



Department of Veterans Affairs Office of Inspector General

Audit of Alleged Mismanagement of Government Funds at the VA Boston Healthcare System

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Table of Contents

	Page
Executive Summary	i
Introduction	1
Purpose.....	1
Background.....	1
Scope and Methodology	3
Results and Conclusions	5
Issue 1: Were Contract Modifications within the Scope of the Original Contracts?	5
Issue 2: Was the Funding of Contract Modifications in Accordance with Appropriations Law?	7
Issue 3: Did Contract Modifications Comply with the FAR?	10
Recommendations	11
Appendixes	
A. Determination of Whether Modifications Were Outside the Scope of the Original Contracts.....	13
B. Charges to Expired Appropriations in Violation of Appropriations Law	17
C. VISN 1 Director Comments.....	18
D. Deputy Assistant Secretary for Acquisition and Materiel Management Comments.....	24
E. Monetary Benefits in Accordance with IG Act Amendments	26
F. OIG Contact and Staff Acknowledgments	27
G. Report Distribution	28

Executive Summary

Introduction

On January 31, 2006, the VA Office of Inspector General (OIG) Hotline Division received a written, anonymous complaint alleging contract irregularities and the mismanagement and illegal use of funds at the VA Boston Healthcare System (VABHS). The complainant provided a list of 24 purchase orders alleging that the Chief of the Purchasing and Contracting Section opened completed contracts, solicited vendors who were associated with the completed contracts, and executed contract modifications that were outside the scope of the original contracts. The complainant also alleged that the Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service illegally used expired funds to pay for contract modifications that were outside the scope of the original contracts.

Results

We categorized the allegations into three issues:

- Were contract modifications within the scope of the original contracts?

No. The VABHS Chief of the Purchasing and Contracting Section and contracting staff exceeded their authorities by executing contract modifications outside the scope of the original contracts. A modification outside the scope of an original contract must be processed as a new procurement. Also, VABHS contracting officers (COs) did not ensure that required legal reviews were conducted before executing the contract modifications.

- Was the funding of contract modifications in accordance with appropriations law?

No. The VABHS Chiefs of Fiscal Service and the Purchasing and Contracting Section violated appropriations law by using expired funds that were not legally available for new procurements. These managers, along with Engineering Service personnel, collaborated to circumvent internal controls, resulting in violations of appropriations law. They did not obtain approval from Veterans Integrated Service Network (VISN) 1 officials to use expired funds and they ignored review requirements.

- Did contract modifications comply with the Federal Acquisition Regulation (FAR)?

No. The Chief of the Purchasing and Contracting Section did not ensure that contracting staff complied with the FAR. Contract files were missing key contractual documents. COs did not conduct market research, circumvented competition requirements, did not

make determinations of price reasonableness, did not obtain independent Government estimates, and did not prepare price negotiation memorandums (PNMs).

Recommendations

We recommended the VISN 1 Director: (1) establish oversight controls to ensure that contract modifications are within scope of original contracts and required legal reviews are conducted; (2) establish and implement procedures to improve oversight of the use of expired funds and prevent future violations of appropriations law; (3) establish and implement procedures to strengthen management controls over the reporting and approval process concerning non-recurring maintenance (NRM) projects; (4) take appropriate administrative actions against the Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service; (5) initiate an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds in violation of appropriations law and take actions, if warranted, against other VABHS employees involved with the issues identified in this audit; (6) ensure necessary accounting adjustments are made to correctly record the funding of the improper contract modifications; and (7) establish and implement procedures concerning contract administration to ensure that competition is sought, prices are fair and reasonable, and contract files include required documentation.

We also recommended the Deputy Assistant Secretary for Acquisition and Materiel Management determine whether the warrant authority for the VABHS Chief of the Purchasing and Contracting Section should be revoked.

VISN 1 Director Comments

The VISN 1 Director agreed with the findings and seven recommendations addressed to her and provided acceptable implementation plans. (See Appendix C, pages 18–23, for the full text of the VISN 1 Director’s comments.) The Director reported the VISN has developed and issued standard operating procedures and policy guidance to improve management controls over the execution of contract modifications, use of expired funds, and the approval of NRM projects. Additionally, several acquisition policies and guidance letters designed to ensure that competition is sought, prices are fair and reasonable, and contract files include required documentation have been issued. The Director also reported that accounting adjustments to correctly record the funding of improper contract modifications were made by VABHS accounting staff. Accordingly, we consider recommendations 1, 2, 3, 6, and 7 closed.

The VISN 1 Director reported that an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds will be conducted, and appropriate administrative actions will be taken based on the results of the

investigation. We will follow up on the implementation of planned improvement actions in response to recommendations 4 and 5 until they are complete.

Deputy Assistant Secretary for Acquisition and Materiel Management Comments

The Deputy Assistant Secretary for Acquisition and Materiel Management agreed with the recommendation addressed to him and provided an acceptable implementation plan. (See Appendix D, pages 24–25, for the full text of the Deputy Assistant Secretary’s comments.) The Deputy Assistant Secretary reported that he would suspend the VABHS Chief of the Purchasing and Contracting Section’s warrant authority and take further action based on the results of the administrative investigation planned by the VISN 1 Director. We will follow up on the implementation of planned improvement actions in response to recommendation 8 until they are complete.

(original signed by:)

BELINDA J. FINN
Assistant Inspector General
for Auditing

Introduction

Purpose

The purpose of the audit was to determine the validity of the allegations of contract irregularities and use of expired funds in violation of appropriations law at the VABHS. An anonymous complainant alleged the Chief of Fiscal Service “hid funds” and when it was time to turn them back in to VA Central Office he notified other service chiefs that he had found funds that needed to be spent within a specific amount of time. The complainant alleged that with the help of the Chief of the Purchasing and Contracting Section, the Chief of Fiscal Service opened completed contracts,¹ solicited the vendors who were associated with the completed contracts, and executed contract modifications² that were outside the scope of the original contracts. The complainant submitted a list of 24 purchase orders³ that allegedly had improper modifications associated with them.

We categorized the allegations into three issues: (1) were contract modifications within the scope of the original contracts, (2) was the funding of the contract modifications in accordance with appropriations law, and (3) did contract modifications comply with the FAR.

Background

The VABHS is the largest consolidated facility in VISN 1, and includes three main campuses and six community-based outpatient clinics located within a 40-mile radius of the greater Boston area. The consolidated facility consists of the Jamaica Plain, West Roxbury, and Brockton campuses. The Chiefs of Fiscal Service and the Purchasing and Contracting Section, both named in the complainant’s letter, are located at the Jamaica Plain campus of the VABHS.

The Chief of the Purchasing and Contracting Section is responsible for planning, organizing, and supervising the procurement program for the VABHS. The Chief of the Purchasing and Contracting Section has a senior level warrant that allows her to enter into, administer, or terminate contracts, and make related determinations and findings. VA’s Procurement Executive, the Deputy Assistant Secretary for Acquisition and

¹ The complainant used the term “completed obligation.” We determined that the term “completed contract” was technically a more correct term to use.

