



US DEPARTMENT OF VETERANS AFFAIRS **OFFICE OF INSPECTOR GENERAL**

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The Electronic Health Record Modernization Program Could Strengthen Its Process for Reviewing Task Order Progress

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The Office of Inspector General (OIG) has released this management advisory memorandum to provide information on matters of concern that the OIG has gathered as part of its oversight mission. The OIG conducted the performance audit in accordance with generally accepted government auditing standards.



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20001



June 27, 2023¹

MANAGEMENT ADVISORY MEMORANDUM

TO: Dr. Neil Evans, Acting Program Executive Director
Electronic Health Record Modernization Integration Office
(00EHRM) and Michele Foster, Associate Executive Director
and Head of Contracting Activity VA Technology Acquisition
Center (003B2)

FROM: Larry Reinkemeyer, Assistant Inspector General
VA Office of Inspector General's Office of Audits and
Evaluations (52)

SUBJECT: The Electronic Health Record Modernization Program Could
Strengthen Its Process for Reviewing Task Order Progress
Reports

The VA Office of Inspector General (OIG) is issuing this management advisory memorandum in response to an allegation related to VA's efforts to replace its electronic health record system for VA patients. The allegation, described more fully below, stated that the named contractor was submitting progress reports for payment with only minimal information.² The OIG did not substantiate the allegation. However, the OIG noted a lack of timeliness requirements for progress reports that required corrections and is conveying the information necessary for the

¹ This memorandum was sent to the Electronic Health Record Modernization Integration Office (EHRM IO), the VA Technology Acquisition Center, and the Office of Information and Technology on June 27, 2023, to provide the opportunity for review prior to publication.

² In this memorandum, progress reports refer to those updated regularly, for example on a biweekly, monthly, or quarterly basis, and have different titles such as plans, strategies, and charters.

Electronic Health Record Modernization Integration Office (EHRM IO) to determine if additional actions are warranted.³ The OIG is taking no additional steps at this time.

In May 2018, VA awarded Cerner Government Services, Inc. (Cerner), a contract for about \$10 billion to replace its aging electronic health record system.⁴ The VA Electronic Health Record Modernization initiative involves establishing and maintaining a system that is intended to be interoperable with the one used by the Department of Defense. That system is meant to provide a continuous and comprehensive medical history for veterans that can be accessed by their care providers. It was initially expected to take about 10 years for VA to implement the new system across the country.⁵ In October 2022, VA announced that it would delay upcoming deployments of the new health record system “until June 2023 to address challenges with the system and make sure it is functioning optimally.”⁶ Subsequently, VA announced deployments would not be scheduled until the new system is highly functioning at current sites, except for one deployment scheduled for March 2024 at the Captain James A. Lovell Federal Healthcare Center in Chicago, the only fully integrated VA and Department of Defense healthcare system.⁷ The OIG previously reported that each additional year of delay required for the full deployment of the system could potentially cost VA about \$1.95 billion.⁸

Under the Cerner contract, VA issues task orders for specific work to be performed.⁹ The first task order was one of a number in place in early 2020. Task order 1 specified that Cerner was to provide VA with Electronic Health Record Modernization project management and planning

³ The OIG issues management advisory memoranda when exigent circumstances or areas of concern are identified by OIG hotline allegations or in the course of its oversight work, particularly when immediate action by VA can help reduce further risk of harm to veterans or significant financial losses. Memoranda are published unless otherwise prohibited from release or to safeguard protected information. The Office of Electronic Health Record Modernization (OEHRM) was the entity responsible for EHRM program efforts during the scope of this oversight work. In December 2021, a new office was created called the EHRM IO. The change in organizational structure does not affect the relevance of this memorandum.

⁴ VA, “Statement by Acting Secretary Robert Wilkie: VA signs contract with Cerner for an electronic health record system,” news release, May 17, 2018, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=4061>. Oracle purchased Cerner in June 2022, but for the purposes of this memorandum, the contract is referred to as the Cerner contract for any provisions referenced before June 2022.

