Audit of the Federal Bureau of Prisons' Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Residential Reentry Management Branch Inmates

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EXECUTIVE SUMMARY

Audit of the Federal Bureau of Prisons' Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Residential Reentry Management Branch Inmates

Objective

The Department of Justice Office of the Inspector General (OIG) conducted an audit of four procurements, with a total value of approximately $121 million, awarded by the Federal Bureau of Prisons (BOP) to NaphCare, Inc. (NaphCare) for medical services provided to Residential Reentry Management Branch inmates, or those inmates housed in residential reentry centers (RRC) or home confinement.

The audit's objective was to assess BOP and contractor compliance with applicable guidance in the areas of acquisition planning and procurement; billing and payments; contractor performance; and contract management, oversight, and monitoring.

Results in Brief

We found that the BOP's inadequate acquisition planning and market research resulted in award pricing that was not always cost effective or supported by price justifications. Because the BOP's award pricing structure consists of premiums on Medicare rates, as well as a percentage markup on out-of-network costs, we found that the awards provided little incentive for NaphCare to reduce healthcare costs or ensure accurate invoices, as higher medical bills resulted in larger contractor payments. We also found that the BOP's insufficient award oversight contributed to unallowable and unsupported expenditures; wasteful pharmaceutical costs and interest payments; contractor challenges in fully accomplishing award deliverables; and the BOP's untimely approval for healthcare visits. The BOP also did not properly complete required contractor performance assessments.

Recommendations

Our report contains six recommendations to the BOP. We requested responses to our draft audit report, which can be found in Appendices 4 and 5. Our analysis of those responses is included in Appendix 6.

Audit Results

Our review included one blanket purchase agreement (BPA) from fiscal years (FY) 2017 to 2019 followed by three one-year sole-source awards from FY 2020 to FY 2022. The amount expended as of May 2022 under these awards totaled approximately $121 million.

Award	Initial Award	Obligation	Expenses
BPA	$3,750,000	$50,750,805	$49,758,617
FY 2020	$24,017,748	$35,250,000	$32,643,290
FY 2021	$28,983,998	$37,983,998	$28,615,588
FY 2022	$35,000,000	$10,500,000	$10,254,280
Total:	**$91,751,746**	**$134,484,803**	**$121,271,774**

NaphCare's key responsibilities under each award included provider administration; claims processing; managing a provider network; and medical services scheduling. In February 2022, we issued to the BOP a Management Advisory Memorandum (MAM), found in Appendix 3 of this report, which formally advised the BOP of preliminary yet significant concerns we identified during the early stages of our audit related to procurement planning and invoice oversight. The MAM included two recommendations to the BOP, which remained open as of July 2022.

BOP Acquisition Planning

We determined that the BOP did not utilize a formal acquisition plan and conducted inadequate market research prior to the issuance of the BPA and sole-source awards. The documentation provided by the BOP to the OIG did not demonstrate that the BOP adequately evaluated price reasonableness in comparison to industry standards, differences between offerors, or NaphCare's ability to meet the needs of the acquisition, as required by the Federal Acquisition Regulation (FAR). Ultimately, we believe that the BOP's inadequate market research resulted in the BOP paying for medical services that were not always cost effective for the government.

Potential Healthcare Cost Savings Opportunities

Each award we reviewed included rates for in-network medical services comprised of a 90 to 100 percent premium on Medicare rates. We found that the BOP could not adequately demonstrate that these premiums were cost effective for the government. The award premiums do not take into consideration the location of the inmate, or the amount claimed by the provider. For approximately 25 percent of the provider claims we reviewed, NaphCare billed the BOP more than the provider claim. In one example, we reviewed a medical claim where the BOP paid approximately 282 percent more than what the provider billed. While NaphCare generally complied with award pricing requirements, each award's pricing structure does not allow for the BOP to pay the cheaper of the provider rate versus the premium on the Medicare rate, rather, the BOP is committed to paying the premium on the Medicare rate when applicable. In our judgment, paying a premium on Medicare rates is not always the most cost-effective way of calculating healthcare reimbursement costs.

We found that the BOP's pricing structure for each award provides little incentive for NaphCare to reduce or control costs. NaphCare receives a greater payment from the BOP for more expensive medical bills regardless of the deliverables completed. We found this to be particularly prevalent with out-of-network costs, where services are reimbursed at a 5 percent premium of a negotiated price. NaphCare is responsible for negotiating these costs on behalf of the BOP, yet NaphCare gets paid more if the costs are higher. Further, the BOP relies solely on NaphCare to adjudicate the providers' claims for services. We believe this arrangement increases the potential for improperly priced invoices. For example, within our sample of 26,257 medical claims totaling approximately $18 million in expenditures, we identified $10,887 in unallowable expenses that NaphCare later credited to the BOP in June 2022. We also identified $34,524 in unsupported medical services where NaphCare could not justify the medical coding used to bill the BOP for the transactions.

Next, we found that the awards also included pharmaceutical rates based upon a discount on the average wholesale price for medication. We determined that the average wholesale price does not always provide the best value to the government, and that the BOP could consider retail medication prices and telemedicine coupons as a mechanism to negotiate pricing.

Similarly, the BOP could save additional money by ensuring medical bills are paid on time. We identified $51,539 in interest paid to NaphCare under the awards as a result of BOP's noncompliance with the Prompt Payment Act. Part of this interest was owed to an RRC contractor for invoices that were up to 8 years old. We found that the BOP inappropriately used these awards to retroactively pay the RRC contractor.

BOP Oversight of Awards

We found that the BOP did not complete or maintain critical award documentation for each award, including quality assurance surveillance plans and Contracting Officer's Representative (COR) delegation letters. Further, when CORs were properly assigned to the awards, we found that staff not designated as the COR conducted key contracting activities in violation of the FAR and the award terms and conditions. Similarly, we identified time periods during two of the awards where a COR was not properly appointed, indicating that BOP staff completed contracting duties without the proper authority.

Next, we found the BOP's oversight of contractor performance was inadequate and resulted in contractor challenges in fully accomplishing award deliverables. We found that one of five deliverables for each award was not adequately completed by NaphCare based upon award requirements. Within our sample of medical claims, we found that NaphCare submitted invoices for medical services where most services were at least 6 months old, with some services being invoiced more than a year after the service was provided. NaphCare stated that this issue is a result of the fact that inmates are seeking care without receiving proper RRC approval. The BOP requires inmates to obtain approval from each RRC for medical treatment prior to receiving care, except in emergency circumstances. The BOP allows for inmates to accept or refuse emergency medical care, which is clinically determined by the provider. We found that 97 percent of the medical services we sampled were approved after the inmate had already been seen. Ultimately, there is no oversight or monitoring of the RRCs' adherence to the medical services approval process, which prevents effective management of medical services and costs.

Finally, we found that the BOP did not complete contractor performance assessments for any of the awards under our review. Such assessments document performance information to assist federal agencies in conducting future analysis of contractor performance during offeror evaluations and agency procurements.

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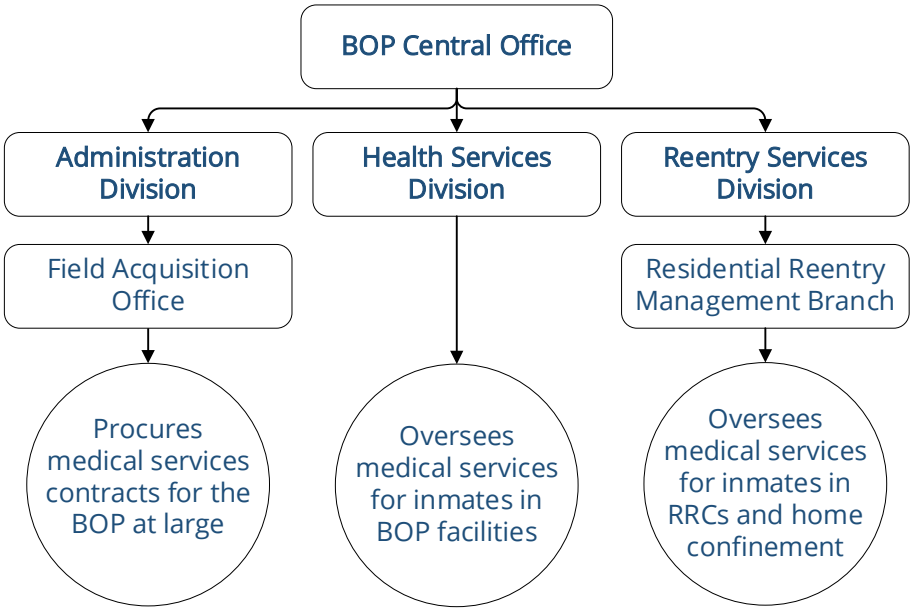
Introduction

The Bureau of Prisons (BOP) is tasked with protecting society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure. Medical, dental, and mental health services provided to inmates in BOP institutions are the responsibility of the BOP's Health Services Division. However, these same services for inmates in residential reentry centers (RRCs) or home confinement are the responsibility of the BOP's Reentry Services Division, which focuses on reentry programming and community resource transition for BOP inmates. Contracts for medical services are awarded by the BOP's Field Acquisition Office within the BOP's Administration Division. The general structure and responsibility of these entities are outlined in Figure 1 below.

Figure 1

BOP Components Responsible for Medical Services



Source: The BOP and the OIG

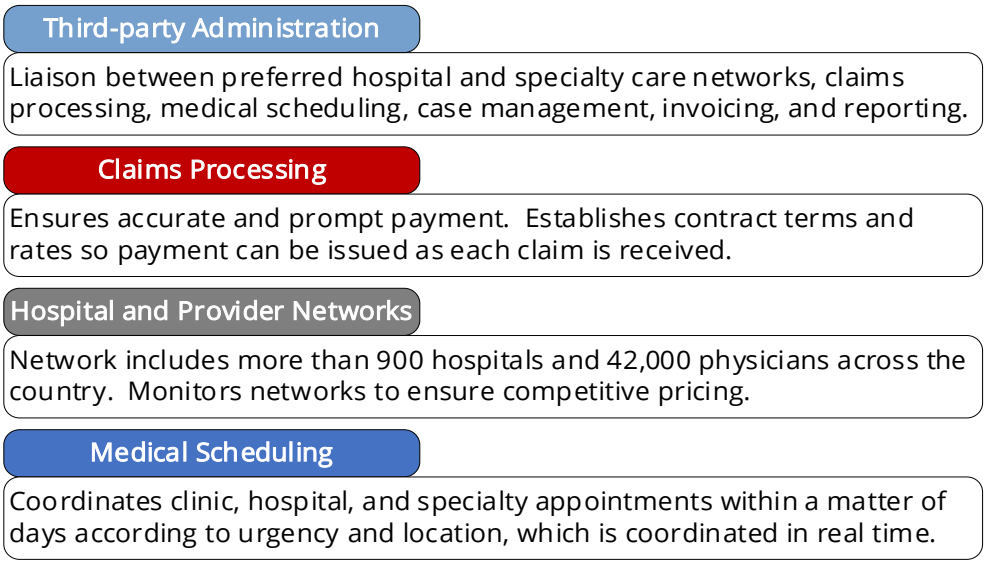
As shown, within the Reentry Services Division is the Residential Reentry Management Branch (RRMB). Residents in RRCs and home confinement are referred to as RRMB inmates. While RRMB's primary responsibility is to oversee the BOP's agreements with RRC facilities to house BOP residents, staff within RRMB have been delegated the responsibility of overseeing healthcare contracts for RRMB inmates.

Contractor Background

According to its website, NaphCare, Inc. (NaphCare) states that its mission includes continuously innovating advanced solutions to address complex challenges in the correctional system. NaphCare's website indicates that, in pursuit of this mission, the organization provides the administrative services outlined in Figure 2.

Figure 2

NaphCare Administrative Responsibilities



Source: NaphCare

The BOP's procurements with NaphCare include the administrative duties outlined above. We discuss these responsibilities, along with additional contracting duties, in more detail throughout this report.

RRMB Inmate Medical Services Awards Overview

We reviewed four procurements BOP awarded to NaphCare for medical services provided to RRMB inmates, including one initial blanket purchase agreement (BPA), followed by three sole-source awards. Each of the four awards we reviewed is summarized in Table 1 below.

Table 1

Summary of Procurements Awarded to NaphCare for Medical Services for RRMB Inmates as of May 2022[1]

Type	Start	End	Initial Award	Approx. Obligation	Approx. Expenses
Initial BPA	10/6/2016	09/30/2019	$3,750,000	$50,750,805	$49,758,617
Sole-Source Award #1	10/1/2019	09/30/2020	$24,017,748	$35,250,000	$32,643,290
Sole-Source Award #2	10/1/2020	09/30/2021	$28,983,998	$37,983,998	$28,615,588
Sole-Source Award #3	10/1/2021	09/30/2022	$35,000,000	$10,500,000	$10,254,280
		Total:	**$91,751,746**	**$134,484,803**	**$121,271,774**

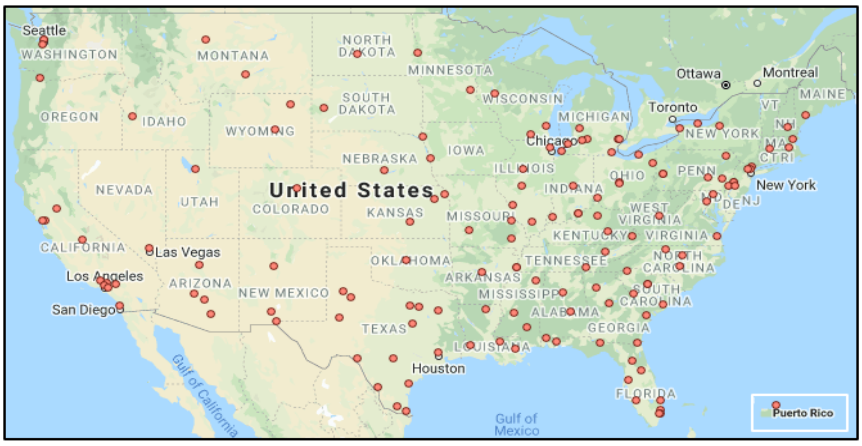
Source: BOP

[1] Here and throughout the report, differences in total amounts are due to rounding.

