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Office of Audits and Evaluations

VETERANS HEALTH ADMINISTRATION

Cardiothoracic Services Contracting at the Captain James A. Lovell Federal Health Care Center in North Chicago, Illinois, Needs Improvement

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Executive Summary

VA has one of the largest acquisition functions in the federal government. One of the largest procurement groups within the federal government is the Procurement and Logistics Office within the Veterans Health Administration (VHA), which supports the procurement of healthcare products and services. Among its organizational components are three regional procurement offices (RPOs): Central, East, and West, which are subdivided into network contracting offices (NCOs). The NCOs provide local, regional, and national procurement support. The Procurement and Logistics Office also contains the Medical Sharing Office/Affiliate National Program Office (MSO). The MSO provides technical guidance and conducts standardized contract reviews in accordance with VHA policies.¹ The value of the procurement determines whether a review is conducted. Sole-source healthcare procurements exceeding \$500,000 are reviewed by the MSO.²

In January 2023, the VA Office of Inspector General (OIG) received a hotline allegation that NCO 12 participated in unethical sole-source contracting practices while procuring cardiothoracic services contracts with a nonaffiliate contractor.³ The OIG referred the complaint to RPO Central, the responsible VA office.⁴ In response, RPO Central requested in March 2023 that the MSO conduct a fact-finding investigation into NCO 12 contracting decisions and determine whether MSO contract reviews were circumvented. The MSO completed its investigation in April 2023 and found that contracting officers made decisions that indicated the contracting officers preferred to avoid review processes and did not maximize competition, and

¹ In technical comment 1a, VA asked the VA Office of Inspector General (OIG) to add additional language regarding the responsibilities of the MSO. The OIG did not add this information because it does not materially affect or support the message.

² VHA Procurement Manual, “Contract Review Standard Operating Procedure,” sec. 3.1.1 August 1, 2023. The manual describes the MSO review process and identifies cost thresholds that trigger the process. The threshold for sole-source contracts for healthcare resources is \$500,000. In response to VA’s technical comment 1b, the OIG revised this sentence to clarify that the threshold for MSO review does not apply to all procurements.

³ 38 U.S.C. §§ 8151-8153. Per this law, VHA has the authority to enter into noncompetitive (sole-source contracts) with an affiliated teaching hospital or an individual physician or practice group associated with the medical school or other affiliated institution. An affiliate means an academic educational institution or healthcare entity is affiliated with VA in accordance with 38 U.S.C. § 7302 and shall include medical practice groups and other entities associated with this academic institution. A nonaffiliate refers to any contractor that does not meet the definition of an affiliate. Contract documentation indicated the contractor associated with the allegation was considered a nonaffiliate.

⁴ OIG GM Directive 316, *Hotline Complaint Center*, October 19, 2011. The policy states that the “OIG may refer certain matters directly to the appropriate VA or non-VA facility or office if the allegation appears to warrant administrative action on that facility’s or office’s part. For VA matters, non-case referrals are made for complaints that do not rise to the level of a case, but OIG believes some VA action appears necessary. OIG does not require a response from the facility after they have reviewed the case.”

contracting officers did not publicly post sole-source acquisition justifications as required.⁵ NCO 12 disagreed with the MSO's findings.⁶

Because the allegation highlighted a noncompetitive procurement practice, which involved multiple short-term contracts awarded to the same contractor over a 10-year period, the OIG conducted this review to evaluate allegations that NCO 12 participated in improper sole-source procurement practices involving cardiothoracic services contracts and to determine whether the results of the MSO investigation were resolved. Specifically, the OIG reviewed whether (1) NCO 12 avoided technical, legal, and clinical reviews by awarding short-term sole-source contracts for cardiothoracic services for the Captain James A. Lovell Federal Health Care Center (Lovell) in North Chicago, Illinois, that were under \$500,000 and (2) whether NCO 12 followed the Federal Acquisition Regulation (FAR) or department guidance on multiple sole-source contracts, to include publicizing required contract actions.⁷

What the Review Found

The OIG substantiated that NCO 12 bypassed the MSO review process for cardiothoracic services contracts at Lovell by regularly awarding short-term contracts since 2012 to avoid a lapse in service. As a result, the contracts did not undergo technical, legal, and clinical reviews. While NCO 12 did not violate VHA policy for these contracts, the OIG found NCO 12 could have better served the interests of the government by putting those services on a long-term contract. The FAR supports the use of multiyear contracting to take advantage of lower costs and to enhance standardization, while avoiding the need for establishing quality control techniques and procedures for a new contractor each year. This reduces the administrative burden in the placement and administration of contracts.⁸ The OIG also substantiated that NCO 12 did not

⁵ A justification for other than full and open competition is a document that must contain sufficient facts and rationale to justify the use of the specific authority cited. See Federal Acquisition Regulation (FAR) 6.303-2.

⁶ In technical comment 2, VA asked the OIG to revise this sentence to specify that NCO 12 did not disagree with the MSO findings but did provide a response. The OIG did not make the change because the evidence provided, specifically the NCO 12 response, noted that the MSO findings were erroneous, and there were no systemic problems that warranted a review.

⁷ NCO 12 initially awarded each contract for a one-year period of performance and subsequently extended the period of performance by six months or more for each of the contracts. VHA Manual, "Contract Review Standard Operating Procedure," sec. 3.1.1 in *VHA Procurement Manual*, August 1, 2023, and "Integrated Oversight Process (IOP)/Contract Review Process SOP Revision 1," effective November 1, 2012, identifies cost thresholds that trigger the MSO review process. The threshold for sole-source contracts for healthcare resources is \$500,000. The review process includes (1) technical reviews, which are performed by MSO staff to ensure the acquisition process provides goods and services with reasonable prices, timely delivery, and required quality; (2) legal reviews, which are performed by the Office of General Counsel to help minimize litigation risks associated with protests and contract claims; and (3) clinical reviews administered by subject matter experts through the National Surgery Office to help ensure VA clinical standards are met. For more information about this review's scope and methodology, see appendix A.

⁸ FAR 17.105-2.

follow federal regulations for sole-source procurement by not publicizing the justification and approval for six of seven contracts, therefore reducing transparency and minimizing competition.

Finally, the OIG found that because RPO Central has not resolved the issues MSO identified in its investigation, it did not comply with the requirement to maintain effective internal controls intended to support efficient operations.⁹ Contracting officials in NCO 12 were not effective at ensuring their strategies for acquiring cardiothoracic services at Lovell were in the best interest of the government and in keeping with the latest VA clinical care standards. Unless RPO Central directs NCO 12 to submit contracts for MSO review, these practices may continue.

What the OIG Recommended

The OIG recommended RPO Central ensure the NCO 12 contracting officer develop a cardiothoracic services contract solution that meets the MSO threshold for review. Additionally, the OIG recommended RPO Central establish procedures to regularly identify and review healthcare resources contracts that have been modified resulting in contract values that exceed the threshold and determine if any further action by RPO Central leaders is necessary. The OIG also recommended that RPO Central ensure the contracting officer make the sole-source contract justifications publicly available as required. Finally, the OIG recommended RPO Central ensure corrective actions are taken to resolve the issues identified in the MSO's fact-finding investigation.

VA Comments and OIG Response

The RPO Central executive director concurred with the findings and recommendations 1–4 with comments and submitted acceptable action plans. Overall, the proposed corrective measures in VA's action plans are responsive to the recommendations. The OIG will follow up on the implementation of the planned actions and will close the recommendations when documentation has been provided illustrating corrective actions have been implemented.

The RPO Central executive director also provided 14 technical comments for this report.¹⁰ In response, the OIG added text or footnotes to the report as appropriate. For other comments, the OIG either could not support the requested change, or the OIG disagreed with the accuracy of the

⁹ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

¹⁰ Technical comments 1, 3, 8, and 9 each addressed two different subject areas and were addressed as 1a, 1b, etc. in the OIG response section of this report.

proposed change. The full text of the executive director's comments, the action plan, and the technical comments appear in appendix B.

