LACK OF OVERSIGHT OF INTERAGENCY AGREEMENTS—VA PROCUREMENT FAILURES CONTINUED

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

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Tuesday, July 21, 2015

LACK OF OVERSIGHT OF INTERAGENCY AGREEMENTS—VA PROCUREMENT FAILURES CONTINUED

Tuesday, July 21, 2015

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 4:02 p.m., in Room 334, Cannon House Office Building, Hon. Mike Coffman [chairman of the subcommittee] presiding.

Present: Representatives Coffman, Lamborn, Roe, Huelskamp, Walorski, Kuster, O'Rourke, and Walz.

OPENING STATEMENT OF CHAIRMAN MIKE COFFMAN

Mr. COFFMAN. Good afternoon. This hearing will come to order.

I want to welcome everyone to today's hearing entitled "Lack of Oversight of Interagency Agreements—VA Procurement Failures Continued." This hearing will examine serious problems with VA's use of interagency agreements to procure certain services and will also focus on Federally Funded Research and Development Centers, which we will refer to as FFRDCs for ease of reference.

Interagency agreements, in this case where other agencies may contract or perform services for VA, can be a proficient procurement method. However, these acquisitions may pose a variety of risks in part because of the need for stronger internal controls and clear definitions of agency roles and responsibilities. As we see today, and we have seen from VA for years, internal controls, management, and oversight are tremendous problems for VA.

Additionally, VA has relationships with FFRDCs, privately owned but government-funded entities that have long-term relationships with Federal agencies intended to meet special long-term research or development needs that cannot be met as effectively by existing in-house or contractor resources. FFRDCs are granted special access beyond that which is common for normal contractual relationships to government and supplier data.

Following an investigation of these issues begun last Congress, I asked GAO to look into VA's oversight and management of these relationships. Unfortunately, what GAO found is typical regarding data reliability within VA.

For instance, VA cannot account for the extent to which it utilized interagency agreements for fiscal year 2012 through fiscal year 2014. For this period, VA had data showing that it obligated at least $1.7 billion for this period, when in fact GAO found that this amount was actually between $2.6 billion and $2.9 billion, amounting to a $600 million to $900 million inconsistency.

Further, half of the interagency agreements GAO reviewed did not contain necessary documentation, which is another of the many instances where VA's poor oversight and management of its procurement processes leaves the Department open to rampant waste, potential fraud, and certain abuse.

Similarly, VA obligated $260 million in this same fiscal year 2012 through fiscal year 2014 period to FFRDCs.

One downfall with FFRDCs is that they are noncompetitive, as is evidenced by the fact that nearly all of VA's relationships with them are with those operated by one corporation.

Additional, shortfalls GAO found with VA's data include a failure to centrally track some contract actions, limited documentation of pre-award reviews, and in some cases contract files that did not indicate why VA determined a contract price was acceptable.

This hearing will highlight yet another set of contracting problems within VA, where hundreds of millions, if not billions of dollars are unaccounted for. In a time where VA has come back to Congress to ask for an additional $3 billion because it has run out of money it should have to serve veterans, I consider this another grave failure.

I look forward to the discussions we will have here today on this important issue.

With that, I now yield to Ranking Member Kuster for any opening remarks she may have.

[THE PREPARED STATEMENT OF CHAIRMAN MIKE COFFMAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF RANKING MEMBER ANN KUSTER

Ms. KUSTER. Thank you, Chairman Coffman, for holding this hearing.

And thank you to our witnesses for joining us here today.

We are here yet again to address VA's longstanding procurement problems. Today it is interagency agreements and Federally Funded Research and Development Centers, the FFRDCs that the chair has spoken about, and the VA's inability to oversee and properly manage these agreements and contracts.

VA has known from at least 2009, when the first IG report came out, that these interagency agreements were not being properly documented in VA's contract management system. In 2014, a second IG report found VA has the same problem, incomplete and inaccurate documentation.

The first report should have been a wake-up call. The second report was certainly a distress signal. And GAO's most recent report shows that little has been done to address these issues, and in some cases unclear guidance has caused greater confusion and contributed to additional reporting inaccuracies. VA's procurement organization and business practices need serious reform now.

Tomorrow our committee will address VHA's almost $3 billion budget shortfall. Like many of the other problems VA faces, and like most of the issues we address here in this committee, this is the direct result of VA's inability to accurately report and use data.

If VA had accurate data, it wouldn't be here today explaining why it doesn't have clear processes in place to ensure it is accurately managing its interagency agreements. If VA had accurate data, we wouldn't be here having questioning why MITRE Corporation has been awarded contracts instead of commercial contractors. And if VA had accurate data, it would be able to plan and request a budget that would meet the needs of our veterans and we wouldn't be holding a hearing tomorrow on the budget shortfall.

I'd like to know from our VA witnesses why it is so difficult for VA to accurately manage its contracts and agreements. VA has promised us a solution earlier this summer to manage procurement and ensure accurate data reporting, and I'd like to know when we will have this solution.

Finally, I'd like to know why VA has not used the tools it has at its disposal to hold employees accountable for not accurately documenting these transactions or acting to address these numerous IG and GAO reports. I'm more convinced than ever that major reforms are needed across VA to accurately manage procurement. VA needs an agency-wide transformation to bring its business practices into the 21st century to meet the needs of our well-deserving veterans.

Thank you, Mr. Chairman, and I yield back the balance of my time.

Mr. COFFMAN. Thank you, Ranking Member Kuster.

I ask that all members waive their opening remarks as per this committee's custom.

With that, I invite the first and only panel to the witness table. On the panel for the Department of Veterans Affairs we have Mr. Ford Heard, Associate Deputy Assistant Secretary for Procurement Policy, Systems, and Oversight. He is accompanied by Mr. David Orso, Executive Director of the Enterprise Program Management Office in the Office of Policy and Planning, and Ms. Michele Foster, Associate Executive Director of the VA's Technology Acquisition Center.

For the Government Accountability Office, we have Ms. Michele Mackin, Director of the Acquisition and Sourcing Management Team.

I ask the witnesses to please stand and raise your right hand. [Witnesses sworn.]

Mr. COFFMAN. Please be seated.

Mr. Heard, you are now recognized for 5 minutes.

TESTIMONY OF MR. C. FORD HEARD III, ASSOCIATE DEPUTY ASSISTANT SECRETARY, PROCUREMENT POLICY, SYSTEMS AND OVERSIGHT, U.S. DEPARTMENT OF VETERANS AFFAIRS, ACCOMPANIED BY MR. DAVID A. ORSO, EXECUTIVE DIRECTOR, ENTERPRISE PROGRAM MANAGEMENT OFFICE, OFFICE OF POLICY AND PLANNING, U.S. DEPARTMENT OF VETERANS AFFAIRS, AND MS. MICHELE R. FOSTER, ASSOCIATE EXECUTIVE DIRECTOR, TECHNOLOGY ACQUISITION CENTER, OFFICE OF ACQUISITION OPERATIONS, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND MS. MICHELE MACKIN, DIRECTOR, ACQUISITION AND SOURCING MANAGEMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

TESTIMONY OF C. FORD HEARD III

Mr. HEARD. Good afternoon, Chairman Coffman, Ranking Member Kuster, and members of the subcommittee. I appreciate the opportunity to discuss the Department's use of interagency agreements and Federally Funded Research and Development Centers, FFRDCs. I'm joined today by Michele Foster, Associate Executive Director, Technology Acquisition Center, and David Orso, Executive Director, Office of Policy and Planning, Enterprise Program Management Office.

The Department of Veterans Affairs relies on both internal and external contract vehicles to meet its mission of providing the very best goods and services for our Nation's veterans. As the recently published GAO report explains, the VA will utilize interagency agreements or Federally Funded Research and Development Center support when appropriate to meet these aforementioned needs.

Interagency agreements for the purpose of the GAO review centered around assisted acquisitions. Assisted acquisitions are those where an agency requests the acquisition services of another to satisfy its schedule, performance, and delivery requirements in a manner that is cost effective.

FFRDCs, the second focus of the GAO review, are independent nonprofit entities sponsored and funded primarily by the United States government to meet specific long-term technical needs that cannot appropriately be met by any for-profit commercial organization. FFRDCs are managed by a nonprofit parent organization in accordance with statute and regulation.

The long-term strategic relationship between the government and an FFRDC is encouraged to enable the FFRDC to develop and maintain in-depth knowledge of its sponsored programs and operations. VA cosponsors an FFRDC with the Internal Revenue Service through MITRE Corporation, which has five core competencies: Strategic management, procurement support and evaluations, program and project management, technical management, and independent evaluation and audit.