As shown, a significant amount of funding was awarded to NaphCare to provide healthcare to RRMB inmates. As of July 2022, there were 185 RRC contract locations across the United States.

Figure 3

Residential Reentry Center Locations in the United States



Source: BOP

As of July 2022, there were approximately 13,797 RRMB inmates eligible to receive medical services under the procurements we reviewed. Within NaphCare's network, the BOP utilizes approximately 160 hospital partners located in 6 BOP regions across the country. Prior to 2016, individual RRC contractors submitted invoices to the BOP for medical services provided to RRMB inmates, which resulted in different RRCs billing the BOP for medical services and numerous modifications to the applicable contracts. The BOP Business Practices Subcommittee established an RRC Healthcare Initiative in which the Field Acquisition Office procured the national BPA for medical services for RRMB inmates to streamline the billing process. According to the BOP, the BPA was a unique contracting vehicle in comparison to the broad medical services contracting portfolio the BOP manages for BOP institutions. Consequently, while the Field Acquisition Office awarded the initial BPA, it transferred responsibility to the BOP's Residential Reentry Contracting Section. Staff within RRMB were designated as the contracting officer's representative (COR) to oversee these awards.

RRMB Inmates as of July 2022
Inmates in RRC facilities: **7,526**
Inmates in home confinement: **6,271**
Total RRMB Inmates: **13,797**

Source: BOP

OIG Audit Approach

The objective of this audit was to assess BOP and contractor compliance with applicable guidance in the areas of acquisition planning and procurement; billing and payments; contractor performance; and contract management, oversight, and monitoring. To address these objectives, we: (1) interviewed agency contracting officials and contractor staff; (2) reviewed policies related to each subject area of our objectives; and (3) assessed contract requirements and documentation, including quality assurance methods, medical services invoices and hospital records, and contract deliverables. Appendix 1 contains further details on our audit objectives, scope, and methodology.

Audit Results

In February 2022, the OIG issued a Management Advisory Memorandum (MAM) to the BOP leadership based upon preliminary concerns related to acquisition planning and administration of the procurements awarded to NaphCare for medical services provided to RRMB inmates.[2] We found that the BOP had begun planning for a new, long-term procurement for services acquired under these awards. The MAM provided early notification of our concerns that warranted BOP's immediate attention and consideration for future procurement planning. Specifically, the MAM identified the following deficiencies: (1) inadequate acquisition planning and minimal coordination between key BOP divisions for medical services provided to RRMB inmates; (2) improper use of the Federal Acquisition Regulation's (FAR) Simplified Acquisition Procedures related to the BOP's use of a BPA; (3) improper use of the FAR's exception for unusual and compelling urgency justifications for other than full and open competition for the procurements made after the BPA performance period expired; and (4) inadequate oversight of costs billed and paid, including insufficient review of invoices submitted by NaphCare for medical expenses. That MAM resulted in two recommendations made to the BOP, and as of July 2022, both recommendations remained open.[3] In the BOP's most recent update on the status of these recommendations, the BOP stated that it is in the process of drafting new contracting documents in preparation for its next competitive solicitation for these services.

Since the issuance of the MAM, our review identified additional concerns. First, we found that the BOP's inadequate acquisition planning and market research resulted in award pricing that was not always cost effective for the government or supported by proper price justifications. We also identified several areas where we believe the BOP could implement cost savings mechanisms, including: (1) incentivizing medical services contractors to reduce BOP healthcare costs; (2) ensuring proper adjudication of medical bills; (3) utilizing cost savings measures for pharmaceutical expenses, including retail medication prices and telemedicine discounts; and (4) reducing interest penalties paid under the awards. As a result of the improper adjudication by NaphCare, we identified $34,524 in medical services costs that could not be supported by the BOP or by NaphCare.

We also determined that the BOP's oversight of these awards was inadequate. Specifically, the BOP did not implement a quality assurance surveillance plan under any of the awards we reviewed and did not properly appoint a COR under two of the awards we reviewed. Further, when a COR was appointed, the BOP did not ensure that qualified individuals conducted key contracting duties. As a result of the BOP's inadequate oversight, there were contractor challenges in fully accomplishing award deliverables, the approval of healthcare visits and payment of medical claims were not timely in accordance with contract terms and conditions, and the review of invoices was inadequate. Additionally, the BOP did not conduct performance assessments that should be entered into the Contractor Performance Assessment Reporting System, further increasing the risk that the objectives of the procurements were not met. We make six recommendations to the BOP to address these concerns.

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[2] U.S. Department of Justice, Office of the Inspector General, *Management Advisory Memorandum: Notification of Concerns Identified in the Federal Bureau of Prisons' Acquisition and Administration of Procurements Awarded to NaphCare for Medical Services Provided to Community Corrections Management Inmates* Audit Report 22-040 (February 2022), www.oig.justice.gov/reports/notification-concerns-identified-federal-bureau-prisons-acquisition-and-administration

[3] The MAM, along with the BOP's response to our preliminary findings, is located in Appendix 3 of this report.

BOP Acquisition Planning

As previously described in our February 2022 MAM, the BOP did not conduct adequate acquisition planning prior to issuing the initial BPA for medical services for RRMB inmates. Since the issuance of the MAM, we identified additional shortcomings related to the BOP's medical services procurements. FAR Subpart 7.102 states that agencies shall perform acquisition planning and conduct market research for all acquisitions. The purpose of this planning is to ensure that the government meets its needs in the most effective, economical, and timely manner. The FAR also states that for any contract other than a firm-fixed price contract, a written acquisition plan is required. Although the BOP has stated that these awards were issued as firm-fixed price awards, we determined in the MAM that the awards we reviewed did not fit the definition of a firm-fixed price contract and were more appropriately classified as indefinite-delivery indefinite-quantity procurements because prices fluctuate based on the type and quantity of services provided. Therefore, a formal acquisition plan should have been developed. Additionally, FAR Subpart 15.304 states that price or cost to the government shall be evaluated in every source selection, and that quality of the service shall be addressed through consideration of one or more non-cost evaluation factors, such as past performance, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience. Finally, FAR Subpart 15.402 instructs contracting officers to purchase services at fair and reasonable prices.

Techniques for Conducting Market Research
Contacting knowledgeable individuals in government and industry.
Reviewing recent market research for similar or identical requirements.
Publishing requests for information in journals or business publications.
Participating in communication among acquisition personnel and customers.
Obtaining source lists from other contracting activities or agencies.
Holding pre-solicitation conferences to involve potential offerors.
Reviewing applicable databases related to federal procurement data.

Source: FAR Part 10

We determined that the BOP did not utilize a formal acquisition plan and conducted inadequate market research prior to the issuance of the BPA and subsequent sole-source awards. While the BOP conducted some market research, we found the level of market research could be improved to meet the complexity of the acquisition. As discussed in the following sections, the documentation provided by the BOP to the OIG did not demonstrate that the BOP adequately evaluated price reasonableness in comparison to industry standards, differences between offerors, or NaphCare's ability to meet the needs of the acquisition. As a result, the BOP issued several award modifications significantly increasing the funding under each award, as well as adding to the scope of work. Ultimately, we believe that the BOP's inadequate market research contributed to the BOP paying for medical services at a poor value to the government. We further discuss the effects of the BOP's inadequate acquisition planning in the following sections. Overall, we recommend that the BOP enhance policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research are conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.

Potential Healthcare Cost Saving Opportunities

Each award we reviewed included contractor reimbursement rates for medical services that are comprised of a premium added to the Center for Medicare and Medicaid Services' benchmark rates (Medicare rate).[4] The awards also include pharmaceutical expenses based upon a discount on the average wholesale price for medication. Finally, the awards included funding for services and supplies at a percentage of the amount billed by the provider. A summary of the rates used for the awards is listed in Table 2 below.

Table 2

NaphCare Rates for Services

Award	% Premium Added to Medicare Rates				% Discount on Average Wholesale Price		% Of Provider Charges Paid by the BOP		
	Facility		Physician & Supplies		Pharmaceuticals		Non-Medicare Supplies	Non-Medicare Dental	Out-of-Network Costs
	Inpatient	Outpatient	Inpatient	Outpatient	Generic	Brand			
BPA	90%	95%	100%	100%	14%	0%[a]	90%[a]	85%[a]	Not in Award
Sole-Source Awards	90%	95%	100%	100%	30%	0%	90%	85%	105%

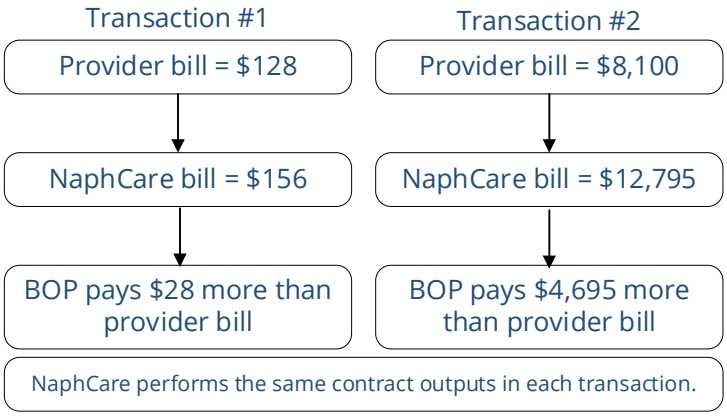
[a] Added via award modification in November 2017

Source: BOP awards with NaphCare

As previously stated, the FAR requires contracting officers to purchase supplies and services at fair and reasonable prices, and states that price or cost to the government shall be evaluated in every source selection. However, we determined that the BOP did not properly justify the reasonableness of prices offered by NaphCare during its market research and did not adequately demonstrate that adding a standard premium to Medicare rates was cost effective for the government. These premiums do not take into consideration the location of the inmate where the cost of healthcare may fluctuate based on locality, or the amount claimed by the provider. We found that for approximately 25 percent of the provider claims we reviewed, NaphCare billed the BOP more than the provider claim, which includes the premiums identified in Table 2. In one example, we reviewed a medical claim where the provider billed NaphCare for $16,351 for the medical service, yet NaphCare billed the BOP $62,476 (the Medicare rate plus a 90 percent premium), nearly 282 percent more than what the provider billed. As a result, the BOP paid NaphCare $46,125 more than what the provider billed. Despite the fact that these charges were compliant with award pricing, the structure of these awards commits the BOP to paying the premium on the Medicare rate regardless of the actual cost. There are instances, such as the example described above, where the BOP is paying significantly more than the actual billed cost of medical services. As evidenced by the above example, simply adding a premium to the Medicare rate is not always the most cost-effective way of calculating healthcare reimbursement costs to contractors. We further address this issue in the following sections.

[4] The OIG previously found that the BOP is the only federal agency that pays for medical care that is not covered under a statute or regulation and for which the government sets the agency's reimbursement rates, usually at the Medicare rate. U.S. Department of Justice, Office of the Inspector General, *The Federal Bureau of Prisons' Reimbursement Rates for Outside Medical Care*, Audit Report 16-04 (June 2016), www.oig.justice.gov/reports/ federal-bureau-prisons-reimbursement-rates-outside-medical-care

Limited Contractor Incentive to Reduce Healthcare Costs



Source: BOP and NaphCare expenditure data

While each award we reviewed includes the rate breakdown outlined in Table 2, we determined that each award provides little incentive for NaphCare to reduce or control costs. NaphCare receives a greater payment from the BOP for the more expensive medical bills, regardless of how much work is required by NaphCare to process and adjudicate the provider's claim, because the payment structure in each award is based on a markup percentage of what was billed by the provider. To illustrate, we found one provider billed NaphCare $128 for inpatient physician services, which resulted in the BOP paying NaphCare $156 after adding the premium on the Medicare rate for that service. Another provider billed $8,100 for inpatient facility services, which resulted in the BOP paying NaphCare $12,795 after adding the premium on the Medicare rate for that service. While both scenarios are compliant with the agreed upon award pricing based on the distinct types of medical services provided, the BOP paid NaphCare a premium of $4,695 on the larger medical claim, and a premium of $28 on the smaller medical claim, yet NaphCare performed the same contract outputs outlined in the awards for both transactions. As such, we believe this payment structure does not incentivize NaphCare to decrease medical costs to the full extent possible, as greater medical costs increase the amount that the BOP pays to NaphCare, despite no additional output from NaphCare. In our judgment, this demonstrates another example where the BOP could have better structured its award pricing to provide medical services at a more reasonable cost.