² Contract modifications include change orders and supplemental agreements. A change order is a unilateral modification issued and signed by the CO and a supplemental agreement is a bilateral modification that is signed by the contractor and CO. Modifications to a contract affect the interests, rights, and obligations of two independent parties, the U.S. Government and the contractor. The responsibility of the CO is to preserve the integrity of the relationship between the two parties.

³ The complainant’s letter indicated the 24 transactions were “purchase orders.” However, throughout this report we refer to the 24 purchase orders as contracts. A contract involves a mutually binding legal relationship that obligates the seller to furnish supplies or services (including construction) and the buyer to pay for them. Contracts include purchase orders under which the contract becomes effective by written acceptance or performance.

Materiel Management, is responsible for appointing and terminating senior level warrants.

The Chief of Fiscal Service is responsible for establishing and maintaining effective financial controls over VABHS operations. The Chief of Fiscal Service is also responsible for administering a fund control system to ensure that management obtains maximum benefits from resources without sacrificing efficiency or violating rules or regulations.

Appropriations Law. Each fiscal year, Congress appropriates funds for VA's Medical Care appropriation to carry on VA's medical care operations. Annual appropriations are made for a specified fiscal year and are available for obligation only during the fiscal year for which they are made. United States (U.S.) Code, Title 31, Section 1502, provides that the balance of an appropriation is available only for payment of expenses properly incurred during the period of availability, or to complete contracts properly made within that period of availability. Additionally, the Government Accountability Office's (GAO's) "*Principles of Federal Appropriations Law*"⁴ states that if an agency does not obligate its annual funds by the end of the fiscal year for which they were appropriated, they cease to be available for incurring and recording new obligations and are said to have "expired." Expired funds are the residual, unobligated funds remaining in an appropriation account after the end of the fiscal year. The funds are cancelled 5 years after the end of the initial appropriation year and returned to the general fund of the U.S. Treasury Department.

U.S. Code, Title 31, Section 1108, requires agencies to record obligations properly and certify to the accuracy of the obligations in their budget submissions to the President and Congress. This requires agencies to charge expenditures to the correct appropriations.

The issue pertinent to the allegation of the use of expired funds is the "availability" of appropriations. If funds are not "legally available" for obligation or expenditure, then they cannot be legally spent. Furthermore, whether appropriated funds are legally available depends on each of the following three conditions being met.

- The purpose of the obligation or expenditure must be authorized.
- The obligation must occur within the time limits applicable to the appropriation.
- The obligation and expenditure must be within the amounts Congress has established.

When modifications are made to contracts and the use of expired funds is being considered, it is the CO's responsibility to determine whether the change that requires additional obligation authority is within the scope of the original contract and whether it may be charged to an expired appropriation. If the change exceeds the general scope of

⁴ GAO Publication Number GAO-04-261SP, Third Edition, Volume 1, January 2004.

the original contract, it is considered a new obligation and is chargeable to funds current at the time the modification was made.

Non-Recurring Maintenance Program. Veterans Health Administration (VHA) policy⁵ establishes that an NRM program's primary objective is to maintain the safe, effective, and efficient function of VHA infrastructure. An NRM project may provide for replacement and repair of major building systems; structural components of buildings, building service equipment, maintenance and repair of roads, grounds, and structures; and site preparation necessary to support installation of replacement medical equipment. Funding for the program is included within a medical facility's component of VA's Medical Care appropriation. The VISN Director is responsible for managing the VISN NRM program in a manner that achieves obligation of funds within planned fiscal years and results in funding and program integrity, including approving projects required for inclusion in the national NRM operating plan. The Healthcare System Director, or designee, is responsible for reviewing projects recommended by facility managers; ensuring that NRM funds are not obligated without documentation of specific budget, scope of work, and proper authorization; and ensuring that NRM projects are submitted for funding consideration using the VISN Support Service Center (VSSC) Capital Asset Database.⁶

If a facility intends to use expired funds for NRM work, the Chief of Fiscal Service is responsible for verifying that the expired funds are available and for submitting a request for use of expired funds to the VISN Chief Financial Officer (CFO) for approval or processing through the VHA CFO.

Scope and Methodology

We assessed compliance with appropriations law, the FAR, VA Acquisition Regulations (VAAR), and VHA policies and procedures. We conducted our audit work from June through September 2006.

The Chief of the Purchasing and Contracting Section provided us with documents associated with the 24 contracts identified by the complainant. The contract dates ranged from fiscal years (FYs) 2000 through 2003. We identified 40 associated contract modifications that were executed during FYs 2002 through 2006. All 40 modifications involved NRM work for the VABHS. We assessed whether these modifications were within the scope of the original contracts; whether their funding was in accordance with appropriations law contained in U.S. Code; and whether the modifications were in compliance with the FAR, the VAAR, and VHA policies and procedures. In addition, we interviewed VABHS Fiscal Service, Engineering Service, and Acquisition and Materiel

⁵ VHA Directive 1002.1, "Non-Recurring Maintenance Program," September 14, 2005.

⁶ The VSSC Capital Asset Database is used to enter NRM project applications and monthly project tracking reports.

Management (A&MMS) personnel and held discussions with the VISN 1 Chief Logistics Officer, Network Contract Manager, and VISN 1 CFO.

Our review of the contracts and modifications was limited in scope; however, noncompliance with acquisition regulations was evident and notable contract administration deficiencies are cited in the body of the report. Our audit focused on contract regulations and appropriations law that included the authority to modify contracts and the use of expired funds. We also evaluated FAR and VAAR requirements relating to contract documentation, competition, market research, price analyses, PNMs, independent Government estimates, and legal reviews.

Our assessment of internal controls focused only on those controls related to our audit objective of determining whether the allegations were valid and was not intended to form an opinion on the adequacy of internal controls overall; therefore, we do not render such an opinion. However, we do report on the circumvention of financial and acquisition controls that resulted in the use of expired funds in violation of appropriations law. The audit was conducted in accordance with Generally Accepted Government Auditing Standards.

Results and Conclusions

Our audit substantiated the complainant's allegations of contract irregularities and use of expired funds in violation of appropriations law. The Chief of the Purchasing and Contracting Section and four other COs executed contract modifications outside the scope of the original contracts, and the Chief of Fiscal Service allowed the obligation of \$5.4 million in expired funds in violation of appropriations law.

The VISN 1 Director should take appropriate administrative actions against the Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service. Also, the Director needs to ensure that contract actions at the VABHS comply with acquisition regulations, strengthen oversight controls and procedures to ensure that appropriated funds are legally spent, and ensure corrective accounting adjustments are made. Furthermore, the Director should initiate an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds in violation of appropriations law and hold responsible VABHS employees accountable for their actions.