To ensure proper management and oversight of our use of the FFRDC, VA established an enterprise-wide executive-level governance structure. The FFRDC Governance Plan provides guidelines and procedures for ensuring compliance with the FAR and applies to all administrations and staff offices within the VA that seek to use the services of an FFRDC.

As it relates to the GAO report recommendations, five distinct areas were highlighted for VA's consideration. Specifically, GAO recommended VA revise its policies to improve the recording of interagency transaction data and to ensure interagency training reaches the full range of program and contracting officials. We concur on both of these recommendations and are currently in the process of revising our current financial and procurement policy to more clearly address recording procedures, as well as developing a robust training program designed to mitigate gaps in compliance with interagency procurement policy.

In addressing FFRDCs, GAO substantially validated the VA's administrative processes and overall utilization of MITRE Corporation. However, they did present three recommendations that they believe would provide consistency throughout VA. GAO recommended VA develop a strategy to ensure Department-wide adherence to the Governance Plan, improving support file documentation, and reassessing its approach towards travel costs. We concur on all three recommendations.

As previously stated, VA concurs with the recommendation offered by GAO. We've already begun to execute corrective action and believe that they will sufficiently address the GAO's suggestions.

Mr. Chairman and members of the committee, this concludes my oral statement. Thank you for the opportunity to testify before the committee. My colleagues and I would be happy to respond to any questions that you may have.

[THE PREPARED STATEMENT OF MR. HEARD APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Mr. Heard.

Ms. Mackin, you are now recognized for 5 minutes.

TESTIMONY OF MICHELE MACKIN

Ms. MACKIN. Thank you, Mr. Chairman. Good afternoon, Ranking Member Kuster and members of the subcommittee. I appreciate the opportunity to discuss our recent report on VA's use of interagency agreements and Federally Funded Research and Development Centers, or FFRDCs.

Interagency agreements can take different forms, but as was mentioned, our focus was on those where VA pays a fee to another agency to award a contract on its behalf. FFRDCs are not-for-profit entities that have a long-term special relationship with government agencies. By their very nature, all work to FFRDCs is awarded without competition.

Interagency agreements and FFRDCs account for a relatively small slice of VA's overall procurement spending, a little over $2 billion from fiscal years 2012 to 2014. But a key component for both is oversight and accountability as to where VA's dollars are going. Each also has potential for certain risks that need to be properly managed.

Our key findings with regard to interagency agreements were that, first, the full extent of VA's use of these agreements is unknown. We analyzed data from the Department's Electronic Contract Management System and found $1.7 billion reported from 2012 to 2014. But when we did more digging into VA's accounting system, we found another $600 million to $900 million in potential interagency agreements.

Second, we reviewed 21 interagency agreements in more detail and found that almost half were missing required documentation. In some cases, this included VA's reasons for using the agreement instead of another contracting mechanism. Because VA is paying a fee when it uses interagency agreements, the lack of complete documentation places VA at risk of paying these fees without proper oversight.

And now regarding FFRDCs. Since 2008, VA has cosponsored an FFRDC under the MITRE Corporation. It also has a large task order with a second MITRE FFRDC. In total, these have a potential value of over $400 million.

We found that VA has processes in place to review and oversee its FFRDC use, but we also found some areas where documentation was not as comprehensive as it could be. I'll mention two key areas.

First, we reviewed 10 task orders and found that in all 10 cases VA accepted MITRE's exact proposed price. In six of these cases, the contractor's proposal was higher than VA's own cost estimate, but we found no evidence of price negotiation, specifically to lower the number of labor hours or change the mix of the contractor's staff.

Further, the contract files did not reflect the factors VA considered in determining that requirements were appropriate for an FFRDC. There was no record, for example, of decisions to carve out certain requirements that could be competed among other contractors. VA officials said these discussions do happen, but they weren't documented in the files we reviewed.

A final issue I will note is that while VA's Technology Acquisition Center, or TAC, is responsible for overseeing all of VA's FFRDC use, we found this was not happening in practice. We identified four non-MITRE FFRDCs that TAC was not aware of. This means that VA organizations were obligating funds to these other FFRDCs without the required review and oversight.

We made five recommendations to VA to address the issues we found, and as Mr. Heard mentioned, the Department concurred with all of them. We will, as usual, take steps to identify the specific actions the Department is taking.

This concludes my prepared remarks. Thank you.

[THE PREPARED STATEMENT OF MS. MACKIN APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Ms. Mackin, for your testimony.

The written statements of those who have just provided oral testimony will be entered into the hearing record. We will now proceed with questions.

Mr. Heard, we had initially invited Ms. Phyllis Bower, Executive Director, Office of Acquisition Operations, and Mr. Robert Snyder, former Assistant Secretary for Policy and Planning, but they both asserted excuses not to attend. Are you the appropriate VA official to answer all of my questions today on IAAs and FFRDCs?

Mr. HEARD. I believe I am, sir.

Mr. COFFMAN. I certainly expect to hear few answers that are deferred for later or taken for the record.

Mr. Heard, in your written testimony, you correctly noted that, quote: “The decision to enter into an IAA is based on the information in the business case, which is the result of market research,” unquote. Then explain to the committee why the market research was so poorly conducted on these matters.

Mr. HEARD. That’s a vulnerability, sir, and that’s part of the reason why we need to develop a comprehensive training plan for all of our acquisition professionals that utilize interagency agreement authority for their programs.

Mr. COFFMAN. Ms. Mackin, how would you characterize the market research related to your report on this matter?

Ms. MACKIN. I would say it was a mixed bag. We looked at 21 interagency agreements, and a quarter simply had nothing at all. Some others had the words “market research,” but when you read it, it was just a statement that VA liked the services the other agency was providing or they liked the contractor the other agency was using. It wasn’t really robust market research. We did see robust market research in a few cases.

Mr. COFFMAN. Thank you.

Mr. Heard, your written testimony mentions that FFRDCs are prohibited from competing with any non-FFRDC, and that’s not an issue. What I want to know is how VA determined to use an FFRDC when there’s little or no documentation that indicates such a decision was the best option.

Mr. HEARD. Sir, I’d like to refer that to Michele Foster, who oversees that process at the TAC for the MITRE contract.

Mr. COFFMAN. Ms. Foster.

Ms. FOSTER. Chairman, we use a multidisciplinary team called an acquisition integrated product team, whose responsibility is to vet the requirements that come forward. The team ensures that the requirements fall within MITRE’s core competencies, the five core competencies outlined in the GAO report, but they also ensure that the work requires a special relationship of an FFRDC. I’d like to think that this is a best practice because it’s part of the overall governance structure which GAO had actually recommended that all of the FFRDCs go through.

Mr. COFFMAN. Ms. Mackin, can you elaborate on your report that explains VA’s inability to justify the use of FFRDCs?

Ms. MACKIN. It’s really a matter of documentation. Again, there’s several key questions that the TAC needs to consider in determining a requirement to be appropriate for an FFRDC because, again, we’re in a sole source environment with very broad, closely associated with inherently governmental work that these entities are allowed to do.

As was mentioned, in the pre-award discussions we were told that this vetting is taking place, but we did not see it in the task order files we reviewed, and that was one of the recommendations we made to the Department for more transparency.

Mr. COFFMAN. Mr. Heard, several years ago the VA OIG identified various weaknesses in VA’s oversight of interagency agreements and reported that VA completed various corrective measures in 2013 by issuing a new policy on interagency agreements which complied with current law and regulations. The GAO report released last week found that VA is still failing to implement its own policy. Why is it taking so long for the VA to correct these problems?

Mr. HEARD. It's a good question, sir. The policy that we put in place as a result of the recommendations that the IG found were based on ensuring that we had more management structure overseeing those acquisitions. These were assisted acquisitions where acquisition personnel were somehow disconnected from that process. So putting that back into play, we wanted to make sure that acquisition professionals provided a higher level of oversight to those contracts. In this case, the IG was identifying vulnerabilities in the execution of various contracts that the VA had entered into.

Today what we're talking about is ensuring that we're doing a better job in documenting those efforts and a better job in training those individuals that perform those duties. This effort is going to be multidisciplinary. It's something that is not just going to be done with our acquisition professionals. But as GAO reported, the differences with some of the accounting, we are going to ensure that our CFO's office works with us, as well as our own general counsel too.

Mr. COFFMAN. Thank you.