A handwritten signature in cursive script, reading "Larry M. Reinkemeyer".

LARRY M. REINKEMEYER
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Abbreviations

FAR	Federal Acquisition Regulation
Lovell	Captain James A. Lovell Federal Health Care Center
MSO	Medical Sharing/Affiliate National Program Office
NCO	network contracting office
OIG	Office of Inspector General
RPO	regional procurement office
VHA	Veterans Health Administration



Introduction

VA has one of the largest acquisition functions in the federal government. One of the largest procurement groups within the federal government is the Procurement and Logistics Office within the Veterans Health Administration (VHA), which supports the procurement of high-quality, cost-effective healthcare products and services. Among its organizational components are three regional procurement offices (RPOs): Central, East, and West. Each RPO is subdivided into network contracting offices (NCOs) that provide local, regional, and national procurement support. Another component, the Medical Sharing Office/Affiliate National Program Office (MSO), provides administrative oversight and guidance when healthcare resources are acquired.

In January 2023, the VA Office of Inspector General (OIG) received a hotline complaint saying NCO 12, which falls under the purview of RPO Central, had participated in unethical sole-source contracting practices while procuring cardiothoracic services with a nonaffiliated contractor.¹¹ In February 2023, and in accordance with OIG Directive 316, the OIG referred the hotline to RPO Central since the allegation appeared to warrant administrative action.¹² In response, RPO Central requested in March 2023 that the MSO investigate NCO 12 contracting decisions.¹³ The MSO completed its fact-finding investigation in April 2023 and found not only that contracting officers made decisions that indicated a preference to avoid review processes and that appeared not to maximize competition but also that sole-source acquisitions did not have all public postings as required.¹⁴ NCO 12 reviewed those findings and provided a detailed response for the decisions made and for disagreement with the findings.¹⁵ However, no action was taken by RPO

¹¹ 38 U.S.C. §§ 8151-8153. VHA has the authority to enter into noncompetitive (sole-source contracts) with an affiliated teaching hospital or an individual physician or practice group associated with the medical school or other affiliated institution. An affiliate means an academic educational institution or healthcare entity is affiliated with VA in accordance with 38 U.S.C. § 7302 and shall include medical practice groups and other entities associated with this academic institution. A nonaffiliate refers to any contractor that does not meet the definition of an affiliate. Contract documentation indicated the contractor associated with the allegation was considered a nonaffiliate.

¹² OIG GM Directive 316, *Hotline Complaint Center*, October 19, 2011. The policy states that the “OIG may refer certain matters directly to the appropriate VA or non-VA facility or office if the allegation appears to warrant administrative action on that facility’s or office’s part. For VA matters, non-case referrals are made for complaints that do not rise to the level of a case, but OIG believes some VA action appears necessary. OIG does not require a response from the facility after they have reviewed the case.”

¹³ In technical comment 3a, VA requested that the OIG add additional language regarding RPO Central’s request for the MSO to “provide subject matter expertise to expedite the OIG non-case referral.” The OIG did not add this language because it does not materially affect the message. In addition, in technical comments 3b, 5, 9b, and 11–14, VA requested the OIG revise the term “investigation” to “review”; however, the OIG did not make this change because documentation provided by VA clearly referenced the “investigative report” and “fact-finding investigation.”

¹⁴ Agencies must make contracting actions publicly available using the General Services Administration federal government System for Award Management (SAM.gov). See FAR 5.201(b) and (d).

¹⁵ For technical comment 4, the OIG clarified that NCO 12 reviewed and provided a response to the MSO findings.

Central's executive director as the head of contracting activity to adjudicate the disagreement or resolve the issues. Because the allegation highlighted a questionable procurement practice in which a single nonaffiliated contractor was awarded multiple short-term contracts spanning over 10 years and because of the lack of action taken by RPO Central, the OIG evaluated the allegations that NCO 12 participated in improper sole-source procurement practices regarding the cardiothoracic services contracts.

Specifically, the OIG reviewed the following: (1) whether NCO 12 awarded short-term sole-source contracts for cardiothoracic services that were under \$500,000, which allowed the contracting office to circumvent technical, legal, and clinical reviews; and (2) whether NCO 12 followed the Federal Acquisition Regulation (FAR) or department guidance on multiple sole-source contracts, to include publicizing required contract actions.¹⁶ In addition, the OIG reviewed the results of the MSO fact-finding investigations and the responses of both NCO 12 and RPO Central.

Federal Acquisition Regulation

According to the FAR, full and open competition, when all responsible sources can compete, is the standard contracting method for the federal government, though the FAR allows the use of sole-source contracts under certain circumstances.¹⁷ A sole-source acquisition is a contract that is solicited and negotiated with only one source and may be used when there is only one responsible source for the goods or services; when there are no other supplies or services that could satisfy agency requirements; or in an unusual and compelling urgency.¹⁸

Generally, agencies must publicize contract actions to increase competition and broaden participation.¹⁹ The FAR requires that agencies make publicly available notices of proposed contract actions before awarding the contract, and with regard to sole-source contracts, there must be a notice of intent to solicit and negotiate a sole-source contract.²⁰ In addition, the FAR requires agencies to develop a justification and approval document for sole-source contracts, which includes a description of the services being procured, the statutory authority permitting the

¹⁶ VHA Manual, "Contract Review Standard Operating Procedure," sec. 3.1.1 in VHA Procurement Manual, August 1, 2023. The manual describes the MSO review process and identifies cost thresholds that trigger the process. The threshold for sole-source contracts for healthcare resources is \$500,000. The review process includes technical, legal, and clinical reviews. For more information on reviews, see the MSO and the review process section below.

¹⁷ FAR 6.302.

¹⁸ FAR 2.101; FAR 6.302-1; FAR 6.302-2.

¹⁹ FAR 5.002.

²⁰ FAR 5.203(a); FAR 5.201(b) and (d) state that the contracting officer must transmit notice of contracting actions to <https://SAM.gov>.

exception to competition, and other facts supporting the sole-source award.²¹ Further, the justification must be made publicly available after award of the contract.²²

The FAR identifies contracting officer responsibilities, such as ensuring compliance with all contract terms and conditions.²³ Contracting officers can delegate responsibilities to a contracting officer's representative through a delegation memorandum, but any authority delegated must be detailed in the memorandum.²⁴ According to the FAR, contracting officer's representatives assist with the monitoring or administration of a contract. As described below, the VA Acquisition Manual provides more specific responsibilities such as assistance with the preparation of a performance work statement. The performance work statement is incorporated into contracts and defines the tasks a contractor is required to perform and has measurable outcomes to be monitored throughout the performance of the contract.²⁵

VA Acquisition and Contracting Guidance

The VA Acquisition Regulation implements and supplements the FAR. The VA regulation requires sole-source acquisitions for healthcare resources with nonaffiliates to be justified and publicized.²⁶

The VHA Procurement Manual implements the FAR, VA Acquisition Regulation, and the VA Acquisition Manual. The procurement manual's contract review standard operating procedure establishes a single VHA-wide procedure that implements contract review requirements. For example, prior to award, contracts are subject to MSO technical, clinical, and legal reviews depending on the contract type and value.²⁷ The sole-source contract threshold for reviews is \$500,000 in the case of noncompetitive contract requirements for hospital care and medical services.²⁸ Also, the standard operating procedure states that the head of contracting activity can request such reviews for contracts that have a lower value than the established MSO dollar

²¹ FAR 6.303-2. A justification for other than full and open competition is a document that must contain sufficient facts and rationale to justify the use of the specific authority cited.

²² FAR 6.305.

²³ FAR 1.602.

²⁴ FAR 1.602; FAR 1.604.

