



Department of Veterans Affairs Office of Inspector General

Review of the Veterans Health Administration's Use of Reverse Auction Acquisitions

Acronyms and Abbreviations

CO	Contracting Official
eCMS	Electronic Contract Management System
FAR	Federal Acquisition Regulation
FSS	Federal Supply Schedule
GSA	General Services Administration
IFF	Industrial Funding Fee
IFB	Invitation for Bid
IGE	Independent Government Estimate
LPTA	Lowest Price Technically Acceptable
NCO	National Contract Office
OAL	Office of Acquisition and Logistics
OCR	Office of Contract Review
OIG	Office of Inspector General
PO	Purchase Order
RA	Reverse Auction
SOP	Standard Operating Procedures
TAA	Trade Agreements Act
VA	Department of Veterans Affairs
VHA	Veterans Health Administration

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Executive Summary

Introduction – Review Objectives

The VA Office of Inspector General (OIG) Office of Contract Review, initiated a review of the Department of Veterans Affairs, Veterans Health Administration's (VHA) use of reverse auctions (RA) to acquire products and services after receiving numerous complaints and concerns from the Federal Supply Schedule (FSS) contractors and House and Senate Committee members concerning the appropriateness of VHA's use of RAs. Our review focused on RAs conducted under VHA's purchase order (PO) with FedBid. On November 24, 2010, VHA issued a PO against FedBid's General Services Administration's (GSA) contract GS-35F-0752R to provide Electronic Commerce Services (Reverse Auctions) to VHA. This report presents our findings and makes recommendations for improvements in the use of RAs, consistent with procurement policies and procedures. In order to perform our review, we developed the following five objectives:

1. Determine whether VHA's RA procurements are in compliance with published VA policies and procedures.
2. Determine whether VA's mandatory and priority source requirements, (specifically the FSS) are being followed when VHA uses RAs for procuring products and services.
3. Determine how savings as a result of RAs are calculated and if reported savings represent a reliable measure of an RA's success.
4. Determine total FSS procurements conducted with RAs and whether the use of RAs has a negative impact on the VA FSS Program.
5. Determine whether VHA is procuring gray market items through RAs.

Results

We reviewed VHA procurements using RAs for the period of October 1, 2011, through January 31, 2013, contract documentation in the Electronic Contract Management System (eCMS), as well as VA and VHA's policies and procedures for using RAs. We also conducted interviews of VHA and FedBid employees and FSS contractors.

Our review found that VA policy and the implementing VHA Standard Operating Procedure (SOP) describe specific documentation that COs must include in the contract files for each RA. However, the majority of RA contract files we reviewed had incomplete contract documentation, and only 16 of the 236 (6.78 percent) contract files reviewed met the documentation requirements of the VHA SOP. We concluded that VHA is not in compliance with VA policy and VHA's SOP regarding determination of the

procurement method and RA contract file documentation. Also, we found that priority sources such as the FSS are not utilized as required by VA policy and VHA's SOP for all RAs. Further, when RAs are used for FSS purchases, VHA is paying the Industrial Funding Fee (IFF) in addition to the FedBid RA fee when FedBid's RA fee is not waived by FedBid. We found instances where the CO would identify an FSS source for the required products; however the Invitation for Bid (IFB) would subsequently be issued for open market bids. These situations occurred without any documentation in the contract file to justify the use of other than priority sources. In addition, if the awardee is an FSS vendor, these sales may be considered non-FSS sales which deprive the Government of the IFF.

We found that the reported claimed savings, computed by subtracting the final award price from the target price, was not reliable in determining the success of using RAs for several reasons. First, although the target price set by the CO should be equal to the Independent Government Estimate (IGE) as stated in VA policy and the implementing VHA SOP, we found that the target price was not always equal to the IGE, and that the basis for the target price was often not documented within the contract file. Second, we found that the award price represented funds obligated at award and that many buys were not fully funded at the time of award, thereby inflating the reported savings. Lastly, we found that the target price could be changed by the CO during an active RA via a reposting of the IFB. Such changes were not always documented and justified within the eCMS contract file.

We also determined that COs run the risk of acquiring gray market items through RAs, because sellers are only required to self-certify that they are authorized distributors of the procured items. We found VHA was procuring items from unauthorized distributors through the use of RAs.

We briefed VHA Assistant Deputy Under Secretary for Health for Administrative Operations on October 24, 2013, with the preliminary findings of our review, and as a result VHA performed an internal review of RAs. Subsequent to this meeting, VHA took the following actions:

- On November 22, 2013, Head of Contracting Activity (HCA) directed the Service Area Office (SAO) Directors via email to suspend the use of all reverse auction tools until further notice.
- VHA published revision 01 to the VHA SOP for Commercial Supply and Services effective February 21, 2014. The revision documented the HCA's temporary suspension of the use of any RA tool until further notice.
- The Task Order with FedBid for Reverse Auction Services was cancelled on April 23, 2014.
- On May 15, 2014, the Acting VHA Deputy Chief Procurement Officer issued a memorandum that implemented the following:
 - VHA Contracting Offices shall not utilize commercial vendors to provide RA services.

- VHA CO may use GSA's reverse auction tool when the CO has determined that the use of Federal Supply Service (FSS) contracts is in the best interest of the Agency.
- GSA's RA tool is NOT mandatory but may be used at the discretion of the CO.
- VHA COs are no longer required to document decisions not to use RAs in contract files.

Recommendations

We recommend that the Under Secretary for Health:

1. Restrict the use of RAs to those procurements in which there is sufficient justification that it is in the best interest of the Government, particularly when the items or services to be procured are on existing FSS or other national contracts, including SEWP and other Government Wide Acquisition Contracts.
2. Require assurance that all COs follow the contract file documentation requirements stated in Federal Acquisition Regulation (FAR) 4.8, VA's Updated Policy and Procedures for Using Reverse Auctions dated April 3, 2012, and VHA SOP for Commercial Supply and Service Procurements dated May 1, 2012.
3. Require that all variances between target price and awarded price be fully explained and documented in the contract file.
4. Develop and implement a system of internal controls to ensure that the April 3, 2012, VA policy and the May 1, 2012, VHA SOP, and any revisions of those policies are being followed.
5. Develop and implement a policy to ensure that all reported savings are independently reviewed and reconciled by an internal VHA review process that is external to the buying office. The policy should target RAs that result in significant savings to ensure that the award price does not reflect partial funding.
6. Ensure the use of priority sources as detailed in VAAR 808.002 such as the FSS, regardless of whether or not RA is the procurement method. If the RA does not generate adequate competition from priority sources a different procurement strategy such as GSA's e-Buy should be utilized to encourage adequate competition.
7. Consider the use of GSA's RA tool for FSS orders only when RA is determined to be the best procurement method, in order to avoid paying an RA fee in addition to the IFF.

8. Use the NASA SEWP Quote request tool for SEWP orders against existing SEWP contracts, in order to avoid paying an RA fee in addition to the SEWP fee.
9. Implement a procurement requirement for RAs that will ensure only authorized distributors of products are eligible to compete and be selected for award and that includes a penalty for making false representations.
10. Change the May 1, 2012, VHA SOP to be consistent with the April 3, 2012, VA policy which it implements, and update the SOP in conjunction with the policy implemented in response to this report.
11. Remove the language which mandates the use of RAs from the VHA SOP.

Agency Comments

The Under Secretary for Health provided written responses to our findings and recommendations on August 22, 2014. As stated in the Under Secretary for Health's memorandum (Appendix A), VHA concurs with all 11 of our recommendations, and provided an action plan for implementing each one.

As a result of briefing VHA on October 24, 2013, VHA has already implemented their proposed actions for recommendations 1, 3, and 5 through 11. After reviewing the action plan we find the proposed actions for all recommendations to be adequate and responsive.