Ranking Member Kuster, you are now recognized for 5 minutes.

Ms. KUSTER. Thank you, Mr. Chair. I appreciate it.

I have the impression that we're in sort of an Alice in Wonderland world a little bit. I'm having that picture in my mind of the Land O'Lakes butter and the little girl is holding the box that has her picture who's holding the box that has her picture. Because as you talked about the purpose of these contracts, you started out strategic management, the second one was procurement, and I'm thinking do we have any sense of whether these contracts are helpful to help VA straighten out their procurement policy. So it's getting a little circular in my brain here.

But one of the questions that I have, given these GAO recommendations, can you talk, either Mr. Heard or Ms. Foster or Mr. Orso, about training? How are we going to solve this going forward? How are we going to do better to make sure that not just the veterans get better service, but the balance that our committee constantly has, that the taxpayers are getting what they're paying for as well?

Mr. HEARD. Yes, ma'am. Best solution to many of our problems is our ability to provide training. As a Department, we have the benefit of having a very robust training program at our VA Acquisition Academy. I believe some members and staff for the subcommittee has visited that organization up in Frederick, Maryland.

That's a delivery. That's where we plan to deliver some of our efforts, whether it's face to face or perhaps online. But that is our——

Ms. KUSTER. And what would you——

Mr. HEARD. Yes, ma'am.

Ms. KUSTER. I don't mean to interrupt. Our time gets limited. What would you do differently about—because it's not just a question of documentation, right? I mean, that's what we're picking up on. But what we're really concerned about is the value proposition.

How are you going to change the training so that the individuals that are making these decisions and making these analyses about the contracts are getting what we need, which clearly is strategic management, procurement, all the five steps that you talked about.

Mr. HEARD. Well, those five steps are within the core competencies of the FFRDC. Our interagency agreements for assisted acquisition services is more of a reliance on another agency that may have expertise in a certain type of procurement, whether it's for a management skill, an engineering skill, a developmental skill, a training skill. As an organization, we may see that might be the best suitable solution for the Department.

And so when we look at interagency agreements, we also look at interagency agreements as a form of an assisted acquisition service, and we also look at it as a form of a transference of funds for services that the VA may be responsible to pay for. That's why we see in some respects the large delta between how much has been obligated and then how much is in our contract writing system.

Ms. KUSTER. So that gets to my next question. My understanding is in the past the VA transferred millions of dollars under just one of these interagency agreements. This was the OPM. And the money actually, and I believed it was millions of dollars, sat unobligated for more than 2 years. What controls either had been put in place or will be put in place?

Part of what we need to do as Members of Congress is we're bean counters. We're trying to figure out—tomorrow your colleagues are coming to us for $3 billion. Where I come from in New Hampshire, that's real money, where I'm from. And I don't want to lose $2 million sitting around in some office over here that was unobligated because somebody lost track of it.

So I understand the theory behind the interagency and somebody else has expertise in a different part of the government. At this point, it concerns me because that's just—the money's running even further out from what limited controls seem to be in place at the VA central. So how can we do better to keep track of that, I guess I'm asking.

Mr. HEARD. Ma'am, that is a very specific issue that I don't feel equipped to talk about today. I would like to take that for the record so that is based on an IG report——

Ms. KUSTER. Sure.

Mr. HEARD [continuing]. And so that we can bring back remedial action for that.

Ms. KUSTER. How about if we skip the detail of that particular one, just assure me, give me some assurance that going forward we've got some new procedures in place to keep track.

Mr. HEARD. Yes. And part of it is our policy on our use of electronic contract writing system. Part of it is our training. Part of it may be also to relook at our policy and make it more of an overall or overarching review of our internal controls.

This is a serious problem and we recognize that. I'd like to say that it was—it would be an easy fix just to say that we have to make some changes in a policy letter and then put out a training. But we have to make sure that the training hits home.

So that, frankly, I'm sad to say that when I read the GAO report I see management issues, where an individual who doesn't feel comfortable doing an acquisition of this nature feels that they're stuck doing it. We want the best people that have the knowledge, experience to do these contracts, and that's what we want to be able to move forward with.

Ms. KUSTER. Thank you.

Thank you, Mr. Chair.

Mr. COFFMAN. Thank you, Ranking Member Kuster.

Mr. Huelskamp, you're recognized for 5 minutes.

Mr. HUELSKAMP. Thank you, Mr. Chairman. And I must note and report, for my 8-year-old this is probably the highlight of his summer to be in your subcommittee, Mr. Chairman. And he was going to take notes, but it's all being recorded. But thank you for calling this hearing. He is still awake, I'll report that. We haven't been here long enough.

But thank you for coming here. And I think we're hearing here what we hear in so many other hearings, is it's either the lack of data or lack of belief in the data. And on this contracting issue, it's probably some of both as we look at that, Mr. Chairman.

But one response, I think that was from Mr. Heard, and I wanted to repeat that. You mentioned something about the CFO at the VA was going to help us figure this problem out. Could you restate that and explain your answer there?

Mr. HEARD. Sure. And it was regarding training. And we see that the training here is really a concerted effort among three primary organizations. And when I say primary, I think the fourth is also our acquisition workforce. But this is actually a responsibility of the CAO, Chief Acquisition Officer, the CFO, Chief Financial Officer, and the general counsel.

And when I talk about the Chief Financial Officer, there are rules on interagency agreements and interagency transference of funds, and that's where we see a lot more money being expended because it's not just about interagency agreements for assisted acquisition services. And that is one of the focuses that I have. That's some of the exposure that GAO identified in their report.

Mr. HUELSKAMP. Mr. Chairman, that's what troubles me here. I guess we're going to hear from the CFO maybe tomorrow, or data, that's going to explain how he came, he or she came, $2.5 billion short, and we're just entering the fourth quarter of the year. And this is the individual that was charged with tracking them, and somehow they're going to fix our training problem.

But aren't there policies already in place that requires this? And why is the VA not following clear policies of, I think, the entire Federal Government?

Mr. HEARD. Sir, if I could clarify one point. What we report or what's seen for assisted acquisitions, that's in our contract writing system. That's really a subset of how much money is being spent overall in inter- and intra-agency expenditures or transactions. So our focus there is what our contracting officers use to build interagency agreements to support assisted acquisition services from other agencies.

Mr. HUELSKAMP. And so why do you not—the GAO estimates that between $600 million and $900 million worth of assisted acquisition obligations in the VA's accounting system were not reported on eCMS, despite the requirement. Explain why you're ignoring the requirement. Is that your responsibility, then, Mr. Heard?

Mr. HEARD. It is my responsibility, but what I'm saying, that delta is not in our eCMS contract writing system. It is not an accounting system. It's a system that we use, using——

Mr. HUELSKAMP. So that's not a requirement to be in eCMS, or it is?

Mr. HEARD. Only for assisted acquisition services it is.

Mr. HUELSKAMP. So everything on assisted acquisition services is in eCMS.

Mr. HEARD. Should be in eCMS.

Mr. HUELSKAMP. No, is it in eCMS? Did the GAO say it was all in there?

Mr. HEARD. I don't know.

Ms. MACKIN. We identified that $600 million to $900 million in potential interagency agreement obligations that should be captured in eCMS. We all know there's been a history of data reliability problems with the contract system. In fact, we found it not to be reliable for our purposes. So we recommended that VA do some spot checking with the accounting system to see if those are assisted acquisitions or the other type.

Mr. HUELSKAMP. Now, in 2009 the GAO made this recommendation as well, and if I understand it correctly, 5 years later, follow-up, those recommendations were never implemented?

Ms. MACKIN. I believe that was an IG report. As I said, this most recent review we could not rely on eCMS for our purposes.

Mr. HUELSKAMP. Mr. Heard, any response for 5 years versus where we are today, which apparently little or no change?

Mr. HEARD. From a technical standpoint, sir, that there's been a considerable amount of change to make eCMS perform better. Those changes occurred in 2012-2013 timeframe, and we are very pleased with the success that we have and the utility it offers.

It does not change the fact that back in 2009, and somewhat later, that there were areas of missing data, lack of support to our organization. But the fixes that have been put in place have showed some dramatic change in its utility across the Department.

Mr. HUELSKAMP. Mr. Heard, one last thing, and maybe you need to answer that for the record, but I see a reference to one particular entity maybe pulled out as an example, something called the MITRE Corporation. And GAO reviewed 10 task orders to them and found they were all missing documentation. Do you have any quick explanation of why they don't have to follow the rules or your relationship with them?

