



US DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

Office of Audits and Evaluations

OFFICE OF ACQUISITION, LOGISTICS, AND CONSTRUCTION

A Summary of OIG Preaward Contract Reports Issued in Fiscal Year 2023 on VA Federal Supply Schedule Pharmaceutical Proposals

Review

24-00480-220

September 10, 2024

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Executive Summary

The VA Office of Inspector General (OIG) examines pharmaceutical proposals submitted to the VA National Acquisition Center for Federal Supply Schedule (FSS) contracts.¹ Specifically, the OIG's oversight work examines and reports on pharmaceutical proposals for FSS contracts that have an anticipated annual value expected to exceed \$5 million. Its oversight reports help VA contracting officers negotiate fair and reasonable prices for the government.² The resulting OIG reports on the individual proposals are not published because they contain sensitive commercial information that is protected from release under federal law.³

To promote transparency, this report summarizes 17 oversight reports the OIG provided to VA contracting officers in fiscal year (FY) 2023 for pharmaceutical FSS proposals. The 17 proposals had a cumulative 10-year estimated contract value of approximately \$19.5 billion and included a total of 1,551 National Drug Code offered items.⁴ Contract negotiations for 16 of the 17 pharmaceutical proposals had been completed as of the date of this report. Collectively, the OIG's recommendations assisted contracting officers in obtaining approximately \$351,669 of the OIG's recommended \$120.6 million in contract savings for VA over the life of the contracts.

This report presents an overview of what the OIG did to review each pharmaceutical proposal:⁵

- **Provided an opinion as to whether the proposal and commercial disclosures were accurate, complete, and current.** The OIG found that commercial disclosures were accurate, complete, and current for six of the 17 proposals (about 35 percent). This means six proposals were reliable for determining negotiation objectives and ultimately for fair and reasonable pricing. The remaining 11 proposals could not be reliably used by VA for negotiations until noted deficiencies were corrected. Common reasons for deficiencies were errors in the

¹ The National Acquisition Center, part of the Office of Procurement, Acquisition and Logistics, is within VA's Office of Acquisition and Logistics. Under the [FSS](#) and [National Contract Programs](#), the National Acquisition Center makes high-volume multiple awards from the established schedule, national contracts, and blanket purchase agreements for the acquisition and direct delivery of pharmaceuticals; medical, surgical, dental, and patient mobility equipment/supplies; high-technology medical equipment; temporary allied healthcare staffing services; and just-in-time distribution programs. The FSS supports the healthcare requirements of VA and other government agencies.

² This report is a review that meets the Council of the Inspectors General for Integrity and Efficiency quality standards for inspections and evaluations. The underlying individual projects conducted in FY 2023 each resulted in a report to the appropriate VA contracting officer and were performed to other standards.

³ 18 U.S.C. § 1905; Trade Secrets Act, 41 U.S.C. § 423(a); and 38 C.F.R. § 1.558(c).

⁴ The US Food and Drug Administration assigns a unique National Drug Code for all package sizes, drug strengths, and volumes, even for the same drug. In some instances, the 1,551 offered items contained more than one National Drug Code for the same product depending on the packaging and dosages.

⁵ Information on the scope and methodology for this report appears in appendix A.

disclosed most-favored-customer prices or the expiration of most-favored-customer prices.

- **Made recommendations for pricing based on the vendor's commercial selling practices.** The OIG recommended seeking lower prices than offered for five of the 17 proposals (about 29 percent). Its recommendations resulted in the VA National Acquisition Center awarding contracts and modifications with sustained cost savings of approximately \$351,669 of the OIG's recommended \$120.6 million (less than 1 percent) during the life of the contracts. Contracting officers use OIG price recommendations on submitted proposals to help negotiate better prices than those offered in proposals; however, there is no guarantee that the government will receive the price recommended by the OIG. Appendix B presents the OIG's estimated and sustained cost savings from reports issued in FY 2023; appendix C presents VA's rationale for not sustaining six recommendations.
- **Evaluated and suggested alternative tracking customers.** Tracking customers, either individually or as a category, serve as a benchmark for potential price reductions during the life of the contract. If tracking customers receive a price reduction, the government's price should also be reduced. To evaluate offered pricing, the OIG sampled 171 of the 1,551 offered items from among the 17 proposals (generally representing at least 75 percent of the historical government sales under each proposal). For 28 of the 171 sampled items (about 16 percent), the OIG determined proposed tracking customers were not suitable. A proposed tracking customer may not be suitable if the customer does not have buying patterns similar to those of FSS buyers or if the offered products are not on the proposed tracking customers' contract. The OIG recommended tracking customers that were generally among the vendor's largest commercial customers or most-favored customers for the 28 items.