The Deputy Assistant Secretary for Acquisition and Materiel Management should determine whether the warrant authority for the VABHS Chief of the Purchasing and Contracting Section should be revoked.

Issue 1: Were Contract Modifications within the Scope of the Original Contracts?

The Chief of the Purchasing and Contracting Section, and four other COs, exceeded their authority by executing contract modifications outside the scope of the original contracts. Forty modifications associated with the 24 contracts were executed during FYs 2002 through 2006. The modifications were valued at \$5.5 million and involved NRM projects. We considered work to be outside the scope of the original contract if the modification: (1) was executed against an expired contract,⁷ (2) was unrelated to the original contract, or (3) expanded the scope of the original contract.

We determined that 37 (93 percent) of the 40 modifications, executed with 16 vendors, were outside the scope of the original contracts. The Chief of the Purchasing and Contracting Section executed 26 (70 percent) of the 37 contract modifications and 4 other COs executed the remaining 11 modifications. The total value of the 37 modifications was \$5.4 million. The Chief of the Purchasing and Contracting Section was responsible for \$3.5 million of the \$5.4 million, and the remaining \$1.9 million was associated with

⁷ An expired contract means that the seller has furnished the supplies or services (including construction) and the buyer has paid for them.

the other four COs. (See Appendix A, pages 13–16, for additional details concerning modifications outside the scope of the original contracts.)

The following examples illustrate modifications outside the scope of the original contracts. Six of the seven modifications represented new procurements. The first example shows modifications that were unrelated to the original contract. The second example shows modifications that expanded the scope of the original contract in terms of timing and location of work, which were two key factors we considered in making scope determinations.

Example 1. On September 30, 2002, a purchase order (Number C23911) was issued for \$16,000 to repair asphalt roadways at the West Roxbury campus. The work was completed on October 5, 2003, and final payment was made on November 20, 2003. In 2003 and 2004, three modifications outside the scope of the original contract were executed with the same vendor. The modifications totaled \$997,867 and included:

- Repair of parking lot lights for \$102,367; modification issued on August 12, 2003.
- Replacement of emergency electrical panels for \$487,000; modification issued on March 22, 2004.
- Replacement of emergency generator for \$408,500; modification issued on March 22, 2004.

The Chief of the Purchasing and Contracting Section was responsible for executing all three of the improper modifications.

Example 2. On September 16, 2001, a purchase order (Number 1C3512) was issued for \$67,632 against a General Services Administration Federal Supply Schedule contract. The scope of the work was limited to roofing work at Building 62 at the Brockton campus. During 2002 through 2004, four modifications were issued for additional work. The first modification, dated August 12, 2002, to repair unforeseen damage to roof joists and decking at Building 62, was within the scope of the original contract. The work was completed on September 1, 2002, and final payment was made on October 28, 2002. The remaining three modifications, with a combined obligation amount of \$1,433,810, were outside the scope of the original contract and are described below:

- Replacement of roofs at Buildings 3 and 61 at the Brockton campus for \$149,628; modification issued on August 12, 2003.
- Replacement of roofs at Buildings 1 and 3 at the Brockton campus for \$325,305; modification issued on March 5, 2004.
- Replacement of roofs at Buildings 3, 44, and 51 and façade restoration, and window and roof replacement at Building 40 at the Brockton campus for \$958,877; modification issued on March 18, 2004.

The Chief of the Purchasing and Contracting Section was responsible for executing the modification valued at \$149,628. Another CO was responsible for executing the other two modifications valued at \$1,284,182.

VABHS Did Not Request Required Legal Reviews

In accordance with the VAAR,⁸ COs are required to obtain legal concurrence from the VA General Counsel before executing contract modifications exceeding \$100,000. When submitting a modification for review, the CO is required to send a statement of whether the modification is within the original scope of the contract; setting forth fully the facts considered in reaching the conclusion.

We determined that 17 of the 37 modifications outside the scope of the original contracts were valued over \$100,000. The COs did not receive legal concurrence from General Counsel for any of the 17 modifications that exceeded \$100,000. These modifications were valued at \$4.4 million. Compliance with the VAAR could have prevented the COs from executing 17 of the 37 improper modifications.

Conclusion

We determined that 37 of the 40 modifications, valued at \$5.4 million, were outside the scope of the original contracts. The Chief of the Purchasing and Contracting Section and 4 other COs were responsible for executing the 37 improper modifications. Also, 17 of the 37 improper modifications valued above \$100,000 did not receive required legal reviews.

Issue 2: Was the Funding of Contract Modifications in Accordance with Appropriations Law?

The Chiefs of Fiscal Service and the Purchasing and Contracting Section violated U.S. Code, Title 31, Section 1502, by using expired funds that were not legally available to pay for work performed under modifications that were outside the scope of the original contracts. The modifications represented new procurements. These individuals, along with Engineering Service personnel, did not comply with VHA and VISN policies that could have prevented the use of expired funds in violation of appropriations law. As a result, expenditures of \$5.4 million in expired funds were in violation of appropriations law.

⁸ VAAR 801.602-70, "Legal/technical review requirements to be met prior to contract execution," Section (b) (1). The regulation references a deviation, issued March 8, 1994, that increased the dollar threshold from \$25,000 to \$100,000 for modifications that require concurrence from the VA General Counsel.

VABHS Officials Used Expired Funds to Pay for the Out-of-Scope Work

The Chiefs of Fiscal Service and the Purchasing and Contracting Section, and Engineering Service personnel collaborated and violated appropriations law by using expired funds to pay for new procurements. The Chief of Fiscal Service reportedly informed the Chief of Engineering Service, who maintained a list of NRM work needing completion, that funds were available from prior year appropriations. Engineering Service personnel identified vendors who had previously performed work at the VABHS during the appropriation years of the expired funds to complete the NRM work. Engineering Service personnel then provided the names of those vendors and relevant purchase order numbers to the Chief of the Purchasing and Contracting Section. COs used that information to inappropriately execute 37 contract modifications that were outside the scope of the original contracts. These modifications represented new procurements that should have been paid for with current year funds. The Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service violated appropriations law by using expired funds to pay for the new procurements. The Chief of the Purchasing and Contracting Section also stated that the practice of using expired funds for modifications outside the scope of original contracts had been going on since 1999 and continued until May 2006, when VISN 1 officials were informed of the complaint to our Hotline Division.

The VABHS violated appropriations law by using funds that were not legally available. U.S. Code, Title 31, Section 1502, known as the “bona fide needs statute,” provides that the balance of an appropriation is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period. The NRM work associated with the 37 modifications did not represent bona fide needs consistent with the expired appropriations used to fund the new procurements.