⁵ *Hearing on Electronic Health Record Modernization (EHRM)*, Before the House Appropriations Committee, Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, 117th Cong. (October 21, 2021) (statement of Donald Remy, VA Deputy Secretary).

⁶ VA Office of Public and Intergovernmental Affairs, “VA extends delay of upcoming electronic health record deployments to June 2023 to address technical and other system performance issues,” news release, October 13, 2022, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5833>.

⁷ VA Office of Public and Intergovernmental Affairs, “VA announces reset of electronic health record project,” news release, April 21, 2023, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5873>.

⁸ VA OIG, *The Electronic Health Record Modernization Program Did Not Fully Meet the Standards for a High-Quality, Reliable Schedule*, Report No. 21-02889-134, April 25, 2022.

⁹ FAR 2.101 (2019). A task order is an order for services placed against an established contract or with government sources.

support services and deliverables, including progress reports for government review and acceptance. These reports were a tangible indicator of the progress being made toward the completion of the project.

In April 2021, the VA OIG received an allegation that Cerner had submitted invoices for deliverables, specifically reports such as those required in task order 1, in which another staff member told the complainant, “[T]here’s a cover page, there’s an agenda, there’s six empty pages, there’s an ending. That’s what they turned in to get paid for this deliverable.” Because the complainant referenced the time frame from October 2019 through March 2020 for the deliverables and indicated Cerner was behind in billing VA in January 2020, the OIG probed the merits of the allegation by reviewing the progress reports associated with the first task order issued under this contract. The OIG also evaluated whether VA effectively monitored contractor performance and payments for task order 1 as part of the audit objective. Specifically, the team determined if VA officials evaluated the progress reports and accepted them before invoices were paid. The observations in this memorandum apply only to the in-scope progress reports within this task order.

The OIG team identified 11 invoices under task order 1 totaling about \$15.9 million paid between January 1, 2020, through April 30, 2020, for services and progress reports. The team excluded four invoices that were for services only and that did not include any costs for reports and reviewed the remaining seven invoices valued at about \$5.8 million and associated contract documents. These included 48 progress reports, supporting documentation, and VA’s performance-based service assessments provided by the Office of Electronic Health Record Modernization (OEHRM).¹⁰ See appendix A for more information about the team’s methodology.

The OIG did not substantiate that any of the 48 reports had minimal content, as the complainant alleged. Instead, the team found that these reports included considerable information, such as sections on roles and responsibilities, key milestones, and performance metrics. The team noted that each of the 48 progress reports were evaluated by VA officials who monitored Cerner performance by providing written comments on the content of the report and requesting either corrections with resubmission or that revisions be incorporated in future reports, as necessary. According to the draft OEHRM Program Quality Management Plan, VA officials used the OEHRM deliverable review tool to evaluate and compare the progress reports, with the

¹⁰ During the time referenced in the allegation (January 2020–April 2020), task order 1 included a total of 62 progress reports; however, the OIG team removed 14 reports from the scope of this memorandum because they were reviewed and discussed in a previous OIG report, *The Electronic Health Record Modernization Program Did Not Fully Meet the Standards for a High-Quality, Reliable Schedule*. For this memorandum, the team reviewed all 48 remaining reports. Task order 1 was subsequently completed in September 2020.

direction that they should compare the progress reports to the performance work statement.¹¹ The following are examples of reviewer comments:

- One OEHRM commenter requested that Cerner reword language in the progress report to reflect that the initial problem under discussion stemmed from Cerner's incorrect initial estimate. Cerner responded by submitting the issue as "Rejected/Closed" and the teams will work off-line to determine whether a new/updated item will be submitted on a future report.
- This OEHRM commenter also requested that a trigger date be changed. Cerner responded to this request indicating the risk was submitted with a status of "Resolved/Closed" on the deliverable and will no longer appear on reports moving forward.
- Another OEHRM commenter queried whether all action items should be listed as "ongoing status." Cerner replied that tracking these action items was still an issue and changed the status to monitoring.