This review provides an overview of the nonpublic reports issued by the OIG to determine if the 17 proposals were accurate, complete, and current, as well as includes summary information about pricing recommendations made to VA. It does not propose any additional recommendations that necessitate any VA action. The associate executive director of the National Acquisition Center concurred with the draft report and provided no comments. Appendix D provides the full text of the associate executive director's response.



LARRY M. REINKEMEYER
Assistant Inspector General
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Abbreviations

FSS	Federal Supply Schedule
FY	fiscal year
OIG	Office of Inspector General



Introduction

The VA Office of Inspector General (OIG) examines proposals submitted by commercial contractors to VA's National Acquisition Center for pharmaceutical Federal Supply Schedule (FSS) contracts that have an anticipated annual value expected to exceed \$5 million.⁶ The OIG's oversight work assesses these proposals before the National Acquisition Center awards contracts to help inform decision-making and prevent the waste of VA funds.⁷ Contracting officers use OIG price recommendations on submitted proposals to help negotiate better prices than those offered in proposals; however, there is no guarantee that the government will receive the price recommended by the OIG or that the contracting officer will accept the OIG's recommendations.

The individual reports resulting from the OIG's oversight work of each proposal for an FSS contract are not published because they contain sensitive commercial pricing information and data protected from release under federal law.⁸ To promote transparency, this report provides a summary of the 17 preaward reports on pharmaceutical proposals the OIG issued during fiscal year (FY) 2023.⁹

Purpose of Preaward Reports

The findings and recommendations in OIG preaward reports are intended to serve as a resource for VA contracting officers in negotiating fair and reasonable pricing with vendors.¹⁰ The OIG conducts this work to validate the commercial sales practice disclosures required in the vendor's FSS proposal, to identify any prices lower than those offered to the government for products or services, and to propose alternative tracking customers when warranted as the basis for pricing.¹¹ The VA contracting

⁶ The National Acquisition Center, part of the Office of Procurement, Acquisition and Logistics, is within VA's Office of Acquisition and Logistics. Under the [FSS](#) and [National Contract Programs](#), the National Acquisition Center makes high-volume multiple awards from the established schedule, national contracts, and blanket purchase agreements for the acquisition and direct delivery of pharmaceuticals; medical, surgical, dental, and patient mobility equipment/supplies; high-technology medical equipment; temporary allied healthcare staffing services; and just-in-time distribution programs. The FSS supports the healthcare requirements of VA and other government agencies.

⁷ All such assessments are conducted at the Inspector General's discretion and noted in the VA OIG's *Semiannual Reports to Congress*. IG Act of 1978, 5 U.S.C. App §§ 5 (f)(4)(E), 6(a)(2). VA National Acquisition Center Procedural Guideline 22, *OIG Contract Audit Procedures*, February 9, 2023.

⁸ 18 U.S.C. § 1905; Trade Secrets Act, 41 U.S.C. § 423(a); and 38 C.F.R. § 1.558(c).

⁹ This report is a review that meets the Council of the Inspectors General for Integrity and Efficiency quality standards for inspections and evaluations. The underlying individual projects conducted in FY 2023 each resulted in a report to the appropriate VA contracting officer and were performed to other standards.

¹⁰ VA National Acquisition Center Procedural Guideline 22, *OIG Contract Audit Procedures*, February 9, 2023; Federal Acquisition Regulation 2.101 (2024). The Federal Acquisition Regulation defines a contracting officer as "a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.... A single contracting officer may be responsible for duties in any or all of these areas."

¹¹ Tracking customers, either individually or as a category, serve as a benchmark for potential price reductions during the life of the contract. If tracking customers receive a price reduction, the government's price should also be reduced.

officer is responsible for negotiating the actual prices with the vendor and ultimately determining whether offered prices are fair and reasonable.

One of the primary acquisition programs for which the OIG provides recommendations in preaward reports is VA's FSS program. The purpose of this report is to provide a summary of the findings and recommendations made to VA contracting officers in the OIG's 17 reports on FSS pharmaceutical proposals issued in FY 2023.