²⁵ FAR 37.602; VHA Directive 1660.07, *Medical Sharing/Affiliate National Program Office*, February 21, 2023.

²⁶ VA Acquisition Regulation 873.108(b).

²⁷ VHA Procurement Manual, "Contract Review Standard Operating Procedure," sec. 2.2, August 1, 2023.

²⁸ VHA Procurement Manual, "Integrated Oversight Process (IOP)/Contract Review Process SOP," revision 1, November 1, 2012. A contract undergoing the MSO review process receives a technical review, a legal review by the Office of General Counsel, and a clinical review administered by the National Surgery Office. Certain contracts for healthcare services receive a clinical review regardless of the dollar amount, such as those for radiation oncology and transplants. In the case of cardiothoracic services, procurements are subject to the \$500,000 sole-source contract threshold for the MSO-coordinated clinical review. The MSO coordinates any legal and clinical reviews.

threshold.²⁹ The manual also identifies contracting officer responsibilities, which include determining the procurement method and ensuring the final procurement package is complete and sufficient for required certifications and approvals.³⁰ Moreover, the manual notes that the contracting officer's representative responsibilities include performing contract-specific duties outlined in a delegation memorandum from the contracting officer.³¹ VA's acquisition manual prescribes that contracting officer representatives should provide input to the performance work statement and specifically states they "should assist" with developing performance work statements and sole-source justifications among other duties.³²

The MSO and the Review Process

Authorized by Congress since 1966, contracting for healthcare resources enables VA to economically and efficiently provide specialized quality health care to veterans. For example, VA may enter into contracts for health and medical services that include hospital care, treatment, as well as medical specialties such as cardiovascular surgery. The MSO provides oversight for healthcare resource procurements, ensuring that guidance on contract processes is maintained on the MSO internal SharePoint site and in the VHA Procurement Manual.³³ Some of the MSO responsibilities include providing technical guidance, conducting negotiations for sole-source affiliate healthcare contracts, and conducting reviews in accordance with the law and VA and VHA policies.

The MSO standardized contract review process is performed in accordance with the VHA Procurement Manual. The review process has three parts: technical, legal, and clinical. Technical reviews help ensure the acquisition process provides goods and services with reasonable prices, timely delivery, and required quality. Legal reviews are performed by the Office of General Counsel to help minimize litigation risks associated with protests and contract claims. Clinical reviews are performed by subject matter experts used by the National Surgery Office to help ensure VA clinical standards are met. The MSO conducts the technical reviews and coordinates the legal and clinical reviews.³⁴

According to the manual's standard operating procedure for contract review, MSO contracting staff in a position at least one level higher than the contracting officer should review

²⁹ VHA Procurement Manual, "Contract Review Standard Operating Procedure," sec. 2.3, August 1, 2023.

³⁰ VHA Procurement Manual, "Acquisition Planning Standard Operating Procedure," sec. 3.3.3 and 3.3.4, April 15, 2023.

³¹ VHA Procurement Manual, "Acquisition Planning Standard Operating Procedure," sec. 3.2.1, April 15, 2023.

³² VA Acquisition Manual, "Career Development, Contracting Authority, and Responsibilities," part M801, subparts M801.6, accessed May 9, 2024, <https://www.va.gov/OAL/library/vaam/index.asp>.

³³ VA Directive 1663, *Health Care Resources (HCR) Contracting – Buying*, Title 38 U.S.C. § 8153, May 10, 2018, paragraph 3.f.

³⁴ VHA Procurement Manual, "Contract Review Standard Operating Procedure," sec. 3.1.1, August 1, 2023.

documentation within VA's electronic contract management system to ensure the acquisition process provides goods and services with reasonable prices, timely delivery, and required quality in a manner that meets department statutory, regulatory, and program needs.

Procurement and Logistics Office

VHA's Procurement and Logistics Office supports the purchase of healthcare products and services with over \$15 billion in annual expenditures. The office provides local, regional, and national acquisition support services through its RPOs. The RPOs are divided into three regions: Central, East, and West.³⁵ Each region is further subdivided into NCOs, which are staffed with warranted contracting professionals responsible for the execution, award, and administration of contracts.³⁶ Each RPO has an executive director, who also typically serves as the head of contracting activity for that RPO. Figure 1 shows each RPO's territory and associated numbered NCOs.

³⁵ RPO Central includes all or portions of the following states and US territories: North Dakota, Wyoming, Texas, South Dakota, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Virginia, West Virginia, Illinois, Indiana, Ohio, Wisconsin, Iowa, Michigan, Alabama, Minnesota, and Florida. It is composed of seven NCOs: NCO 9-VA Mid-South Healthcare Network, NCO 10-VA Healthcare System of Ohio, NCO 11-Veterans in Partnership, NCO 12-VA Great Lakes Health Care Network, NCO 15-VA Heartland Network, NCO 16-South Central VA Health Care Network, and NCO 23-VA Midwest Health Care Network.

³⁶ NCOs share the same identifying number as the Veterans Integrated Service Networks (VISN) they are located in. For example, NCO 12 is in VISN 12, which covers Illinois and Wisconsin.

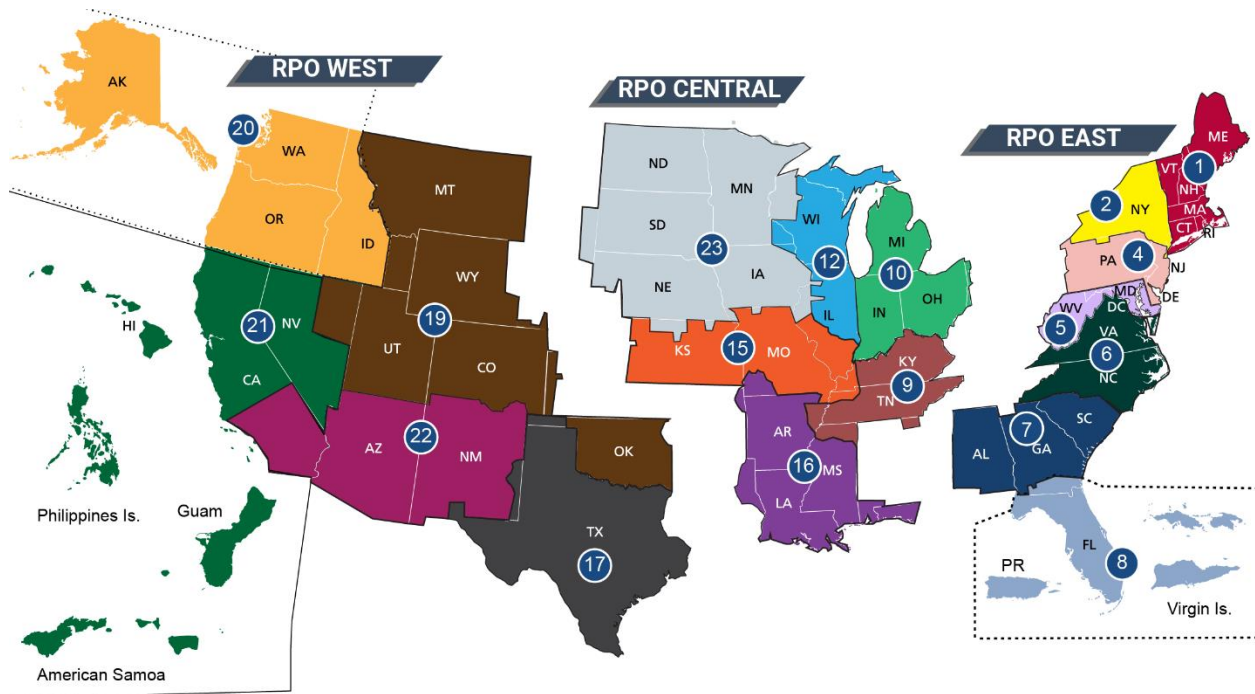


Figure 1. RPO Central, East, and West NCO territories. The numbers indicate responsible NCOs.
Source: VHA Procurement & Logistics Office.