For 18 of these 48 reports, VA required Cerner to resubmit the report with corrections. Cerner complied, as required by the contract's performance work statement, and OEHRM officials eventually recommended the reports be accepted.¹² The OIG team also compared the dates invoices were approved for payment with the dates reports were recommended for acceptance and observed that the contracting officer's representative did not approve invoices for the 48 reports until the reports were reviewed and recommended for acceptance.¹³ Based on the evidence of progress report reviews, comments, and recommendations for acceptance before invoices were approved for payment, the OIG determined that OEHRM had an effective review and acceptance process to monitor contractor performance and invoice payment for the task order 1 progress reports reviewed by the OIG team.

The OIG also noted that VA documented the results of monitoring the contractor's performance and invoice payments for task order 1 during the allegation time frame with performance-based

¹¹ FAR 2.101 (2019). A performance work statement describes the required results in clear, specific, and objective terms with measurable outcomes. The Deliverable Review Process Tool, July 27, 2018, outlined the tool benefits and review process.

¹² Performance Work Statement v. P00008, July 23, 2019, Section 6.6 Deliverables. Cerner was responsible for incorporating previous VA officials' comments in progress reports returned for correction and resubmission or within the next scheduled deliverable.

¹³ FAR 1.604 (2019) Contracting officers' representatives assist in the technical monitoring of a contract. FAR 32.905 (2019) also specifies that payments must be supported by government documentation authorizing payment to include the date supplies were received or services were performed, and the date the government official accepted the supplies or services.

service assessments.¹⁴ VA rated the contractor's performance as satisfactory. Details within the assessments included whether progress reports were returned for correction and that the contractor submitted accurate and complete invoices with no corrections or revisions required.

The OIG team noted that task order 1 did not specify timeliness requirements for when Cerner was to return corrected progress reports to VA. Cerner was required to respond to VA feedback in progress reports returned for resubmission or in subsequent reports. According to task order 1's performance work statement, "For Government feedback requiring additional discussion and/or clarification, the Contractor shall coordinate language updates with VA to resolve and finalize revisions to the affected deliverable." For the biweekly reports reviewed by the OIG team, it took 13 days on average for VA to provide feedback. However, the next required biweekly progress report was due on day 14. Cerner then took an average of an additional 27 days to resubmit the initial corrected biweekly report. This meant VA received the next two biweekly reports that may not have incorporated reviewers' comments from the first returned report (figure 1).

¹⁴ Performance-based service assessment ratings were exceptional, very good, satisfactory, marginal, or unsatisfactory.