Recommendations 1, 3, and 5 through 11 can be closed since VHA has already implemented acceptable actions for these recommendations. We will follow up on the implementation of the remaining planned actions until they are completed.



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Introduction

Purpose

The VA Office of Inspector General (OIG) Office of Contract Review, initiated a review of the Department of Veterans Affairs (VA), Veterans Health Administration's (VHA) use of reverse auctions (RA) through FedBid to acquire products and services after receiving complaints and concerns from the Federal Supply Schedule (FSS) contractors and House and Senate Committee members concerning the appropriateness of VHA's use of RAs. Our review objectives included an assessment of (1) compliance with VA policies and procedures; (2) use of priority sources; (3) the impact of RAs on the FSS Program; (4) the transparency and accuracy of reported savings from the use of RAs; and (5) the potential risk of acquiring gray market products.

Background

VHA Purchase Order Award

On November 24, 2010, VHA awarded Purchase Order (PO) VA101-C17138 under General Services Administration (GSA) Contract GS-35F-0752R with FedBid to perform Electronic Commerce Services – Reverse Auctions, to compete commodity supply and service acquisitions. The contract is an Indefinite Delivery/Indefinite Quantity (ID/IQ) contract with no obligation to use the service, and a minimum value of \$1. The PO with FedBid does not specify any cost to VHA for using the service. FedBid receives compensation from VHA indirectly through a fee applied by FedBid to the line item bid price of each product or service for the bids selected for award as the result of a completed RA as detailed in FedBid's published Terms of Use. The Terms of Use state "Unless otherwise agreed by FedBid and Buyer [CO], the resulting FedBid Fee for any Buy [RA] is included in the payment from the Buyer to the Selected Seller . . . as Selected Seller, it will remit to FedBid . . . all FedBid Fees by the payment due date." The fee applied by FedBid is based on the Fee Structure outlined in their November 12, 2010, pricing quotation to VHA which states "FedBid's 0-3% fee structure enables FedBid to adjust its fee downward to address situations in which the buyer has met its competition and other procurement goals through FedBid but the fee has caused the selected seller's bid to exceed a target price based on an actual market research quote or official published contract price. In such cases FedBid reserves the right to reduce or remove its fee so that the award price will not exceed the target price." In addition, FedBid has implemented a fee discount that restricts a fee from exceeding \$10,000.

On March 3, 2012, the Office of Acquisition and Logistics (OAL) imposed a moratorium on the use of RAs within VA. During the moratorium OAL performed a review of RA contract files in the Electronic Contract Management System (eCMS) and VA policies to determine if VHA was in compliance with Federal and VA Acquisition Regulations when conducting RAs. Subsequent to the review on April 3, 2012, OAL issued updated VA policies and procedures for using RAs and lifted the moratorium. On April 6, 2012, VHA

issued a memorandum implementing the updated OAL policy within VHA. On May 1, 2012, VHA issued Standard Operating Procedures (SOP) for Commercial Supply and Service Procurement that implements the VA April 3, 2012, policy and supersedes the April 6, 2012, VHA memorandum. We briefed VHA Assistant Deputy Under Secretary for Health for Administrative Operations, on October 24, 2013, with the preliminary findings of our review, and as a result VHA performed an internal review of RAs. Afterward VHA published revision 01 to the VHA SOP for Commercial Supply and Services effective February 21, 2014. The revision temporarily suspended the use of any RA tool until further notice. On April 23, 2014, the Task Order with FedBid was cancelled, and on May 15, 2014, the Acting VHA Deputy Chief Procurement Officer issued a memorandum that implemented the following:

- VHA Contracting Offices shall not utilize commercial vendors to provide RA services.
- VHA CO may use GSA's RA tool when the CO has determined that the use of Federal Supply Service (FSS) contracts is in the best interest of the Agency.
- GSA's RA tool is NOT mandatory but may be used at the discretion of the CO.
- VHA COs are no longer required to document decisions not to use RAs in contract files.

The VHA SOP set the policy, responsibilities, and procedures for commercial supply and service acquisitions to include the requirement that all "Supervisors, reviewers and contracting officials are trained and registered in VHA supported reverse auction programs, services, and systems." The following language is included in the VHA SOP policy statement:

It is mandatory to consider and use reverse auctions in the procurement strategy to compete for commercial supply and service acquisitions that exceed the micro-purchase threshold when the contracting official has determined that lowest price technically acceptable (LPTA) will be the award methodology.

Further, the VHA SOP provides the following RA definition:

A competitive negotiation in which prospective contractors [sellers] compete by offering prices for a specified period of time [auction open and close] within which they can lower their prices. The contract is awarded to both the responsive and responsible offeror whose price is lowest at the auction closing time.

The VHA SOP requires Contracting Officials (COs) to complete the form at Attachment A, "VHA Determination for Priority Source and Procurement Strategy" for each purchase and maintain it in every eCMS file. This form documents the use or nonuse of priority sources and the CO's rationale for not using an RA to procure the supply or service. Unlike the VHA SOP, the VA policy dated April 3, 2012, does not mandate the use of RAs, and instead states, "Reverse auctioning techniques can and should be used where appropriate."

The VHA SOP also includes the requirement "Reverse Auction Savings Minimum Documentation: Each award file shall be documented with the auditable savings realized through the use of reverse auction techniques (calculated by subtracting the final award price from the target price)."

VHA's RA Process

When a determination is made to conduct an RA to procure a commercial supply or service, the VHA CO will create a solicitation to include a description of the required supplies or services, evaluation criteria, contract clauses, and other pertinent information. From the solicitation document, the CO will create an IFB to be posted on the FedBid RA tool. The portion of the IFB that is viewable to registered sellers (all RA participants must register with FedBid at no upfront cost) includes; bidding requirements, delivery and shipping information, description and quantity by line item product or service being procured, and attachments such as the solicitation. Information provided by the CO but not visible to sellers includes: a total target price based on the Independent Government Estimate (IGE), target price active or inactive option (selection of the active option results in notification as "lag" status to all sellers until bidding falls below the target price and the seller status is changed to "lead" for the seller with the lowest bid), list of suggested sellers, and the buyers contact information. Individual bid prices cannot be viewed by any of the sellers or vendor community. They are available to the CO for review.

Once the IFB is entered into the FedBid RA tool and information is confirmed by the CO, the CO activates the IFB by posting what is now defined as the "buy." Upon posting (opening) the buy, all registered users in the seller community identified by the IFB are notified. In addition to the registered users, FedBid may reach out to unregistered vendors they think have the potential to fulfill the request and meet the buy requirements. If the FedBid identified vendor wants to participate in the RA the vendor must first register with FedBid. All bids submitted are adjusted by FedBid to include the FedBid RA fee of 0 – 3 percent.

During the bidding process all inquiries from the sellers are posted for response from the CO on the FedBid Dashboard: Pending Questions Section. All questions and responses are documented and maintained by FedBid. If the CO does not respond to seller questions posted on the dashboard, FedBid does not provide answers on the dashboard either; however, sellers may ask FedBid questions through email or phone conversations. As the bidding continues, each seller is notified of their bid status of "lead" or "lag" in

comparison to other sellers' bids, or an active target price. Based on circumstances that arise during the open bidding period, or after the period has expired, the CO has the option to extend the closing date or repost the buy. Circumstances for reposting a buy may include additional time needed to address request for clarification from sellers, changes in product or service required, and a need to increase competition by expanding the seller community. When the buy is closed, the CO reviews each bid in accordance with the stated evaluation criteria, bidding requirements, and buy terms and prepares a source selection decision document based on their review.