U.S. Code, Title 31, Section 1108, requires agencies to record obligations properly and certify to the accuracy of the obligations in their budget submissions to the President and Congress. The 37 modifications were funded with expired appropriations. They should have been funded with the current appropriation at the time of the procurements. The VISN 1 Director needs to ensure necessary accounting adjustments are made to correctly record the funding of the improper contract modifications. (See Appendix B, page 17, for additional information regarding the necessary accounting adjustments.)

VABHS Did Not Comply with NRM Approval Process

Engineering Service personnel did not input NRM project submissions into the VSSC Capital Asset database. VA policy states the Healthcare System Director, or designee, is responsible for reviewing projects recommended by facility managers; ensuring that NRM funds are not obligated without documentation of specific budget, scope of work, and proper authorization; and ensuring that NRM projects are submitted for funding

consideration using the VSSC Capital Asset Database. Submissions are reviewed by the Network Facility Manager Group, which prioritizes them based on network priorities and funding allocations. The Network Resource Board is consulted by the Networks Facility Manager Group to verify funding allocation and availability. The prioritized list is then submitted to the Executive Leadership Committee, which reviews it and makes recommendations to the VISN Director for approval. Once approved, the Network CFO distributes funds for the NRM projects. If the approval process had been followed, the violations of appropriations law may have been prevented.

VABHS Used Expired Funds without Approval

The VABHS Chief of Fiscal Service did not obtain approval from the VA Expired Funds Manager to use expired funds. Before using expired funds, VABHS fiscal personnel are required to send an e-mail to the Expired Funds Manager at VA Central Office, with a courtesy copy to the VISN 1 CFO and Capital Asset Manager. Furthermore, the Chief of Fiscal Service is required to submit a request to use expired funds to the VISN 1 CFO for approval. The request needs to include a justification for the change and the CO's certification that a contract modification is within the scope of the original contract.

Conclusion

We concluded that the Chiefs of Fiscal Service and the Purchasing and Contracting Section violated appropriations law when they used expired funds to pay for new procurements. Also, Engineering Service personnel did not submit NRM projects associated with the modifications for funding consideration through the VSSC Capital Asset Database. Had established approval and process procedures been followed, the facility may have been prevented from obligating expired funds totaling \$5.4 million in violation of appropriations law.

Although we did not find evidence that VABHS employees personally benefited from the use of expired funds, conditions existed that increased the risk for fraud, waste, and/or abuse. An administrative investigation of the facts surrounding the use of expired funds in violation of appropriations law needs to be conducted to hold responsible personnel accountable for their actions. Also, the investigation should determine the source of the funds used to fund the contract modifications and how the facility was able to use these funds without the knowledge of VISN 1 officials.

Furthermore, because of evidence of misconduct concerning the intentional use of expired funds in violation of appropriations law, the Deputy Assistant Secretary for Acquisition and Materiel Management should determine whether the warrant authority for the VABHS Chief of the Purchasing and Contracting Section should be revoked. According to the VAAR, the Deputy Assistant Secretary for Acquisition and Materiel Management may revoke the appointment of a CO at any time based on causes such as

unsatisfactory performance and official misconduct pending a criminal or administrative investigation.

Issue 3: Did Contract Modifications Comply with the FAR?

The Chief of the Purchasing and Contracting Section did not meet her responsibilities to ensure efficient and effective contracting and safeguard the interests of the Government in contractual relationships. COs did not ensure competition requirements were met and made no assurances that prices paid for goods and services were fair and reasonable. Also, the Chief of the Purchasing and Contracting Section could not explain why COs did not maintain required contract documentation.

VABHS Did Not Promote Competition or Ensure Price Reasonableness

The 37 modifications outside the scope of original contracts represented new procurements subject to competition requirements set forth in the FAR and the *Competition and Contracting Act*.⁹ To promote competition for these new procurements, COs should have conducted market research to identify alternate vendors capable of providing goods and services. By not conducting market research and seeking competition to the extent required, VABHS did not ensure that they received the best available prices.

The Chief of the Purchasing and Contracting Section and the 4 other COs did not make determinations of price reasonableness for any of the 37 modifications, as required by the FAR.¹⁰ COs accepted contractor proposed prices without conducting price analyses.¹¹ Price analysis is the process of evaluating a proposed price, such as a comparison to an independent Government estimate. An estimate is needed to develop a negotiation position that permits the CO and offeror an opportunity to reach agreement on a fair and reasonable price. Engineering Service personnel were responsible for preparing estimates for the 37 modifications.

COs did not prepare PNMs for the 37 modifications. A PNM documents the principal elements of the negotiated agreement such as the purpose of the negotiation, description of the acquisition, name and position of each person representing the contractor and Government, summary of the contractor's proposal, and a determination that the negotiated price is fair and reasonable.

⁹ The *Competition in Contracting Act of 1984*, Public Law 98-369, requires (with limited exceptions) that COs promote and provide for full and open competition in soliciting offers and awarding U.S. Government contracts over the simplified acquisition threshold.

¹⁰ FAR 15.402 – COs must purchase supplies and services at fair and reasonable prices.

¹¹ FAR 15.404 – The CO is responsible for evaluating the offered price. Analytical techniques and procedures are used to ensure that the final price is fair and reasonable. Price analysis is conducted to provide assurance that negotiated prices are fair and reasonable.

VABHS Did Not Maintain Required Contract Documentation

The Chief of the Purchasing and Contracting Section did not ensure that COs obtained, prepared, and maintained required contract documentation for the modifications identified in this audit. Contract documentation should be kept 6 years and 3 months after final payment and then destroyed. Contract files should include documentation sufficient to constitute a complete history of a transaction for the purpose of providing a complete background as a basis for informed decisions at each step of the acquisition process, supporting actions taken, and providing information for reviews and investigations.

Contract files were missing key contract documents. For example, the files did not include statements of work (SOWs) for the six modifications (value = \$2.4 million), that represented new procurements, which were identified in the two examples cited under Issue 1. The SOW describes the work to be performed or the services to be rendered, defines the respective responsibilities of the Government and the contractor, and provides an objective measure so the Government and the contractor will know when the work is complete and payment is justified.

Conclusion

To facilitate and expedite the use of expired funds, COs did not seek competition and conduct market research as required. Furthermore, COs did not make determinations of price reasonableness for contract modifications, and did not ensure that contract documentation was properly maintained.

Recommendations

Recommendation 1. We recommended the VISN 1 Director establish oversight controls to ensure that contract modifications are within scope of original contracts and required legal reviews are conducted.

Recommendation 2. We recommended the VISN 1 Director establish and implement procedures to improve oversight of the use of expired funds and prevent future violations of appropriations law.

Recommendation 3. We recommended the VISN 1 Director establish and implement procedures to strengthen management controls over the reporting and approval process concerning NRM projects.

Recommendation 4. We recommended the VISN 1 Director take appropriate administrative actions against the Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service.

Recommendation 5. We recommended the VISN 1 Director initiate an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds in violation of appropriations law and take actions, if warranted, against other VABHS employees involved with the issues identified in this audit.