Mr. HEARD. Sir, I would like Michele Foster to answer that question for you.

Ms. FOSTER. Sir, as it relates to the missing document, it was our understanding that the report was highlighting that during the AIPT process what we're doing is when we're vetting whether the requirements are right for MITRE or perhaps for just a commercial entity, that discussion, all of the participants, that multidisciplinary team, they're all taking notes, minutes on the discussion, but they weren't putting anything formal in the record, in the contract record.

What was going in the record was once they settled on that piece that was appropriate for MITRE, that's what was going in the record via an R&J, a requirements and justification document. But the explanation of how it got there, that was missing from the file. But as far as the FPDS system, all of the obligations for the FFRDC were found to be within that system.

Mr. HUELSKAMP. And lastly, could you provide that to the committee, that missing documentation that would answer the GAO concerns?

And with that, I yield back, Mr. Chairman.

Mr. COFFMAN. Thank you, Mr. Huelskamp.

Mr. O'Rourke, you're now recognized for 5 minutes.

Mr. O'ROURKE. Thank you, Mr. Chairman.

Mr. Heard, I appreciated you beginning by saying that you concur with the findings and the recommendations, and you then said that you're working on policy and training programs to come into compliance. How long before you will be where you should be and where the GAO can come back to us and say clean bill of health for the VA on these issues that we uncovered?

Mr. HEARD. Congressman, I don't have our timeframe. But from a management standpoint, it is managed through our Chief Acquisition Officer. So we will be reporting on a routine basis to him, Greg Giddens, on our status.

Mr. O'ROURKE. Can I ask you a question? Did you not, after reading this report, meet with whoever's responsible for correcting this and say: "I want to get these things done by this date," or, "Here are the issues. When can you get them done? Great. Here's the commitment." Did that take place and you just don't happen to have that date with you today, or have you not had that conversation?

Mr. HEARD. We have not had that sit down. We had the——

Mr. O'ROURKE. It would be a good thing to do, right?

Mr. HEARD. Yes, sir.

Mr. O'ROURKE. Yes. When do you plan on having that conversation at which you will establish the deadline that you will commit to and bring back to us so that we can hold you accountable for that?

Mr. HEARD. We're going to organize that meeting next week.

Mr. O'ROURKE. Okay. Appreciate that.

Do you know for the last fiscal year what the total in fees paid through the IAA program is?

Mr. HEARD. I do not know, sir.

Mr. O'ROURKE. Does the GAO happen to know?

Ms. MACKIN. We don't know that either, because in the files it didn't always indicate what the fee was. We know it ranged from 2 percent to about 14 percent, with the average around 5 percent. But I don't have dollar figures.

Mr. O'ROURKE. And is there a way to extrapolate based on those averages and say we think this much went through and these were the average percentages paid and so it could be this?

Ms. MACKIN. I actually asked my staff to look into this very question in preparation for today, and we just couldn't get there with the documentation that was in the files.

Mr. O'ROURKE. Okay.

So, Mr. Heard, I'll ask for that number for the record, and I don't know if the chairman knows, but you have so many days.

Or is there a deadline for witnesses to get back to us? Okay. Great. There's a deadline for us to ask the questions for the record. Okay.

So we'll just ask that question today, ask that you get back to us within a week.

Mr. HEARD. We will.

Mr. O'ROURKE. Okay. Appreciate that.

On trying to put this into context, another question for the GAO. Do you or your colleagues at GAO see similar problems in accounting and reporting in other agencies or departments? Is this a problem through the Federal Government, or do we find this to be pretty specific at the VA?

Ms. MACKIN. Actually, we do find it across the government. Almost every time we do a deep dive on any contracting issue we find data errors. And interagency agreements were actually on GAO's High Risk List for almost 10 years because of the risk of out-of-scope work, lack of competition, unauthorized work, and the fees that are being paid. So these issues are not limited to VA.

Mr. O'ROURKE. And then I have a question both for you and for Mr. Heard on a specific example that is used to illustrate the problem in your report, and it's the Defense Logistics Agency, where it turns out VA was paying a percent more than they would have if they had used their own acquisition agency. And it wasn't—I don't know if it was uncovered until you uncovered it.

What I want to get at is, do we know what the total cost of that was to the taxpayer, the difference, that 1 percent? What did that amount to?

Ms. MACKIN. That was a $60,000 per year saving to VA, taking it from DLA and bringing it in-house.

Mr. O'ROURKE. And for how long was that contract in place?

Ms. MACKIN. This contract had been in place with DLA since 2008. And when DLA raised its fee from 2 to 2.5 percent, which equated to $140-some-odd-thousand per year, that's when the VA people started asking questions about the basis for the fee increase. So they did recognize it and start looking into it at that point.

Mr. O'ROURKE. So DLA should have just kept their fee the same. They could have kept that $60,000 in their pocket.

Ms. MACKIN. I guess so.

Mr. O'ROURKE. Another question on the numbers and the scope. Do we know how many instances—is there any way to know how many instances like this DLA one occurred over the last so many years and what the total cost to the taxpayer was? In this case it was $60,000 a year.

Ms. MACKIN. It's a legitimate question. As I said, I looked into this in preparation for today, and based on the information we saw in the files, we can't get there in every single case. This one just happened to be clear cut enough that we could quantify the impact.

Mr. O'ROURKE. And, Mr. Heard, is that an answerable question? Does the data exist for you and your team to go back and find out?

Mr. HEARD. It would be difficult to mine. But a perspective to share is that DLA, like GSA, like many other organizations, including the VA, may use, rather than appropriated funds, revolving funds to manage these types of contracts. And that revolving fund is money to bring back to cover its cost of operations. And so not knowing what the 2.5 percent is, and I actually don't know what the commodity is, there's a business sense behind that percentage.

Mr. O'ROURKE. Okay. I don't know if I understand that, but if there is the ability to, for the committee, document total lost opportunities or costs borne by the taxpayer that were unnecessary because you could have acquired it in-house like this DLA example, I'd love to know it. But if not, this DLA example I think is illustrative of the problem that you have there. And just the fact that it's unknowable, I think, invites additional skepticism. So I think it's within the VA's interest to answer that if you can.

I yield back to the chair.

Mr. COFFMAN. Thank you, Mr. O'Rourke.

Ms. Walorski, you have 5 minutes.

Ms. WALORSKI. Thank you, Mr. Chairman.

I just am sitting here thinking and kind of associating myself with the comments from our ranking member about the fact that we're going to be sitting in a hearing tomorrow with the VA Secretary, and I think to much of our surprise, asking the question and listening to the testimony as to how in the world we are $2.5 billion, $3 billion off all of a sudden in the context of the VA. And then we sit here today and we're asking more specific questions again based on a GAO report.

And it just surprises me, Mr. Chairman, that we sit here time and time again and we hear it, and it doesn't seem to matter which particular entity of the VA is sitting here, but the answers that we even get today about these interagency contractual agreements on missing data, lack of support, managerial problem, missing documents, no training, and all these things continue to persist.

And I have got to think that when the American people, at least the folks in my district in Indiana, listen to these hearings—and they really do, Americans are at the table with their ears on because they're fighting for veterans just like we are—I think they're so confused and distressed when we hear the kind of answers coming that we're hearing today.

And it's usually always at the impetus of a GAO report. If the GAO hadn't looked into these situations they would never rise to the occasion to even be talking about this at a hearing. And I think it just adds to the anxiety the country has, the Nation has, as we're all together fighting for veterans, and it seems like we're fighting the very entity that was created to help veterans, and an entity that seems to have lost itself in questions that literally no answers can be provided anymore, it's just too big of a mess.

And so with that—and I think it's distressing as well, because our fellow Americans have made it very clear that they are standing with this bipartisan committee fighting for veterans and trying to help do everything we can legislatively. But I think we've also found out that legislative fixes aren't going to save the VA. It's going to be the people inside the VA that are going to save the VA.

And I guess with that I would ask—I think, Ms. Foster, you were the one talking about the issue with the MITRE proposal, but the GAO found that you always accepted—always accepted—MITRE's price proposal, even when it was higher than your own cost estimate. Why is that?

Ms. FOSTER. Ma'am, you have to remember for MITRE Corporation, really what we are negotiating with MITRE, and Ms. Mackin mentioned it during her opening testimony, was the labor hours, right, and the mix of labor. The rest of it we're relying on an Air Force CACO, corporate administrative contracting officer, to go ahead and negotiate with MITRE Corporation on behalf of many of the other agencies, the VA included. So the overheads, they're already given to us, right, so what we're negotiating is that labor piece.