Once the selection decision is made, and a bid is accepted, the seller is notified by FedBid and provided with the CO's information. The CO will contract directly with the selected seller. The award is posted on the FedBid RA tool identifying the selected seller's name and award price. Payment will be made to the selected seller for the total awarded price which includes the FedBid RA fee. FedBid also sends the selected seller an invoice for any fee amount owed to FedBid.

Scope and Methodology

To address the objectives of this review, we reviewed the Federal Acquisition Regulation (FAR), Veterans Affairs Acquisition Regulation (VAAR), VA policy and guidance regarding the use of RAs, contract files maintained in VA's eCMS, RA documents maintained in the FedBid owned and operated database, and reported savings amounts. Our sample size consisted of 236 buys between October 1, 2011, and January 31, 2013. The sample represents RAs available to all registered sellers (open market) and those restricted to holders of GSA, VA FSS, or NASA's Solutions for Enterprise-Wide Procurements (SEWP) contracts. See Exhibit A for the list of the different sample categories and sample selection methods.

Our specific work steps included:

- Reviewing FAR, VAAR, and VA policy and guidance regarding the use of RAs.
- Discussions with VHA and FedBid representatives concerning the RA process from establishing IFBs, to award selection, and reporting savings.
- Discussions with FedBid representative concerning their fee structure.
- Discussion with FSS contract holders.
- Performing various tests on VHA's RAs which occurred between October 1, 2011, and January 31, 2013.
- Reviewing reported savings information.
- Reviewing a sample of RA contract files in eCMS.

Results and Conclusions

Objective 1: Determine whether VHA's RA procurements are in compliance with published VA policies and procedures.

The VHA SOP implementing the VA Updated Policy and Procedures for Using Reverse Auctions states:

Contract documentation shall include at a minimum - the procurement requirements; an independent government cost estimate (IGE); market research results; a price reasonableness determination; vendor quotes or submissions that validate that competition occurred; brand name justifications (where applicable); and documentation that the vendor has met all contractor responsibility qualifications in accordance with FAR Part 9.104-5 and VHA Responsibility Determination SOP. The price negotiation memorandum, savings documentation and price fair and reasonableness determination shall be located in S24 [contract file].

In addition, the policy states, "Each award file shall be documented with the (auditable) savings realized through the use of reverse auction techniques as well as the reverse auction fee paid."

We reviewed the eCMS contract file for each of the 236 sample buys, and determined that only 16 of 236 contract files (6.78 percent) met the documentation criteria stated in the VA policy and implementing VHA SOP. Although our review period began in October 2011, prior to the issuance of the VA policy dated April 3, 2012, and implementing VHA SOP dated May 1, 2012, there was an effective SOP 160-10-01 dated June 1, 2010, which contained documentation instructions for eCMS files. In addition, FAR 4.8 provides guidance on proper contract file documentation as well.

Lack of Market Research and IGE Documentation

As required by VA policy and implementing VHA SOP in effect at the time of the RA, all contract files shall include an IGE and market research results. Despite these requirements, we found that 117 of the 236 contract files (49.58 percent) we reviewed did not contain an IGE, and 87 of the 236 contract files (36.86 percent) did not contain documented market research results. In addition to the lack of market research documentation, we identified files that included an assertion that the FedBid RA process represented market research. This assertion is improper as a seller community must be identified through market research prior to establishing the IFB.

Lack of RA Documentation

As required by VA policy and implementing VHA SOP, when using an RA, abstracts of sources and vendor quote documentation must be uploaded into the eCMS contract file. However, 35 of the 236 contract files we reviewed (14.83 percent), did not contain any documentation to indicate an RA was the method used for the procurement. In order to ensure these procurements were performed with an RA and that documentation existed, we obtained access to FedBid's database where we validated the use of RAs and the existence of documents generated by the FedBid RA tool. Such RAs generated documents include: the initial posting, final bids from each seller, bid abstracts, reposting or closing date extension notifications, and a summary of questions to the CO from sellers. These RA generated documents are required to be included in the eCMS contract file for each RA.

In addition, FedBid provides a copy of the selected seller's invoice via email to the CO, which breaks out applicable fee from the total purchase price. VA policy and implementing VHA SOP states that "Contracting officials shall ensure each award file is documented with the (auditable) savings realized through the use of reverse auction techniques as well as the reverse auction fee paid or savings realized through negotiations if reverse auction was not used." We reviewed 213 awarded sample buys to determine if the email of the selected seller's invoice showing the FedBid RA fee was documented within the eCMS contract file as required by VA policy. We found that 182 of 213 (85.45 percent) awarded sample buys did not contain any fee documentation or the auditable savings as required by the VHA SOP.

Lack of Award Determination Documentation

The VHA SOP implementing the VA policy states, "It is mandatory to consider and use reverse auctions in the procurement strategy to compete for supply and service acquisitions . . . when the contracting official has determined that lowest price technically acceptable (LPTA) will be the award methodology." Based on this, we determined that all RA awards should be based on LPTA, and as such, awards should be made to the lowest bid unless a technical evaluation determines that the lowest bid does not meet the requirements of the procurement. In order to determine if awards were made based on LPTA, we reviewed all awarded sample RAs with multiple participating sellers, which were 120 of the 236 RAs sampled. We found 35 of the 120 (29.2 percent) sample RAs were awarded to a seller who did not bid the lowest price, and 15 of those RAs (12.5 percent) did not contain an award determination document in the contract file to support making an award to the seller without the lowest price.

Conclusion

Compliance with RA policies and procedures is necessary to ensure the integrity of the RA process as well as compliance with procurement laws and regulations in general. During our review we found that the VA policy and implementing VHA SOP on the use of RAs were not followed. First, the lack of documentation to support the IGE which is the basis for the established target price puts in question the validity of reported savings.

Second, the lack of market research draws into question the decision to use an RA as the most appropriate procurement method, and without market research the CO could not reasonably know which is the most appropriate seller community to identify when posting the IFB. For example, without market research a CO may establish an IFB to the open market community when the required products or services are available on an FSS contract. Third, the lack of any RA generated documentation in the contract file raises questions as to whether the RA was the procurement method used, the details of how the RA was performed, whether there was any cost savings, and how much of the FedBid RA fee was invoiced to the seller. Finally, an award to a seller with other than the LPTA bid, without justification documented in the contract file, also brings into question the integrity of the procurement.

In the event VHA uses FedBid's or any other RA tool in the future, we recommend ensuring that all COs follow the contract file documentation requirements stated in FAR 4.8 and VA's Updated Policy and Procedures for Using Reverse Auctions and VHA SOP for Commercial Supply and Service Procurements. Further, we recommend VHA develop and implement a system of internal controls to ensure that VA policy and VHA SOPs are being followed. Lastly, VAAR 801.690-7 Termination states that COs' warrants should be revoked under the circumstance "(7) Blatant disregard for adhering to acquisition regulations, policies and procedures." Accordingly, we recommend revoking COs' warrants if they consistently fail to follow procurement policy as outlined in VA's Updated Policy and Procedures for Using Reverse Auctions and VHA SOP for Commercial Supply and Service Procurements.

Objective 2: Determine whether VA's mandatory and priority source requirements (specifically the FSS) are being followed when VHA uses RAs for procuring products and services.

The VA's Updated Policy and Procedures for Using Reverse Auctions dated April 3, 2012, and implementing VHA SOP dated May 1, 2012, state that, "Mandatory and priority sources, as provided in FAR Subpart 8.002 and VAAR Part 808.002, shall be used and may be used in conjunction with the reverse auction procurement method where appropriate." VAAR 808.002 specifies a hierarchy of priority sources for supplies which must be followed by VA purchasing personnel:

(2) A national committed use contract awarded by the VA National Acquisition Center . . .