Cost Control for Out-of-Network Claims

As discussed in Figure 2, NaphCare reports that its network contains 900 hospitals and 42,000 physicians across the country. However, we determined that the BOP incurred a significant amount of costs for services not provided by NaphCare's network of providers. According to NaphCare, approximately $19.2 million (24 percent) of medical services costs under the awards were out-of-network, as shown in Table 3, which does not include pharmaceutical costs.

Table 3

In-Network Versus Out-of-Network Medical Services Costs as of June 2022

Award	Start	End	In-Network Costs		Out-of-Network Costs	
			$	%	$	%
Initial BPA	10/6/2016	9/30/2019	$26,198,805	73%	$9,679,377	27%
Sole-Source Award #1	10/1/2019	9/30/2020	$18,568,657	78%	$5,132,389	22%
Sole-Source Award #2	10/1/2020	9/30/2021	$9,033,694	75%	$3,019,354	25%
Sole-Source Award #3	10/1/2021	9/30/2022	$5,527,080	80%	$1,339,468	20%
		Total:	**$59,328,237**	**76%**	**$19,170,587**	**24%**

Source: NaphCare

Using NaphCare's network of providers allows NaphCare to provide inmates healthcare at a standard established by the BOP and at costs agreed upon in each award. Conversely, the BOP has less control of costs under the awards if there is a significant amount of out-of-network costs. NaphCare is responsible for negotiating out-of-network bills with the provider and, as shown in Table 2, receives a 5 percent markup on all out-of-network bills. We outline the process for negotiating out-of-network costs in Figure 4 below.

Figure 4

Negotiating Process for Out-of-Network Medical Bills

Source: NaphCare

BOP contracting officials stated that they do not review invoices to ensure compliance with the award terms and conditions, and also stated that they only review invoices for mathematical errors. Further, each invoice does not identify whether each medical claim is in-network versus out-of-network, or how each claim is calculated. As stated previously, NaphCare has limited incentive to decrease costs on medical bills because the BOP pays NaphCare based on a percentage markup. Similarly, as shown in Figure 4, with out-of-network costs NaphCare is solely responsible for negotiating out-of-network bills prior to invoicing the BOP. However, NaphCare gets paid more if the out-of-network medical bill is higher because it receives a 5 percent markup on all out-of-network medical bills. This further supports that NaphCare has limited incentive to decrease medical costs. Despite the fact that NaphCare generally complied with award pricing structure, the awards do not contain controls that would incentivize a contractor to negotiate out-of-network costs as low as possible. Finally, the BOP has no controls to ensure that the amount negotiated with each provider is actually paid out by NaphCare.

Limited Contractor Incentive to Properly Adjudicate Healthcare Costs

Adjudicate
The BOP uses claims adjudication vendors to ensure accuracy of claim information, verify that the BOP is not billed for duplicate claims, and verify the local benchmark Medicare rate structures used in billings. NaphCare is responsible for claims adjudication under these awards.

Source: OIG and BOP

According to the BPA Performance Work Statement, in addition to providing medical services, NaphCare is responsible for submitting properly-priced invoices for services rendered. According to NaphCare's award proposal, NaphCare stated that it would ensure timely payments, accurate evaluation of claims based on approved services, and payments on claims only for residents that are eligible at the time of service. Further, NaphCare stated that all claims would be reviewed for accuracy and proper service, as well as correct coding and billing. Both the BOP and NaphCare agreed that NaphCare's adjudication responsibilities would include a review of patient eligibility, duplicative billing, and general accuracy of provider bills, to include a review of valid dates of service and billing codes.

Through our invoice testing, we identified several invoicing discrepancies that were not identified during NaphCare's review of medical bills. In our judgment, because NaphCare is paid based on a percentage of what was billed by the provider, there is little incentive to ensure all medical costs are accurate. We judgmentally selected a total of 28 invoices for review, totaling $18,464,749. A breakdown of our sample by award is outlined in Table 4 below.

Table 4

Sample of Invoices Reviewed

Award	Number of Invoices	Number of Claims	Amount of Sample	Total Expenditures	Percent of Total
Initial BPA	9	10,975	$7,697,757	$49,758,617	15%
Sole-Source Award #1	6	5,098	$2,307,434	$32,643,290	7%
Sole-Source Award #2	7	6,021	$3,386,118	$28,615,588	12%
Sole-Source Award #3	6	4,163	$5,073,440	$10,254,280	49%
Total:	**28**	**26,257**	**$18,464,749**	**$121,271,774**	**15%**

Source: BOP

During our review, we identified 31 medical claims across 12 transactions that we determined to be either overbilled by NaphCare or potential duplicate charges. We provided these transactions to NaphCare and, as a result, NaphCare stated that it would credit the BOP a total of $10,887. A breakdown of the unallowable payments we identified are outlined in Table 5 below.

Table 5

Summary of Unallowable Payments Identified During Transaction Testing

Type	Overpayments		Duplicate Transactions	
	#	$	#	$
Initial BPA	0	$0	5	$1,737
Sole-Source Award #1	3	$2,912	0	$0
Sole-Source Award #2	19	$5,099	4	$1,139
Sole-Source Award #3	0	$0	0	$0
Total:	**22**	**$8,011**	**9**	**$2,876**

Source: BOP

As of June 2022, the $10,887 in unallowable costs had been credited to the BOP. We believe that further review of medical services costs by NaphCare and the BOP is necessary to ensure that the BOP is not overpaying for healthcare. We further discuss the BOP's inadequate review of expenditures, as well as NaphCare's non-compliance with award deliverables in the following sections.

Next, we identified a provider that billed NaphCare using the same Current Procedural Terminology (CPT) Code for nearly all of its patients. The OIG previously found that the most commonly used CPT codes for services provided to inmates are for evaluation and management services, such as physician office visits and hospital care visits.[5] The provider in our sample billed CPT code 96116 *Neuropsychological Testing* 172 times, totaling $34,524 in medical costs. CPT code 96116 is defined as a neurobehavior status exam by a physician or other qualified healthcare professional, including both face-to-face time with the patient and time interpreting test results. Of the 26,257 claims we reviewed, CPT code 96116 was only used by this provider. Additionally, the majority of records we reviewed indicated that the patients seen by this provider were being treated for non-psychological medical matters, such as high blood pressure, knee pain, and a cough. Finally, we determined that the provider would bill NaphCare using this CPT code in conjunction with other CPT codes for every subsequent visit, indicating that the CPT code was being used despite the inmate being treated for other services.

Current Procedural Terminology Code (CPT)

CPT codes are five-digit numeric codes that correspond to a variety of medical procedures and services under public and private health insurance programs. In general, the more complex the visit, the higher level of CPT code that may be billed. Higher code levels correspond to higher reimbursement rates.

Source: OIG

When asked about this specific CPT code, NaphCare stated that it is not required to conduct the level of scrutiny normally reserved for medical providers. NaphCare stated that the award terms agreed upon by NaphCare and the BOP is void of any details regarding the selection of CPT codes by a medical provider. The awards do not require NaphCare to implement a CPT code verification process to ensure the code is clinically appropriate based on the medical care provided. However, NaphCare acknowledged that, as

[5] U.S. Department of Justice, Office of the Inspector General, *Management Advisory Memorandum: Notification of Concerns Regarding Potential Overpayment by the Federal Bureau of Prisons for Inmate Health Care Services* Audit Report 22-035 (February 2022), www.oig.justice.gov/reports/management-advisory-memorandum-notification-concerns-regarding-potential-overpayment

previously stated, NaphCare's adjudication responsibilities included validating CPT codes. When asked about this specific CPT code, the BOP stated that it is NaphCare's responsibility to ensure proper invoices are submitted to the BOP and stated that either NaphCare or the provider should address whether CPT code 96116 is warranted in all 172 instances we identified.

We did not receive evidence that CPT code 96116 was applied appropriately in any of the 172 instances we reviewed. While we assess the BOP's limited oversight of medical costs in the following sections, NaphCare is responsible for validating the expenses charged under these awards. Because the instances of CPT code 96116 were not validated to ensure they were clinically appropriate based on the medical care provided, we consider the costs associated with these medical bills unsupported. As a result, we recommend that the BOP remedy the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.

Overall, our results demonstrate that the award type used by the BOP was inappropriate for the needs of the acquisition and the BOP did not properly justify that the payment structure was fair and reasonable to effectively manage medical costs. As a result, the BOP did not properly consider contractor incentives to control costs. Further, the BOP exercises very little oversight of the medical services it pays NaphCare to manage, negotiate, and process provider payment.

Pharmaceutical Costs

As shown in Table 2 above, the original BPA awarded to NaphCare stated that generic pharmaceuticals would be reimbursed at a 14 percent discount of the average wholesale price and at a 30 percent discount under the sole-source awards. None of the awards included a discount on retail pharmaceuticals. Overall, we believe there are several ways that the BOP could reduce the significant cost of pharmaceutical expenses incurred under these awards. We breakdown the total pharmaceutical costs and our sample of those expenditures for each award in Table 6 below. We did not conduct an analysis on pharmaceutical costs for the most recent sole-source award due to the ongoing nature of those expenditures.

Table 6

Pharmaceutical Costs

Award	Portion of Award Spent on Pharmaceuticals		Amount of Pharmaceutical Expenses Sampled
	$	%	
Initial BPA	$13,683,979	28%	$1,807,205
Sole-Source Award #1	$8,498,346	26%	$931,757
Sole-Source Award #2	$9,893,084	35%	$919,021
Total:	**$32,075,409**	29%	**$3,657,983**

Source: BOP expenditure data

Pricing Methodology for Pharmaceuticals

According to the National Library of Medicine, the average wholesale price is a pharmaceutical term that describes the average price paid by the retailer to buy a medication from the wholesaler.[6] The average wholesale price determines pricing and reimbursement of prescription medications to third parties such as the government and private payers. However, according to the National Library of Medicine, the average wholesale price is not a true representation of actual market prices for either generic or brand-named medications and can be inflated from market prices. The average wholesale price is not a government-related figure, does not include buyer volume discounts or rebates often involved with prescription medication sales, and is subject to manipulation by manufacturers and wholesalers. In our judgment, the average wholesale price may not be the best pricing mechanism for these awards.[7] Additionally, neither the BOP nor NaphCare could provide us a list of historical average wholesale prices, which change daily, to compare to prices billed to the BOP under the awards.

Source: National Library of Medicine

In order to assess the cost to the BOP for prescriptions at the average wholesale price used in each award, we judgmentally selected medications where the total spent on any one medication was over $1,000 from FYs 2017 to 2021, which amounted to approximately 159 unique medications. We then determined the prices for those medications on various telemedicine websites. We found that several telemedicine websites offer patients retail prices that are significantly discounted from the average wholesale medication price. Additionally, some telemedicine sites compare medication prices across several pharmacies and provide coupons to the patient allowing them to pay less than the retail price for their prescription. As shown in Table 6 above, we sampled $3,657,983 in pharmaceutical expenses from FYs 2017 to 2021. We determined that the BOP would have paid at least $367,619 less in pharmaceutical costs at these reduced prices between FYs 2017 and 2021 based on average retail prices described above. Additionally, these savings grew by $648,537 when applying the medication coupons from these sites.[8] In Table 7, we analyzed potential savings using the average retail price and medication coupons for two commonly prescribed medications in our sample.

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[6] The National Library of Medicine is a component of the National Institute of Health, the U.S. medical research agency, under the U.S. Department of Health and Human Services. The National Library of Medicine maintains print collection and produces electronic information resources on a wide range of topics. It also supports research, development, and training in biomedical informatics and health information technology. National Library of Medicine - National Institutes of Health https://www.nlm.nih.gov/ (accessed June 27, 2022).

[7] We previously found that the BOP could improve its control over medication costs but lacks access to lower government pricing utilized by other government agencies. U.S. Department of Justice, Office of the Inspector General *Review of the Federal Bureau of Prisons' Pharmaceutical Drug Costs and Procurement*, Audit Report 22-027 (February 2020), www.oig.justice.gov/reports/review-federal-bureau-prisons-pharmaceutical-drug-costs-and-procurement

[8] We believe that cost savings related to the use of telemedicine coupons could be an effective mechanism for the BOP and the contractor to better negotiate pharmaceutical prices overall. We do not provide judgment on inmate, RRC, or contractor use of telemedicine coupons on an individual basis.

Table 7

Example of Pharmaceutical Cost Savings from FY 2021

	Drug 1 – 7,140 Pills Prescribed in Sample		Drug 2 – 13,680 Pills Prescribed in Sample	
	Avg. Per Pill	Total Cost	Avg. Per Pill	Total Cost
BOP/NaphCare Price	$3.39	$24,204	$4.06	$55,541
Average Retail Price	$1.53	$10,924	$2.03	$27,770
Market Savings	**$1.85**	**$13,209**	**$2.03**	**$27,770**
Medication Coupon Price	$0.46	$3,284	$0.45	$6,156
Potential Coupon Savings	**$2.93**	**$20,920**	**$3.60**	**$49,248**

Source: BOP expenditure data

Additionally, during our testing we identified certain generic medications that were prescribed to inmates at a significant cost to the BOP. For example, one inmate was prescribed a 30-day prescription for hydrocortisone, a common medication for treating eczema or skin irritation, that cost the BOP $9,562. In another example, we found the BOP approved a prescription for 90 pills to treat erectile disfunction at a cost of $1,548. We believe this further supports that the BOP is not always paying for medications at a reasonable cost. While we recognize it might not be feasible to require the use of telemedicine sites and medication coupons on an individual basis, we also believe average wholesale prices are overstated and do not provide good value for the BOP and the government. In our judgment, the BOP should also consider available average retail prices as its benchmark. Considering average retail prices would also assist the BOP in its oversight of pharmaceutical costs under each award, as the BOP would need to verify that the best retail pharmaceutical prices are being utilized when billed. We believe further market research related to pharmaceutical prices during acquisition planning for the procurements under our review could have increased the BOP's negotiating power and potentially realized significant cost savings for the BOP over time.