VA Federal Supply Schedule Program

The General Services Administration has delegated authority to VA's National Acquisition Center to award and administer nine schedules to support the healthcare acquisition needs of VA and other government agencies.¹² Federal agencies purchased about \$18.9 billion in products and services through these nine schedules during FY 2023.¹³ One of the nine schedules is Schedule 65 I B—*Drugs, Pharmaceuticals, & Hematology Related Products*. In FY 2023, 83 percent of government spending on this schedule was through VA's FSS program.¹⁴

The goal of the FSS program is to leverage the entire federal government's purchasing power to drive volume-based discounts that provide healthcare solutions at fair and reasonable prices to all authorized FSS users.¹⁵ FSS indefinite-delivery, indefinite-quantity contracts are awarded to vendors using full and open competition.¹⁶ The FSS program negotiates firm, fixed pricing based on a commercial most-favored-customer pricing concept.¹⁷

Because of the magnitude of spending through the VA FSS program, the General Services Administration and VA have established regulations, policies, and procedures to help ensure the government receives the best prices for pharmaceutical and other medical supplies and that FSS vendors are following all the terms and conditions of their contracts. This included VA instituting a preaward and postaward contract review program.

¹² The National Acquisition Center is one of the VA's Office of Acquisition and Logistics' operational divisions. Federal Acquisition Regulation 8.402(a) (2024); "VA Schedule Programs" (web page), VA Office of Procurement, Acquisition and Logistics, accessed May 22, 2024, <https://www.va.gov/opal/nac/fss/schedules.asp>.

¹³ FY 2023 sales data from the National Acquisition Center Contract Management Database, as of February 3, 2024.

¹⁴ FY 2023 sales data from the National Acquisition Center Contract Management Database, as of February 3, 2024.

¹⁵ Federal Acquisition Regulation 38.101(a) (2024); Federal Acquisition Regulation 8.402(a); Federal Acquisition Regulation 8.404(d) (2024).

¹⁶ Federal Acquisition Regulation 16.5—Indefinite-Delivery Contracts; Federal Acquisition Regulation 6-102(3) (2024); Federal Acquisition Regulation 2.101. According to federal regulation, "Full and open competition....means that all responsible sources are permitted to compete."

¹⁷ "Schedules" (web page), VA FSS Service, accessed April 23, 2024, <https://www.fss.va.gov/>; VA FSS Solicitation No. M5-Q50A-03-R8, attachment 02, "Vendor Response Document," "COMMERCIAL SALES PRACTICE FORMAT." The Vendor Response Document defines the most-favored customer as the commercial customer who receives the best up-front (guaranteed) discount. This does not include conditional discounts, such as prompt payment discounts or annual rebates based on reaching a threshold.

Additionally, VA developed its own guidelines for requesting an OIG analysis of proposals and contracts submitted under or related to contracts or solicitations issued by VA's National Acquisition Center.¹⁸ The written guidelines require contracting officers to submit all FSS pharmaceutical proposals with an estimated annual contract value expected to exceed \$5 million to the OIG for review.

¹⁸ VA National Acquisition Center Procedural Guideline 22.

A Summary of FY 2023 Pharmaceutical Preaward Reports to Contracting Officers

The 17 reports the OIG teams provided to VA contracting officers in FY 2023 had 10-year estimated contract values totaling approximately \$19.5 billion and included 1,551 offered National Drug Code items.¹⁹ For each of the 17 proposals the OIG reviewed, the primary objectives were to

1. provide an opinion as to whether the commercial sales practice disclosures in the proposals were accurate, complete, and current;
2. evaluate offered prices and concessions and provide pricing recommendations; and
3. determine if the proposed tracking customers were appropriate for price reduction clause purposes and suggest alternatives as warranted.

What the OIG Did

The OIG summarized the results and impact of the 17 reports by objective. Collectively, the team sampled 171 of the 1,551 items offered under the 17 related proposals; those items generally represented at least 75 percent of the historical government sales under each proposal.²⁰ To evaluate offered prices and concessions, the team reviewed vendors' commercial sales and agreements and evaluated lower-than-offered prices. To determine if customers were suitable for purposes of the General Services Administration price reduction clause, the OIG team analyzed proposed tracking customers for the sample items.²¹

Information on the scope and methodology for this report appears in appendix A. The OIG's reports on each of the 17 nonpharmaceutical proposals are summarized on the following pages and in appendix B.