Results and Recommendations

Finding 1: NCO 12 Avoided the MSO Review Process for Cardiothoracic Service Contracts and Did Not Always Follow Regulations or Guidance³⁷

The OIG substantiated the allegation that NCO 12 avoided the MSO review process for cardiothoracic services contracts at the Captain James A. Lovell Federal Health Care Center (Lovell) in North Chicago, Illinois, by regularly awarding short-term contracts since 2012. As a result, the contracts did not undergo technical, legal, and clinical reviews. Because there are no specific prohibitions against awarding short-term contracts on a repeated basis, NCO 12 did not violate VA or VHA policy. However, similar to the MSO fact-finding investigation results, the OIG found NCO 12 could have better served the interests of the government by putting those services on a long-term contract. Supported by the FAR, long-term contracts encourage lower costs, enhancement of standardization (in other words, consistent contract requirements such as the performance work statement), reduction of administrative burden in the procurement process, and the stabilization of the contractor work force.

The OIG also substantiated the allegation that NCO 12 did not follow federal or VA regulations for sole-source procurement in six of seven contracts because it failed to publicize the justification and approval.

VHA contracting officials in NCO 12 did not ensure acquisitions for cardiothoracic services at Lovell were in the best interest of the government, and because contracts did not undergo clinical reviews, they may not have met VA clinical care standards. Unless NCO 12 submits contracts for MSO review, these inefficient contracting actions may continue.

The following elements support this finding:

- NCO 12 avoided the MSO review process.
- NCO 12 did not always publish sole-source justifications as required by guidance.

What the OIG Did

The OIG evaluated the allegations that NCO 12 participated in improper sole-source procurement practices regarding the cardiothoracic services contracts at Lovell, which have been awarded to the same contractor on a short-term basis since 2012. This evaluation included

³⁷ For technical comment 6, VA asked the OIG to make the following revision to the finding title: “NCO 12 Avoided the MSO Review Process for Cardiothoracic Service Contracts and Should Have Consulted with RPOC and MSO Regarding the Difficulties in Obtaining a Long-Term Performance Work Statement.” The OIG did not revise the finding title as this information is supportive in nature and discussed within the finding itself.

reviewing applicable laws and regulations. The OIG also reviewed SAM.gov and the electronic contract management system for documentation related to the cardiothoracic services contracts to help determine whether required information, such as the intent to establish a sole-source contract and justification, had been publicized. Additionally, the OIG interviewed VA officials from the MSO, NCO 12, and the Lovell healthcare center about the procurement process, including technical, legal, and clinical reviews and associated requirements.

NCO 12 Avoided Reviews for Cardiothoracic Services Contracts

Since 2012, NCO 12 has executed seven one-year, sole-source contracts with a total value of about \$3.9 million—all of which were extended beyond the initial contract term.³⁸ As stated earlier, in the case of noncompetitive healthcare requirements, sole-source contracts greater than \$500,000 are required to undergo the MSO review process. However, the VHA Procurement Manual’s standard operating procedure for contract review gives RPO Central the authority to request reviews of contracts that have a lower value than the established MSO dollar threshold.

Because the contracts were initially awarded for one year and were under the \$500,000 threshold, none of the contracts underwent the MSO review process. Further, for the past 10 years, the initial contract-awarded amounts have remained consistent—under \$500,000—but were all subsequently extended by at least six months. Based on the initial award amounts, the OIG noted awarding longer term contracts would have raised the contract values, therefore triggering a required MSO review. In fact, when some of the contracts were extended, they exceeded the \$500,000 threshold. Table 1 lists the contracts and amounts since 2012.

Table 1. NCO 12 Sole-Source Contracts for Cardiothoracic Services identified in Hotline Complaint

Contract	Contract period	Type	Initial obligation	Total obligation
1	Oct. 2012–Dec. 2014	Sole-source	\$339,144	\$759,894*
2	Jan. 2015–Jun. 2016	Sole-source	\$327,537	\$491,306
3	Jul. 2016–Jun. 2018	Sole-source	\$326,773	\$659,211
4	Jul. 2018–Jan. 2020	Sole-source	\$309,644	\$490,385
5	Feb. 2020–Jul. 2021	Sole-source	\$327,224	\$490,836
6	Aug. 2021–Jan. 2022	Sole-source	\$326,456	\$490,469

³⁸ NCO 12 initially awarded one-year contracts and extended each of them using FAR clause 52.217-8 Option to Extend Services, which allows the government to extend contract services for up to six months, to avoid a disruption in services.

Contract	Contract period	Type	Initial obligation	Total obligation
7	Feb. 2023–Jul. 2024	Sole-source	\$347,552	\$522,144
Total				\$3,904,245

Source: VA OIG analysis of contract actions obtained from the General Services Administration federal government System for Award Management (SAM.gov), accessed on April 7, 2023, and February 7, 2024, <https://www.sam.gov>.

*Note: Dollar amounts were rounded based on the results of the analysis.

According to the FAR, contracting officers are responsible for performing all necessary actions for effective contracting and should safeguard the interests of the United States in contractual relationships.³⁹ The FAR also encourages the use of multiyear contracting to take advantage of lower costs and enhance standardization, avoid the need for establishing quality control techniques and procedures for a new contractor each year, and reduce the administrative burden in the placement and administration of contracts.⁴⁰ Consistent with the FAR, MSO officials said procurement of long-term contracts is a prudent business practice. Moreover, the Lovell physician who reviewed the healthcare requirements for cardiothoracic services told the review team that having a contract on a three-year to five-year cycle would be better from a healthcare management standpoint because it is burdensome and disruptive to renew the contract on an almost annual basis while the scope of provided services is not changing.

NCO 12 officials told the review team the contracting officer always intended for a long-term solution for cardiothoracic services procurement that would undergo MSO review but intentionally awarded contracts on a short-term basis to avoid a lapse in service. The OIG found that the four most recent healthcare requirements memos, dating back to 2018, indicated that NCO 12 anticipated a long-term contract to be implemented the following year. Therefore, the contracting officer should have been aware of the contract administration effort involved in developing a long-term contract solution.

NCO 12 officials said they had not submitted cardiothoracic services contracts to the MSO because of the contracting officer's representative's failure to provide a current performance work statement. However, to proceed with the contract award, the contracting officer noted that NCO 12 has been reusing an old version. According to the contracting officer, NCO 12 awarded short-term contracts while anticipating that the contracting officer's representative would eventually provide an updated performance work statement for a long-term contract.

In its precursory contract file reviews, the OIG team had found that the performance work statement, which specified cardiothoracic service coverage, was included in each of the contract

³⁹ FAR 1.602-2.

⁴⁰ FAR 17.105-2.

files and has not substantially changed since 2012.⁴¹ The physician at Lovell who reviewed the healthcare requirements for cardiothoracic services also indicated that the scope of work has not changed. However, according to the FAR, the length of the contract is determined by the contracting officer. Further, the FAR only specifies that performance work statements should be prepared and the contents thereof. It does not require a new statement or updated information with each submission.⁴² Therefore, it was unclear why the performance work statement would not have been sufficient to award a long-term contract.

Also, according to VHA guidance, the contracting officer issues a contract-specific delegation memorandum, which prescribes the contracting officer's representative duties.⁴³ The OIG team found that the same contracting officer's representative was appointed in all seven of the cardiothoracic services contracts; however, delegation memoranda in the contract files did not contain information or directions regarding development of the performance work statement for five of the seven contracts. The delegation memoranda for the 2012 and 2015 contracts discussed contracting officer's representative responsibilities and specifically assigned the responsibility of developing the work statement. However, despite the contracting officer's charge that insufficient documentation prohibited the award of a long-term contract, the delegation memoranda for subsequent contracts from 2015 through 2023 do not specify the need to update the performance work statement.