Interest Penalties on Payments to NaphCare

BOP Program Statement 2011.13 related to the timely payment of contractor invoices states that the BOP must pay interest penalties when payments to contractors are late. The BOP must make payments under contracts as prescribed in the Prompt Payment Act, outlined in FAR Subpart 32.9, which identifies the due date for making an invoice payment as the later of the following: (1) the 30th day after the designated billing office receives a proper invoice from the contractor or (2) the 30th day after the government acceptance of the services performed. The Prompt Payment Act also states that interest should be paid without contractors having to request it.

As a result of these requirements, we reviewed the BOP's accounting records to determine if the BOP had made any interest payments to NaphCare under the awards we reviewed. We identified 1,213 interest payments made to NaphCare, totaling $51,539 under the BPA and first two sole-source awards we reviewed. We were unable to calculate interest on the ongoing sole-source award due to the ongoing nature of those expenditures. We breakdown these payments by award in Table 8 below.

Table 8

BOP Interest Expenses by Award

Award	Transactions by Date Interest Started Incurring	Transactions by Date Interest was Paid	Amount of Interest Paid
Prior to BPA Period	28	0	$0
BPA Period	861	625	$44,032
Sole-Source Award #1	228	223	$2,281
Sole-Source Award #2	96	365	$5,226
Total:	**1,213**	**1,213**	**$51,539**

Source: BOP expenditure data

As shown in Table 8, the BOP often incurred interest expenses but did not pay NaphCare that interest until much later, sometimes during the subsequent award period. While the BOP incurred interest on 861 invoices during the initial BPA period, only 625 interest payments were made during the same time period. In one instance, we found that the invoice was submitted in FY 2016, prior to the initial BPA, but the BOP paid the invoice and the accompanying interest in FY 2021, approximately 5 years later. We believe the extensive number of interest payments made by the BOP further supports the wasteful nature of certain costs under these awards in addition to other oversight concerns which we further assess in the following sections.

Use of Sole-Source Award Vehicle to Retroactively Pay an RRC Contractor

As shown in Table 8, the BOP started incurring interest on 28 invoices prior to the award of the initial BPA and paid that interest after the BPA with NaphCare was awarded. While the BOP awarded NaphCare the BPA in 2016 with the intent of streamlining its healthcare payments, the BOP still owed costs for medical services that were incurred prior to the award period. Specifically, the BOP owed one RRC contractor $2,352,074, resulting in the BOP issuing an award modification in 2020 to pay invoices from the RRC contractor that were submitted prior to the BPA period but never paid. Our review included NaphCare invoices with costs owed to this contractor from 2011 through 2015. The BOP stated that this backlog resulted from an internal accounting reorganization within the BOP. Further, the BOP stated that not all RRCs transitioned medical services payments immediately to the BPA with NaphCare, which caused some RRC contractors, such as the contractor described above, to continue to pay for medical services directly rather than through NaphCare. We believe the BOP

Retroactive Contractor Payments

BOP issued a contract modification in October of 2020.

Modification added $2.4 million in funds to existing BPA.

BOP retroactively paid a separate RRC contractor through NaphCare.

Payments were up to 8 years late and included $1,109 in interest.

Source: BOP award documentation

inappropriately issued an award modification that allowed NaphCare to pay the BOP's backlog to that RRC contractor, rather than issue a separate award modification directly to that RRC. As a result, the BOP paid $1,109 in interest to the RRC contractor through the NaphCare awards for BOP's late payments. We also believe the amount of interest paid was significantly undervalued due to the amount of time that had passed between the invoice and payment. In our judgment, paying for invoices as far back as 8 years places significant risk on the BOP to incorrectly pay the contractor. While it appears that retroactively paying RRCs no longer occurs as a result of the NaphCare awards, we believe the BOP should strengthen its controls to ensure that invoices are paid on time and save money in interest charges.

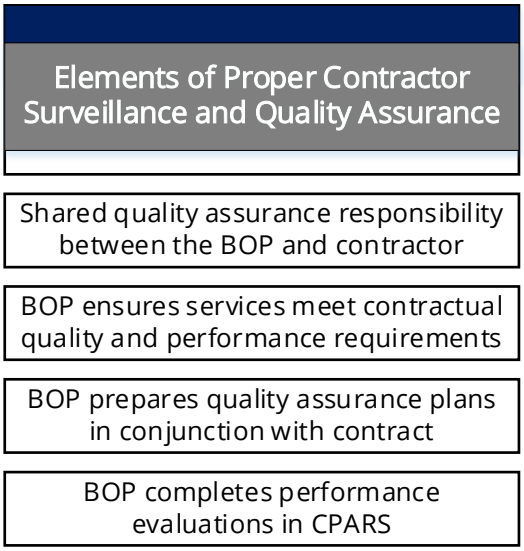
Overall, we identified opportunities where the BOP could save money on medical services provided to RRMB inmates. As previously stated, we believe that the BOP's inadequate market research and existing awards structure are not cost effective and increases the risk that the BOP is not receiving services at a good value to the government. Therefore, we recommend that the BOP reduce RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.

BOP Oversight of Awards

We found that the BOP did not conduct adequate oversight over the awards made to NaphCare or maintain critical award documentation for each of the awards. As a result, award deliverables were incomplete, the approval of healthcare visits and payment of medical claims were not timely, and the review of invoices was inadequate. Ultimately, these deficiencies prevent the effective management of medical services and costs.

Quality Assurance Surveillance Plan

According to FAR Subpart 46.401, government quality assurance shall be performed as necessary to determine that services conform to contract requirements. Quality assurance surveillance plans should be prepared in conjunction with each contract. The plan should specify all work requiring surveillance and the method of surveillance. We found that no such plan exists under the awards we reviewed. As a result, we believe that the BOP did not properly monitor and assess the services received under each award. As we discuss in more detail below, we found that the BOP did not ensure that it received quality, timely services that met all award requirements. In our judgment, risks of insufficient quality assurance practices are particularly concerning for medical services awards, given that the BOP depends on these awards to provide essential medical care to inmates. We make a recommendation related to this issue in the following section.



Source: FAR Subpart 42.15 and 46.401

COR Oversight and Delegation of Key Contracting Duties

According to FAR Subpart 1.602-2, contracting officers are required to designate and authorize a COR in writing on all contracts unless the contracting officer retains and executes the COR duties. A COR is unable to redelegate duties that may be authorized in a COR designation letter. In addition, the terms and conditions of the BOP's BPA with NaphCare state that a COR is responsible for evaluating contractor performance and for the certification of all invoices for acceptance of the services furnished for payment. The BPA and the FAR also state that the COR does not have the authority to alter the contractor's obligations under the award, or modify any terms, conditions, specifications, or costs of the agreement.

We found that significant contracting duties, such as the review of invoices and the oversight of medical services approvals were not retained by the COR. As stated in our February 2022 MAM, BOP officials stated that they do not review medical claims, and that because RRMB officials lack the technical knowledge to review medical billings, the BOP simply pays invoices without comparing rates billed to the rates in the award documents or to Medicare rates. In fact, we found that invoice review and approval is primarily conducted by the BOP's Health Systems Specialist or by RRMB's finance staff, not by the COR. As a result of this finding, we recommended in our February 2022 MAM that the BOP enhance its policies and procedures to ensure that qualified contracting officials review and approve contractor invoices submitted and paid for medical services provided to RRMB inmates. As of July 2022, this recommendation remained open.

We found that the BOP did not formally designate a COR for the complete duration of two of the awards we reviewed. During the BPA period, we found that a COR was properly appointed at the onset of the award. However, the original COR retired in September 2017, and a new COR was not properly appointed with a COR delegation letter as a replacement. As a result, there was no documentation to support the designation of a COR during FY 2018 and FY 2019 under the BPA. Further, the BOP did not designate a COR for the first sole-source award in FY 2020. A COR was properly appointed for the second and third sole-source awards in FY 2021 and FY 2022.

In our judgment, the noncompliance discussed in this section increases the risk that award funds could be misused. As a result, we recommend that the BOP enhance policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.

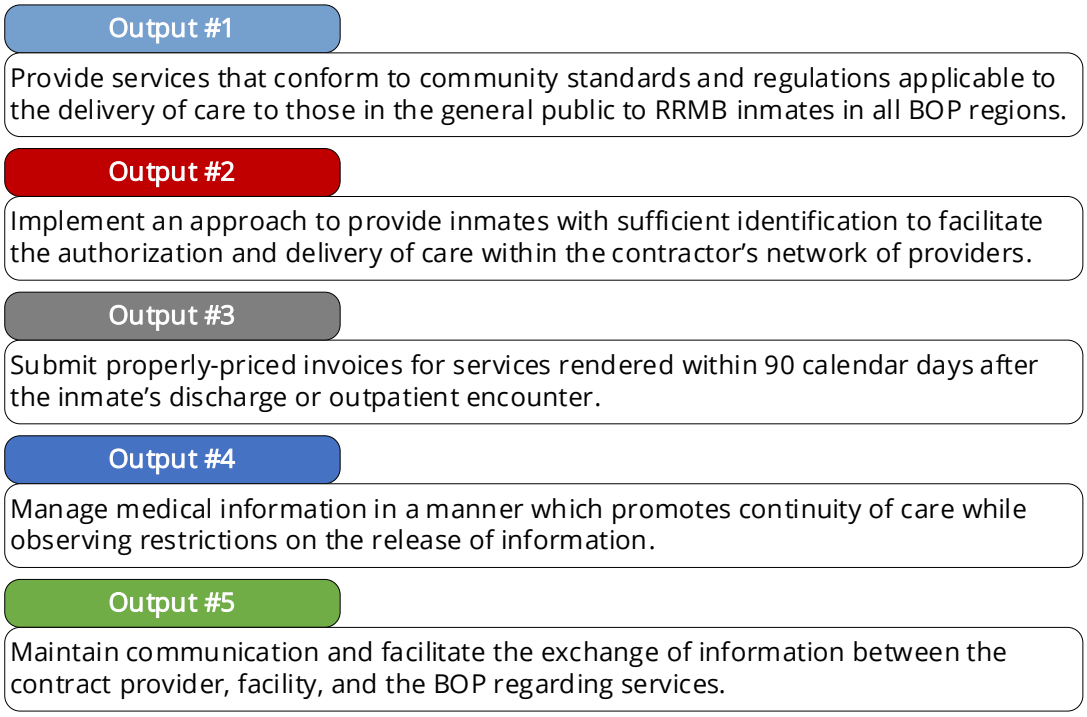
BOP Oversight of Contractor Performance

The Performance Work Statement created under the initial BPA and utilized under the following sole-source awards included five contractor outputs that NaphCare stated it would achieve in its award proposal.[9] We summarize the outputs under the awards in Figure 5 below.

[9] In FY 2022, the most recent sole-source award also required NaphCare to provide statistical data to the BOP on a recurring basis in addition to the five outputs listed in Figure 5. We did not find indications that this information was not provided to the BOP in compliance with the award deliverable.

Figure 5

Performance Outputs Identified in Awards



Source: BOP performance work statement and NaphCare award proposal

During our review, we did not take issue with NaphCare's efforts to fulfill Outputs 1, 2, 4, and 5 under each award. However, as it relates to Output 2, we found that despite the fact that out-of-network providers were not included in this deliverable, the BOP continually approved out-of-network services without modifying the contract output to include these providers. As a result, a significant amount of out-of-network costs were charged under each award. This indicates that while NaphCare provided a robust network of providers for BOP inmates, Output 2 was not fully accomplished as written, which states that delivery of care should occur within NaphCare's network of providers. While the BOP added out-of-network costs to the sole-source awards in FY 2020, the BOP did not update its performance work statement as outlined in Figure 5. To further compound this issue, as shown in Table 2, out-of-network costs were not included in the initial BPA award despite the fact that a significant amount of out-of-network costs were incurred during that award period. Because out-of-network providers are not assessed by the BOP or by NaphCare during award negotiations, we believe that the BOP has limited assurance of the quality of medical care provided to RRMB inmates if they are receiving care outside of NaphCare's network.

Further, as previously discussed, we found within our sample of services that NaphCare did not submit properly priced invoices for services rendered as required by Output 3. This is evident based on the unallowable and unsupported costs incurred by the BOP outlined in Table 5. While we believe the BOP should strengthen its controls related to its oversight of billings and payments, the BOP has repeatedly stated that it is NaphCare's responsibility to ensure that proper invoices are submitted to the BOP. In our judgment, inadequate completion of award deliverables increases the risk that inmates are not receiving

quality healthcare in conjunction with the objectives of each award. We further address NaphCare's performance in the following sections.