Opinion on Commercial Sales Practice Disclosures

The OIG found commercial sales practice disclosures accurate, complete, and current for six of the 17 proposals. This means that these six proposals were reliable for determining negotiation

¹⁹ The US Food and Drug Administration assigns a unique National Drug Code for all package sizes, drug strengths, and volumes, even for the same drug. In some instances, the 1,551 offered items contained more than one National Drug Code for the same product.

²⁰ Appendix table B.1 provides the results for the 17 proposals reviewed. The dollar amount here is rounded.

²¹ The price reduction clause is intended to maintain fair and reasonable pricing after the contract has been awarded through the use of tracking customers. If tracking customers receive a price reduction, the government's price should also be reduced.

objectives and ultimately fair and reasonable pricing using the commercial pricing information in the disclosures. The remaining 11 proposals (about 65 percent) did not meet these criteria and could not reliably be used by VA for negotiations until the noted deficiencies were corrected.

Under the FSS program, vendors disclose their commercial prices and terms and conditions on the commercial sales practice form in their FSS proposals. Commercial sales practice disclosures must be accurate, complete, and current so that VA contracting officers can use this information to evaluate proposed prices, set negotiation objectives, and determine whether offered prices are fair and reasonable.

The commercial sales practice section of the FSS pharmaceutical solicitation contains instructions on what the vendor should disclose to the government, as do product addition modifications. The instructions state that if the vendor is proposing prices better than or equal to the most-favored-customer prices, those customers and prices must be disclosed. If that is not the case, the vendor is required to disclose all commercial prices equal to or better than those prices offered to the government and to disclose all customers or categories of customers who are receiving those prices.

Additionally, the vendor is required to provide information about how customers may qualify for prices or discounts lower than those offered to the government. Any deviations from commercial sales practice disclosures or exceptions to disclosed standard practices must be explained. For vendors who are dealers or resellers without significant commercial sales, manufacturers of the offered items must provide commercial sales practice disclosures in accordance with the solicitation instructions. Table 1 lists the findings for the 11 proposals with commercial sales practices that were not accurate, complete, or current and the number of occurrences.

Table 1. Commercial Sales Practice Findings

Commercial sales practice findings	Occurrences among the 11 proposals
Expired disclosed most-favored-customer prices	5
Errors in disclosed most-favored-customer prices	4
Not all most-favored customers disclosed	1
Change in discounts/rebates	1

Source: VA OIG analysis of commercial sales practice disclosures.

For these 11 proposals, the contracting officer could not rely on the commercial sales practices to make fair and reasonable price determinations to award FSS contracts.

Evaluation of Offered Prices and Related Recommendations

Among the 17 proposals the OIG reviewed, 10 (about 59 percent) offered pricing lower than or equal to most-favored-customer pricing. For these proposals, the OIG recommended VA

contracting officers accept the offered pricing. Table 2 summarizes the reasons vendors chose not to offer most-favored-customer pricing for the remaining seven proposals (about 41 percent).

Table 2. Rationale for Not Offering Most-Favored-Customer Pricing

Rationale	Occurrences among the seven proposals
Government does not meet volume incentive	2
Most-favored-customer prices are restricted to direct and sole-source awards customer type	2
Commercial contracts provide services the FSS does not perform	1
Government does not participate in exclusivity purchasing requirements	1
Most-favored-customer price expired after the proposal was submitted to VA	1

Source: VA OIG analysis of offered prices.

If the government is not offered the most-favored-customer price (in other words, the lowest commercial price), the OIG considers commercial prices lower than the offered FSS price for price recommendation purposes. This determination may result in cost savings, which is the potential dollar effect of implementing a price recommendation that would reduce the cost of pharmaceuticals and make these funds available for other uses. The OIG's estimated cost savings are calculated as the difference between vendor-offered prices and OIG-recommended prices, multiplied by historical order volume and extrapolated over a 10-year contract period for new contracts or the potential remaining contract period for a product addition modification under Schedule 65 I B.