RPO Central's written response to the MSO investigation, which resulted in a recommendation that cardiothoracic services be put on a long-term contract that would be submitted for review, indicated that NCO 12 had assigned the procurement to multiple contracting officers. However, none of the contracting officers developed a long-term contract solution. RPO Central's response also noted that NCO 12 seemed to be avoiding responsibility for awarding a long-term contract solution, notably because the services were procured on repetitive short-term contracts for 10 years, which kept the value under the review threshold.

If NCO 12 continually encountered difficulty obtaining a procurement package sufficient to develop a long-term contract, there were potential solutions that were not followed. For example, the contracting officer could have notified the head of contracting activity for RPO Central or the MSO for support. However, contracting officers continued awarding short-term contracts with award amounts less than \$500,000 using a prior performance work statement that had not undergone technical, legal, and clinical review. MSO officials said they were available to collaborate and assist the NCO but were not notified about the procurement issues.

⁴¹ For technical comment 7, VA asked the OIG to revise the statement to specify that the OIG "concurs" that NCO 12 had used the original performance work statement and it had not changed since 2012. The OIG revised the paragraph in part to clarify that the OIG was aware of the repurposed performance work statement; however, the FAR does not preclude the use of such repurposed performance work statements when awarding contracts.

⁴² FAR 37.602.

⁴³ VHA Procurement Manual, "Acquisition Planning Standard Operating Procedure," sec. 3.2.1, April 15, 2023.

NCO 12 Did Not Always Follow Federal Acquisition Regulation and VA Guidance

NCO 12 did not always publish the intent to sole-source prior to the solicitation of cardiothoracic services in accordance with the FAR. The OIG found that NCO 12 did not publish the intent to sole-source for two of the seven contracts awarded, which would have afforded potential offerors a reasonable opportunity to respond. The FAR states that once it is determined that a sole-source contract will be proposed, the intent to sole-source must be published prior to the issuance of the solicitation.⁴⁴ The intent to sole-source must identify the intended source and include a justification for the lack of competition.⁴⁵

In addition, NCO 12 did not always publish the justification, which rationalizes the use of a sole-source contract in accordance with the FAR. The OIG team did not find any evidence that NCO 12 published the justifications for six of seven contracts. The justification is to include a description of the procured services and specify why competitive procedures were not used. Moreover, as previously discussed, the VA Acquisition Regulation requires sole-source acquisitions from a nonaffiliate source to be justified and publicized.⁴⁶ The FAR also states that contracting actions must be made publicly available, including a justification and approval document.⁴⁷ However, contract documentation showed that NCO 12 awarded the sole-source contracts to a nonaffiliate contractor using the FAR, which specifically requires that justifications be made publicly available.⁴⁸ The lack of a published justification reduced opportunities for contractors to protest sole-source awards.

According to the contracting officer, the available guidance consulted was unclear and did not require the documentation to be posted.⁴⁹ Access to documentation increases transparency and allows for competition. Further, well-documented intent to sole-source and contract justifications ensure VA is complying with federal regulations. Without accurate and complete procurement

⁴⁴ FAR 5.201; FAR 5.203.

⁴⁵ FAR 5.207.

⁴⁶ VA Acquisition Regulation 873.108.

⁴⁷ FAR 6.305.

⁴⁸ FAR 6.302-1, 6.305.

⁴⁹ The contracting officers asserted compliance with the posting requirements because the guidance they consulted—VA Acquisition Regulation 873.108(b), VA Acquisition Regulation 873.104(b)(2), and 38 USC § 8153(a)(3)(D)—does not require the posting of the justification and approval. Rather, the contracting officers asserted that the intent to sole-source fulfills the publicizing requirement. The OIG reviewed the language in the authorities cited and found that the guidance is clear and consistent with the requirements to make justifications publicly available. VA Acquisition Regulation 873.104(b)(2) states that acquisition of healthcare resources shall be publicized as otherwise required by VA Acquisition Regulation 873.108. Moreover, VA Acquisition 873.108(b) states that, as required by 38 USC § 8153(a)(3)(D), acquisitions with nonaffiliated entities, if conducted on a sole-source basis, must still be justified and publicized. Contract documentation indicated the contractor associated with the allegation was considered a nonaffiliate.

documentation, VA is not maintaining its commitment to enhance transparency with the procurement process.

Finding 1 Conclusion

VHA contracting officials in NCO 12 did not demonstrate effective contracting performance in awarding cardiothoracic services contracts. The OIG team found NCO 12 continuously awarded short-term contracts totaling about \$3.9 million for cardiothoracic services, and these contracts did not undergo technical, legal, and clinical reviews. In addition, NCO 12 did not follow the FAR by failing to publicize six of seven sole-source justification documents. Without effective procurement practices including reviews, VHA cannot be sure these contracts for healthcare resources and services are cost effective or meet the latest VA clinical care standards.

Recommendations 1–3

Given the identified concerns with NCO 12’s procurement of cardiothoracic services and the continued need for such services, the OIG made the following recommendations to the RPO Central Executive Director:

1. Ensure the Network Contracting Office 12 contracting officer develops a cardiothoracic services contract solution that meets the Medical Sharing/Affiliate National Program Office threshold for review.⁵⁰
2. Establish procedures to regularly identify and review healthcare resources contracts that have been modified resulting in contract values that exceed the threshold and determine if any further action by Regional Procurement Office Central leaders or the head of contracting activity is necessary.⁵¹
3. Ensure the Network Contracting Office 12 contracting officer makes the sole-source contract justifications publicly available as required.

VA Management Comments

The RPO Central executive director concurred with the OIG’s finding and recommendations 1–3 with comments and submitted an acceptable action plan for each. The executive director also provided 14 technical comments, which the OIG addressed below and throughout the report. These VA comments are also found in full in appendix B.

⁵⁰ For technical comment 8a, the OIG revised recommendation 1 in part at VA’s request. The OIG disagreed with the request that “NCO 12 and medical center staff work with the MSO to develop and award a competitive long-term (10-year) contract” because the warranted contracting officer is responsible for ensuring the package is complete and sufficient.

⁵¹ For technical comment 8b, the OIG incorporated the revision requested by VA.

In response to recommendation 1, the executive director requested in technical comment 8 that the recommendation be revised to state that “NCO 12 and medical center staff work with the MSO to develop and award a competitive long-term (10-year) contract.” As an action plan, the performance work statement and monitoring plan is in final development to promote competition for a long-term contract and a competitive procurement. The solicitation is projected to be submitted to the MSO for required reviews, including technical, legal, and clinical review, no later than September 30, 2024.

For recommendation 2, the executive director also requested in technical comment 8 that the recommendation be rewritten to state that RPO Central should determine if any action by leaders is necessary after identifying healthcare contracts that have been modified resulting in contract values that exceed the threshold and review any identified contracts. RPO Central will work with the MSO and the VHA Procurement Systems and Informatics team to use the VHA Active Contracts dashboard to include data on repetitive nonaffiliate healthcare sole-source awards.

For recommendation 3, the executive director stated RPO Central will provide written direction reminding NCO 12 of the requirements to post justification for sole-source procurement actions.

OIG Response

Overall, the OIG considers the proposed corrective measures in VA’s actions plans to be responsive to the recommendations, and the OIG will monitor the implementation of the recommendations until all actions are documented as completed.

In response to the 14 technical comments provided, the OIG incorporated clarifying information in the narrative of the report where appropriate and added explanatory footnotes as needed to address the technical comments. Some technical comments included more than one request and are identified, for example, as 1a, 1b, etc.