Recommendation 6. We recommended the VISN 1 Director ensure necessary accounting adjustments are made to correctly record the funding of the improper contract modifications.

Recommendation 7. We recommended the VISN 1 Director establish and implement procedures concerning contract administration to ensure that competition is sought, prices are fair and reasonable, and contract files include required documentation.

Recommendation 8. We recommended the Deputy Assistant Secretary for Acquisition and Materiel Management determine whether the warrant authority for the VABHS Chief of the Purchasing and Contracting Section should be revoked.

The VISN 1 Director agreed with the findings and seven recommendations addressed to her. She reported the VISN has developed and issued standard operating procedures and policy guidance to improve management controls over the execution of contract modifications, use of expired funds, and the approval of NRM projects. Additionally, several acquisition policies and guidance letters designed to ensure that competition is sought, prices are fair and reasonable, and contract files include required documentation have been issued. She also reported that accounting adjustments to correctly record the funding of improper contract modifications were made by VABHS accounting staff. Accordingly, we consider recommendations 1, 2, 3, 6, and 7 closed.

The VISN 1 Director reported that an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds will be conducted, and appropriate administrative actions will be taken based on the results of the investigation. We will follow up on the implementation of planned improvement actions in response to recommendations 4 and 5 until they are complete.

The Deputy Assistant Secretary for Acquisition and Materiel Management agreed with the recommendation addressed to him. He reported that he would suspend the VABHS Chief of the Purchasing and Contracting Section's warrant authority and take further action based on the results of the administrative investigation planned by the VISN 1 Director. We will follow up on the implementation of planned improvement actions in response to recommendation 8 until they are complete.

Determination of Whether Modifications Were Outside the Scope of the Original Contracts

Details on the contracts and related modifications reviewed, in response to the Hotline complaint, follow:

Purchase Order	Findings
C08009	<ul style="list-style-type: none"> Original purchase order (PO) date was 10/1/99 for \$35,280 for a full-service contract for the VABHS "Energy Management Systems" for the period of 10/1/99 – 9/30/00. Mod¹² 1 date was 9/16/03 for \$75,974 to repair energy controls. The original contract expired before the mod date. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
C03257	N/A – No mods to the original contract.
C03541	<ul style="list-style-type: none"> Original PO date was 9/15/00 for \$148,571 for nursing medical rooms' security required by the Joint Commission on Accreditation of Healthcare Organizations. The original PO says that the work was to be delivered on or before 9/30/00. Mod 1 date was 8/11/03 for \$211,493 to secure perimeter doors. The original contract expired before the mod date. The mod was for a separate project. Mod 2 date was 8/20/03 for \$277,207 to secure perimeter doors. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
C03571	<ul style="list-style-type: none"> Original PO date was 9/26/00 for \$128,929 for electrical testing of the distribution systems at Jamaica Plain (JP), West Roxbury (WR), and Brockton (BR) in accordance with International Electrical Testing Association Maintenance Electrical Testing standards. Mod 1 date was 8/12/03 for \$73,750 to replace the existing motor control center. The original contract should have expired before the mod date.¹³ The mod was for a separate project. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
C18076	<ul style="list-style-type: none"> Original PO date was 1/1/01 for \$178,407 for 9 months of elevator maintenance at JP. The contract expired 9/30/01. Mod 1 date was 8/12/03 for \$64,497 to replace existing controls in machine room and controls with fire service. The original contract expired before the mod date. The mod was for a separate project. Mod 2 date was 12/2/05 for \$11,557 to replace main operating panel in elevator car. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
1C3370	<ul style="list-style-type: none"> Original PO date was 6/20/01 for \$6,507 to replace A/C compressors. Mod 1 date was 7/2/03 for \$26,950 to provide all material parts and labor to install a 20-ton York air handling unit with steam coil. The original contract should have expired before the mod date. The mod was for a separate project. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
1C3513	<ul style="list-style-type: none"> Original PO date was 9/1/01 for \$9,438 to install exterior door at Building 8 at BR. Mod 1 date was 8/12/03 for \$73,203 to replace doors at Building 4 and 5 at BR. The original contract should have expired before the mod date. The mod was for a separate project at a different building. Mod 2 date was 2/26/04 for \$95,159 to replace 17 doors and install a chemical storage shed. The original contract should have expired before the mod date. The mod was for a separate project at a different building.

¹² Mod = Modification

¹³ We concluded that contracts "should have" expired when lack of documentation led us to make a reasonable determination that performance had been rendered prior to executing the modification.

Appendix A

	<ul style="list-style-type: none"> • Mod 3 date was 6/14/05 for \$18,403 to replace two pressure regulating valves at BR. The original contract should have expired before the mod date. The mod was for a separate project. • Mod 4 date was 6/24/05 for \$96,500 to install concrete pad and install butler. The original contract should have expired before the mod date. The mod was for separate projects at separate buildings. <p>Conclusion: Mods 1, 2, 3, and 4 were outside the scope and should have been completed as new procurements.</p>
1C3512	<ul style="list-style-type: none"> • Original PO was dated 9/16/01 for \$67,632 for a roofing system of 3,380 square feet at Building 62 at BR. The work was to be delivered on or before 8/30/02. • Mod 1 date was 8/12/02 for \$54,372 for damage to joists and decking at Building 62 at BR. The mod was within the scope of the original contract. • Mod 2 date was 8/12/03 for \$149,628 to replace roofs at Buildings 3 and 61 at BR. The original contract expired before the mod date. The mod was for separate projects at different buildings. • Mod 3 date was 3/5/04 for \$325,305 for roof work at Buildings 1 and 3 at BR. The original contract expired before the mod date. The work was for separate projects at different buildings. • Mod 4 date was 3/18/04 for \$958,877 for roof, façade, and window replacement at Building 40 and replacement of roofs at Buildings 3, 44, and 51 at BR. The original contract expired before the mod date. The work was for separate projects at different buildings. <p>Conclusion: Mods 2, 3, and 4 were outside the scope and should have been completed as new procurements.</p>
C13599	<ul style="list-style-type: none"> • Original PO date was 9/27/01 for \$50,000 to provide cooling to computer room at JP. Work was to be delivered on or before 11/26/01. • Mod 1 date was 8/11/03 for \$109,250 to replace air conditioning unit for animal care unit at JP. The original contract expired before the mod date. The mod was for a separate project at a different building. • Mod 2 date was 3/18/04 for \$219,426 to provide a transfer switch and new raised floor for the Information Resource Management computer room. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
C13638	<ul style="list-style-type: none"> • Original PO date was 9/30/01 for \$107,000 to install replacement cart wash at WR. The work was to be delivered on or before 3/31/02. • Mod 1 date was 8/12/03 for \$84,157 to install a replacement cart wash at BR. The original contract expired before the mod date. The mod was for a separate project at a different location. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
C13647	<ul style="list-style-type: none"> • Original PO date was 9/30/01 for \$17,037 to provide supplies for flow meter, seals, gasket circulators, and flange kits at BR. The work was to be delivered on or before 2/22/02. • Mod 1 date was 8/12/03 for \$96,121 to provide and install 12 hot water heaters. The original contract expired before the mod. The mod was for a separate project. • Mod 2 date was 2/26/04 for \$10,555 to provide pump strainers and to foot and check valves for water pumps. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
C13621	<ul style="list-style-type: none"> • Original PO date was 9/30/01 for \$125,000 to replace chilled water line at Building 1 at JP. The contract was to be completed by 1/30/02. • Mod 1 date was 8/12/03 for \$135,446 to extend chilled water system from Building 1 to 1A at JP. The original contract expired before the mod date. The mod was for a separate project at a different building. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
C13676	<ul style="list-style-type: none"> • Original PO date was 9/30/01 for \$63,708 to repair compressor on McQuay chiller at Building 3 at WR. The work was to be delivered on or before 7/3/02. • Mod 1 date was 8/20/03 for \$35,591 to repair chiller and update refrigerants on McQuay chiller. The original contract should have expired before the mod date. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
1C3514	<ul style="list-style-type: none"> • Original PO date was 9/30/01 for \$25,000 to repair chiller #1 at Building 2 at WR. • Mod 1 date was 7/20/03 for \$29,814 for removal and replacement of refrigerant compressor at Building 7 at BR. The original contract should have expired before the mod date. The mod was for a separate project at a different location. • Mod 2 date was 8/12/03 for \$157,750 for turnkey installation of replacement water tower at