The OIG recommended seeking lower-than-offered prices for five of the seven proposals. For the five, the government's overall FSS sales of offered items or total units purchased per sampled item were greater than those of the most-favored customers or customers receiving a price lower than offered. None of the vendors from the five proposals offered rebates to the FSS. For the two remaining proposals, the vendors justified higher prices based on factors such as the government not meeting most-favored-customer volume for purchases.

The VA National Acquisition Center had awarded 16 contracts from the 17 proposals as of the date of this report, which accounted for \$106.3 million of the \$120.6 million in recommended cost savings. Overall, as of the date of this report, the OIG's lower-pricing recommendations had resulted in sustained cost savings of approximately \$351,669 (less than 1 percent of the recommended \$120.6 million) during the 10-year life of the contracts. As mentioned earlier, contracting officers use OIG price recommendations on submitted proposals to help negotiate better prices than those offered in proposals; however, there is no guarantee that the government

will receive the price recommended by the OIG. Appendix B provides more information on the monetary impact of the recommendations in the OIG's 17 preaward reports issued in FY 2023, and appendix C summarizes the VA National Acquisition Center rationale for not sustaining the OIG's recommendations by proposal.

The General Services Administration states that the government will seek to obtain the vendor's best price given to the most-favored customer and that the government recognizes that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved.²² The General Services Administration also states that when establishing negotiation objectives and determining price reasonableness, the contracting officer must compare the terms and conditions of the FSS solicitation with the terms and conditions of agreements with the vendor's commercial customers. When determining the government's price negotiation objectives, the aggregate volume of anticipated purchases, among other factors, must be considered.²³

Evaluation of Proposed Tracking Customers

FSS contracts under Schedule 65 I B are awarded for up to 10 years, consisting of a five-year base period and five one-year option periods. The General Services Administration price reduction clause mandates lowering the FSS contract price based on price reductions to the negotiated tracking customers.²⁴ FSS contracts require vendors to report price reductions they provide to the tracking customer during the contract period. This contract clause requires the government and the vendor to agree on a customer or category of customers, known as a tracking customer, to serve as a benchmark to which the government's price or discount can be linked for potential price reductions during the life of the contract. The objective of the price reduction clause is to maintain fair and reasonable pricing after the contract has been awarded.

A proposed tracking customer may not be suitable for purposes of the price reduction clause if the customer does not have buying patterns similar to those of FSS users or if the offered products are not on the proposed tracking customers' contract. The OIG determined that proposed tracking customers for 28 of 171 sampled items were not suitable. Table 3 summarizes the reasons the OIG recommended alternative tracking customers for the 28 sampled items.

²² General Services Acquisition Manual 538.270-1, "Evaluation of offers without access to transactional data," May 20, 2024.

²³ General Services Acquisition Manual 538.270-1.

²⁴ General Services Acquisition Manual, "Price Reductions," 552.238-81, May 2019.

Table 3. Rationale for Recommending Alternative Tracking Customers

Rationale	Occurrences among the proposals
Wholesaler customer type*	16
Lower sales volume than FSS users	9
Insufficient contract item coverage	3

Source: VA OIG analysis of proposed tracking customers.

Note: The OIG may have more than one reason for recommending alternative tracking customers.

** In the OIG's opinion, wholesalers are not acceptable tracking customers because they pay wholesale acquisition prices or receive minimal discounts for offered items. Therefore, wholesalers' prices would most likely increase, not decrease, during the prospective FSS contract period.*

For the 28 sampled items, the OIG recommended tracking customers that were generally among the vendor's largest commercial customers or most-favored customers. Commercial customers that generate a large sales volume and are a vendor's most-favored customers generally maintain competitive low prices. The VA National Acquisition Center was able to sustain the OIG's recommended tracking customers for one of the 28 items (about 4 percent) during negotiations. Selecting a tracking customer for price reduction clause purposes involves various factors that can be weighted and analyzed differently. Although contracting officers consider various factors when selecting an appropriate tracking customer, they also exercise their judgment because there is no mandated guidance for the selection.²⁵ The OIG recommends tracking customers that will provide long-term price protection for the government by ensuring that an active contract between the manufacturer and its customers remains in place throughout the life of the FSS contract. However, the VA contracting officer may decide that different tracking customers provide adequate price reduction protection.