Approval of Healthcare Visits

Output 3 in Figure 5 states that NaphCare shall submit invoices within 90 calendar days after the inmate's discharge or outpatient encounter. The expectation is that the contractor will submit invoices to the BOP within 90 days from the completion of each service. During our review, we determined NaphCare submitted invoices for medical services where some services were invoiced more than a year after the service was provided. According to NaphCare, it submits invoices to the RRMB office once per month for the various services it has paid for. Sometimes services do not get billed right away because NaphCare is unaware that an inmate was seen. As a result, we reviewed the BOP and NaphCare's process for approving medical services for inmates. Each RRC contract outlines the approval process for inmates seeking medical care, as shown in Figure 6 below.

Figure 6

RRC Medical Services Approval Process

Source: BOP RRC Statement of Work

As shown in Figure 6, inmates should be receiving approval for medical care prior to seeing a provider, except for emergency situations. We found that only 297 of the 22,094 services we reviewed (1 percent) received the proper approval, as described in Table 9, whereas 21,409 (97 percent) were approved after the service was provided. According to NaphCare, instead of seeking medical approval from the RRC case manager, some inmates are scheduling medical services on their own, which we believe could indicate that BOP RRCs are untimely in their approvals of inmate medical services requests. In these instances, once the inmate has received the medical service, they are providing the bill to the RRC, sometimes a year after-the-fact, which then asks NaphCare for approval. While the data we reviewed did not specify which services were considered emergency circumstances, we believe that the number of approvals occurring after the services were provided in conjunction with the significant amount of time between the service and approval is unreasonable. We summarize our sample of medical services approvals, and breakdown the approval times in Table 9 and Table 10 below.

Table 9

Summary of Timeliness of Sampled Medical Services Approvals by Fiscal Year

Fiscal Year	Total Number of Services	Prior Approval		Same Day		Approval After Service	
		Count	%	Count	%	Count	%
2017	1,160	26	2%	18	2%	1,116	96%
2018	3,289	21	1%	59	2%	3,209	98%
2019	6,526	74	1%	105	2%	6,347	97%
2020	5,098	67	1%	103	2%	4,928	97%
2021	6,021	109	2%	103	2%	5,809	96%
Total:	**22,094**	**297**	**1%**	**388**	**2%**	**21,409**	**97%**

Source: OIG analysis of BOP records

We believe that when inmates seek medical care independently, there is an increased risk that inmate care does not conform to the requirements within NaphCare's network. Additionally, without prior approval of medical services, NaphCare cannot ensure the continuity of care by working directly with the BOP and local providers, as was assured to the BOP in its award proposal. Further, while inmates are permitted to seek medical care in emergency situations, the BOP has not clearly documented when emergencies occur. In fact, the BOP stated that emergency determinations can be left up to the inmate and their providers. While it is reasonable that there are some approvals that occur after the date of service, we found that a majority of approvals occurred anywhere from 10 days to 738 days after receiving services. We summarize the late BOP approvals in Table 10.

Table 10

Sample of Late BOP Approvals by Number of Days

Fiscal Year	10 to 29 Days Late		30 to 59 Days Late		60 to 89 Days Late		90 or More Days Late	
	Count	%	Count	%	Count	%	Count	%
2017	368	32%	122	11%	47	4%	43	4%
2018	829	25%	260	8%	122	4%	272	8%
2019	1,980	30%	676	10%	282	4%	597	9%
2020	1,316	26%	828	16%	348	7%	382	7%
2021	2,116	35%	1,503	25%	491	8%	612	10%
Total	**6,609**	**30%**	**3,389**	**15%**	**1,290**	**6%**	**1,906**	**9%**

Source: OIG analysis of BOP records

Ultimately, there is no oversight or monitoring of RRC adherence to the medical services approval process, which prevents effective management of medical services and costs. According to NaphCare, without NaphCare being involved in scheduling inmate appointments as stated in each award, NaphCare is reliant on the inmate to provide invoices to the RRC case manager before NaphCare can bill the BOP, rather than NaphCare seeking them directly from the medical providers within its network. NaphCare acknowledged that inmates will submit medical invoices long after the medical services were received. We determined that

the BOP does not have a process in place to prevent the BOP Health Systems Specialist from approving invoices provided by inmates significantly after the services were provided. We believe that due to the BOP's limited oversight of approvals for inmate healthcare visits, there is an increased risk of improper or duplicate payments, as well as limited assurance over the adequacy of inmate medical care. Overall, we believe that while NaphCare's performance under each award could be improved, the BOP's oversight of NaphCare's performance could also be strengthened to ensure adequate medical care is provided at good value to the government. As a result, we recommend that the BOP ensure that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.

Contractor Performance Assessments

Past Performance Evaluation Factors
Technical quality of service
Cost control
Schedule and timeliness
Management relations
Contract reporting

Source: FAR Subpart 42.15

FAR Subpart 42.15 states that past performance evaluations shall be prepared at least annually and at the time the work under a contract or order is completed. Past performance information shall be entered into the Contractor Performance Assessment Reporting System (CPARS), the government-wide evaluation reporting tool for all past performance reports on contracts. We found that the BOP did not complete performance reports for any of the awards under our review, further increasing the risk that the objectives of the procurements were not met. Having performance data documented in CPARS assists the BOP as well as other federal agencies in conducting future analysis of contractor performance during offeror evaluations and agency procurements. As a result, we recommend that the BOP enhance policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.

Conclusion and Recommendations

Overall, we identified several areas of improvement related to the BOP's procurements with NaphCare for medical services provided to RRMB inmates. We believe the concerns identified in our February 2022 MAM, along with the additional findings outlined in this report, increase the risk that RRMB inmates are not receiving quality healthcare while maximizing the cost effectiveness to the government. In our judgment, the BOP has inadequate controls over the costs of each award we reviewed, potentially resulting in misuse of award funds.

Specifically, we found that inadequate acquisition planning and market research resulted in pricing that was not supported by proper price justifications. Despite the fact that the BOP approved inmate medical services, we determined the BOP did not control costs of medical services for thousands of inmates receiving care through these awards. We identified several areas where we believe the BOP could implement cost savings mechanisms, including: (1) incentivizing medical services contractors to reduce BOP healthcare costs; (2) ensuring proper adjudication of medical bills; (3) utilizing cost savings measures for pharmaceutical expenses, including retail medication prices and telemedicine discounts; and (4) reducing interest penalties paid under the awards. As a result of inadequate adjudication by NaphCare, we identified $34,524 in medical services costs that could not be supported by the BOP or by NaphCare.

In addition, we determined that the BOP conducted inadequate oversight over the awards made to NaphCare. Specifically, the BOP did not implement a quality assurance surveillance plan under any of the awards we reviewed, which increases the risk that the objectives of the procurements are not met. The BOP also did not properly appoint a COR under two of the awards and did not ensure that qualified individuals conducted key contracting duties. This increases the risk that award deliverables are not achieved and that award funds are misused. Due to lack of oversight, we found inadequacies with contractor performance, including important award deliverables that were not fully achieved, a majority of approvals for healthcare visits that were made after services were provided, and the payment of medical bills for inmates long after the dates of service. Finally, the BOP did not conduct required performance assessments to enter into CPARS.

In addition to the two recommendations made in the February 2022 MAM, located in Appendix 3, we make an additional six recommendations to the BOP to address these concerns.

We recommend that the BOP:

1. Enhance policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research is conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.

2. Remedy the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.

3. Reduce RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.

4. Enhance policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.

5. Ensure that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.

6. Enhance policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.

APPENDIX 1: Objectives, Scope, and Methodology

Objective

The objective of this audit was to assess BOP and contractor compliance with applicable guidance in the areas of acquisition planning and procurement; contract management, oversight, and monitoring; billing and payments; and contractor performance.

Scope and Methodology

We reviewed four procurements made by the BOP to NaphCare for medical services provided to RRMB inmates, including one initial BPA, followed by three one-year sole-source contracts. Each of the four awards we reviewed, along with each award's approximate obligation, is outlined in Table 11 below.

Table 11

Summary of Procurements Awarded to NaphCare for Medical Services for RRMB Inmates as of June 2022

Type	Start	End	Initial Award	Approx. Obligation	Approx. Expenses
Initial BPA	10/6/2016	9/30/2019	$3,750,000	$50,750,805	$49,758,617
Sole-Source Award #1	10/1/2019	9/30/2020	$24,017,748	$35,250,000	$32,643,290
Sole-Source Award #2	10/1/2020	9/30/2021	$28,983,998	$37,983,998	$28,615,588
Sole-Source Award #3	10/1/2021	9/30/2022	$35,000,000	$10,500,000	$10,254,280
		Total:	**$91,751,746**	**$134,484,803**	**$121,271,774**

Source: BOP

To address our objective, we interviewed agency contracting officials, including contracting officers, CORs, Health Systems Specialists, and BOP finance staff to understand how each award was managed at the BOP. We also interviewed NaphCare staff who oversee the awards. We reviewed policies related to each subject area of our objective, including BOP Program Statements and BOP Procurement and Acquisition Policy, as well as the FAR. We judgmentally sampled award expenditures, invoices, medical and hospital records, and approval documentation. We assessed award requirements and documentation, including quality assurance methods and award deliverables. As a result of the COVID-19 pandemic response, we performed our audit fieldwork exclusively in a remote manner.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in compliance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of the BOP to provide assurance on its internal control structure as a whole. The BOP's management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123 and the FAR. Because we do not express an opinion on the BOP's internal control structure as a whole, we offer this statement solely for the information and use of the BOP.[10]

We assessed the design, implementation, and operating effectiveness of these internal controls and identified deficiencies that we believe could affect the BOP's ability to effectively and efficiently operate, to correctly state financial and/or performance information, and to ensure compliance with laws and regulations. The internal control deficiencies we found are discussed in the Audit Results section of this report. However, because our review was limited to aspects of these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Compliance with Laws and Regulations

In this audit we tested, as appropriate given our audit objective and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the BOP's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, the BOP's compliance with the following laws and regulations that could have a material effect on the BOP's operations:

- FAR Part 6: *Competition Requirements*
- FAR Part 7: *Acquisition Planning*
- FAR Part 10: *Market Research*
- FAR Part 15: *Contracting By Negotiation*
- FAR Part 16.601: *Types of Contracts*
- FAR Subpart 1.6: *Contracting Authority and Responsibilities*
- FAR Subpart 2.101: *Definitions*
- FAR Subpart 32.9: *Prompt Payment*
- FAR Subpart 42.15: *Contractor Performance Information*

[10] This restriction is not intended to limit the distribution of this report, which is a matter of public record.

- FAR Subpart 46.401: *Government Contract Quality Assurance*

This testing included analyzing award files and related documentation, interviewing agency contracting officials and contractor workers, and reviewing invoices and supporting documentation. As noted in the Audit Results section of this report, we found that the BOP did not comply with federal regulations or agency policy related to acquisition and procurement, billings and payments, contractor performance and contractor oversight and monitoring.

Sample-Based Testing

To accomplish our audit objective, we performed sample-based testing for invoices, vouchers, accounting records, medical or hospital records, and healthcare approval records. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

Computer-Processed Data

During our audit, we obtained information from the Department of Justice's Unified Financial Management System and Financial Management Information System, BOP's accounting systems, as well as the Residential Reentry Referral Management system, which is used to exchange patient information with RRCs. We also obtained information from NaphCare's TechCare Online system, which is used to provide invoicing and medical billing data to the BOP. We did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources.

APPENDIX 2: Schedule of Dollar-Related Findings

Description	Contract No.	Amount	Page
Questioned Costs:			
Unsupported Medical Services Costs		34 524	11
Net Questioned Costs [11]		**$34,524**	
TOTAL DOLLAR-RELATED FINDINGS		$34,524	

[11] **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, the provision of supporting documentation, or contract ratification, where appropriate.

APPENDIX 3: Notification of Concerns Identified in the Federal Bureau of Prisons' Acquisition and Administration of Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Community Corrections Management Inmates

DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

February 22, 2022

Management Advisory Memorandum

To: Michael Carvajal
Director
Federal Bureau of Prisons

From: Michael E. Horowitz
Inspector General

Subject: Notification of Concerns Identified in the Federal Bureau of Prisons' Acquisition and Administration of Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Community Corrections Management Inmates

The purpose of this memorandum is to advise you of concerns we identified during the course of our ongoing audit of the Federal Bureau of Prisons' (BOP) procurements awarded to NaphCare, Inc. (NaphCare) for medical services provided to Community Corrections Management (CCM) inmates, which includes inmates in residential reentry centers (RRCs) and under home confinement. The procurements awarded to NaphCare since October 2016 exceed $91 million. We began our audit in September 2021 to assess BOP and contractor compliance with applicable guidance in the areas of acquisition planning and procurement; contract management, oversight, and monitoring; billing and payments; and contractor performance. Since that time, we identified significant concerns related to acquisition planning and administration of the procurements awarded to NaphCare for medical services.

We understand that the BOP has begun planning for a new, long-term procurement for medical services provided to CCM inmates. Although our audit has not concluded, this memorandum provides early notification of our concerns that we believe are significant enough to warrant BOP's immediate attention and consideration for future procurement planning.