Appendix A

	<p>Building 3 at WR. The original contract should have expired before the mod date. The mod was for a separate project at a different location.</p> <ul style="list-style-type: none"> • Mod 3 date was 3/22/04 for \$137,425 to install new Trane 6.5 ton air handling unit at WR, provide and install direct digital controls for air handling unit at WR, and remove and replace refrigerant compressor at Building 2 at BR. The original contract should have expired before the mod date. The mod was for separate project at a different location. <p>Conclusion: Mods 1, 2, and 3, were outside the scope and should have been completed as new procurements.</p>
1C3625	<ul style="list-style-type: none"> • N/A – No mods to the original contract.
C23863	<ul style="list-style-type: none"> • Original PO date was 9/23/02 for \$38,600 to install nurse call system at WR. The work was to be delivered on or before 9/30/02. • Mod 1 date was 8/12/03 for \$61,696 to install nurse call systems on 3rd floor and medical intensive care unit at WR. The original contract expired before the mod date. The work was for a separate project. <p>Conclusion: The modification was outside the scope and should have been completed as a new procurement.</p>
C23868	<ul style="list-style-type: none"> • Original PO date was 9/25/02 for \$45,224 to replace roof over clinical engineering at WR. • Mod 1 date was 12/10/02 for \$2,529 for an unforeseen need. The mod was within the scope of the original contract. • Mod 2 date was 3/22/04 for \$264,329 for facade restoration, window replacement, and roof removal and replacement at Building 8 at WR. The original contract should have expired before the mod date. The mod was for a separate project. <p>Conclusion: Mod 2 was outside the scope and should have been completed as a new procurement.</p>
C23889	<ul style="list-style-type: none"> • Original PO date was 9/26/02 for \$108,986 to replace roof over magnetic resonance imaging (MRI) area at WR. The work was to be delivered on or before 9/30/02. • Mod 1 date was 8/12/03 for \$241,690 to replace roof at Building 1A at JP. The original contract expired before the mod date. The mod was for a separate project at a separate location. • Mod 2 date was 7/22/04 for \$3,271 to remove membrane. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
C23911	<ul style="list-style-type: none"> • Original PO date was 9/30/02 for \$16,000 to repair asphalt roadways at WR. The work was to be delivered on or before 11/24/02. • Mod 1 date was 8/12/03 for \$102,367 to repair parking lights at WR. The original contract expired before the mod date. The mod was for a separate project. • Mod 2 date was 3/22/04 for \$487,000 to replace emergency electrical panels at Building 2 at WR. The original contract expired before the mod date. The mod was for a separate project. • Mod 3 date was 3/22/04 for \$408,500 to replace emergency generator at WR. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 1, 2, and 3 were outside the scope and should have been completed as new procurements.</p>
C23910	<ul style="list-style-type: none"> • Original PO date was 9/30/02 for \$44,500 to repair entrance roadway at WR. • Mod 1 date was 7/13/04 for \$55,310 to replace filtration system for laundry building at BR. The original contract should have expired before the mod date. The mod was for a separate project. <p>Conclusion: The mod was outside the scope and should have been completed as a new procurement.</p>
C23905	<ul style="list-style-type: none"> • Original PO date was 9/30/02 for \$30,562 to replace medical compressor and alarm system at Building 8 at JP. The work was to be delivered on or before 10/10/02. • Mod 1 date was 7/31/03 for \$58,460 to upgrade air system, alarm system at Building 8, and compressed air system for dental lab. Upgrades at Building 8 were completed to comply with Joint Committee on Accreditation of Healthcare Organizations and National Fire Protection Association requirements and were within the scope. The portion of the mod related to the dental lab was unrelated to the scope of the original contract. The work was for a separate project at a different location. The dental lab work accounted for \$39,551 of the \$58,460. <p>Conclusion: The mod was partially outside the scope. The work related to the dental lab should have been completed as a new procurement.</p>
C23914	<ul style="list-style-type: none"> • Original PO date was 9/30/02 for \$61,781 to replace 1,975 square foot roof at Building 1B at JP. • Mod 1 date was 8/12/03 for \$138,561 to replace 4,650 square foot roof at Building 4 at JP. The original contract should have expired before the mod date. The mod was for a separate project at a different building. • Mod 2 date was 7/12/04 for \$3,272 to remove waterproof membrane at Building 4 in JP. The

Appendix A

	<p>original contract should have expired before the mod date. The mod was for a separate project at a different building.</p> <p>Conclusion: Mods 1 and 2 were outside the scope and should have been completed as new procurements.</p>
C28025	<ul style="list-style-type: none"> • Original PO date was 10/1/01 for \$5,808 for an uninterruptible power supply (UPS) full service contract. The coverage period of the contract was from 10/1/01 through 9/30/02. • Mod 1 date was 9/10/02 for \$11,508 to replace failed batteries. The mod was within the scope of the original contract. • Mod 2 date was 3/16/04 for \$12,390 for MRI UPS batteries. The original contract expired before the mod date. The mod was for a separate project. • Mod 3 date was 3/18/04 for \$104,423 to add UPS. The original contract expired before the mod date. The mod was for a separate project. <p>Conclusion: Mods 2 and 3 were outside the scope and should have been completed as new procurements.</p>
C33757	<ul style="list-style-type: none"> • N/A – No mods to the original contract.