(3) Federal Supply Schedule contracts awarded by the VA National Acquisition Center in Federal Supply Classification (FSC) Groups 65 and 66 shall be mandatory for use by VA . . . in the following descending order of priority:

(i) Nationally awarded Blanket Purchase Agreements (BPAs), issued by the VA National Acquisition Center against Federal Supply Schedules.

- (ii) Multi-VISN, single-VISN, or locally awarded BPAs, issued by VISN, regional, or local VA contracting officers against Federal Supply Schedules.
 - (iii) Federal Supply Schedules without BPAs.
- (4) Indefinite delivery indefinite quantity (IDIQ) contracts, awarded by VISN, regional, or local facility VA contracting officers, for supplies not covered by national committed use contracts or Federal Supply Schedule contracts . . . in the following descending order of priority:
- (i) VISN or regionally awarded contracts.
 - (ii) Locally awarded contracts.
- (5) Open market purchases . . .

The VA policy further states, “Warranted contracting officials are responsible for ensuring that a determination is completed and documented in the procurement file that mandatory and priority sources cannot meet their needs before they seek sources on the open market using reverse auction techniques.”

FSS Priority Source Not Utilized As Required For All RAs

Our total sample of 236 buys included 75 IFBs announced to the open market community. Our review of the contract files also disclosed 11 instances of the 75 open market RAs (14.67 percent) where the CO identified an FSS source through market research, created an IFB for FSS community, but subsequently received no bids, or too few bids. That IFB was subsequently reposted and made available to the open market community. Two files included inadequate open market justification; for example, one file included the assertion that FSS prices “were way too high.” That particular contract file does not include documentation which would allow a review of the FSS pricing in effect at the time to make a determination whether the awarded prices were in fact better than FSS pricing. We also reviewed a contract file that documented an IFB for the FSS community that was reposted as an IFB to the open market community at the request of a seller from the open market community. The request was to the CO, not FedBid.

Determination to Use Other Than Priority Sources Not Documented

We reviewed the 75 contract files for open market IFBs, to determine if these RAs had the proper documentation showing that mandatory and priority sources could not fulfill the requirement. We found that 58 of 75 (77.33 percent) contract files did not contain any document containing a justification for seeking sources other than priority sources as required by VA policy.

Further, we identified 2 cases where the CO specified the FedBid RA tool as a priority source, which is inconsistent with the hierarchy of priority sources outlined in VAAR 808.002. The VHA SOP states that, "It is mandatory to consider and use reverse auctions in the procurement strategy . . ." By mandating the use of RAs, COs are identifying the FedBid RA tool as a priority source. Further, the VHA SOP is to implement the VA policy dated April 3, 2012; however, the VA policy does not mandate the use of RAs, but rather states, "Reverse auctioning techniques can and should be used where appropriate." The VA policy also suggests using GSA's e-Buy web site when seeking quotations for an FSS purchase. By mandating the use of RAs, the VHA SOP is in direct violation of the VA policy, which provides for other alternatives than the use of RAs. The VHA SOP should be consistent with the VA policy, which it implements.

Conclusion

Use of priority sources is required as stated in FAR Subpart 8.002 and VAAR Part 808.002. However, our review determined that justification for deviating from this requirement was not included in 58 of 75 (77.33 percent) contract files we reviewed, and certain contract files showed available priority sources, but the IFBs were posted to the open market. Because only registered sellers can respond to an IFB, use of RAs restricts the CO's ability to comply with acquisition regulations, unless all priority sources are registered with FedBid. By mandating the use of the FedBid RA tool in the VHA SOP, it becomes difficult for COs to discern what is truly a "priority source" despite the guidance provided by the VAAR. This confusion was noted in a few instances by our review where COs identified the FedBid RA tool as a priority source which is an inappropriate application of acquisition regulations and VA policy. Accordingly, we recommend ensuring the use of priority sources such as the FSS, regardless of whether or not RA is the procurement method. If the proper utilization of an RA does not generate competition from priority sources a different procurement strategy such as GSA's e-Buy to encourage competition must be considered. Finally, we recommend changing the VHA SOP to be consistent with the VA policy dated April 3, 2012, and remove the language which mandates the use of RAs.

Objective 3: Determine how savings as a result of RAs are calculated and if reported savings represents a reliable measure of an RA's success.

The VA policy for RAs states:

[E]ach [Head of Contracting Activity] HCA shall ensure that the savings realized through the use of the reverse auction technique are auditable and transparent, independent of any reverse auction service provider. HCAs shall ensure savings are captured, analyzed, available and reportable.

VHA SOP implementing the VA policy specifies that, “each award file shall be documented with the auditable savings realized through the use of RA techniques (calculated by subtracting final award price from the target price).” The VHA SOP also provides a template for use by the CO to document the savings. The template includes four fields for documentation: “Target Price (Based on Market Research – FAR Part 10)”; “Award Price (eCMS Award/RA Accepted Offer)”; “RA Savings,” and; “RA Fee.”

Of the 236 IFBs included in our sample, 213 represent awarded buys. We evaluated the contract files of the 213 awarded buys against the criteria set forth in the VA policy and implementing VHA SOP. Of the 213 awards, 210 (98.59 percent) of the contract files contained no documentation to support the savings reported. We also reviewed reported cost savings provided via the FedBid RA reporting tool for all buys during our review period. At our request, FedBid provided an Excel spreadsheet that contained several elements of information to include target price, action obligation, and savings for buys during our review period. This data showed that the savings amount was calculated by subtracting the action obligation from the target price.

Savings Calculation

As stated in the VHA SOP, savings are calculated by subtracting the final award price from the target price and this calculation is required to be documented in the contract file. During our review, we identified several issues that significantly impacted the amount of savings actually realized when using this calculation to determine savings.

- Basis of Target Price Not Documented

Our review of the contract files for the 213 awarded buys, disclosed that 129 (60.56 percent) of these contract files did not document the basis (i.e. historical expense, market research, other quantitative method) for the target price which was the basis of the savings calculation. The lack of documentation for this crucial component of the savings calculation restricts VHA's ability to support any savings claims associated with using RA for these procurements.

- Target Price Not Supported by IGE

Our review of 213 awarded buys disclosed that 26 (12.21 percent) of the established target prices were not consistent with the IGE contained in the contract file. In addition, the contract files did not include documentation to justify the difference. These differences are significant because a target price that is higher than the IGE will result in claimed cost savings that may not exist. The table on the next page, identifies samples where target prices were not supported by the IGE:

Table 1 – Samples with Differing Target Price and IGE

Sample No.	Established Target Price	IGE	Difference*
17	\$200,000	\$187,580	\$12,420
18	10,861	10,807	54
23	144,997	138,517	6,480
43	93,000	94,975	(1,975)
45	159,630	114,630	45,000
49	86,136	85,600	536
50	34,643	36,250	(1,607)
51	6,553,081	6,037,798	515,283
57	44,000	77,030	(33,030)
58	486,802	530,224	(43,422)
60	189,760	183,835	5,925
121	1,000,000	106,000	894,000
122	995,000	217,172	777,828
131	1,886,959	1,932,000	(45,041)
136	337,245	3,372	333,873
138	568,116	598,080	(29,964)
150	838,391	782,891	55,500
152	180,000	191,250	(11,250)
153	200,000	208,401	(8,401)
173	107,640	236,483	(128,843)
183	10,100	101,370	(91,270)
185	6,879	11,933	(5,054)
191	330,580	362,500	(31,920)
192	10	41,917	(41,907)
202	16,792	15,031	1,761
205	27,808	26,857	951

*Difference shows the direct impact on reported savings amount.