Specifically, we identified the following deficiencies: (1) inadequate acquisition planning and minimal coordination between key BOP divisions for medical services provided to CCM inmates; (2) improper use of the Federal Acquisition Regulation's (FAR) Simplified Acquisition Procedures related to the BOP's use of a Blanket Purchase Agreement (BPA); (3) improper use of the FAR's exception for unusual and compelling urgency justifications for other than full and open competition for the procurements made after the BPA performance period expired; and (4) inadequate oversight of contract costs billed and paid, including insufficient review of invoices submitted by NaphCare for medical expenses.

CCM Inmate Medical Services Overview

The medical services procurements we reviewed were for CCM inmates, which includes residents in residential reentry centers, and under home confinement. There are currently 158 RRC contract locations across the United States and Puerto Rico, as shown in Figure 1 below.

Figure 1

Residential Reentry Center Locations in the United States

As of January 2022, there were approximately 15,056 CCM inmates eligible to receive medical services under the procurement awards we reviewed. A breakdown of CCM inmates is identified in Table 1 below. The reported totals do not take into account the total number of inmates placed in home confinement since the start of the COVID-19 pandemic, including inmates who have completed service of their sentence, which is 33,367.

Table 1

CCM Inmates at the BOP[1]

Facility Type	Total Inmates as of January 2022
Home Confinement	7,789
RRCs	7,267
Total:	**15,056**

Source: BOP

NaphCare's responsibility under these procurements includes the oversight of inpatient and outpatient facility services, including managing scheduling, claims processing, and invoicing with approximately 160 hospital partners located in 6 BOP regions across the country. Prior to 2016, individual RRC contractors submitted invoices to the BOP for medical services provided to CCM inmates, which resulted in different RRCs billing the BOP for medical services and numerous modifications to the applicable contracts. The BOP Business Practices Subcommittee established an RRC Healthcare Initiative in which the BOP's Field Acquisition Office (FAO) procured a national BPA for medical services for CCM inmates in order to streamline the billing process. FAO typically manages comprehensive medical services contracts for services

[1] The most recent sole source award made by the BOP also requires that NaphCare act as a payor only for inmates housed in state and local jails and short-term confinement facilities. NaphCare does not have any liability for services or care rendered to these inmates.

provided in BOP-owned facilities. According to the BOP, the BPA used for this procurement was a unique contracting vehicle in comparison to the broad medical services contracting portfolio the BOP manages for BOP-owned facilities. Consequently, FAO was initially responsible for awarding medical services procurements for CCM inmates but transferred the responsibility to the BOP's Residential Reentry Contracting Section. Staff within the BOP's Residential Reentry Management Branch (RRMB), which is primarily responsible for overseeing the BOP's agreements with RRC facilities to house BOP residents, were designated as the Contracting Officer's Representatives to oversee these awards. The RRMB is a component of the BOP's Reentry Services Division, which focuses on reentry programming and community resource transition for BOP inmates. The BOP also refers to CCM inmates as RRMB inmates. We outline the awards we reviewed in Table 2.

Table 2

Summary of Procurements Awarded to NaphCare, Inc. for Medical Services for CCM Inmates

Type	Start	End	Initial Award	Approx. Obligation
Initial BPA	10/6/2016	9/30/2019	$3,750,000	**$51,937,751**
Sole-Source Award #1	10/1/2019	9/30/2020	$24,017,748	$35,250,000
Sole-Source Award #2	10/1/2020	9/30/2021	$28,983,998	$28,983,998
Sole-Source Award #3	10/1/2021	9/30/2022	$35,000,000	Ongoing
		Total:	**$91,751,746**	**$116,171,749**

Source: BOP

As shown, the value of the initial BPA grew substantially from the initial award period. However, we found that the BOP did not take the appropriate steps to ensure these expenses were incurred in compliance with the FAR, the terms and conditions outlined in the agreements, and BOP policies and procedures. Additionally, we identified concerns with the sole-source awards made after the initial BPA expired. In the following sections, we further assess the risks associated with these awards and some of the deficiencies we identified thus far during our audit.

The BOP Should Ensure that Proper Acquisition Planning Occurs with all Stakeholders to Ensure Compliance with the FAR and the BOP's Acquisition Policy

We found that RRMB officials have limited expertise in medical services or medical billing. In fact, RRMB officials told us that to assist them in the administration of the BOP's procurements with NaphCare, they frequently rely on FAO and the Health Services Division (HSD), which is responsible for the provision of medical services to inmates in BOP-owned facilities. RRMB officials stated that they believe the FAO and HSD are more qualified to manage medical services awards. RRMB officials also stated that they have experienced difficulties in getting all stakeholders together (i.e., RRMB, HSD, and FAO) to discuss the proper procurement approach for the next award. We believe this lack of coordination is the primary cause for our preliminary findings described below. As a result, it is imperative that the BOP address the issues related to managing medical services for CCM inmates immediately as preliminary planning for the next procurement has already begun. We believe that future procurements for medical services for CCM inmates requires significant coordination between several BOP divisions.

BOP's Improper Use of the Original 3-Year Blanket Purchase Agreement

We found that the BOP issued a 3-year BPA to provide medical services to CCM inmates, which included a ceiling amount of $3.75 million for the 3-year period. We found that the BOP's RRMB was unsuccessful in obtaining input from important BOP stakeholders and was unable to complete adequate market research before awarding the BPA. Ultimately, we found that the BOP grossly underestimated the amount of the

total BPA cost during acquisition planning. For example, 1 month after awarding the BPA, BOP issued a modification to increase the total dollar amount available under the BPA by an additional $3.75 million, and later issued an additional modification increasing the ceiling to $12.7 million. While the BOP issued no other cost modifications, we determined that, over the 3-year period, the BOP issued 104 BPA calls, or funding obligations under the agreement, for a total cost of approximately $51.9 million. Therefore, BOP exceeded the ceiling by approximately $39.2 million. BOP officials acknowledged that the ceiling amount was significantly underestimated and likely in an effort to use Simplified Acquisition Procedures in accordance with FAR Subpart 13.303-5(b)(2), which states that the BPA cannot exceed $7.5 million versus following Contracting by Negotiation in accordance with FAR Part 15. In retrospect, BOP officials acknowledged that the acquisition was not done in compliance with the appropriate guidance and stated in subsequent sole-source award documentation that awarding a BPA for medical services under simplified acquisition procedures is not possible.

BOP's Improper Use of Firm-Fixed Price Sole-Source Procurements

When the original 3-year BPA period expired, BOP subsequently issued three sole-source awards as shown in Table 2 above. FAR Subpart 7.104 states that acquisition planning should begin as soon as the agency identifies a need and preferably well in advance of the fiscal year in which the contract award is necessary, and that agencies should avoid issuing requirements on an urgent basis. Further, the BOP's Procurement Acquisition Policy states that the minimum days required for approval of a contract action for medical contracts exceeding the simplified acquisition threshold of $250,000 is 365 days. Despite these requirements, BOP officials stated that they used the three large non-competitive contracts as "band-aids" because they did not have time to plan and award a competitive vehicle. In the initial justification for the use of other than full and open competition, the BOP stated that a new BPA had not been awarded due to a series of market research failures, indicating that the BOP had not secured adequate lead time to prepare for the next acquisition. Further, when asked why there was such significant increases in the subsequent sole-source awards compared to the initial BPA ceiling, BOP officials stated that the initial BPA cost estimates did not include funding for new RRC locations or services for residents in home confinement.

In each justification for the use of other than full and open competition, the BOP cited an 'unusual and compelling urgency' due to the initial BPA period not providing adequate time to award a new procurement vehicle. However, according to FAR Subpart 6.302-2(b), this authority should be applied in situations where: (1) an unusual and compelling urgency precludes full and open competition; and (2) delay in award of a contract would result in serious injury, financial or other, to the government. Additionally, FAR Subpart 6.301(c)(1) states that lack of advance planning cannot be used as a justification for contracting without full and open competition. FAR Subpart 6.302-2(d) also states that the period of performance of a contract awarded using the unusual and compelling justification: (1) may not exceed the time necessary to meet the unusual and compelling requirements of the work to be performed and for the agency to enter into another contract for the required services using competitive procedures; and (2) may not exceed 1 year unless the head of the agency determines exceptional circumstances apply. Therefore, inadequate acquisition planning is not a justification for using sole-source procurements for 3 consecutive years.[2]

Further, we found that the BOP stated in award documentation that the three sole-source procurements were awarded as firm-fixed-price contracts. A firm-fixed price contract is defined by FAR Subpart 16.202-1 as a contract that is not subject to any price adjustment on the basis of the contractor's cost experience. It

[2] The OIG previously highlighted systemic issues related to inadequate contract solicitation, award, administration and oversight in the U.S. Department of Justice (DOJ) OIG *Management Advisory Memorandum Concerning the Department of Justice's Administration and Oversight of Contracts*, Audit Report 20-082 (July 2020), https://oig.justice.gov/reports/management-advisory-memorandum-concerning-department-justices-administration-and-oversight.

provides maximum incentive for the contractor to control costs and perform effectively. Further, FAR Subpart 16.202-2 states that a firm-fixed price contract is suitable when the contracting officer can establish fair and reasonable prices at the outset, such as when there is adequate price competition, realistic estimates of probable costs, or the contractor is willing to accept the cost associated with risks of performance uncertainties.

In our judgment, the three sole-source procurements made after the initial BPA do not fit the definition of a firm-fixed price contract. First, rather than identifying a total contract price, the BOP included estimated contract ceilings in each of these awards. Subsequently, BOP obligated significant amounts of additional contract funds using task orders on an as needed basis. We believe what more accurately describes the BOP's administration of these awards is an indefinite-delivery indefinite-quantity contract because the BOP did not know the precise quantity of services it will require during the contract period.

Overall, we determined that the BOP did not comply with the FAR, the terms and conditions outlined in the agreements, and BOP policy related to its use of a BPA and three subsequent sole-source contracts awarded to NaphCare, thereby limiting BOP's ability to effectively control contract costs and manage contract implementation. We believe, in part, that the discrepancies described above are a result the BOP FAO's lack of involvement in the acquisition process at a level necessary to ensure compliance with the FAR and BOP policies. In our judgment, the BOP should procure medical services for CCM inmates with full coordination from all relevant stakeholders to ensure medical services are acquired in the best interest of the government.

The BOP Should Ensure that Qualified Officials are Reviewing and Approving Payments to the Contractor in Compliance with the Blanket Purchase Agreement and the Center for Medicare and Medicaid Services

The BOP's BPA with NaphCare included rates that are comprised of a premium added to the Center for Medicare and Medicaid Services' (CMS) inpatient and outpatient benchmark rates, such as Medicare Part A and Medicare Part B. The BPA also included pharmaceutical expenses based on average wholesale pricing. Additionally, each sole-source award included references to the terms and conditions from the initial BPA. We found that NaphCare adjudicates the claims it submits to the BOP for reimbursement. BOP officials stated that it does not review the claims. RRMB officials who manage the medical services procurements stated that because they lack the technical knowledge to review medical billings, they simply pay invoices without comparing rates billed to the rates in the award document or to Medicare benchmark rates. RRMB officials stated that if NaphCare wanted to bill for services that were not provided, they could easily do so without being scrutinized by an independent check of invoice accuracy related to medical claims. Previous concerns related to the oversight of billings have been identified by the OIG. In June 2021, as a result of an OIG investigation, NaphCare agreed to pay $694,593 to resolve allegations that NaphCare violated the False Claims Act by knowingly submitting false claims to the BOP in connection with health care services provided to BOP inmates.[3] Further, in other audit work, the OIG has found that the BOP has had limited oversight of contract costs billed and paid related to medical billings by contractors responsible for the provision of medical services at BOP facilities.[4] Given the concerns highlighted above, we believe that BOP needs to take

[3] *Prison Health Care Provider Naphcare Agrees to Settle False Claims Act Allegations | OPA | Department of Justice,* https://www.justice.gov/opa/pr/prison-health-care-provider-naphcare-agrees-settle-false-claims-act-allegations

[4] The OIG previously identified similar issues related to medical billings in the DOJ OIG *Audit of the BOP's Contract Awarded to Correct Care Solutions, LLC (CCS) for the Federal Correctional Complex in Coleman, Florida* https://oig.justice.gov/reports/audit-federal-bureau-prisons-contract-awarded-correct-care-solutions-llc-federal. The OIG reported that it identified weaknesses in the BOP's contract with CCS related to the establishment of contract pricing methodology, as well as non-compliances with contract terms, resulting in BOP paying CCS $827,013 for out-of-network services and services not covered by Medicare pricing without proper approval of the prices billed.

immediate action to implement adequate monitoring and review procedures of NaphCare contract costs billed and paid.

Conclusion

Although our audit of the BOP's recent procurements to NaphCare is ongoing, we are providing this memorandum to the BOP at this time because the BOP has begun planning for a new, long-term procurement for medical services provided to CCM inmates and, to date, our audit has identified significant concerns related to the BOP's administration and oversight of its NaphCare procurements. We believe the findings described above increase the risk for the waste and misuse of federal funds. Further, we believe these concerns require the immediate attention of BOP management as it plans for a new long-term procurement for medical services and because the new procurement will require significant coordination between multiple BOP divisions.