Charges to Expired Appropriations in Violation of Appropriations Law

The 37 modifications outside the scope of the original contracts were obligated during FYs 2003 through 2006, but were improperly charged against the appropriation year of the original contracts, which were dated from FYs 2000 through 2002. Table 1 shows the fiscal year appropriations associated with the original contracts that the modifications were obligated against.

Table 1

Fiscal Year Appropriation	Number of Modifications Improperly Charged to Expired Appropriations	Total Amount Improperly Charged to Expired Appropriations
2000	4	\$ 638,424
2001	20	2,835,614
2002	13	1,922,360
Total	37	\$5,396,398

The modifications should have been competed as new procurements. New procurements would have been properly chargeable to the current appropriation at the time of the acquisition. Table 2 shows the fiscal year appropriations that the new procurements should have been obligated against.

Table 2

Fiscal Year Appropriation	Number of Modifications Adjusted to Correct FY Appropriations	Total Amount of Adjustments Needed to Correct FY Appropriations
2003	20	\$2,184,696
2004	14	3,085,242
2005	2	114,903
2006	1	11,557
Total	37	\$5,396,398

VISN 1 Director Comments

Department of Veterans Affairs

Memorandum

Date: May 18, 2007

From: Director, VISN 1 (10N1)

Subject: **Audit of Alleged Mismanagement of Government Funds at VA Boston Healthcare System**

To: Assistant Inspector General for Auditing (52)

Please find responses and actions for VISN 1 to the *Audit of Alleged Mismanagement of Government Funds at the VA Boston Healthcare System* by the Office of the Inspector General. VISN 1 appreciates the professional and constructive approach exhibited by the team and the opportunity to work with the Office of Inspector General.

You will find we have concurred with all of the recommendations and findings, and have provided specific corrective actions that have been implemented and/or will be implemented within a specified time frame.

Should you have any questions or concerns, please contact Allan Shirks, MD, VISN 1 Quality Management Officer, at 781 687 4850.

(original signed by:)

Jeannette A. Chirico-Post, M.D.

VISN 1 Director Comments to Office of Inspector General's Report

The following Director's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

Recommendation 1. We recommend the VISN 1 Director establish oversight controls to ensure that contract modifications are within scope of original contracts and required legal reviews are conducted.

VISN 1 Response: Concur. The Chief Logistics Officer (CLO), Chief Financial Officer (CFO), Network Contract Manager (NCM), and Financial Quality Assurance Manager (FQAM) have developed VISN 1 Standard Operating Procedure (SOP) Number 2006-03 issued on September 7, 2006, in part to develop oversight controls to ensure that contract modifications executed with prior year funds are within scope of the original contract. The SOP is entitled, "*Processing of Funding for Non-Recurring Maintenance (NRM) Contracts and Purchase Orders and Associated Modifications.*" All VISN 1 acquisition and financial SOPs can be found on the Financial and Acquisition Team (FAT) SharePoint website for easy access by all personnel.

The SOP requires that all modifications to be executed with prior year funds, regardless of dollar amount, be approved at one level above the contracting officer (CO) responsible for the action. The contract file shall contain a written justification that the modification is within scope of the original contract and therefore constitutes a *bona fide* need of the prior fiscal year.

In addition, all modifications to be executed with prior year funding shall be approved by the VISN 1 CFO. An email request for approval must be sent to the CLO with the following information: the amount required, a brief explanation of the additional work, and a statement that the work has been determined by both the CO and a contracting official one level above the CO to be within scope of the original contract. In addition, the FQAM monitors the General Ledger Account 4560, Suballotment Available for Distribution.

All modifications exceeding \$100,000 are required to undergo a legal review prior to execution. The NCM reminded all COs by email on September 28, 2006, of the various thresholds for legal reviews and provided a VHA Office of Acquisition and Materiel Management (OA&MM) table delineating the review requirements by contract type. A copy of this table was also placed on the FAT SharePoint website for easy access by all COs.

We recommend that this Recommendation be closed.

Recommendation 2. We recommend the VISN 1 Director establish and implement procedures to improve oversight of the use of expired funds and prevent future violations of appropriations law.

VISN 1 Response: Concur. On May 16, 2006, the NCM issued policy guidance to all COs on appropriations law as it pertains to the use of prior year funds. COs were put on notice that they could not use prior year funds in the current fiscal year to award a new requirement. Also, when modifying a contract awarded in a prior fiscal year, the modification had to be within scope of the original contract and executed with funding from the same year. The NCM included excerpts from the GAO Appropriations Law Book supporting his guidance as well as a hyperlink to the book itself.

COs were further advised to seek additional support from their supervisors or the NCM if they were unsure of what type of funding was required to execute a specific modification. In addition, COs were notified that the practice of placing money on a VA Form (VAF) 1358 (*Use of Miscellaneous Obligation*) for use in a subsequent fiscal year to fund new work, either under an existing contract or as a separate award, was a violation of appropriations law.

All three volumes of the GAO Appropriations Law Book, as well as the NCM's policy guidance, were added to the FAT SharePoint website for easy access by COs seeking all manner of guidance on appropriations law.

VISN 1 SOP Number 2006-02 was issued on September 7, 2006, to prescribe policy and circumstances governing the use of the VAF 1358 method of committing funds and to ensure standardized practices throughout the VISN. The SOP is entitled, "*Use of Estimated Miscellaneous Obligation (VAF 1358)*."

A VAF 1358 shall only be used in circumstances in which obligations are being placed against an established contract. Money can no longer be held or "banked" on a VAF 1358 absent a contract to back it up. In addition, a VAF 1358 can only be used to fund specific types of obligations (contracts). These suitable obligations were provided as an attachment to the SOP. Finally, if an individual wanted to use a VAF 1358 to fund a contract type not on the list of suitable obligations, an exception must be approved by the VISN 1 CFO.

VISN 1 SOP Number 2006-03 was issued on September 7, 2006, to strengthen management controls over the reporting and approval process for NRM projects. The SOP is entitled, "*Processing of Funding for Non-Recurring Maintenance (NRM) Contracts and Purchase Orders and Associated Modifications*." The policy states that the VISN 1 CFO will commit funds for a NRM project based on the independent

Appendix C

government cost estimate (IGCE) for that project. However, the actual transfer of funding will not take place until the final award amount is established. Once the VISN 1 CFO is notified of the final award amount by the CO, the funds will be transferred to the station by an electronic Transfer of Disbursing Authority (TDA). In this way, the station will receive the exact amount needed for award and all funds are accounted for.

In the past, funds were transferred immediately based on the IGCE. This committed amount was available to the station, and if the final award was less than the amount committed to the project, the funds were often not returned to the VISN 1 CFO, but rather kept by the station. Therefore, the VISN 1 CFO was unaware of how the excess funds were used.