- **Target Pricing For Repost Not Supported**

During an RA, COs may change certain details about a particular IFB by reposting the IFB. Such changes can include: extending the closing date, changing the desired quantity of supplies, changing the community of sellers the IFB targets (FSS sellers, open market sellers, etc.), or changing the target price. Of the 213 awarded sample buys reviewed, 154 (72.3 percent) experienced at least one repost. Of the 154 reposted buys, 23 (14.94 percent) were reposted with a different target price than the original posting, with no revised IGE or justification for the change in the eCMS contract file. Reported savings are based on the target price less the action obligation, but when the target price is changed via a repost without any justification, the resulting savings reported become questionable.

- Partial Funding Not Considered in Savings Calculation

Our review of the reported cost savings provided via the FedBid RA reporting tool for all buys during our review period and more specifically the 213 awarded sample buys disclosed a discrepancy in the method used to calculate savings. As stated in the VHA SOP, savings is calculated by subtracting final award price from the target price. The savings amount identified in the information provided by FedBid represents the target price less the amount identified as the action obligation. The target price includes the estimated total award price; whereas the action obligation represents the funding obligated at time of award. Because not all awards are fully funded in a single action, the savings amount reflected by the FedBid RA reporting tool is not accurate or reliable and is grossly overstated.

Based on the information FedBid provided, 92 of the 213 awarded sample buys reported savings based on the difference between the target price and action obligation amount. Of these 92 awards, 22 (23.91 percent) were procurements with partially funded action obligations. Partial funding is not reflected in the reported savings numbers provided in the FedBid generated spreadsheet. We determined that target prices for RAs represented the full estimated value of procurements which spanned the length of several months or years; however, when an award was made, the resulting action obligation only partially funded the procurement. By calculating savings using a target price that represents the total estimated contract value, and an action obligation that only partially funds the total contract value, the savings reported as a result is largely inflated and not representative of any savings as a result of the RA.

Table 2 on the next page, identifies the sample buys that represented partial funding at the time of award resulting in grossly overstated reported savings. The table illustrates how the reported savings were overstated due to using an estimated total contract value against partial funding. The overstated savings is not 100 percent accurate due to errors in target prices previously noted and there is insufficient documentation in the eCMS contract file to correct the target prices.

Table 2 – Overstated Savings Due to Partial Funding

Sample No.	Target Price	Action Obligation/Initial Funding	Total Bid/Award Amount (a)	Reported Savings	Overstated Savings
A	B	C	D	E=(B-C)	F=E-(B-D)
118	\$1,200,000	\$92,355	\$706,833	\$1,107,645	\$614,478
119	6,925,295	372,834	1,864,168	6,552,461	1,491,334
121	1,000,000	113,780	793,401	886,220	679,621
122	995,000	127,178	991,926	867,822	864,748
124	985,707	303,333	909,999	682,374	606,666
125	810,000	162,000	810,000	648,000	648,000
126	736,434	159,158	879,471	577,276	720,313
127	624,855	66,966	334,832	557,889	267,866
128	658,800	131,760	658,800	527,040	527,040
130	473,330	67,100	335,500	406,230	268,400
132	424,200	39,437	276,060	384,763	236,623
133	403,750	39,256	495,638	364,494	456,382
135	425,000	86,008	372,700	338,992	286,692
137	380,000	69,775	378,832	310,225	309,057
140	296,000	10,300	176,130	285,700	165,830
143	310,000	59,740	308,970	250,260	249,230
144	300,000	60,255	317,266	239,745	257,011
147	250,000	20,600	100,977	229,400	80,377
151	250,000	76,630	406,732	173,370	330,102
152	180,000	8,288	207,202	171,712	198,914
153	200,000	28,840	153,264	171,160	124,424
155	180,000	27,000	135,000	153,000	108,000
Total				\$15,885,778	\$9,491,108

(a) Represents the total contract value for the full period of performance including options.

Based on discussions with VHA's Deputy Chief Procurement Officer, the reported savings from the use of RAs is derived from the information provided by FedBid in the form of a weekly "Cruncher" report that provides a high level summary of various RA data to include savings. During our review, we found that VHA does not perform any review or independent verification of the savings amount reported by FedBid, as required by the VA policy and implementing VHA SOP. Had VHA performed a review of reported savings, the grossly overstated savings related to partial funding, would have been clearly evident.

Conclusion

VHA's calculated savings methodology resulted in inaccurate and thus unreliable reported savings. Our review found that target prices were not supported in the contract file and could vary significantly from the IGE. The resulting savings in all procurements rely on the validity of the target price which should be based on a properly supported IGE. We also found that the effect of partial funding was not considered in the savings calculation. This resulted in the misrepresentation of significant savings being reported. Had the VHA independently reviewed the reported savings as required by VA policy and implementing VHA SOP, the deficiencies in the savings calculation would have been clearly evident.

In the event VHA continues using FedBid's or other RA tool, we recommend requiring that all variances between target price and awarded amount be fully explained and documented in the contract file. We also recommend implementing a policy to ensure that all reported savings are independently reviewed and reconciled by an internal VHA review process outside the buying office. Such a plan should target RAs that result in significant savings to ensure that the award price does not reflect partial funding.

Objective 4: Determine total FSS procurements conducted with RAs and whether the use of RAs has a negative impact on the VA FSS Program.

To determine what impact RAs may have on the VA FSS Program, we specifically included 87 IFBs in our sample which were available only to the FSS seller community as well as interviewed FSS contract holders who have experience with the VA RA process through the FedBid RA tool.

FSS Priority Sourcing Deficiencies

We determined that the most significant impact on the FSS Program and the FSS contract holder is the CO's determination not to use priority sources as required by VA policy, or to not include documentation in the contract file that supports procurements from other than a priority source. In order for the CO to make a determination that a product or service is not available on an FSS contract, adequate market research must be performed. In accordance with VA policy and implementing VHA SOP the CO must limit the seller community to the FSS any time a product or service is available on an FSS contract. Our review of 236 sample contract files determined that 87 (36.86 percent) of the contract files did not contain any documented market research to support the seller community identified in the RA.

FedBid requires all RA participants register with the website. FSS contract holders that choose not to register are precluded from submitting a bid on an active RA. Registration with FedBid or any other entity that conducts RAs is not a requirement of the FAR or the FSS contract. Thus requiring FSS vendors to register with FedBid to compete for awards made through an RA may be considered a contract violation by VA.

During our review we identified IFBs that restricted bidding to the FSS community as a result of identifying FSS sources during market research. However, FSS contract holders did not bid on the RA and the buy was subsequently reposted to the open market seller community. Such reposts violate the priority source requirements, and result in open market awards for products or services offered on FSS contracts. If FSS vendors did not bid through the RA process, VHA purchasers should have used the purchasing processes mandated in FAR Part 8.4. It is possible that no vendors bid on the RA due to the potential FedBid fee.

The VA invests significant resources in its FSS Program in order to streamline the procurement process. FSS vendors also expend significant resources to obtain and administer their FSS contracts. Under this program buyers have access to pre-negotiated contracts for supplies and services. Prices negotiated under the FSS Program are determined to be fair and reasonable under FAR 8.404(d). Also, contract holders have been vetted through the traditional solicitation process, and all contract pricing is available for viewing through the VA National Acquisition Center's Contract Catalog Search Tool. In addition, use of the schedule contracts absolves VA of the risk of acquiring gray market items.

RAs Resulting in Additional Administrative Burden with no Additional Savings

During the period between October 1, 2011, and January 31, 2013, there were 8,936 total RA awards made, of which only 913 (10.2 percent) were awarded to FSS contract holders. We identified 387 of the 913 (42.4 percent) FSS contract holder awards were awarded when only one seller bid, and that seller bid once under the RA.