Recommendations

We recommend that the BOP:

1. Enhance its procurement process for acquiring medical services provided to CCM inmates to ensure compliance with the FAR and BOP policy and procedures. This includes: (1) coordinating with all relevant divisions within the BOP to ensure sufficient timeframes for acquisition planning that incorporates proper requirements into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements, unless a sole-source procurement is adequately justified in compliance with the FAR.

2. Enhance policies and procedures to ensure that qualified contracting officials review and approve contractor invoices submitted and paid for medical services provided to CCM inmates.

The BOP provided a response to the draft advisory memorandum, which can be found in Appendix 1. Our analysis of that response is included in Appendix 2. If you have any questions regarding the information in this memorandum, please contact me at (202) 514-3435, or Jason R. Malmstrom, Assistant Inspector General for Audit, at (202) 616-4633.

cc: Gene Beasley
Deputy Director
Federal Bureau of Prisons

Sonya Thompson
Acting Chief of Staff
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APPENDIX 1: THE BUREAU OF PRISONS' RESPONSE TO THE DRAFT MANAGEMENT ADVISORY MEMORANDUM

U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director *Washington, DC 20534*

February 10, 2022

MEMORANDUM FOR JASON MALMSTROM
ASSISTANT INSPECTOR GENERAL
AUDITS

FROM: M.D. Carvajal
Director

SUBJECT: Response to the Office of Inspector General's (OIG) February 1, 2022, Formal Draft of a Management Advisory Memorandum: BOP's Acquisition and Administration of Procurement Awarded to NaphCare Inc.

The Bureau of Prisons (BOP) appreciates the opportunity to provide a formal response to the Office of the Inspector General's above referenced memorandum provided on February 1, 2022. The BOP has completed our review of the memorandum and we offer the following comments regarding the Memorandum and its recommendations.

Recommendation One: Enhance its procurement process for acquisition of medical services provided to CCM inmates to ensure compliance with the FAR and BOP policy and procedures. This includes: (1) coordinating with all relevant divisions within the BOP to ensure sufficient timeframes for acquisition planning that incorporates proper requirements into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements, unless a sole-source procurement is adequately justified in compliance with the FAR.

BOP's Response: The BOP agrees with this recommendation. The BOP agrees to enhance its procurement process for medical services provided to Residential Reentry Management (RRM) inmates to ensure compliance with the FAR and BOP policy and procedures. This activity includes: (1) acquisition planning where all relevant divisions coordinate to ensure the

requirement is sufficiently defined into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements, unless a sole-source procurement is adequately justified in compliance with the FAR. The BOP will be issuing a competitive solicitation this year, with the intent to make an award that will commence service on October 1, 2022.

Recommendation Two: Enhance policies and procedures to ensure that qualified contracting officials review and approve contractor invoices submitted and paid for medical services provided to CCM inmates.

BOP's Response: The BOP agrees with this recommendation but notes there are already several policies and procedures established regarding the review and approval of contractors' requests for payment which can be enhanced. The BOP concurs that staff need to be reminded of the appropriate procedures for reviewing and approving invoices submitted by the contractor for medical services provided to RRM inmates.

The BOP interprets the term "qualified contracting officials" to include non-contracting officers such as contracting officer representatives or third party claim adjudicators; therefore, the BOP will provide guidance to Program Officials, Contracting Officer Representatives, Contracting Officers, and their designees, that would remind these individuals of the appropriate procedures for reviewing and approving invoices submitted by the contractor for medical services provided to RRM inmates. The BOP intends to complete this activity by the end of February 2022.

APPENDIX 2: OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE RECOMMENDATIONS

The OIG provided a draft of this management advisory memorandum to the Federal Bureau of Prisons (BOP). The BOP's response is incorporated in Appendix 1 of this final memorandum. The BOP agreed with our recommendations and stated that it is taking steps to achieve the recommended results. As a result, the status of the advisory memorandum is resolved. The following discussion provides the OIG analysis of the BOP's response and summary of actions necessary to close the advisory memorandum.

Recommendations to the BOP:

1. **Enhance its procurement process for acquiring medical services provided to CCM inmates to ensure compliance with the FAR and BOP policy and procedures. This includes: (1) coordinating with all relevant divisions within the BOP to ensure sufficient timeframes for acquisition planning that incorporates proper requirements into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements, unless a sole-source procurement is adequately justified in compliance with the FAR.**

   Resolved. The BOP agreed with this recommendation. The BOP stated in its response that it will enhance its procurement process for medical services provided to RRM inmates to ensure compliance with the FAR and BOP policy and procedures. This enhancement includes: (1) acquisition planning where all relevant divisions coordinate to ensure the requirement is sufficiently defined into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements , unless a sole- source procurement is adequately justified in compliance with the FAR. The BOP stated that it will be issuing a competitive solicitation this year, with the intent to make an award that will commence service on October 1, 2022.

   This recommendation can be closed when receive evidence that the BOP has enhanced its procurement process for acquiring medical services provided to CCM inmates to ensure compliance with the FAR and BOP policy and procedures. This includes: (1) coordinating with all relevant divisions within the BOP to ensure sufficient timeframes for acquisition planning that incorporates proper requirements into procurement awards; and (2) ensuring that adequate competition is used for medical services procurements, unless a sole-source procurement is adequately justified in compliance with the FAR.

2. **Enhance policies and procedures to ensure that qualified contracting officials review and approve contractor invoices submitted and paid for medical services provided to CCM inmates.**

   Resolved. The BOP agreed with this recommendation. The BOP stated in its response that while there are several policies and procedures established regarding the review and approval of contractors' requests for payment, the BOP concurs that staff need to be advised of the appropriate procedures for reviewing and approving invoices submitted by the contractor for medical services provided to RRM inmates. The BOP stated that it will provide guidance to Program Officials, Contracting Officer's Representatives, Contracting Officers, and their designees emphasizing the appropriate procedures for reviewing and approving invoices submitted by the contractor for medical services provided to CCM inmates. These actions, once appropriately implemented, will address this recommendation. The BOP intends to complete this activity by the end of February 2022.

This recommendation can be closed when we receive evidence that the BOP has enhanced its policies and procedures to ensure that qualified contracting officials review and approve contractor invoices submitted and paid for medical services provided to CCM inmates.

APPENDIX 4: The Federal Bureau of Prisons' Response to the Draft Audit Report

U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director *Washington, DC 20534*

September 9, 2022

MEMORANDUM FOR JASON R. MALMSTROM
ASSISTANT INSPECTOR GENERAL FOR AUDITS

FROM: Colette S. Peters, Director

SUBJECT: Response to the Office of Inspector General's (OIG) Draft Report: The Federal Bureau of Prisons' Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Residential Reentry Management Branch Inmates

The Bureau of Prisons (BOP) appreciates the opportunity to respond to the open recommendations from the draft report entitled The Federal Bureau of Prisons' Procurements Awarded to NaphCare, Inc. for Medical Services Provided to Residential Reentry Management Branch Inmates

Please find the BOP's response to the recommendations below:

Recommendation 1: Enhance policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research is conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.

BOP's Response: The BOP agrees with this recommendation.

Recommendation 2: Remedy the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.

BOP's Response: The BOP agrees with this recommendation.

Recommendation 3: Reduce RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.

BOP's Response: The BOP agrees with this recommendation but notes that its strategy considering the five elements listed above may also include an evaluation of whether they are feasible.

Recommendation 4: Enhance policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.

BOP's Response: The BOP agrees with this recommendation.

Recommendation 5: Ensure that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.

BOP's Response: The BOP agrees with this recommendation.

Recommendation 6: Enhance policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.

BOP's Response: The BOP agrees with this recommendation.

If you have any questions regarding this response, please contact Louis Milusnic, Assistant Director, Program Review Division, at (202) 307-1076.

APPENDIX 5: NaphCare, Inc. Response to the Draft Audit Report

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September 9, 2022

VIA EMAIL

Ms. Kimberly Rice
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1120 Lincoln Street, Suite 1500
Denver, Colorado 80203

Re: NaphCare's Response to Audit of the Bureau of Prisons' (BOP) Procurement Awarded to NaphCare, Inc for Medical Services Provided to Residential Reentry Management Branch (RRMB) Inmates

Dear Ms. Rice:

NaphCare, Inc. (NaphCare) appreciates the opportunity to respond to the findings and recommendations memorialized in the above-referenced audit report. We understand that you will include this response as an exhibit or appendix to the audit report that you issue to the public. If that is not the case, please let us know.

You have asked that we focus our comments on the six recommendations you make in the report. While you direct each of the six recommendations to the BOP, we provide our comments as requested in the attached response. NaphCare fully supports your efforts to ensure that governmental spending for the medical services renders the highest level of care in the most cost-effective manner. As noted throughout your report, there are many measures that the BOP can take to ensure all contract requirements are secured appropriately to meet the agency's required needs. In general, we support those measures.

We continue, however, to disagree with many of your findings or the wording you chose to communicate the findings. For example, you conclude that costs were not adequately controlled because of cost plus pricing structure for out of network services and some pharmaceutical charges being above retail costs. Your criticisms, however, lack context that the reading public needs to develop to have an informed understanding of our contract performance. The report highlights areas of high costs but fails to report on the significant savings secured by NaphCare for the BOP. As we explained to your team before you issued the final report, costs were inherently driven by factors outside of NaphCare's control, namely the utilization of BOP approved medical services and out of network usage incurred by non-compliant Residential Reentry Centers (RRC) and RRMB residents.

The report criticizes the amount of expenditures but fails to explain that this was a new contract vehicle with no acquisition history. The report does not offer insight regarding RRMB staff assuming contract administration duties for the first time with no support from the BOP's Field Acquisition Office or Health Services Division. The extent of the medical services and subsequent support services were simply not fully known prior to contract award. Additionally, with the significant increase in home confinement residents due to the COVID pandemic and CARES Act, the level of services throughout the country increased almost two-fold during the pandemic. The report fails to recognize the efforts that the

BOP and NaphCare took during the course of these contracts to ensure that the highest level of care was indeed delivered in the most cost-effective manner. That was the main purpose of the contracts – to provide quality medical care to all RRMB inmates regardless of the medical conditions or geographical locations. Of course, the total costs were driven by the utilization of services directed by the BOP, not by NaphCare. Additionally, we had no control over the extent to which RRCs and inmates chose in network or out of network services.

Your report states misleadingly that NaphCare had unallowable costs and unsupported expenditures from duplicate transactions and overpayments. We asked that you provide the context of these criticisms in the "Results In Brief." You declined, so we need to provide that context here. Specifically, the OIG's audit sampling included 26,257 medical claims totaling approximately $18,000,000 in medical expenditures. The OIG found NaphCare's errors for duplicate transactions and overpayments were $10,887. Additionally, in claims totaling more than $121,000,000, the audit flagged only one potentially erroneous Current Procedural Terminology (CPT) code that totaled $34,524.00. The total amount of payments questioned by the OIG – approximately $45,000 – equates to an error rate of .0024. For comparison purposes, in Fiscal Years 2019 and 2020, the Centers for Medicare and Medicaid (CMS) published an improper payment rates of 7.25% and 6.27%, respectively, for Medicare Fee for Service payments. We stand by our excellent performance. Rather than paint NaphCare negatively in its report, the OIG should commend NaphCare for the low error rate for RRMB medical expenditures.

In addition, your report also repetitively states that NaphCare had little to no incentive to reduce healthcare costs under the fixed-price contract terms. This is a theoretical criticism that can be levied against any contractor that performs Federal Acquisition Regulation firm fixed-price contracts. In a more recent internal study of all medical services provided to RRMB inmates during the calendar year 2021, we found NaphCare invoiced the BOP less than billed charges and, therefore, that the BOP benefitted from substantial savings. NaphCare made considerable efforts to ensure services were invoiced within network whenever possible, limiting the out of network usage for dates of service in 2021 to 6.28%. The table below portrays the results of our review.

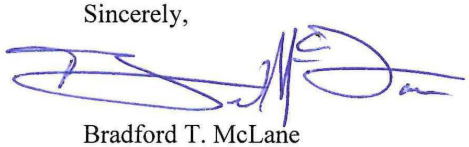
DOS for 2021	Total Billed Charges	Invoice Amount	BOP Savings	% Savings
Out of network usage	$ 6,776,910.00	$ 3,334,019.00	$ 3,442,890.00	51%
In-network usage	$ 137,413,572.00	$ 49,764,566.00	$ 87,649,005.00	64%

NaphCare had many incentives to reduce costs notwithstanding the contract type: its reputation; its commitment to excellence; its corporate ethics; its desire to satisfy the customer; and its intention to be chosen for future awards being among them.

We note that the report does not question the services or quality of health care NaphCare provided. This is true because NaphCare carefully completed its duties per the terms of our contract and/or as directed by the BOP. NaphCare has a documented history of routinely alerting the BOP when NaphCare questions the actions of RRC locations and/or RRMB inmates. These communications had the intended purpose of alerting RRMB of excessive medical expenditures for not following the contract processes.

In conclusion, the enclosure offers NaphCare's response to each OIG recommendation for your consideration.

Sincerely,



Bradford T. McLane
Chief Executive Officer

Enclosure

NaphCare has reviewed the OIG's conclusions and recommendations regarding the audit of the Bureau of Prisons' procurements awarded to NaphCare for medical services to the RRMB inmates. NaphCare's response to the OIG's recommendations to the BOP are discussed in detail below.