The SOP also provides for management oversight of modifications to NRM projects executed with prior year funds. The SOP requires that all such modifications, regardless of dollar amount, be approved at one level above the CO responsible for the action. The contract file shall contain a written justification that the modification is within scope of the original contract and therefore constitutes a *bona fide* need of the prior fiscal year. In addition, all modifications to be executed with prior year funding shall be approved by the VISN 1 CFO. An email request for approval must be sent to the CLO with the following information: the amount required, a brief explanation of the additional work, and a statement that the work has been determined by both the CO and a contracting official one level above the CO to be within scope of the original contract.

We recommend that this Recommendation be closed.

Recommendation 3. We recommend the VISN 1 Director establish and implement procedures to strengthen management controls over the reporting and approval process concerning non-recurring maintenance projects.

VISN 1 Response: Concur. VISN 1 SOP Number 2006-03 was first issued on September 7, 2006, to strengthen management controls over the reporting and approval process for NRM projects. The SOP is entitled, “*Processing of Funding for Non-Recurring Maintenance (NRM) Contracts and Purchase Orders and Associated Modifications.*”

The policy states that the VISN 1 CFO will commit funds for a NRM project based on the IGCE for that project. However, the actual transfer of the funding will not take place until the final award amount is established. Once the VISN 1 CFO is notified of the final award amount by the CO, those funds will be transferred to the station by a TDA. Previously, the funds were transferred immediately based on the committed amount, the IGCE. The CFO would be notified only if the final award amount exceeded the original amount committed for the project and additional funds were required.

Appendix C

The SOP also provides for management oversight of modifications to NRM projects executed with prior year funds.

We recommend that this Recommendation be closed.

Recommendation 4. We recommend the VISN 1 Director take appropriate administrative actions against the Chief of the Purchasing and Contracting Section and the Chief of Fiscal Service.

VISN 1 Response: Concur. Based upon the results of the administrative investigation to be conducted in response to Recommendation 5, the VISN 1 Director will take appropriate administrative actions against the Chief of Purchasing and Contracting Section and the Chief of Fiscal Service at the VA Boston Healthcare System (VABHS) by September 15, 2007.

Recommendation 5. We recommend the VISN 1 Director initiate an administrative investigation of the facts surrounding the improper contract modifications and use of expired funds in violation of appropriations law and take actions, if warranted, against other VABHS employees involved with the issues identified in this audit.

VISN 1 Response: Concur. The VISN 1 Director has charged an Administrative Board of Investigation (ABOI) to investigate the facts surrounding the improper contract modifications and use of expired funds at the VABHS. The Board, comprised of employees from outside VISN 1, will begin its investigation by June 15, 2007. It will present its findings and conclusions to the VISN 1 Director by July 30, 2007. By September 15, 2007, the VISN 1 Director will take actions, if indicated, against other VABHS employees.

Recommendation 6. We recommend the VISN 1 Director ensure necessary accounting adjustments are made to correctly record the funding of the improper contract modifications.

VISN 1 Response: Concur. Adjustments to correctly record the funding of improper contract modifications were made by the accounting staff in Boston on May 10, 2007, and May 16, 2007. The journal vouchers were approved by the VABHS Accounting Officer and the Fiscal Officer. The Network Quality Assurance Management Officer verified in VA's Financial Management System that all of the adjustments were completed in accordance with the instructions provided by Headquarters.

We recommend that this Recommendation be closed.

Recommendation 7. We recommend the VISN 1 Director establish and implement procedures concerning contract administration to ensure competition is sought, prices are fair and reasonable, and contract files include required documentation.

VISN 1 Response: Concur. The CLO and NCM have put in place several acquisition policies and guidance letters designed to ensure that competition is sought, prices are fair and reasonable, and contract files include required documentation.

On August 8, 2006, the NCM issued guidance to the acquisition staff on competing requirements under the Federal Supply Schedule and the Procurement of Computer Hardware and Software contract. Often, it had been assumed by many that task orders issued under existing contracts did not have to be competed. The NCM reminded the staff that “fair opportunity” had to be provided to all schedule holders and cited the appropriate regulations as the authority. A copy of this direction was also placed on the FAT SharePoint website for easy access by all COs.

In addition, VA regulations (Information Letter 90-00-2) require that all solicitations and contract awards, regardless of dollar amount, be reviewed at one level above the CO responsible for the action. Part of these mandatory reviews includes a determination that competitive requirements are being followed. In addition, a VAF 2268 (*Procurement Request Review for the Small Business Program and Contract Bundling*) is required to be completed and signed by the Head of Contracting Activity for all acquisitions exceeding \$2,500. For contracts exceeding \$500,000, this form also has to be signed by the Office of Small and Disadvantaged Business Utilization. This form requires the CO to determine the method of procurement and acts as another check-point to ensure that projects are either properly competed or set aside for an appropriate socio-economic group.

On November 28, 2006, the NCM issued to the acquisition staff three templates for Price Negotiation Memorandums. Included within each template was a separate Determination of Price Reasonableness. The first template is to be used when awarding contracts under Federal Acquisition Regulation (FAR) Parts 12, 13, and 15. The second two templates are to be used when awarding task orders under FAR Part 8. Each template includes all of the steps to be taken and information to be completed by the CO to document price negotiations and determine a price fair and reasonable to the Government. All templates can be found on the FAT SharePoint website.

We recommend that this Recommendation be closed.

Deputy Assistant Secretary for Acquisition and Materiel Management Comments

Department of Veterans Affairs

Memorandum

Date: May 4, 2007

From: Deputy Assistant Secretary for Acquisition and Materiel Management (049)

Subject: **Audit of Alleged Mismanagement of Government Funds at VA Boston Healthcare System**

To: Assistant Inspector General for Auditing (52)

I have reviewed the subject report, and the response to the recommendation for the Office of Acquisition and Materiel Management is attached.

(original signed by:)
Jan R. Frye

Attachment

Deputy Assistant Secretary for Acquisition and Materiel Management Comments to Office of Inspector General's Report

The following comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation 8: We recommend the Deputy Assistant Secretary for Acquisition and Materiel Management determine whether the warrant authority for the VABHS Chief of the Purchasing and Contracting Section should be revoked.

OA&MM Comments: Concur. The contracting officer's warrant will be suspended immediately. Final action will be taken based upon the results of the administrative investigation by the VISN 1 Director.

Monetary Benefits in Accordance with IG Act Amendments

<u>Recommendation</u>	<u>Explanation of Benefit(s)</u>	<u>Questioned Costs</u>
2	We recommend the VISN 1 Director ensure that procedures are implemented to improve oversight of the use of expired funds and prevent future violations of appropriations law.	\$5,396,398

OIG Contact and Staff Acknowledgments

OIG Contact	Nicholas H. Dahl (781) 687-3120
Acknowledgments	Maureen F. Barry Michael P. Cannata Matthew D. Kidd Maureen T. Regan Steven J. Rosenthal

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