And what you saw in the report was the contracting officer was relying on the technical expert, right, so it's typically the PM who's giving you the requirement, they're the expert in that area, looking at the labor mix provided by the MITRE Corporation and comparing it to what they had. But what they may have been thinking about when they put their independent government cost estimate together may not match MITRE initially because MITRE might have a different approach.

So what they do is, and it was listed in the report, the two groups sit down together and say: This is what I was thinking, how is that different? And as long as that technical expert who's advising the contracting officer that works for me feels comfortable, they go ahead and they'll accept that position.

At the end of the day, as the report highlights, it's a cost-type contract, right? So MITRE's going to get their actuals. So what that proposal gives you is a top level ceiling. But ultimately when you go to close out the record, what it is that they actually performed is what they are going to get paid for except the fee gets lobbed on top of that.

Ms. WALORSKI. Let me ask you this in light of that. Do you have some examples of some types of work where the VA has developed its own in-house capacity through working with MITRE and no longer reaching back to MITRE for support?

Ms. FOSTER. Ma'am, I'd defer that to Mr. Orso. He's the business office that handles that.

Mr. ORSO. Thank you, ma'am.

We have a very robust governance process that looks at the requirements, the out-year requirements. And then as the projects are actually accomplished within MITRE, the process that we use ensures that they have a plan to scope—down scope or down scale their support to any given program. And that's built in at the AIPT level and all of the other activities that we're placing on contract with the vendor.

Ms. WALORSKI. Do you have specific examples, though, of working with MITRE where the VA's developed its own in-house capacity without having to reach back to MITRE for support?

Mr. ORSO. I would have to go bring you something for the record, ma'am. I'd have to take that for the record.

Ms. WALORSKI. Could you do that for the record?

Mr. ORSO. Yes, ma'am.

Ms. WALORSKI. I appreciate it.

And I yield back, Mr. Chairman.

Mr. COFFMAN. Thank you, Ms. Walorski.

Mr. Walz, you are now recognized for 5 minutes.

Mr. WALZ. I'm good, Mr. Chairman.

Mr. COFFMAN. Mr. Lamborn, you're now recognized for 5 minutes.

Mr. LAMBORN. Thank you, Mr. Chairman.

Mr. Heard, in the past the VA has transferred millions of dollars to OPM under an interagency agreement where the money sat unobligated for more than 2 years. What controls have you put in place to ensure this doesn't happen again?

And this is a very timely question because we're going to have the Secretary come in tomorrow, I believe it's the Secretary, and say that you need billions of dollars more. And the controls for accounting for where the money goes and how it's spent seem to be lacking.

So how would you answer that question? What controls have you put in place to ensure that this doesn't happen again with these types of contracts?

Mr. HEARD. Sir, there was a previous question that we did take that one for the record. We are going to be providing some very detailed information on what occurred there and what has actually happened.

But if I may add that part of our improvements, maybe more accountability to our policy, was to ensure that contracting professionals, contracting officers, are engaged in those contracts as opposed to having just the program office oversee or manage. We want to make sure that we have the right expertise involved in those contracts so that they just can't run amuck or go rogue, as we may have seen in the past.

Mr. LAMBORN. Okay. Thank you.

Now, when it comes to assessing the contracts and how well they perform, how would you assess FFRDC performance and ensure that we're getting—the VA is getting their money's worth out of these programs?

Mr. HEARD. Sir, if I could, I think we want to answer that both with Michele and from David from a program standpoint. So Michele can address it from a contracting perspective on performance, and then as a consumer user David can give that perspective.

Ms. FOSTER. I'll start, if I may, sir.

So we monitor MITRE on cost, schedule, and performance, and we have several different ways in which we do that. We get monthly progress reports from them, invoice, and we also get the corresponding invoices, right? So the CORs and the contract specialists are reviewing those on a monthly basis.

We also include a performance-based assessment survey which gets used prior to the performance management team monthly reviews, which I believe were mentioned in the GAO's report as well. And of course we rely on the audit services of DCAA to help us with that.

And, David.

Mr. ORSO. On the program side, sir, we have a feedback loop, a mechanism, where from the PMT and from feedback from the program offices in particular, they'll either come to the EPMO, my organization, or Michele's organization, and Ms. Foster and I have a weekly call in which we discuss the performance of the contractors or the vendors, in this case the FFRDC. And where there is—if there is an issue, we will address it accordingly.

So the program offices that are being provided the support have routine check-ins with either my staff or Michele's staff in various capacities.

Mr. LAMBORN. Okay. Thank you.

And, Ms. Mackin, I have a question for you now. By their very nature, FFRDC contracts are noncompetitive. Is VA at risk of paying too much for FFRDC work that could potentially be competitively awarded?

Ms. MACKIN. I think any time the government's in a sole source environment they have a weakened negotiation position in terms of setting the prices. So I would say for any sole source arrangement that that's a risk. And that's why we hope that VA, in agreeing with our recommendation, will document their decisions to carve out certain requirements that can be competed. They've looked at this in the past, in 2012, for example, and saved $7 million in doing so. So we think that has to happen routinely to save money for the Department.

Mr. LAMBORN. Okay. Thank you.

Mr. Chairman, I yield back.

Mr. COFFMAN. Thank you, Mr. Lamborn.

Ms. Mackin, we have heard allegations that VA has even compensated MITRE for performing market research for its own proposals. Is that true?

Ms. MACKIN. I don't have any information on that.

Mr. COFFMAN. Okay. Mr. Heard, that is true?

Mr. HEARD. I am not familiar with that. You know, I can ask Michele to maybe opine on that, you know, based on her oversight to that contract.

Ms. FOSTER. Sir, it wouldn't surprise me. I'm thinking of one situation actually almost a year ago where MITRE was asked as it related to Section 101 of the Choice Act to help with market research. Unfortunately I wasn't the contracting organization that was doing the Section 101 work, but if I recall correctly, they were trying to determine, the contracting office was trying to determine if the PC3 contract would be appropriate to meet the needs of Section 101. And so MITRE was asked to help when they were going to have an industry day, I believe, was the case.

And so it is not uncommon, certainly in my world in IT, if you're going to have an industry day and you're trying to determine who has technical capabilities, to invite a technical expert to that meeting; so I suspect that is why MITRE was invited to that particular one, and that would have been considered the market research.

Mr. COFFMAN. Ms. Mackin, if we add up the amount GAO identified for interagency agreements, as well as the FFRDCs from fiscal year 2012 to fiscal year 2014, it is over $2 billion. How would you characterize the risk VA faces with this amount of money given the problems you found?

Ms. MACKIN. I think there is the potential for significant risk. As I mentioned, interagency agreements were on our high-risk list for 10 years almost. And because of the potential for out-of-scope work, unauthorized work, lack of competition, and paying too much in fees, FFRDCs, again, you are in a sole-source situation where this contractor is authorized to do work that is very closely associated with inherently governmental work. So this is why both of these need to be very closely monitored and overseen.

Mr. COFFMAN. Well, I think the tragedy here today is this is an organization, the Veterans Administration, really in crisis. You know, and I think, you know, we'll have, we'll call you back 3, 4 years from now, or whoever is sitting in this chair; and, of course, the principals won't show up. They will have some underlings show up who won't be able to answer all the questions, and it'll be the same thing. We will try harder. And, you know, I'm confident nothing will occur.

And what is amazing to me is here is an organization in crisis that suffers from a lack of accountability and transparency, and here we are adding another layer of unaccountable, you know, not transparent, you know, acquisition people who are a nonprofit, structured as a nonprofit, sole source outside the Veterans Administration. I mean this just compounds the kind of problems that we have here. These FFRDCs, these folks need to go by the wayside. I don't see any—You know, you all need to up your game in terms of acquisition, and I know that that is probably never going to happen; but, you know, it is not going to work out anyway.

I am just not optimistic right now, given the leadership that the VA has at the very top. The President is not engaged. The Secretary of the VA is not engaged in making a difference. You all are just placeholders until somebody does want to make a difference, and I don't know how long that is going to take.

Ranking Member Kuster.

Ms. KUSTER. Thank you, Mr. Chair. I wanted to follow up from where Ms. Mackin just left off. And if anyone has a response, it is fine by me.

I want to get at this role of MITRE and whether it is always an appropriate role, and I see that the VA has a committee that reviews potential FFRDC work before it is offered to MITRE. Does anyone in the panel know if this committee ever finds that something isn't appropriate for this?

