We have reviewed this draft report and concur with its findings and recommendation. We appreciate your early alert to us on your initial findings and we are pleased with your recognition of our actions taken in response to your alert. We find this type of cooperative approach to problem solving to be very effective and beneficial to both of our organizations.

2. In response to the recommendation, Veterans Health Administration (VHA) representatives from the Management and Administrative Support Office (163) and the Chief Network Office (10NC) have been working with representatives from the Deputy Assistant Secretary for Human Resources Management (05) and General Counsel (02) to revise the guidance as recommended in the report. An Under Secretary for Health directive on the revised guidance is being prepared for VHA by the Deputy Assistant Secretary's staff. We anticipate that it will be issued to VA facilities in April 1997.

3. Thank you for the opportunity to review the draft report. If you have any questions, please contact Mr. Paul C. Gibert, Jr., Director, Reports Review and Analysis Service (105E), Office of Policy, Planning and Performance, at 273.8355.

[Signed by Thomas L. Garthwaite, M.D., for:]
Kenneth W. Kizer, M.D., M.P.H.

Attachment

VA Form 2105
Mar 1989

# Under Secretary for Health Comments (Continued)

Action Plan in Response to OIG/GAO/MI Audits/Program Evaluations/Reviews

Name of Report: ***Audit of VA Medical Center Use of Intergovernmental Personnel Act Assignments***
Project No.: 6R8-176
Date of Report: Draft report, dated December 5, 1996

| Recommendations/ Actions | Status | Completion Date |
|---|---|---|
| **We recommend that the Under Secretary for Health issue detailed guidance on the use of IPA assignments, with emphasis on the issues identified by this audit.** | | |
| Concur | | |
| Guidance is currently being developed by the Deputy Assistant Secretary (DAS) for Human Resources Management (05) in cooperation with VHA and General Counsel representatives. An Under Secretary for Health directive is being prepared by the DAS for Human Resources Management staff for the Under Secretary for Health on this revised guidance. The directive will specifically cite the concerns raised by the OIG in the audit. | | |
| | In process | 4/30/97 |

# Final Report Distribution

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