Our review sample of 236 RAs included 16 FSS awards with \$0 reported savings. We reviewed those 16 contract files to determine what market research was performed, how the target price was developed, who bid on the RA, and who was awarded the RA. We found that the target price was based on a quote or published price from an FSS contract holder. In some cases the FSS contract holder whose price was the basis of the target price was the only seller who bid, and in other cases the FSS contract holder whose price was the basis of the target price did not participate in the RA. We reviewed the 16 FSS buys with \$0 reported savings to determine if there was any benefit to using RAs for the procurement.

Our criteria for this determination include: the same FSS seller identified during market research bid on the RA; the FSS seller's bid was equal to their FSS contract pricing, and; no other sellers bid on the RA, which could have created an opportunity for realized savings. After reviewing these factors, we determined that 11 of the 16 (68.75 percent) buys reviewed met all three of our identified criteria and therefore, VA did not benefit from the use of RAs. In such cases, RAs prevent COs from obtaining discounts through negotiation, because the FedBid RA tool prevents direct contact between sellers and COs. Without direct communication, COs cannot discuss or negotiate obtaining discounts on purchase orders (PO) with any and all vendors who offer the goods or services sought on an FSS contract. Had the CO procured the supplies or services directly through the FSS,

the CO would not have incurred the administrative burden associated with the RA process, and would have had access to all FSS contract holders (not just the ones registered with FedBid) that offered the procured items on an FSS contract.

Bids on RAs Restricted to the FSS Community May Include Non-FSS Line Items

Our review of contract files for IFBs restricted to the FSS community, disclosed that the offer may include non-FSS open market products. A requirement of all FSS contract holders is compliance with the Trade Agreements Act (TAA). Although the open market items were identified within the offers, because these items are associated with an FSS contract number during an RA, COs may mistakenly consider them TAA compliant. The only way we were able to determine that open market items were bid during an RA restricted to the FSS community, was when the seller specifically identified which line items were not on its FSS contract. Contract file documentation for RAs did not provide transparency into which line items were FSS contract items, and which were open market items.

Additional Fee for FSS and NASA SEWP RAs

Regardless of the procurement method, every purchase from an existing FSS contract contains an Industrial Funding Fee (IFF), and every purchase from a NASA SEWP contract has a SEWP fee. The IFF is embedded in the FSS contract price, whereas the SEWP fee is identified as a separate line item in bids. In addition, as stated on FedBid's website, FedBid's RA system adds an equal percentage transaction fee to all sellers' bids prior to submission to the buyer. If FedBid receives notice that, due to inclusion of the FedBid fee, the selected bidder's line item pricing is higher than the applicable published government contract price (FSS price), FedBid will adjust the fee to ensure the selected bidder's line item pricing does not exceed the selected seller's applicable published government contract pricing. In addition, FedBid's Fee Structure as outlined in their November 12, 2010, pricing quotation to VHA specifies that FedBid receives a transactional fee, consisting of not more than 3 percent of the transaction with a maximum fee not to exceed \$10,000. FedBid also reserves the right to reduce or remove its fee so that the awarded price will not exceed the target price.

We determined that when an RA limited to the FSS community is closed, and the bid selected for award is equal to the target price of the RA (resulting in \$0 savings), FedBid will waive the fee. Aside from the reduced fee options described, we learned through discussions with FSS contractors and sellers that FedBid has full discretion over when they will apply the full 3 percent fee or not. One seller related that after an RA has concluded, the FedBid RA fee may suddenly disappear, or be less than the full 3 percent, and they are not sure why.

When COs use the FedBid RA tool for FSS and SEWP purchases, VHA runs the risk of paying two fees: the FedBid RA fee, and the IFF or SEWP fee. In order to avoid paying two fees, COs should place FSS orders with FSS contractors directly, or use another procurement platform such as with GSA's RA tool or e-Buy. These GSA procurement tools do not charge any fees on top of the IFF.

During our review of SEWP RAs, we determined that the SEWP fee was included on each IFB as a separate line item, and sellers bid their SEWP fee amount along with the other line items on each IFB. In order to avoid paying both the SEWP fee and the FedBid RA fee as the result of using an RA, orders against an existing SEWP contract should be placed using the NASA SEWP Quotes request tool.

Conclusion

FSS contracts maintain a priority status in accordance with FAR Subpart 8.002 and VAAR Part 808.002. Any time an award is made outside the priority source parameters without documented justification, the CO has violated procurement regulations and weakened the validity of the priority source programs. During our review we found COs did not include justifications in the contract files for issuing an IFB for other than a priority source; we also found instances where the FAR and VAAR priority source regulations were knowingly ignored.

During our review we also identified that 387 of 913 (42.39 percent) of RA awards to FSS contract holders were the result of a one seller/one bid scenario. Our sample of 236 contract files included 16 with a reported \$0 savings but of the 387 RA awards to contract holders, 203 (52 percent) had no cost savings. Documentation shows that the "cost savings" was a negative \$708,529, meaning they spent this much over their target price. This scenario showed that the use of RA held no benefit to VHA, may have limited competition among FSS holders, and raises concerns about subjecting the FSS contract holder to an RA process in which they must be registered with a private RA vendor to receive an order for supplies or services. Depending on the dollar value of the procurement COs have the option of ordering directly from the FSS contract holder without incurring the time and effort involved by both VHA and the FSS contractor holder to engage in an RA. The CO in each case could have negotiated a discount on POs, had they not used RAs for the procurement. FAR does not preclude COs from contacting FSS vendors to seek price reductions and states that an ordering activity shall seek a price reduction if the value of a potential order exceeds the maximum order threshold.

FSS vendors spend considerable resources to obtain and administer an FSS contract. For example, FSS vendors must implement compliance systems to ensure that they adhere to the various clauses in an FSS contract. The use of RAs in procuring products and services from FSS contractors could have a detrimental effect on the FSS Program. FSS contractors may view the process to obtain an FSS contract and comply with its provisions to be overly burdensome and costly if they are subject to the use of RAs. In accordance with FAR 8.404(d), FSS contract prices have already been negotiated and

determined to be fair and reasonable. These prices are published and it creates an unfair competitive advantage for non-FSS vendors who compete with knowledge of the FSS prices, particularly when these prices are used as the target price.

Finally, we found that when using the FedBid RA tool for FSS and SEWP transactions, VHA is paying both the IFF or SEWP fee and the FedBid RA fee, unless it is waived by FedBid. To avoid paying additional fees above the IFF or SEWP fee, COs should not use the FedBid RA tool for FSS or SEWP transactions. We recommend using GSA's RA tool for FSS orders only when RA is determined to be the best procurement method for such orders, in order to avoid paying the FedBid RA fee in addition to IFF. For SEWP orders against an existing SEWP contract, we recommend using the established NASA SEWP Quote request tool in order to avoid paying an RA fee in addition to the SEWP fee.

Objective 5: Determine whether VHA is procuring gray market items through RAs.

The "gray market" is made up of genuine goods sold through unauthorized channels in direct competition with authorized distributors. Because gray market items are sold by companies who are not authorized by the manufacturer to sell their products, gray market items do not have any warranty coverage. To determine if the use of RAs increases the risk of acquiring "gray market" items, we reviewed 20 awarded buys for supplies in response to open market IFBs and the selected sellers' bids. Our sample was limited to open market purchases because the NASA SEWP, FSS, and GSA seller communities consist of contract holders who are either the manufacturer or have already undergone authorized distributor checks prior to contract award. Warranty provisions and other contract provisions protecting the Government's interest and patient safety are included in these contracts.

When purchasing products through unauthorized distributors, particularly for technical products, there is no manufacturer's warranty. Manufacturers will only warrant their product if purchased from an authorized distributor. Also the buying entity cannot guarantee that the product is new, meets quality standards, and has not been refurbished. These issues are extremely important when buying medical equipment.