The OIG updated the narrative or added footnotes in the report to incorporate clarifications VA requested in technical comments 1b, 4, 7, 8a, 8b, and 10. The OIG did not revise the narrative and only added footnotes to the appropriate sections of the report to address comments 1a, 2, 3b, and 6. For technical comments 1a, 3a, and 9a, the information was not added because it did not materially affect or support the report message. For technical comment 2, VA asserted that the NCO 12 did not disagree with the MSO findings; however, the OIG affirms its position based on the documented NCO 12 response provided by VA.

Further, the OIG did not revise the narrative and only added footnote 13 in the report to address comments 3b, 5, 9b, and 11–14 because while the requested term “review” could be used interchangeably, the supportive documentation provided to the OIG clearly referenced the term “investigation.”

Finding 2: RPO Central Should Have Resolved Issues Identified by the MSO's Investigation

RPO Central received notification about the hotline complaint from the OIG in February 2023 and authorized the MSO to investigate one month later.⁵² The MSO found issues related to the cardiothoracic services contracts, such as keeping contract values just under the threshold to avoid these reviews. The MSO recommended sending the contracts to the MSO for review and establishing a long-term contract. NCO 12 reviewed those findings and provided a detailed response for the decisions made and for disagreement with the findings, noting that the findings were erroneous and there were no systematic problems that warranted a review.⁵³ RPO Central is responsible for overseeing NCO 12's contracting practices but has not adjudicated this disagreement nor has it resolved the issues identified by the investigation.

Although NCO 12 acted within its procurement authority when awarding cardiothoracic services contracts, VA leaders are responsible for maintaining internal controls to achieve effective and efficient operations.⁵⁴ According to federal internal control standards, officials should evaluate issues and determine appropriate corrective actions on a timely basis.⁵⁵ The standards also clarify that the resolution process begins when review results are reported to managers and is completed only after action has been taken that (1) corrects identified deficiencies, (2) produces improvements, or (3) demonstrates that the findings and recommendations do not warrant management action.

The OIG found that by not resolving the disagreement, RPO Central did not follow standards for internal control. RPO Central should have evaluated the issues and ensured any deficiencies were remediated. Because RPO Central did not do this, it failed to take steps that would enhance the efficiency of contracting operations.

The following element supports this finding:

- RPO Central did not follow requirements to ensure review results were resolved.

⁵² The head of contracting activity for RPO Central is the executive director, who is responsible for contracting oversight of the Central Region. In technical comment 9a, VA requested that the OIG add "OIG Hotline Non-Case Referral 2023-085." The OIG did not add this language because it does not materially affect the message.

⁵³ For technical comment 10, the OIG clarified that NCO 12 reviewed and provided a response. This, however, did not change the OIG's original assessment that NCO 12 disagreed with the findings as also noted in the sentence.

⁵⁴ VA Financial Policy, "Management's Responsibility for Internal Controls," vol. 1, December 14, 2022, chap. 5, sec. 0501. Per VA policy, managers are responsible for establishing and maintaining internal controls to achieve the objectives of effective and efficient operations, and the internal control system is to align with the federal internal control standards set forth by the Government Accountability Office.

⁵⁵ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

What the OIG Did

To evaluate actions taken by RPO Central, NCO 12, and the MSO and to address the hotline complaint, the OIG team reviewed federal internal control standards. The team further reviewed the results of the MSO fact-finding investigation, NCO 12's response, and RPO Central's assessment. Additionally, the team interviewed officials from the MSO, NCO 12, and the Lovell healthcare center about the investigation.

RPO Central Did Not Follow Standards to Ensure Review Results Were Resolved

Federal internal control standards state that managers should evaluate issues and determine appropriate corrective actions on a timely basis.⁵⁶ According to the standards, the resolution process begins when results from an audit or other review are reported and is completed only after action has been taken that corrects identified deficiencies, produces improvements, or demonstrates that the findings and recommendations do not warrant management action. The OIG found that RPO Central did not follow those standards to resolve the issues with cardiothoracic services contracts at Lovell.

As part of its investigation authorized by RPO Central, the MSO looked at whether (1) there was evidence NCO 12 circumvented MSO and legal reviews; (2) there was evidence NCO 12 participated in unethical sole-source practices and did not follow the FAR and departmental guidance—specifically the procurement manual and VA's acquisition regulation; and (3) there was evidence that multiple sole-source contracts were not posted on SAM.gov, including intent to sole-source and related justifications.⁵⁷ Although an MSO official told the OIG team that there is no VA policy prohibiting the use of short-term contracts on a repeated basis, the MSO report found NCO 12 contracting officers made decisions on period of performance and acquisition strategy that indicate a preference to avoid review processes and noted that the cardiothoracic services procurement acquisition has been intentionally conducted under FAR Part 6 for 10 years via one-year or 18-month periods of performance, which kept the procurement value just under the review threshold. Although the MSO did not opine about whether these actions were unethical, it did find that contracting officers made decisions on acquisition strategy that did not appear to maximize competition. The MSO recommended establishing a long-term cardiothoracic services contract, which would qualify it for review.

NCO 12 officials disagreed with the MSO's findings and indicated that they believed no corrective actions were needed since the contracting officers' acquisition strategies were correct, did not impede competition, and were made in the best interest of the government. NCO 12

⁵⁶ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

⁵⁷ The website <https://www.SAM.gov> refers to the System for Award Management. Contracting action notices are to be posted on this website according to FAR 5.201.

acknowledged that it has continually and intentionally awarded these cardiothoracic services contracts on a short-term basis to avoid a lapse in services. NCO 12 also stated that the MSO and legal reviews were not circumvented and that NCO 12's inability to award a long-term cardiothoracic services contract has been due to the facility's contracting officer's representative not providing a complete procurement package to the contracting officer. Regardless of NCO 12's position, RPO Central includes the head of contract activity for NCO 12 and ultimately holds responsibility for contracting oversight.

After reviewing the investigation results and NCO 12's responses, RPO Central determined that NCO 12 does not appear to have regular communication with the MSO regarding healthcare resources procurements. Although RPO Central authorized the MSO investigation and identified the above concerns related to the cardiothoracic services procurement, it did not direct corrective actions to resolve the issues or conclude that these issues do not warrant management action. Through its own admission, RPO Central confirmed that the analysis was the final action taken. Further, NCO 12 told the OIG team that RPO Central did not provide feedback or indicate what actions were needed as a result of the MSO investigation. Without action, RPO Central is not meeting federal internal control standards, which could result in cardiothoracic services contracts continuing to bypass technical, legal, and clinical reviews.

Finding 2 Conclusion

RPO Central is responsible for overseeing NCO 12's contracting practices. However, it did not act in response to recommendations made following an authorized MSO investigation that concluded contracting officers' actions indicated a preference to avoid the review process and did not appear to maximize competition. To ensure taxpayer funds are used effectively and contracts for healthcare resources are adequately reviewed, RPO Central should fully exercise its oversight responsibilities and comply with federal internal control standards to direct corrective actions to resolve the issues identified by the MSO investigation.

Recommendation 4

Given the identified concerns with NCO 12's procurement of cardiothoracic services and RPO Central's responsibility for determining appropriate corrective actions on a timely basis, the OIG made the following recommendation to the RPO Central Executive Director:

4. Ensure corrective actions are taken to resolve the issues identified in the Medical Sharing/Affiliate National Program Office fact-finding investigation.

VA Management Comments

The RPO Central executive director concurred with the OIG's finding and recommendation 4 with comments and submitted an acceptable action plan. As mentioned in finding 1, the executive director also provided 14 technical comments, which the OIG addressed in the VA

Management Comments section, below, and throughout the report. These VA comments are also found in full in appendix B.

In response to recommendation 4, the executive director requested that the term “investigation” be replaced with “review.” The executive director also stated that RPO Central will work with NCO 12 leaders to identify repeated nonaffiliate healthcare resources service sole-source awards and conduct reviews of NCO 12 nonaffiliate sole-source healthcare contracts awarded in fiscal year 2024 to ensure justifications have been posted. Further, RPO Central and the MSO will ensure the workload is discussed, and a written reminder of the requirement to use MSO templates will be provided to NCO 12.