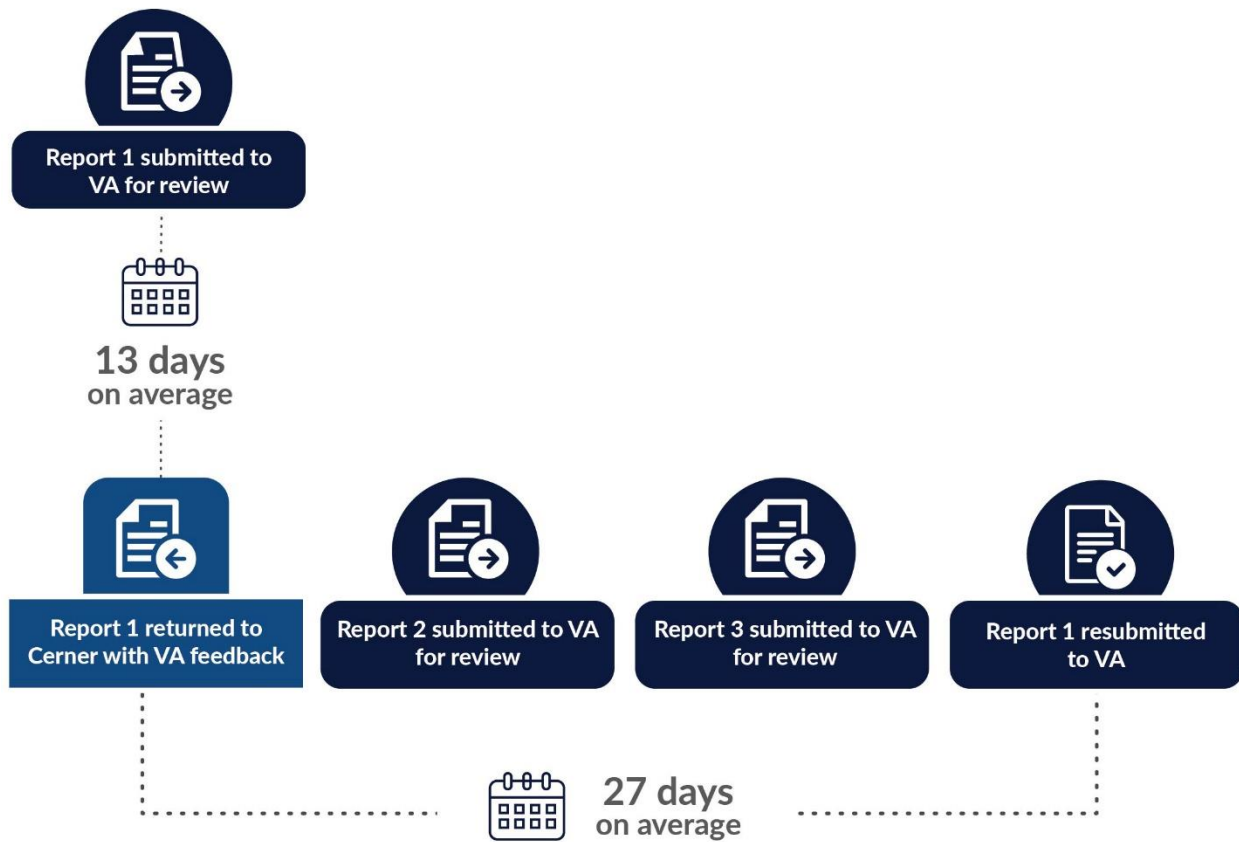


Figure 1. Example of review process for Cerner biweekly reports.
Source: OIG analysis of Biweekly Risk Management Status Reports.

Therefore, these subsequent reports may have needed the same corrections for issues that VA reviewers had already identified. The team also observed that some of the monthly, bimonthly, and quarterly reports had a subsequent version that was due before the corrected reports were submitted. The OIG determined the lack of established time frames for resubmissions limited the usefulness of the corrected reports because subsequent versions were not quickly updated to reflect the changes VA requested.

When the OIG team asked the contracting officer about this timeliness issue, the contracting officer stated that changes to the performance work statement were planned to include “the deliverable review process for the TOs [task orders]” in future contract requirements.

The OIG did not substantiate the allegation that Cerner had billed VA for progress reports with minimal content. The team determined that OEHRM had a review and acceptance process to monitor contractor performance and invoice payments for task order 1 progress reports. However, the lack of timeliness requirements for resubmitted reports could limit VA’s ability to promptly and accurately monitor Cerner’s progress on particular tasks.

Requested Action

The OIG requests that VA inform the OIG what actions, if any, it takes to include and strengthen the deliverable review process in future contract requirements.

VA Responses

The EHRM IO concurred with the information in this memorandum and had no additional comments. The Technology Acquisition Center had no comments and noted that the Office of Acquisitions, Logistics and Construction provided EHRM IO with overall concurrence. In addition, the Office of Information and Technology agreed with this memorandum without comment.