Ms. FOSTER. Ma'am, I can take that question. So that was the acquisition integrated product team that I mentioned in the beginning, right, so they are the ones that are vetting those requirements. I am going to give you an example. So a requiring activity would come to this team, and legal is on there also. There is a couple of attorneys on there, my staff, Mr. Orso's staff and, of course, the person who wants to use MITRE. Right?

So one example was an organization came in and they wanted organizational change management support from a strategic direction trying to transform their part of the organization. So, yes, that piece would be appropriate when you look and see the details of it; but then there was another piece where I think in this case they were looking to do some database development as part of that, and the group that got it on the organizational change management. That other piece, that gets carved off.

Now we recognize that ultimately the veteran is going to be the benefactor of all of these things, so we don't just say that piece gets carved off and you are on your own. If we know of other existing contracts that are in place, whether my organization or a different one, then we'll shepherd that over to those organizations that can go ahead and execute. And this is the piece that the GAO rightly said, you know what, that discussion needs to be for the record, and it was missing.

You know, people were taking their own notes, their minutes of it, but it wasn't making its way into the record. The only thing that was as it relates to that discussion was ultimately in this case if you settle on organizational change management, fine, that was justified, but not the stuff that didn't make it. So I hope that helps.

Ms. KUSTER. And do you identify instances where the VA should do the work? In other words, I'm concerned about instances where MITRE is performing work that is inherently governmental in nature that the VA could be performing? I mean, in other words, we're as Members of Congress, appropriating dollars to pay salaries for people that we've hired with the expertise to do a particular type of work.

Now it may not be the changes in management style, which probably would be very helpful at the VA, but are there other pieces of this, and maybe this is what you are referring to, in a carve out? Is that something, the database piece is something that could be done in-house?

Ms. FOSTER. So I will let Mr. Orso talk to that piece. Go ahead, Dave.

Mr. ORSO. Thank you, Michele.

Ma'am, Ranking Member Kuster, so the way that the process works, there is another layer that we should talk about to make this clear. At the executive level across every business line, we have representatives to bring their out year requirements to a forum in which we review them for consideration and to plan, and we can look at them across the agency and integrate those requirements in a very comprehensive way. And that in and of itself is a huge mechanism for savings and for integrating activity.

Those recommendations as they're brought forward go to the FERC, what we refer to as the FERC—it is the next level up; it's the highest level of leadership within VA below the Secretary really—and they validate those requirements, which then the business owners, the program managers, those folks, will plan for in the out years.

Now, when those requirements are developed and procurement packages are created, they'll go through a vetting process where a business line is going to determine whether he or she has the capacity within his organization to perform some of those activities on his own with his own staff, government FTE, or whether it should be—potentially go to the FFRDC, as had been planned.

I will give the example of the My VA activities; those things were not planned. So they've come out, and we are responding to those as they are emerging from the initiatives themselves. However, the consideration is still made for whether or not it is appropriate for the FFRDC or should it be a commercial vendor. That happens at the AIPT.

I would add that as far as the expertise goes, so My VA in particular is a monumental undertaking. Clearly we have a huge organization dispersed across a Nation in pockets of places. I mean, it's a tremendously difficult thing to change and to integrate. And that is really what the Secretary is trying to do, is to deliver an integrated enterprise that supports the veteran with the veteran at the center of our business model. We don't——

Ms. KUSTER. Are you trying to say that the My VA has been done by FFRDCs?

Mr. ORSO. Ma'am, let me clarify.

Ms. KUSTER. Thank you.

Mr. ORSO. We certainly have some support from the FFRDC within my VA; but, yes, that is being run by the government, by Mr. Snyder is the executive director.

But the point I am trying to make is it is a very complex effort that we don't have the expertise to carry out or the capacity in some cases. And it would not be appropriate for a commercial vendor in most of these cases to support us in those efforts. And the reason really is because it would create a conflict of interest where they could come back on the execution end of the planning and have an insight into what we were already attempting to do; and they would have an increased position to receive that award because of the information they had received or been a party to.

So in my view, the governance structure that we have in place is about as effective as it could possibly get. I do realize there are some gaps that GAO has identified. But from a balancing of resource perspective, this is a very solid governance system, ma'am.

Ms. KUSTER. All right. Well, I appreciate that. My time is well past, but I think we will bring this up tomorrow with the Secretary to see if he agrees with your assessment, as he is coming forward to ask for these extra funds. So thank you, Mr. Chair.

Mr. COFFMAN. Thank you and you can always contract out with acquisition consultants on a competitive basis versus a Soviet-style system.

Dr. Roe, you are now recognized for 5 minutes.

Dr. ROE. Thank you, Mr. Chairman.

I am sorry I had to leave. I had to go to the House floor to testify on a VA bill. So I missed some of the testimony. And I am going to back up a little bit and just ask a few questions.

So someone can walk me through, how is the FFRDC, how and why and when is it used? It's as simple as that? I want to ask that question first.

Mr. HEARD. Sir, we'll do that as a two part. We'll talk about it as a contracting point, the rigors of that decisionmaking——

Dr. ROE. Walk me through why you would need them at all.

Mr. HEARD. Okay. Go ahead.

Ms. FOSTER. Sir, we talked about, especially in this particular FFRDC, MITRE Corporation. We mentioned the five core competencies——

Dr. ROE. I heard that testimony. My question is just give me an example of where they would be used. Why would the VA need to use this organization?

Ms. FOSTER. Okay so that goes to the special relationship, sir. They are expected to give us an unbiased opinion, right, where they are not going to have any conflicts of interest in the back end.

So for example, in my own office, right, we have a big acquisition called T4 NextGen. Well, as it relates to portions of it, we are using MITRE Corporation to help us with some of the technical evaluations.

Dr. ROE. Is that a private corporation, private company, MITRE?

Ms. FOSTER. MITRE Corporation. It is a federally funded research and development company.

Dr. ROE. Okay. It's federally funded then, okay.

Mr. HEARD. It's a nonprofit, sir.

Dr. ROE. Okay. But Federal dollars flow to that. Correct?

Ms. FOSTER. Right.

Dr. ROE. Go ahead. I'll let you finish.

Ms. FOSTER. So that would be an example because they are not going to be competing for that work. They don't have any skin in that game, if you will. There won't be any conflicts of interest. So we are relying on their technical expertise to help us to go ahead and make the right decisions as far as who is going to be winning that competition——

Dr. ROE. Well GAO indicates that maybe that is not happening. At least from the GAO report that I read, that maybe that isn't happening right now.

And the FFRDC, who do they report to? What is their chain of command, and where are they located in the Federal Government, what department?

Mr. HEARD. They; re a nonprofit organization.

Dr. ROE. So it is a nonprofit, outside the Federal Government?

Mr. HEARD. Yes, sir.

Dr. ROE. Okay. So it is a federally funded——

Mr. HEARD. Right.

Dr. ROE [continuing]. Outside, and again with the choice—the chairman just said, and how long have they been in existence?

Mr. HEARD. They are a contracting authority under the Federal acquisition regulations.

Dr. ROE. Okay so they are a contracting authority then.

Mr. HEARD. And they have been in existence for many years. I can take it for the record to give you maybe a sheet, fact sheet, on FFRDCs if you would like.

Dr. ROE. Yeah. I guess the reason I am trying to understand is exactly what their purpose is because there is another way you do this. I have been in public service before I got here, and we didn't use anything like this complicated to get a contract done.

I mean there's a way to get a contract. You have basically whether you are building something or whether it is a technical service or whatever, there is a way to bid those out, unless this is just a consultant that you use. Is that basically what this is? A consulting is you're asking their opinion? It is a pretty expensive opinion, I think.

Mr. ORSO. All right, I'll take that. I'll try to respond to that, Mr. Roe, sir, if I may.

So I represent the programs in VA, or the business as we would describe it. And with the FFRDC, what they really provide is, if we are building something new, the program structure maybe that would have performance requirements, and let's say it is a large acquisition that we are looking for, a large new program.

The FFRDC folks would help us think through those requirements in a way that we could operationalize or execute them. But the execution of that, the development of those things, would be given to a commercial vendor to satisfy the thinking, the planning portion of that, the generating of the ideas and how it would be best resolved. They would assist us with those types of things. It depends on the type of requirement. They have competencies——

Dr. ROE. So basically they are a consulting—is that what they do?