OIG Response

The proposed corrective measures in VA’s actions plans are considered to be responsive to the recommendations, and the OIG will monitor the implementation of the recommendations until all actions are documented as completed.

Appendix A: Scope and Methodology

Scope

The review team conducted its work from July 2023 through July 2024 and evaluated whether Network Contracting Office (NCO) 12 participated in improper sole-source procurement practices and whether the results of a Medical Sharing/Affiliate National Program Office (MSO) fact-finding investigation resolved the issues. The team reviewed cardiothoracic services contracts at the Captain James A. Lovell Federal Health Care Center in North Chicago, Illinois, awarded from October 2012 through January 2024. NCO 12 awarded seven contracts for cardiothoracic services at the center.

Methodology

The review team focused on determining the merits of the following allegations: (1) that NCO 12 awarded short-term sole-source contracts for cardiothoracic services for the Captain James A. Lovell Federal Health Care Center that were under \$500,000, which allowed the contracting office to circumvent technical, legal, and clinical reviews; and (2) that NCO 12 did not follow the Federal Acquisition Regulation (FAR) or department guidance on multiple sole-source contracts, to include publicizing required contract actions. The team identified and reviewed applicable sections of the FAR, VA Acquisition Regulation, and VA directives and handbooks related to procuring healthcare resources. In addition, the team reviewed the results of an MSO fact-finding investigation, NCO 12's responses, and Regional Procurement Office (RPO) Central's assessment of the investigation. The team interviewed officials from RPO Central, NCO 12, and the MSO. The team also interviewed VA healthcare center medical officials responsible for overseeing cardiothoracic services. Last, the team reviewed applicable contracting documentation housed in the electronic contract management system and requested clarification about documentation as well as additional information, as necessary.

Internal Controls

The objective of this review was focused on evaluating the hotline complaint allegations that NCO 12 participated in improper sole-source procurement practices regarding cardiothoracic services contracts. Therefore, the review team considered, but did not assess, controls around VHA sole-source contracting. However, the review team determined that the following internal control component and principle was significant to the objective during the course of the review: Component 5: Monitoring; Principle 17: Evaluate Issues and Remediate Deficiencies.⁵⁸

⁵⁸ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

Data Reliability

While performing this review, the review team did not use computer-processed data to support its findings, conclusions, or recommendations.

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: VA Management Comments

Department of Veterans Affairs Memorandum

Date: August 27, 2024

From: Daryl A. Berg, Executive Director, RPO Central

Subj: Office of Inspector General Draft Report Cardiothoracic Services Contracting at Captain James A. Lovell Federal Health Care Center (2023-02994-AE-0116)

To: VA, Office of Inspector General, Leases and Major Contracts Audit Operations Division (52D04)
Assistant Inspector General for Audits and Evaluations (52)

1. Thank you for the opportunity to review and comment on the draft report, Veterans Health Administration (VHA) Cardiothoracic Services Contracting at Captain James A. Lovell Federal Health Care Center in North Chicago, Illinois, Needs Improvement.
2. The VHA Regional Procurement Office Central (RPOC) appreciates OIG pointing out that the Networking Contracting Office (NCO) 12 cardiothoracic service contracts need improvement. VHA RPOC will ensure NCO12 improves the procurement efforts and follows the federal acquisition regulations (FAR) regarding posting of sole source contract announcements.
3. VHA RPOC agrees with the Findings with minor comments and is working diligently to improve the internal controls associated with non-affiliate sole source health care service contracts. VHA's Technical Comments, Response to the Findings/Recommendation and action plan are attached.

<i>The OIG removed point of contact information prior to publication.</i>

(Original signed by)

Daryl A. Berg

Executive Director

Attachments

Veterans Health Administration (VHA)

Regional Procurement Office Central (RPOC)

Office of the Inspector General (OIG) DRAFT Report

Cardiothoracic Services Contracting at Captain James A. Lovell Federal Health Care Center in North
Chicago, Illinois, Needs Improvement

August 2024

OIG Draft Report Finding 1: NCO 12 Avoided the MSO Review Process for Cardiothoracic Service Contracts and Did Not Always Follow Regulations or Guidance.

VA Response: Concur with Comments. As stated in technical comments, RPOC does not concur with how the finding is written. Recommend it be written as follows: **“NCO12 Did Not Always Follow Regulations or Guidance for Cardiothoracic Service Contracts and should have consulted with RPOC and MSO regarding the difficulties in obtaining a long-term performance work statement.”**

Recommendation 1: Ensure the NCO 12 contracting officer sends the cardiothoracic services procurement to the Medical Sharing/Affiliate National Program Office for review to determine whether continual short-term sole-source contracts are in the best interest of the government in providing care to veterans.

VA Response: Concur with comments. As stated in the technical comments, RPOC requests the recommendation be rewritten as follows: **“Ensure NCO12 and medical center staff work with MSO to develop and award a competitive long-term (10-year) contract.”** The performance work statement and monitoring plan is in final development to promote competition for a long-term (10-year) contract. A competitive procurement will be conducted. The solicitation is projected to be submitted to MSO for required reviews, including technical, legal, and clinical review, no later than September 30, 2024. Target completion date is based on a timeline for projected award.

Target Completion Date: April 1, 2025

Recommendation 2. Establish procedures to regularly identify healthcare resources contracts that have been modified resulting in contract values that exceed the threshold and consult with the Medical Sharing/Affiliate National Program Office to determine whether technical, legal, and clinical reviews are necessary.

VA Response: Concur with comments. As stated in the technical comments, RPOC requests the recommendation be rewritten as follows: **“Establish procedures to regularly identify healthcare resource contracts that have been modified resulting in contract values that exceed the threshold and review any identified contracts to determine if any further action by leadership is necessary.”**

To enhance oversight of medical services procurements RPOC will work with MSO, and the VHA Procurement Systems & Informatics (PSI) team to maximize the use and/or possibly enhance the information presented on the VHA Active HCR Contracts dashboard to include data on repetitive non-affiliate health care sole source awards. It is anticipated improved consistent use of this resource will provide a comprehensive view for Branch Chiefs as well as leadership which can avoid similar potential procurement problem areas in the future.

Target Completion Date: April 1, 2025

Recommendation 3. Ensure the NCO 12 contracting officer makes the sole-source contract justifications publicly available as required.

VA Response: Concur. RPOC will provide written direction to NCO12 reminding them of the requirements to post justifications for sole source procurement actions.

Target Completion Date: October 15, 2025

OIG Draft Report Finding 2: RPO Central Should Have Resolved Issues Identified by the MSO's Investigation.

VA Response: Concur with Comments. As noted in the technical comments, this was an MSO Fact-Finding review not an investigation. Request Finding be updated to, "RPO Central Should have resolved issues identified by the MSO's Fact-Finding Review."

Recommendation 4: Ensure corrective actions are taken to resolve the issues identified in the Medical Sharing/Affiliate National Program Office fact-finding investigation.

VA Response: Concur with Comments. As noted in the technical comments, this was an MSO Fact-Finding review not an investigation. Please update the recommendation to, "**Ensure corrective actions are taken to resolve the issues identified in the Medical Sharing/Affiliate National Program Office fact-finding review.**"

There were four primary issues in the MSO fact-finding review results. (1) Acquisition Strategy: As stated in recommendation 2, RPOC will work with NCO 12 leadership to maximize the use of the VHA Active HCR Contracts dashboard to assist in identifying repeated non-affiliate health care service contract sole source awards. (2) Sole source posting requirements: RPOC will also conduct reviews of NCO 12 non-affiliate sole source health care services contracts awarded in FY24 to ensure justification's have been posted. (3) Lack of communication between NCO12 and MSO: MSO does hold monthly workload meetings with the NCOs. RPOC and MSO will ensure all HCR workload is discussed, not just those requirements that MSO reviews. (4) Use of MSO templates: A written reminder of this requirement will be provided to NCO12.