I. **OIG Recommendation 1: Enhance policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research is conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.**

NaphCare's response: NaphCare agrees with this recommendation. NaphCare's long history as a valued partner in providing medical services to BOP inmates allows us to recognize the benefits generated by market research. We have participated in every market research study conducted by the BOP for RRMB medical services, beginning in 2014. With each submission we illustrated our experience and depth of services necessary to support the vast array of needs of the RRMB program. Without revealing internal proprietary processes, each response submitted by NaphCare fully supported the required services for RRMB and offered additional services to further the BOP's mission. Unfortunately, with the most recent market research Requests for Information it appears that the BOP is still unable to illustrate the depth and diversity of services needed nationwide. NaphCare asks the OIG to encourage the BOP to utilize market research to their advantage and accurately reflect the broad array of services required by the agency.

II. **OIG Recommendation 2: Remedy the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.**

NaphCare's response: In Recommendation 2, OIG instructs the BOP to remedy $34,524.00 in "unallowable costs" related to the submission of CPT code 96116. NaphCare's contracts with the BOP require the use of Medicare as one of the payment methodologies for medical services provided to RRMB inmates. Neither the BOP nor NaphCare is a participant in the Medicare program. There is no contract term that requires a level of scrutiny normally reserved for medical providers who are reimbursed directly by Medicare. In addition, the BOP's Performance Work Statement (PWS) is void of any details regarding the selection of CPT codes by a medical provider. It is the medical provider's clinical responsibility to assess, treat and select the appropriate CPT code(s) related to their examination and consultation with a patient. NaphCare did follow the terms of our contract when invoicing the BOP for medical services that included claims from providers who used CPT code 96116.

Furthermore, neither the BOP nor OIG conducted a thorough review of each complete medical record billing CPT 96116. Without an in-depth review of the medical record of each RRMB inmate in question, neither party would be able to determine if CPT code 96116 was applied or not applied correctly. Additionally, there was no communication from the BOP regarding this

specific code. The BOP authorized NaphCare to establish appointments for RRMB inmates to receive routine and follow up primary care. The medical authorization from the BOP is not issued based on specific CPT codes but rather generally describes the needed medical services. The use of CPT code 96116 is a billable service under Medicare guidelines as part of primary care visit. Each invoice submitted by NaphCare to the BOP that included CPT code 96116 was supported by the medical claim form from the physician.

III. **OIG Recommendation 3: Reduce RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.**

NaphCare's response: Regarding Recommendation 3, OIG mentions several times in the report that NaphCare has no incentive to lower medical cost. While we agree with some points of this recommendation, we do not agree that NaphCare has no incentive for lowering costs. For each contract award, the BOP issued a solicitation that included a Performance Work Statement (PWS). The PWS outlined the BOP's minimum requirements for the provision of medical services for RRMB inmates. The solicitation also included a Schedule of Items for NaphCare to propose a price for each medical service category. NaphCare proposed a solution that exceeded the PWS minimum requirements and a price for the listed medical service categories.

The BOP has determined that the most efficient and cost saving structure for its contracts is to utilize a Medicare-based pricing methodology. This pricing structure requires that contractors absorb the risk of in network costs by offering a strong and diverse network of hospitals and providers. The contractors are incentivized to reduce costs for the BOP through its national network that meets the health care needs of the inmates. Costs can be controlled by the BOP by ensuring that local RRCs follow the proper medical referral process and requests for services are reviewed with increased scrutiny.

NaphCare agrees that the agency should take a more central role in controlling out of network services. The design of each contract excludes a contractor from the many decisions regarding an inmate's plan of care. The BOP has sole responsibility for authorizing medical care for all inmates. NaphCare's responsibility is to provide the BOP with a preferred provider network of hospitals and physicians to meet the medical needs of the RRMB inmates. For each contract awarded, NaphCare fulfilled our contractual obligations as required. NaphCare encourages the BOP to take a more active role in managing out of network services and start mandating the RRCs and inmates follow the proper medical referral process.

NaphCare has managed pharmaceutical services for many of our clients since our founding in 1989 and we understand the challenges that face controlling prescription drug costs. In order for pricing to be transparent with the BOP, a set method of reimbursement must be used as a baseline for

costs. There are two basic public comprehensive pricing models for most drugs, Average Wholesale Price (AWP) and Wholesale Acquisition Price (WAC). The National Average Drug Acquisition Cost (NADAC) is also a publicly available pricing structure but only covers 50% of the drugs available on the market. Both AWP and WAC may pose the same challenges to the BOP. We suggest that the RRMB office look at responses to the RFI conducted in February of 2018 for alternate pharmacy pricing structures, Furthermore, during the performance of each contract, NaphCare implemented cost savings measures eliminating tens of thousands in pharmaceutical spending for the BOP.

NaphCare concurs with the OIG's assessment of cost savings by reducing the amount of interest costs paid by the BOP. With the October 2021 implementation of the BOP's new financial management system, invoice payments by the BOP to NaphCare have consistently violated the Prompt Payment Act (Act). The outstanding balance of RRMB Invoices over 60 days has remained above $7.0 million dollars since February 2022. We implore the OIG to work with the BOP to ensure payments are made per the Act and additional discounts are taken when made promptly.

IV. **OIG Recommendation 4**: **Enhance policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.**

NaphCare's response: NaphCare agrees with this recommendation. Communication and partnering on common ground goals is essential in a contract of this magnitude. We welcome the implementation of a Quality Assurance Surveillance Plan (QASP) to evaluate performance to help ensure all contract deliverables by the BOP and NaphCare are achieved.

V. **OIG Recommendation 5: Ensure that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.**

NaphCare's response: NaphCare agrees with the recommendation. NaphCare will implement an invoicing timeline that will help to achieve this goal. We strongly suggest that the BOP immediately develop consistent guidelines and consequences if the RRCs or RRMB inmates do not follow the proper processes for obtaining medical care. When care is rendered outside of the proper processes, BOP officials should determine if the care was urgently needed. If it was not, the BOP should examine what lead to the proper processes not being followed so that corrective action can be taken immediately. Furthermore, we recommend that the BOP utilize a timely process for reviewing medical claims received by NaphCare that do not have a corresponding authorization. In an internal audit, NaphCare determined that roughly 50% of the approvals are being sent to us on or after the date of service. We will continue to share this information with the

RRMB office so that corrective action can be taken with the RRCs and inmates who are not following the approved process.

VI. <u>OIG Recommendation 6</u>: Enhance policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.

<u>NaphCare's response</u>: NaphCare agrees with this recommendation. NaphCare has always sought feedback on its many BOP contracts. In addition to timely and relevant submission of Contractor Performance Assessment Reporting System (CPARS) evaluations we believe that RMMB should participate in bi-annual in person meetings and quarterly meetings with leaders in each BOP sector to ensure contractor compliance with not only NaphCare but each RRC that is served in that sector.

APPENDIX 6: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report

The OIG provided a draft of this audit report to the BOP and NaphCare. The BOP's response is incorporated in Appendix 4, and NaphCare's response is incorporated in Appendix 5 of this final report. In response to our audit report, the BOP agreed with our recommendations. As a result, the status of the audit report is resolved. NaphCare agreed with four recommendations, partially agreed with one, and did not state whether it agreed with one recommendation.

Analysis of NaphCare's Response

In addition to responding specifically to our recommendations, NaphCare included additional comments in its response. We appreciate NaphCare's comments noting that it supports the OIG's efforts to ensure that governmental spending for medical services renders the highest level of care in the most cost-effective manner. Further, we believe it is critical that the BOP and its contractors ensure the BOP is paying the correct costs for medical services provided to inmates. While NaphCare stated that it too supports this, in its response NaphCare repeatedly questioned our conclusions that the BOP did not adequately control costs and that its awards to NaphCare did not provide sufficient incentive for NaphCare to reduce costs to the full extent possible. As explained in our report, we identified several areas where we believe the BOP could leverage cost savings measures to negotiate a pricing structure for future awards that is more cost effective for the government. NaphCare also stated that the OIG misleadingly identified unallowable and unsupported costs during our audit because the identified questioned costs were a "small portion" of the overall costs in our sample. The OIG included the transaction population as well as our testing methodology and sample size to provide full context to our finding; the unallowable and unsupported questioned costs we identified demonstrate that the BOP's and NaphCare's oversight of award expenditures need to be improved. For instance, we considered the $34,524 in unsupported medical services costs for neuropsychological testing an obvious outlier in terms of billings, and yet these 172 instances were not flagged by NaphCare through its invoice adjudication process or by the BOP.

The following provides the OIG's analysis of the responses to our recommendations and summary of actions necessary to close the report.

Recommendations for the BOP:

1. **Enhance policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research is conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.**

   Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved. NaphCare also agreed with our recommendation.

This recommendation can be closed when we receive evidence that the BOP has enhanced its policies and procedures to ensure appropriate contract vehicles are used and that adequate acquisition planning and market research is conducted for RRMB medical services awards. This includes: (1) ensuring an adequate acquisition plan is used for each procurement when required; (2) conducting extensive market research that considers industry sources and pricing; and (3) properly documenting and evaluating price and/or cost to the government, to include an assessment of price reasonableness for each offeror; the quality of care received; and past performance of each offeror.

2. **Remedy the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.**

   Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved.

   NaphCare neither agreed nor disagreed with our recommendation and stated in its response that the contract does not require NaphCare to conduct the level of scrutiny of medical claims normally reserved for medical providers reimbursed by Medicare. NaphCare further stated that it is the medical provider's clinical responsibility to assess, treat, and select appropriate CPT codes related to their examination and consultation with a patient. NaphCare also stated that the use of CPT code 96116 is a billable service under Medicare guidelines as part of a primary care visit, and that each invoice submitted by NaphCare to the BOP that included CPT code 96116 was supported by the medical claim form from the physician.

   We demonstrate in our report that these costs are not adequately supported. Ultimately, our review found that neither the BOP nor NaphCare could demonstrate that the use of the CPT code in question was clinically appropriate, despite the fact that the BOP and NaphCare both agreed that NaphCare's adjudication responsibilities would include a review of patient eligibility, duplicative billing, and general accuracy of provider bills, to include a review of valid dates of service and billing codes. As a result, we maintain that the BOP should conduct an in-depth review of the medical claims in question to determine if CPT code 96116 was applied appropriately.

   This recommendation can be closed when we receive evidence that the BOP has remedied the $34,524 in unsupported medical services costs related to CPT code 96116 for neurological testing to include reviewing patient records to determine if the CPT code was applied appropriately.

3. **Reduce RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.**

   Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved.

NaphCare partially agreed with our recommendation. NaphCare stated in its response that while it believes that the BOP could take a more central role in controlling out-of-network services, NaphCare stated that it has fulfilled the contractual obligations as required. Related to pharmaceutical costs, NaphCare stated that it implemented cost savings measures by eliminating pharmaceutical spending for the BOP, but also believes that there are alternative pharmacy pricing structures available. Finally, related to interest payments, NaphCare concurred with our recommendation and stated in its response that invoice payments by the BOP to NaphCare have consistently violated the Prompt Payment Act. NaphCare further stated that the outstanding balance of RRMB invoices over 60 days has remained above $7 million since February 2022.

This recommendation can be closed when we receive evidence that the BOP has reduced RRMB medical services expenses by implementing a strategy that considers: (1) incentivizing contractors to reduce medical claims by structuring awards in a way that eliminates premiums on healthcare costs; (2) structuring awards in a way that does not commit the BOP to reimburse contractors at Medicare rates when the provider bills are less than the Medicare rate; (3) whether the BOP should have a more central role in negotiating out-of-network costs; (4) how the BOP can minimize invoicing errors and improper use of CPT codes; and (5) cost saving mechanisms for pharmaceutical costs and interest costs resulting from late payments.

4. **Enhance policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.**

Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved. NaphCare also agreed with our recommendation.

This recommendation can be closed when we receive evidence that the BOP has enhanced its policies and procedures to ensure that RRMB officials conduct adequate award administration and oversight of medical services awards. This includes developing a quality assurance surveillance plan in conjunction with the award terms and conditions and ensuring that key contracting duties are appropriately delegated and performed by qualified staff so that procurement objectives and deliverables are achieved.

5. **Ensure that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.**

Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved.

NaphCare also agreed with our recommendation and stated in its response that it would implement an invoicing timeline that will help address this recommendation. NaphCare further stated that it

will continue to share its internal approval information with the RRMB office so that corrective action can be taken with RRCs and inmates who are not compliant with the BOP's approval process for medical care.

This recommendation can be closed when we receive evidence that the BOP has ensured that: (1) RRMB medical services contractors submit invoices for medical services within 90 days of patient care; and (2) the BOP's review and approval process for medical services visits are completed in a timely manner. This includes ensuring that the BOP and the contractor further scrutinize requests for approvals that occur after the patient has already been seen, including providing guidelines on documenting emergency services.

6. **Enhance policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.**

Resolved. The BOP agreed with our recommendation; therefore, this recommendation is resolved. NaphCare also agreed with our recommendation.

This recommendation can be closed when we receive evidence that the BOP has enhanced its policies and procedures that ensure that performance evaluations for RRMB medical services contractors are completed and entered into CPARS annually.