Mr. ORSO. I would say, so they are very sophisticated consultants, yes, that have a special relationship with us, and they can have access to information that we wouldn't give to a commercial vendor. Because that commercial vendor would have an unfair advantage when it came time to execute or to bid on the contract that was going to result from that development activity.

Dr. ROE. So what you are saying is they're supposed to be an unbiased observer that looks at whatever you, and gives you an unbiased opinion. Is that correct?

Mr. ORSO. That's a great way to describe it, yes, sir.

Dr. ROE. That's what they are supposed to do. How many people work there? What kind of budget do they have? And is this for all of government?

Mr. ORSO. So I think——

Ms. FOSTER. Sir, it's a very large corporation, and MITRE Corporation supports many of the agencies certainly, Army, all of DoD, Treasury, IRS. We have a——

Dr. ROE. They weren't involved in Aurora, were they? Did they have anything to do with any of that?

Ms. FOSTER. I don't—sir, I couldn't——

Dr. ROE. Do you know, I mean seriously, were they?

Ms. FOSTER. Yeah. That we would have to take back.

Dr. ROE. I would like to have that answered because if they were, they need to be fired, whoever was there.

Ms. FOSTER. Okay.

Dr. ROE. I yield back.

Mr. COFFMAN. Thank you, Dr. Roe.

Mr. O'Rourke, you are now recognized for 5 minutes.

Mr. O'ROURKE. Thank you, Mr. Chairman.

Mr. Heard, how would you respond to additional budget pressure related to these two programs, the federally funded research and development program, and these interagency agreement programs?

I don't know what is going to happen at tomorrow's hearing, and I don't know what is going to happen with this $3 billion budget shortfall, but if the Secretary comes back and says I need to find these kinds of savings across the board throughout the department, how would that change your view of how essential FFRDCs are and these additional fees that you are paying on these interagency agreements? In other words, are there savings there? How would you respond to that?

Mr. HEARD. It could have a significant impact on the performance of those agreements. If we had to look at it from that budget perspective, you know, at this point it's part of the budget, the execution.

But if those savings were to be found, you know, VA would be looking under rocks to find where those dollars can be found, and that could have an impact on those programs as well.

Mr. O'ROURKE. Yes. And I appreciated the comments earlier about the larger context in government, and we have these

FFRDCs that serve other Federal departments and agencies. We have some of these similar issues in other agencies and departments. And certainly—I also sit on the Armed Services Committee. Lots of examples there where we overpay and don't get perhaps the best bang for taxpayer dollars. So.

But today we are focused on the VA, and tomorrow we are going to hear about this $3 billion shortfall. And I have got to think that not knowing the total value of fees paid or just in that one $60,000 annual example that the GAO uncovered, that if we extrapolate might be much, much larger than that, perhaps there is not enough pressure today to uncover savings or check these contracts or even know if we have contracts in place, as the chairman has helped us uncover in other hearings.

So that is just, I guess, a point I would like to make and a question I would like for the VA to think about, which is, certainly Congress could appropriate more money or shift money out of a program like Choice to fund a budget shortfall, but perhaps there are savings within agencies and departments under VA right now, including in these fees that we're paying in these FFRDCs; and it is hard to get a concise, compelling answer from you or Ms. Foster—and it may just be a difficult, complex issue to articulate—about the value of them. And why are we paying this much? And what of that could we bring in-house? And what is essential and what is not when we are facing these shortfalls and have these other crises in the VA.

So I appreciate your answers, and I am looking forward to the two things you committed to me within a week on the record, your deadline that we can count on and hold you accountable for, for fixing these problems, and then the total paid in interagency fees within the last fiscal year. And I have your commitment to get those within a week?

Mr. HEARD. We had two issues, and the one was the fees paid for it. To the best of my knowledge, we are looking at those that came up through this interagency agreement, review by the GAO, the audit that they conducted. So we are going to go back to each one of those contracting organizations and ask them to extrapolate those fees based on the total costs associated with those agreements.

Mr. O'ROURKE. I would like to know all fees. What does this cost the VA annually? And the thing that I don't think we could get to but I would love to know is, how many examples like that 1 percent extra, $60,000 a year in that one contract, are we seeing?

And the other was just your deadline, your commitment for we will fix and address and be where we want to be per the GAO's findings by this date.

Mr. HEARD. Sir, my commitment there was by next week I will have that meeting scheduled with all those parties.

Mr. O'ROURKE. Got you. When do you think you could come back to this committee, either in person or writing, and tell us what the deadline is?

Mr. HEARD. I would really like to have at least 2 weeks after that meeting. I think that is very, very important.

Mr. O'ROURKE. So by September 1?

Mr. HEARD. Yes.

Mr. O'ROURKE. We would have a commitment from you I'm going to fix these——

Mr. HEARD. By said date.

Mr. O'ROURKE. I appreciate that. Thank you, Mr. Chair.

Mr. COFFMAN. Mr. Walz. Okay.

Today we have had a chance to hear about problems that exist within the Department of Veterans Affairs with regard to oversight of its interagency agreements and Federally Funded Research and Development Centers.

This hearing was necessary to identify the continuing widespread problems with VA procurement and to allow VA to provide answers as to why these problems persist. As I mentioned in my opening statement, VA has informed the committee that it has run out of money, which may result in its need to close VA medical centers. To that end, VA has told the committee that it will need an additional $3 billion.

Based on evidence and testimony provided in our four recent procurement hearings, VA misspent or plainly cannot account for around $7 billion annually, over twice the shortfall caused by VA's poor stewardship of money intended to provide services to veterans. As such, VA must be held accountable for the sheer incompetence that has somehow led to its squandering these funds needed to give veterans the care they deserve.

I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous material. Without objection, so ordered.

Mr. COFFMAN. I would like to once again thank all of our witnesses and audience members for joining in today's conversation. With that, this hearing is adjourned.

[Whereupon, at 5:18 p.m., the subcommittee was adjourned.]

APPENDIX

Prepared Statement of Chairman Mike Coffman

Good afternoon. This hearing will come to order.

I want to welcome everyone to today's hearing titled, "Lack of Oversight of Interagency Agreements—VA Procurement Failures Continued." This hearing will examine serious problems with VA's use of Interagency Agreements to procure certain services and will also focus on Federally Funded Research and Development Centers (which we will refer to as FFRDCs for ease of reference).

Interagency agreements, in this case where other agencies may contract or perform services for VA, can be an efficient procurement method. However, these acquisitions may pose a variety of risks, in part because of the need for stronger internal controls and clear definitions of agency roles and responsibilities. As we will see today, and we have seen with VA for years, internal controls, management, and oversight are tremendous problems for VA.

Additionally, VA has relationships with FFRDCs, privately owned but government-funded entities, that have long-term relationships with federal agencies intended to meet special, long-term research or development needs that cannot be met as effectively by existing in-house or contractor resources. FFRDCs are granted special access, beyond that which is common for normal contractual relationships, to government and supplier data.

Following an investigation of these issues begun last Congress, I asked GAO to look into VA's oversight and management of these relationships. Unfortunately, what GAO found is typical regarding data reliability within VA. For instance, VA cannot account for the extent to which it utilized interagency agreements for FY12 through FY14. For this period, VA had data showing that it obligated at least $1.7 billion for this period, when in fact, GAO found that this amount was actually between $2.6 and $2.9 billion, amounting to a $600 to $900 million inconsistency.

Further, half of the interagency agreements G–A-O reviewed did not contain necessary documentation, which is another of the many instances where VA's poor oversight and management of its procurement processes leaves the department open to rampant waste, potential fraud, and certain abuse. Similarly VA obligated over $260 million in this same FY12 through FY14 period to FFRDCs. One downfall with FFRDCs is that they are noncompetitive, as is evidenced by the fact that nearly all of VA's relationships with them are with those operated by one corporation.

Additional shortfalls GAO found with VA's data include a failure to centrally track some contract actions, limited documentation of pre-award reviews, and in some cases, contract files that did not indicate why VA determined a contract price was acceptable. This hearing will highlight yet another set of contracting problems within VA, where hundreds of millions, if not billions, of dollars are unaccounted for.

In a time where VA has come back to Congress to ask for an additional $3 billion because it has run out of money it should have to serve veterans, I consider this another grave failure. I look forward to the discussion we will have here today on this important issue.

With that, I now yield to Ranking Member Kuster for any opening remarks she may have.