Conclusion

The federal government spends billions of dollars annually on pharmaceutical items through VA's FSS program. The OIG's findings and recommendations in preaward reports issued in FY 2023 helped VA contracting officers reduce the cost of pharmaceutical items, saving taxpayers about \$351,669 over the 10-year life of the awarded contracts.

This report provides summary information about prior recommendations made to VA on the 17 proposals; the OIG does not propose any additional recommendations in this report that require VA's action.

²⁵ Two examples of the various factors that may be considered by the contracting officers are sales volume commitments and sole-source requirements.

VA Management Comments

The associate executive director of the National Acquisition Center concurred with the draft report and provided no comments. Appendix D provides the full text of the associate executive director's response.

Appendix A: Scope and Methodology

The VA Office of Inspector General (OIG) conducted its work from December 2023 through July 2024. This report summarizes information previously available only in nonpublic OIG preaward reports to VA (due to federal law prohibitions) and presents subsequent contract award data. The OIG team assessed relevant sources of information, including contracts obtained from VA's electronic contract management system and applicable fiscal year (FY) 2023 Federal Supply Schedule (FSS) pharmaceutical preaward reports.

Methodology

The team searched VA's electronic contract management system for the solicitations or modifications that were the subject of an OIG-prepared preaward report and obtained the resulting contract or modification. They then summarized the data from the reports and resulting contracts or modifications for presentation in this publication.

Fraud Assessment

The team assessed the risk of fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements significant to the objectives. The team exercised due diligence in staying alert to fraud indicators. The OIG did not identify any instances of fraud or potential fraud during the period of the reports summarized in this publication.

Data Reliability

The OIG did not obtain or rely on computer-processed data. The team also did not perform detailed fieldwork to verify the information in the reports issued to contracting officers and resulting contracts because verification was not the purpose of this OIG report.

Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Appendix B: Estimated and Sustained Cost Savings from Reports Issued in Fiscal Year 2023

The VA OIG estimated cost savings as the difference between vendor-offered prices and OIG-recommended prices, multiplied by historical order volume and extrapolated over a 10-year contract period for new contracts under Schedule 65 I B—*Drugs, Pharmaceuticals, & Hematology Related Products*. VA’s sustained cost savings is the estimated cost savings based on the final prices awarded by the VA contracting officer. Overall, VA was able to sustain about \$351,669 of total estimated cost savings flowing from preaward reports issued in FY 2023 with lower-than-offered-price recommendations for contracts awarded as of the date of this report. The percentage of sustained cost savings in table B.1 reflects the proportion of OIG-recommended cost savings that contracting officers were able to sustain for all proposals the OIG reviewed.

Table B.1. Cost Savings Data for Reports Issued to VA

Report number	Date issued	OIG’s estimated cost savings (\$)	VA’s sustained cost savings (\$)	Percent of sustained cost savings (%)	Date awarded
1	10/24/2022	\$14,328,772	0	0	Not yet awarded*
2	11/3/2022	0	0	0	11/25/2022
3	1/12/2023	0	0	0	8/10/2023
4	2/10/2023	0	0	0	5/26/2023
5	4/13/2023	0	0	0	7/18/2023
6	4/25/2023	0	0	0	5/31/2024
7	4/25/2023	\$109,980	0	0	9/13/2022**
8	6/7/2023	0	0	0	9/11/2023
9	6/12/2023	\$96,303,295	0	0	8/8/2023
10	6/15/2023	0	0	0	8/24/2023
11	8/3/2023	\$1,680,439	0	0	7/1/2024
12	8/3/2023	0	0	0	9/13/2023
13	8/11/2023	0	0	0	9/25/2023
14	8/16/2023	0	0	0	9/15/2023***

A Summary of OIG Preaward Contract Reports Issued in Fiscal Year 2023 on
VA Federal Supply Schedule Pharmaceutical Proposals

Report number	Date issued	OIG's estimated cost savings (\$)	VA's sustained cost savings (\$)	Percent of sustained cost savings (%)	Date awarded
15	8/18/2023	0	0	0	9/28/2023
16	9/26/2023	0	0	0	12/19/2023
17	9/26/2023	\$8,181,055	\$351,669	4.3%	9/29/2023
Total		\$120,603,541	\$351,669	0.3%	

Source: OIG reports and VA National Acquisition Center contract files.

Note: Numbers in table may not sum due to rounding.