The 20 sample IFBs contained two buy terms, Authorized Distributor and Equipment Condition which limit sellers to manufacturers or authorized distributors. In response to the IFB, each seller must acknowledge that they are an authorized distributor for the line items of the procurement. This is essentially a self-certification process because no other certification is required, e.g., from the manufacturer, and based on our review of the contract files, no verification by the CO is performed.

To determine if each of the selected sellers from the sample accurately disclosed their authorized distributor status, we reviewed published distributor lists of manufacturers, and contacted manufacturers to verify authorized distributors. Through these review

methods, we determined that only 12 of the 20 open market buys (60 percent) reviewed were awarded to authorized distributors of the respective manufacturers' products.

The selected sellers for Samples 5 and 13 sold a pair of brand name scissors. We contacted the manufacturer and learned that the particular pair of scissors purchased by the VA, was a direct purchase product only, meaning that the manufacturer only sells those scissors directly to end users. Therefore, the selected seller was not an authorized distributor for that particular product.

The selected seller for Sample 7 bid line items from seven different manufacturers. We only received responses from four of the seven manufacturers. Of those four only one verified the selected seller as an authorized distributor of their products.

We were unable to locate a published distributor list or successfully contact the manufacturers of the supplies purchased in Samples 4, 6, and 12. Therefore, we are unable to verify if the selected sellers are authorized distributors of procured supplies.

Conclusion

Although the terms included in an RA IFB appear to preclude unauthorized distributors from being eligible to participate in the RA, the terms simply require each seller to self-certify their qualification as an authorized distributor of the offered line items. Our review determined that self-certification is not adequate to ensure only authorized distributors are participating in RAs. We recommend implementing a system that ensures only authorized distributors of products are selected for award.

Summary

We concluded that COs are not maintaining adequate contract records in eCMS, preventing the determination of a fair and competitive RA procurement. Despite specific instructions in the VA policy and implementing VHA SOP for using RAs, certain required documentation is not included within each contract file. Only 16 of the reviewed 236 sample buys (6.78 percent) had sufficient documentation in eCMS. The lack of proper documentation of RAs raises serious concerns about the integrity of the procurement process.

We also concluded that the mandatory use of RAs ignores priority source requirements as set forth by FAR Subpart 8.002 and VAAR Part 808.002. In order to use the FedBid RA tool, FSS contractors are required to register with the website if they want an opportunity to bid on RAs in order to sell to the Government with whom they already have negotiated contracts. However, if FSS contractors refuse to register for RAs, COs will seek to fulfill the procurement with an open market RA. This practice is in direct violation of VAAR 808.002 and COs should procure schedule items directly from priority sources, such as the FSS, when they are available.

Our review of VHA's use of RAs found that the established method for calculating reported savings from the use of RAs is completely unreliable. The target price is not a reliable measure for calculating the reported savings due to several factors: no target price basis; the target price is not equal to the IGE; target price is for the full contract value but the award price represents partial funding, and; changes to the target price during a repost are not documented in eCMS. VHA does not independently review and validate savings reported by the RA database, and because the VA has not implemented internal controls, the resulting reported savings cannot be relied upon as a valid measure to determine if RAs save the VA money. We recommend developing a savings calculation truly representative of effective RA techniques. A system of internal controls should be implemented that will provide a more reliable and transparent savings calculation.

We conclude that using RAs to compete POs among FSS contract holders results in additional administrative burden with no additional savings, limits competition due to the requirement to be registered with FedBid, can result in an additional fee beyond the IFF, and at times is a violation of priority sources requirements. We found that RAs did not promote competition among FSS contract holders as 387 of 913 (42.39 percent) RA awards to FSS holders only consisted of one seller submitting a bid. We also found that POs awarded to NASA SEWP contract holders also included additional fees for using the FedBid RA tool beyond the SEWP fee.

Finally, we concluded that sellers are only responsible for self-certifying that they are authorized distributors for line item products on an IFB which resulted in VA purchasing gray market items from non-authorized sellers. We found that COs are not verifying authorized distributor status, and ultimately procuring gray market items. COs should be required to verify sellers are authorized distributors of manufacturers' products.

Recommendations

We recommend that the Under Secretary for Health:

1. Restrict the use of RAs to those procurements in which there is sufficient justification that it is in the best interest of the Government, particularly when the items or services to be procured are on existing FSS or other national contracts, including SEWP and other Government Wide Acquisition Contracts.
2. Require assurance that all COs follow the contract file documentation requirements stated in Federal Acquisition Regulation (FAR) 4.8, VA's Updated Policy and Procedures for Using Reverse Auctions dated April 3, 2012, and VHA SOP for Commercial Supply and Service Procurements dated May 1, 2012.
3. Require that all variances between target price and awarded price be fully explained and documented in the contract file.
4. Develop and implement a system of internal controls to ensure that the April 3, 2012, VA policy and the May 1, 2012, VHA SOP, and any revisions of those policies are being followed.
5. Develop and implement a policy to ensure that all reported savings are independently reviewed and reconciled by an internal VHA review process that is external to the buying office. The policy should target RAs that result in significant savings to ensure that the award price does not reflect partial funding.
6. Ensure the use of priority sources as detailed in VAAR 808.002 such as the FSS, regardless of whether or not RA is the procurement method. If the RA does not generate adequate competition from priority sources a different procurement strategy such as GSA's e-Buy should be utilized to encourage adequate competition.
7. Consider the use of GSA's RA tool for FSS orders only when RA is determined to be the best procurement method, in order to avoid paying an RA fee in addition to the IFF.
8. Use the NASA SEWP Quote request tool for SEWP orders against existing SEWP contracts, in order to avoid paying an RA fee in addition to the SEWP fee.
9. Implement a procurement requirement that will ensure only authorized distributors of products are eligible to compete and be selected for award and that includes a penalty for making false representations.
10. Change the May 1, 2012, VHA SOP to be consistent with the April 3, 2012, VA policy which it implements, and update the SOP in conjunction with the policy implemented in response to this report.
11. Removing the language which mandates the use of RAs from the VHA SOP.

Exhibit A

Sample Categories and Selection Methods

Sample Number	Sample Group	Sample Size	Sample Selection Method
1-10	Open Market Sample	10	Random selection of 10 awarded open market buys for medical surgical supplies
11-20	GSA Contract Sample	10	Random selection of 10 awarded GSA contract buys for medical surgical supplies
21-30	NASA SEWP Sample	10	Random selection of 10 awarded NASA SEWP buys
31-40	FSS Canceled Sample	10	Canceled FSS buys with bids ranked from most bids to least number of bids
41-50	FSS Single Bid-Positive Sample	10	Top 10 FSS buys awarded to a single bid, resulting in positive reported savings ranked from highest to lowest savings
51-60	FSS Single Bid-Negative Sample	10	Top 10 FSS buys awarded to a single bid, resulting in negative reported savings ranked from lowest to highest savings
61-70	FSS Single Bid-Breakeven Sample	10	Random selection of 10 FSS buys awarded to a single bid which generated \$0 reported savings
71-114	FSS Repost Sample	43*	Random selection of 43 FSS buys which were reposted despite having bids
115-118	FSS Services Sample	4	100% of buys for services using the FSS Contract Vehicle
119-168	All Awarded Buys-Positive Savings Sample	50	Top 39 buys awarded with positive reported savings and random selection of 11 awarded buys with positive savings
169-203	All Awarded Buys-Negative Savings Sample	35	Top 25 buys awarded with negative reported savings and random selection of 10 awarded buys with negative reported savings
204-238	All Awarded Buys-Breakeven Sample	34*	Random selection of 34 awarded buys which generated \$0 reported savings

*Through our review we determined that 2 selected samples would not be reviewed; however, we did not change the existing numbers for the remaining samples.