Appendix A: Audit Standards

Methodology

The VA Office of Inspector General (OIG) team reviewed 11 invoices under task order 1 from the Invoice Payment Processing System totaling about \$15.9 million paid between January 1, 2020, through April 30, 2020, for services and progress reports. The team excluded four invoices that were for services only and that did not include any costs for reports and reviewed the remaining seven invoices, valued at about \$5.8 million, and associated contract documents. Specifically, the team reviewed 48 progress reports, supporting documentation, and VA's performance-based service assessments provided by the Office of Electronic Health Record Modernization (OEHRM).

During the period covered by the allegation (January 2020–April 2020), task order 1 included a total of 62 reports; however, the OIG team removed 14 reports from the scope of examination because they were reviewed and discussed in a prior OIG report. In this prior report, the OIG assessed OEHRM's review, acceptance, and payment process for monthly integrated master schedule deliverables, which were not separately priced, and found the process did not comply with the Federal Acquisition Regulations. Deliverables that were not separately priced were rolled up into an overall line item, unlike the in-scope deliverables in the first task order, which priced these deliverables separately.¹⁵ For this memorandum, the team reviewed all 48 remaining reports. Of the progress reports from the sample, eight were due biweekly, 15 were due monthly, seven were due bimonthly, 15 were due quarterly, and three were due at different intervals.

The team performed analytical procedures such as comparing the invoice paid and deliverable accepted dates, invoiced deliverables to due dates and to prices in contract documents, as well as invoice compliance with the Federal Acquisition Regulations.¹⁶ The team also interviewed contracting officials, the quality and performance government lead official, and various OEHRM and VA officials responsible for reviewing progress reports and providing comments as subject matter experts.

Internal Controls

The team assessed the internal controls significant to the audit objective, including control environment, control activities, and information and communication.¹⁷ In addition, the team

¹⁵ VA OIG, *The Electronic Health Record Modernization Program Did Not Fully Meet the Standards for a High-Quality, Reliable Schedule*.

¹⁶ FAR 32.905 (2020).

¹⁷ Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

reviewed the principles of internal controls associated with the objective.¹⁸ The team identified internal control weaknesses during this oversight work and brought it to the attention of the Electronic Health Record Modernization Integration Office in this memorandum. The team identified the following three components and four principles as significant to the objective:

- Component: Control Environment
 - Principle 3: Establish structure, responsibility, and authority
 - Principle 5: Enforce accountability
- Component: Control Activities
 - Principle 10: Design control activities
- Component: Information and Communication
 - Principle 13: Use quality information

Fraud Assessment

The team assessed the risk that fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, significant within the context of the audit objectives, could occur during this audit. The team exercised due diligence in staying alert to any fraud indicators by

- soliciting the OIG's Office of Investigations for indicators,
- interviewing OEHRM and VA officials to determine whether they knew of fraudulent activity or weaknesses that could potentially lead to fraud or that would impact the scope of this audit, and
- analyzing invoice paid dates and deliverable accepted dates.

The OIG did not identify any instances of fraud or potential fraud during this audit.

Data Reliability

To determine the reliability of data extracted from the Invoice Payment Processing System, the team compared this information to data obtained from VA's Financial Management System. After this comparison the data was found to be sufficiently reliable for the purposes of our audit. In addition, the team compared Invoice Payment Processing System data to deliverable supporting documentation provided by OEHRM. To test for reliability, the team also checked

¹⁸ Because the audit was limited to the internal control components and underlying principles identified, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

whether any data were missing from key fields, were outside the time frame requested, or contained obvious duplication of records or included any inconsistent or inaccurate formulas.

Government Standards

The OIG conducted the performance audit in accordance with generally accepted government auditing standards.¹⁹ Those standards require that the OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on audit objectives. The OIG believes the evidence obtained provides a reasonable basis for the findings and conclusions related to the audit objectives.

¹⁹ GAO, *Government Auditing Standards*, GAO-21-368G, April 2021.

OIG Contact and Staff Acknowledgments

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