Target Completion Date for all actions: April 1, 2025

Attachment

VHA Technical Comments

OIG Draft Report: Cardiothoracic Services Contracting at Captain James A. Lovell Federal Health Care Center in North Chicago, Illinois, Needs Improvement

Date of Draft Report: September XX, 2024

Comment 1

Draft location: Executive Summary, Paragraph 1

Comment and Justification: Several statements in this opening paragraph are not accurate. Please restate as follows:

Statement in the report is, "The MSO provides technical guidance and conducts standardized contract reviews in accordance with VHA policies." Change it to, "The MSO provides technical guidance and conducts standardized contract reviews of health-care resource (HCR) sharing agreements (selling or sharing) and contracts (buying) with VA's affiliate partners and community care providers in accordance with VHA policies."

Statement in report is, "Procurements exceeding \$500,000 are reviewed by the MSO." This statement is not accurate and implies MSO reviews any type of contract. Please rephrase to: "Sole source physician service contracts exceeding \$500K total contract value are reviewed by the MSO."

Comment 2

Draft location: Executive Summary, paragraph 2, last sentence

Comment and Justification: OIG statement, "NCO12 disagree with the MSO's findings." NCO12 did not disagree with the MSO findings. NCO12 reviewed and provided a detail response for the decisions made and provided supporting documentation for the decision or disagreement with the finding. Please update to, "NCO12 responded to the MSO findings."

Comment 3

Draft location: Page number 1, paragraph 2, sentence 3

Comment and Justification: Sentence states MSO completed an investigation. MSO is not an investigative "arm" of VA. The sentence should read as follows, "In response, RPO Central requested in March 2023 that the MSO provide subject matter expertise to expedite the OIG Non-Case referral regarding NCO12 contracting decisions. The MSO completed its fact-finding review in April 2023..."

Comment 4

Draft location: Page number 1, paragraph number 2

Comment and Justification: As stated above, NCO 12 did not dismiss the findings of MSO. Statement in report, "Those findings, however, were dismissed by NCO12." Delete this sentence and replace with, "NCO12 reviewed and provided a detail response for the decisions made and provided supporting documentation for the decision or disagreement with the finding. No action, however, was taken by RPO

Central's executive director as the head of the contracting activity, to adjudicate the disagreements nor resolve the issues."

Comment 5

Draft location: Page number 2, paragraph number 1, last sentence

Comment and Justification: Remove the word investigation when associated with MSO and replace with the word, "review". Revised sentence would read as follows, "In addition, the OIG reviewed the results of the MSO fact-finding review and the responses of both NCO12 and RPO Central.

Comment 6

Draft Location: Page 6, Finding 1

Comment and Justification: Fact Finding 1: NCO 12 Avoided the MSO Review Process for Cardiothoracic Service Contracts and Did Not Always Follow Regulations or Guidance.

RPO Central does not concur with this finding. The one year or 18-month contracts awarded to the same source prevented a lapse in contract services. The contracts were effective and supplied the required performance of cardiothoracic services. There are no specific prohibitions against awarding short-term contracts on a repeated basis. Additionally, the OIG does not have any evidence that a long-term contract would achieve lower costs. Standardization and stabilization of contractor workforce were achieved by these short-term sole source contracts. The rationale to award repeated short-term contracts was solely to enable FHCC beneficiaries to maintain critical services and avoid the loss of the facility's Complexity Level 1C designation. The short-term contracts did not meet the thresholds required for a technical, legal, and clinical reviews to be conducted. Prior to the contract physicians being granted clinical privileges at the FHCC, their credentials, experiences, and references regarding clinical capabilities were reviewed extensively. Documentation such as the Independent Government Cost Estimate (IGCE), market research, and CO's statement of award documents included in the identified contract files demonstrate that the prices awarded were fair and reasonable. Recommend the finding be re-written as follows: "NCO12 Did Not Always Follow Regulations or Guidance for Cardiothoracic Service Contracts and should have consulted with RPOC and MSO regarding the difficulties in obtaining a long-term performance work statement."

Comment 7

Draft location: Page number 8, paragraph number 4, 1st sentence

Comment and Justification: The first sentence is not accurate. "However, the OIG found that the performance work statement, which specified cardiothoracic service coverage, was included in each of the contract files and has not substantially changed since 2012." This statement is exactly what the NCO12 officials stated in the paragraph above. Request rewrite as follows: "OIG concurs that NCO12 had used the original performance work statement and it had not changed since 2012."

Comment 8

Draft location: Page numbers 10-11, Recommendations 1-2

Comment and Justification: Request the recommendations be re-written per the comments and justifications below:

Original Recommendation 1: “Ensure the NCO 12 contracting officer sends the cardiothoracic services procurement to the Medical Sharing/Affiliate National Program Office for review to determine whether continual short-term sole-source contracts are in the best interest of the government in providing care to veterans.” The scope of this recommendation is not the role of MSO, nor will it solve the findings in this investigation. Please rewrite the recommendation as follows: “Ensure NCO12 and medical center staff work with MSO to develop and award a competitive long-term (10-year) contract.”

Original Recommendation 2: “Establish procedures to regularly identify healthcare resources contracts that have been modified resulting in contract values that exceed the threshold and consult with the Medical Sharing/Affiliate National Program Office to determine whether technical, legal, and clinical reviews are necessary.” The role of MSO is not to determine whether technical, legal, and clinical reviews are necessary. [VHA Procurement Manual \(VHAPM\) Part 801.602-70](#) establishes a standardized review process, including the thresholds at which reviews are required and the position/level of the individual who must conduct the review. The IGCE determines the level of review. The review thresholds of \$500K for sole source HCR procurements and \$1.5 million for competitive procurements are applied at the pre-solicitation and pre-award stages. Please rewrite the recommendation as follows, “Establish procedures to regularly identify healthcare resource contracts that have been modified resulting in contract values that exceed the threshold and review any identified contracts to determine if any further action by leadership is necessary.”

Comment 9

Draft Location: Page 12, Paragraph number 1, First sentence

Comment and Justification: Remove the word investigation when associated with MSO and replace with the word, “review”. Revised sentence would read as follows, “RPO Central received an OIG Hotline Non-Case Referral 2023-085 from the OIG in February 2023, and requested the MSO to review a month later.”

Comment 10

Draft Location: Page 12, Paragraph number 1, sentence 4

Comment and Justification: As stated previously, NCO12 did not disagree with the MSO findings. Please rewrite as follows, “NCO12 reviewed and provided a detailed response for the decisions made and provided supporting documentation for the decision or disagreement with the finding.”

Comment 11

Draft Location: Page 12, Paragraph number 5, sentence 2

Comment and Justification: As stated previously, MSO is not an investigative body. MSO provided a fact-finding review. Please update MSO fact-finding investigation, to MSO fact-finding review.

Comment 12

Draft Location: Page 14, Paragraph number 1, sentence 1

Comment and Justification: Please update sentence 1. “After reviewing the “MSO fact-finding results”, RPO Central determined....” It would appear the OIG is referring to the MSO fact-finding results vs. OIG investigation. Same with sentence 2, please update to MSO fact-finding results vs. investigation.

Comment 13

Draft Location: Page 14, Paragraph number 2, sentence 2 and final sentence

Comment and Justification: As stated previously, MSO does not conduct investigations. Please replace “MSO investigation” with “MSO review”.

Comment 14

Draft Location: Page 14, Recommendation 4

Comment and Justification: As stated previously, MSO does not conduct investigations. Please replace “MSO investigation” with “MSO review” in Recommendation 4.

*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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