Exhibit B
Page 1 of 2

Summary of Report Statistics

Savings Statistics		
Issue	Percentage of Sample	Sample Size
There is no documented basis for the target price, causing the resulting savings to not be transparent.	60.56%	Limited to 213 awarded sample buys
The target price is a different value than the documented IGE in the contract file.	12.21	Limited to 213 awarded sample buys
The target price represents the full contract period including all options; however the award price represents partial funding.	23.91	Limited to 92 awarded samples with positive savings
The target price is changed during a repost.	14.94	Limited to 154 reposted sample buys
The target price is based on a vendor quote, but once it is posted to the FedBid RA tool, a different vendor with a higher bid wins the RA.	26.67	Limited to 60 awarded sample buys with negative savings

FSS Impact Statistics		
Issue	Percentage of Sample	Sample Size
The CO identifies an FSS source during market research, but posts the buy as open market	14.67%	Limited to 75 open market sample buys
FSS buys where the target price is based on an FSS contractor's pricing, and the same vendor is the only seller bidding, and wins the RA at the same price generating \$0 savings.	68.75	Limited to 16 FSS buys which broke even with a single bid

Exhibit B
Page 2 of 2

Summary of Report Statistics

Policy Statistics		
Issue	Percentage of Sample	Sample Size
Market research is not documented.	36.86%	All 236 sample buys
There are zero RA documents in the contract file, such as buy details, bid details, or buy package.	14.83	All 236 sample buys
The FedBid RA fee documentation is not included within the contract file.	85.45	Limited to 213 awarded sample buys
Justification for posting an RA to the open market is not documented in eCMS.	77.33	Limited to 75 open market sample buys
Justification for awarding a buy to a seller that did not have the lowest bid is not documented in eCMS.	12.50	Limited to 120 sample buys with more than 1 seller
The CO designated the RA as "exact match only."	13.98	All 236 sample buys
eCMS documentation is sufficient.	6.78	All 236 sample buys
The reported savings is not documented in eCMS.	98.59	Limited to 213 awarded sample buys

Appendix A

Under Secretary for Health Comments and VHA Action Plan

**Department of
Veterans Affairs**

Memorandum

Date: **AUG 22 2014**
From: Under Secretary for Health (10)
Subj: OIG Draft Report, Review of the Veterans Health Administration's Use of Reverse Auction Acquisitions (VAIQ 7491839)
To: Office of Inspector General, Office of Contract Review (55)

1. I have reviewed the draft report and concur with the report's recommendations. Attached is the Veterans Health Administration's corrective action plan for recommendations 1-11.

2. Thank you for the opportunity to review the draft report. If you have any questions, please contact Karen Rasmussen, M.D., Director, Management Review Service (10AR) at VHA10ARMRS2@va.gov.



Carolyn M. Clancy, M.D.

Interim Under Secretary for Health

Attachment

Appendix A

VETERANS HEALTH ADMINISTRATION (VHA) Action Plan

OIG Draft Report, Contract Review: Review of the Veterans Health Administration's Use of Reverse Auction Acquisitions

Date of Draft Report: August 7, 2014

Recommendations/ Actions	Status	Completion Date
OIG recommends that the Under Secretary for Health		

Recommendation 1. Restrict the use of RAs to those procurements in which there is sufficient justification that it is in the best interest of the Government, particularly when the items or services to be procured are on existing FSS or other national contracts, including SEWP and other Government Wide Acquisition Contracts.

VHA Comments: Concur

As stated in the May 15, 2014, Acting Veterans Health Administration (VHA) Deputy Chief Procurement Officer memorandum regarding the Use of Reverse Auctions (RAs) (Attachment A), the use of reverse auction tools shall be limited to the GSA reverse auction tool and at the discretion of the Contracting Officer. The VHA Commercial Supply and Service SOP (Attachment B, paragraph 2) has been updated to reflect the changes from the memorandum and the concerns noted in Recommendation 1. Also note, VHA is no longer calculating or advertising cost savings.

Status: Implemented

Recommendation 2. Require assurance that all COs follow the contract file documentation requirements stated in Federal Acquisition Regulation (FAR) 4.8, VA's Updated Policy and Procedures for Using Reverse Auctions dated April 3, 2012, and VHA SOP for Commercial Supply and Service Procurements dated May 1, 2012.

VHA Comments: Concur

To address assurance that COs follow contract documentation requirements, the VHA Policy Office will work with the Service Area Offices (SAOs) to determine the best methodology for the review of RA contract files. Possible solutions may include mandatory review of all RA contracts by the SAO staff.

Status: In process Target Completion Date:
September 1, 2014

Appendix A

Page 2.

Recommendation 3. Require that all variances between target price and awarded price be fully explained and documented in the contract file.

VHA Comments: Concur

Please refer to Recommendation 1. Also note, the recommendation is referring to the term "target price" that is only applicable to commercial vendor run reverse auctions. VHA is only using GSA reverse auction services.

Status: Implemented

Recommendation 4. Develop and implement a system of internal controls to ensure that the April 3, 2012, VA policy and the May 1, 2012, VHA SOP, and any revisions of those policies are being followed.

VHA Comments: Concur

The VHA Office of Procurement Audits will create a Reverse Auction Audit Program in fiscal year 2015 to ensure the VA policy and VHA SOP's are being followed.

Status: In Process Target Completion Date:
December 1, 2014

Recommendation 5. Develop and implement a policy to ensure that all reported savings are independently reviewed and reconciled by an internal VHA review process that is external to the buying office. The policy should target RAs that result in significant savings to ensure that the award price does not reflect partial funding.

VHA Comments: Concur

Please see the response to Recommendation 1.

Status: Implemented

Recommendation 6. Ensure the use of priority sources as detailed in VAAR 808.002 such as the FSS, regardless of whether or not RA is the procurement method. If the RA does not generate adequate competition from priority sources a different procurement strategy such as GSA's e-Buy should be utilized to encourage adequate competition.

VHA Comments: Concur

Appendix A

Page 3.

Please see the response to Recommendation 1.

Status: Implemented

Recommendation 7. Consider the use of GSA's RA tool for FSS orders only when RA is determined to be the best procurement method, in order to avoid paying an RA fee in addition to the IFF.

VHA Comments: Concur

Please see the response to Recommendation 1.

Status: Implemented

Recommendation 8. Use the NASA SEWP Quote request tool for SEWP orders against existing SEWP contracts, in order to avoid paying an RA fee in addition to the SEWP fee.

VHA Comments: Concur

Please see the response to Recommendation 1.

Status: Implemented

Recommendation 9. Implement a procurement requirement for RAs that will ensure only authorized distributors of products are eligible to compete and be selected for award and that includes a penalty for making false representations.

VHA Comments: Concur

Please see the response to Recommendation 1. The use of GSA RA tool only ensures no RA gray market purchases will be conducted.

Status: Implemented

Recommendation 10. Change the May 1, 2012, VHA SOP to be consistent with the April 3, 2012, VA policy which it implements and update with policy implemented in response to other recommendations in this report.

Appendix A

Page 4.

VHA Comments: Concur

Please see the response to Recommendation 1.

Status: Implemented

Recommendation 11. Remove the language which mandates the use of RAs from the VHA SOP.

VHA Comments: Concur

Please see the response to Recommendation 1.

Status: Implemented

Veterans Health Administration
August 2014

Appendix B

Office of Inspector General Contact and Staff Acknowledgements

OIG Contact	Maureen Regan
Acknowledgments	Christina Ogonowski Karen Summers Michael Grivnovics

Appendix C

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