** A contract for report 1 had not been awarded at the time of this summary report to enable the team to include its estimated savings in the sustained savings total.*

*** Contract was awarded before the OIG report to the VA contracting officer was completed.*

**** Denotes product addition or modification date.*

Appendix C: VA's Rationale for Not Sustaining Recommendations by Report

Report number (see table B.1)	OIG's estimated cost savings (\$)	OIG's recommendation	VA National Acquisition Center's rationale
1	\$14,328,772		Contract not yet awarded.
7	\$109,980	The OIG recommended most-favored-customer prices because the government ranked above the most-favored customer in annual sales volume, having purchased more units per sampled item during the scope of the work.	The OIG report issued on 4/25/2023 was received by the contracting officer after negotiations on 9/12/2022.* The contract was awarded on 9/13/2022. The vendor and the contracting officer agreed to renegotiate any unfair or unreasonable issues with the new contract after reviewing the OIG's issued report. The new contract was not renegotiated after the OIG issued its report because the contracting officer did not find any unfair or unreasonable issues in the contract.
9	\$96,303,295	The OIG recommended most-favored-customer prices, or prices paid by other commercial customers with similar or lower sales volume than the government.	The OIG report was issued on 6/12/2023, and the contracting officer finalized negotiations on 7/28/2023. The contract was awarded on 8/8/2023. For the covered drugs, VA accepted prices as proposed because the vendor expressed or exercised its right to charge the Federal Ceiling Price, regardless of most-favored-customer prices.** For the generic products, VA did not implement the recommendation because VA did not meet the contract commitment requirements or agree to a sole-source award.
11	\$1,680,439	The OIG recommended review of most-favored customer contracts prior to negotiating the offered price due to [REDACTED] not providing said contracts during OIG's preaward review.	The OIG report was issued on 8/3/2023, and the contracting officer finalized negotiations on 5/3/2024. The contract was awarded on 7/1/2024. For the covered drugs, VA accepted prices as proposed because the vendor's proposed prices were significantly lower than pricing offered to any commercial customer. For the generic products, VA did not implement the recommendation because the audited commercial sales practices expired in 2023 and VA did not meet the contract terms that warrant lower prices.

A Summary of OIG Preaward Contract Reports Issued in Fiscal Year 2023 on
VA Federal Supply Schedule Pharmaceutical Proposals

Report number (see table B.1)	OIG's estimated cost savings (\$)	OIG's recommendation	VA National Acquisition Center's rationale
17	\$8,181,055	The OIG recommended most-favored-customer prices because the government ranked above the most-favored customer in annual sales volume, having purchased more units per sampled item during the period reviewed.	The OIG report was issued on 9/25/2023, and the contracting officer finalized negotiations on 9/12/2023. The contract was awarded on 9/29/2023. For the covered drugs, the VA accepted prices as proposed because the vendor exercised its right to charge the Federal Ceiling Price, regardless of most-favored-customer prices.

Source: OIG reports and VA National Acquisition Center contract files.

** The delay in issuing this report was due to the contractor not promptly providing information needed to complete the work.*

*** Veterans Health Care Act of 1992, Pub. L. No. 102–585, § 603 (1992). A covered drug is one that is commercially marketed, sold, and approved by the Food and Drug Administration under a new drug application (if at least one active ingredient is on the Food and Drug Administration's reference list of original, licensed drugs) or a biological licensing agreement. The latter applies to any biological product—that is, any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention, treatment, or cure of diseases or injuries of humans. VA calculates an annual ceiling price for each covered drug, which is at least a 24 percent discount from the average manufacturer price.*

Appendix D: Management Comments

**Department of
Veterans Affairs**

Memorandum

Date: August 1, 2024

From: Associate Executive Director (National Acquisition Center (NAC/FSS))

Subj: Office of Inspector General Draft Report: Draft Report - A Summary of OIG Pre-award Contract Reports Issued in Fiscal Year 2023 on VA Federal Supply Schedule Pharmaceutical Proposals

To: Audit Operations Division (52D02)

1. The Office of Procurement, Acquisition and Logistics (OPAL) completed its review of the subject Draft Report and concur without comments.

The OIG removed point of contact information prior to publication.

(Original signed by)

Christopher Parker

*For accessibility, the original format of this appendix has been modified
to comply with Section 508 of the Rehabilitation Act of 1973, as amended.*

OIG Contact and Staff Acknowledgments

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