STATEMENT OF
FORD HEARD, ASSOCIATE DEPUTY ASSISTANT SECRETARY, OFFICE OF ACQUISITION & LOGISTICS
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
U.S. HOUSE OF REPRESENTATIVES

July 21, 2015

Good afternoon, Chairman Coffman , Ranking Member Kuster, and Members of the Subcommittee. I appreciate the opportunity to address your concerns about the Department's Interagency Agreements and Federally Funded Research and Development Centers (FFRDC) contracting arrangements. I am joined today by Michele Foster, Associate Executive Director, Technology Acquisition Center and David Orso, Executive Director, Enterprise Program Management Office.

The Department of Veterans Affairs' main acquisition priority is to provide comprehensive, strategic acquisition support for VA's highly complex requirements, including Information Technology and medical systems which support our Veteran community. This support includes acquisition planning, requirements generation, procurement, and contract administration in connection with acquiring supplies, equipment and services required for the provision of benefits and medical care to our Nation's Veterans.

BACKGROUND

There are many acquisition tools the Department uses in acquiring goods and services in order to meet the many demands within the Department. Let me explain some of those today, specifically those that were the subject of a recent GAO report.

The first is an Interagency Acquisition, which is a procedure whereby one government agency obtains supplies or services through another government agency. There are essentially two types of Interagency Acquisitions that an agency can execute: The first of which is "Direct Acquisition," where the requesting agency places an order directly against the servicing agency's indefinite delivery contract. In this acquisition, the servicing agency manages the indefinite delivery contract, but does not participate in or administer the order. Some such servicing agencies that VA has worked with toward this end are GSA and the Department of the Navy. The second type of Interagency Acquisition is "Assisted Acquisition" whereby one agency requests the services from another agency to perform the acquisition activities on behalf of the requesting agency, such as awarding and administering a contract, task order, or delivery order. Assisted Acquisition benefits the requesting agency by providing a means to satisfy its requirements in a manner that is cost effective. VA use of Assisted Acquisitions continues to decline as it hires more acquisition personnel.

Interagency Acquisitions are accomplished through the use of Interagency Agreements (IAA). The decision to enter into an IAA is based on the information in the business case, which is the result of market research. These documents are reviewed by the contracting officer and Office of General Counsel attorney (when VA policy requires legal review) to determine if the information presented supports entering into an IAA. There is also a separate category, known as 'Interagency Transactions,' which do not fall under the purview of Federal Acquisition Regulations (FAR) Subpart 17.5. Interagency Transactions are not Interagency Acquisitions, but are a financial transaction, consisting of interagency reimburseable work that is performed by federal employees or interagency activities where contracting is incidental to the purpose of the transaction. Generally speaking, the funds are transferred from one agency to another to perform work by Federal employees, whereas with assisted acquisitions, the servicing agency executes a contract and the work is performed by contractors.

The second is FFRDCs, which are independent entities sponsored and funded primarily by the United States Government to meet specific long-term scientific and technical needs that cannot be met as effectively by existing in-house or contractor resources. FFRDCs are managed by a parent organization in accordance with statutory and regulatory rules. An FFRDC provides high-quality research, systems engineering, and analytical work that is within the mission and purpose of its sponsorship and contracted scope. FFRDCs are prohibited from competing with any non-FFRDC concern in response to a Federal agency request for proposal for other than the operation of an FFRDC. The long-term strategic relationship between the Government and an FFRDC is encouraged to enable the FFRDC to develop and maintain in-depth knowledge of its sponsors' programs and operations, as well as to maintain continuity and currency in its special fields of expertise. VA co-sponsors an FFRDC with Internal Revenue Service through MITRE Corporation, which has five core competencies:

strategic management procurement; support and evaluations; program and project management ; technical management; and independent evaluations and audits.

To ensure proper management and oversight of the FFRDC usage, VA has established a multi-tiered executive level governance structure. The FFRDC Governance Plan provides guidelines and procedures for ensuring compliance the FAR. The Governance Plan applies to all administrations and staff offices within VA that seek to use the services of an FFRDC, and who are able to demonstrate that the requirement falls within the core competencies of the FFRDC and can justify that the primary work cannot be performed as effectively by existing in-house, not-for-profit, or for-profit contractor resources.

Through a series of acquisition and requirements based integrated process teams (IPTs) and senior level review boards, the governance structure provides execution level assessments as well as strategic level planning and oversight to ensure the proper use of FFRDC services are consistent with theFAR requirement as well as the VA's strategic goals. The Office of Acquisition Logistics & Construction OALC maintains primary responsibility for the acquisition oversight of FFRDC governance. This is accomplished through three bodies, the Acquisition Management Team (AMT), Acquisition Integrated Process Teams (AIPT), and Performance Management Team (PMT). The AMT, a forum led by OALC, whose responsibility is to develop a sound acquisition strategy for FFRDC use, and recommend approprriate contracting vehicles to support the FFRDC strategy with OGC support. The AIPT is the tactical level governance forum that reviews a potential task order's suitability for award to an FFRDC. Here, the internal requiring activity will present its case on why it is seeking to award to an FFRDC, and the AIPT; composed of program, acquisition, and legal experts; will make a determination on whether that effort is appropriate in scope. The PMT checks on the progress of current FFRDC task orders throughout the year. The PMT assesses cost, schedule, and performance, to ensure the VA customer's needs are being met, and identify the need for any course corrections to ensure the Department's investment is returning benefits.

While OALC maintains Acquisition Decision Authority over the FFRDC governance process, it is supported by the Office of Policy and Planning (OPP) in executing the VA FFRDC requirement functions of the governance process. This responsilbility falls to two governance councils; the FFRDC Executive Requirements Council (FERC), and the Strategic Management Team (SMT). The FERC is an executive council that seeks to align and integrate requirements for the FFRDC from across VA. The FERC is supported in its efforts by the SMT. The SMT's role is to gather requirements from across VA, align them with the Department's strategic requirements, and identify either points of integration or gaps for review and concurrence by the FERC. The FERC and SMT comprise representation from across the Department.

RECENT GAO REPORT ON VA CONTRACTUAL ARRANGEMENTS

The objective of the GAO review wes to determine: (1) the extent to which VA used IAAs in fiscal years 2012 through 2014, (2) the effectiveness of VA's management of the award and oversight of its IAAs, (3) the extent to which VA used FFRDCs in fiscal years 2012 through 2014, and (4) the effectiveness of VA's management of the contract award and oversight process for FFRDC support.

The Department considers these and all reviews, to include all findings and recommendations, to be of the utmost importance to the overall success of VA in meeting its mission. In its report, GAO highlighted five distinct areas that required consideration by the Department. Specifically, GAO recommended VA revise its policies (1) to improve the recording of Interagency Transaction data, and (2) to ensure interagency training reaches the full range of program and contracting officials. We concured on both of these recommendations, and are currently in the process of revising our current financial and procurement policy to more clearly address recording procedures, as well as developing a robust training program designed to mitigate gaps in compliance with interagency procurement policy.

VA also established Procurement Policy Memorandum (PPM) 2013-06, Interagency Acquisitions Guidance and Procedures, which was issued on December 31, 2013. This policy provides guidance and procedures so that the benefits of Interagency Acquisitions are consistently achieved across the Department as required by FAR 17.5. As a result of the recent GAO audit, VA's PPM is currently under review and will be revised to clarify administrative requirements for IAA and provide clear guidance regarding reporting interagency transactions.

VA's Office of Acquisition and Logistics is also collaborating with the Office of Management and the Office of General Counsel to prepare a training presentation for the Acquisition workforce, the program offices, and all others involved with Interagency

Acquisitions with the purpose of providing clear understanding of interagency acquisitions and interagency transactions and how they are to be administered.

The comprehensive training will provide an overview of interagency acquisitions. The training will also address the process used to determine the appropriate type of interagency acquisition as a result of acquisition planning. Additionally, the training will address how the required interagency agreement, for assisted acquisitions, is coordinated and approved before the acquisition proceeds. An interagency agreement is not required for a direct acquisition. Finally, the training will focus on compliance-related issues to ensure associated contract files are properly established, maintained and reconciled.

In addressing FFRDCs, GAO presented three recommendations that it believed would provide consistency throughout VA. GAO recommended VA (3) develop a strategy to ensure Department-wide adherence to the governance plan, (4) improve supporting file documentation, and (5) re-assess its approach towards travel costs. We concur on all three recommendations. In particular, VA's Chief Acquisition Officer, Mr. Greg Giddens, has recently advised us of his intention to issue a memorandum to all Agency Heads of Contracting Activities, which reinforces that all FFRDC contract actions be reviewed according to the requirements of VA's governance plan. Additionally, based on the intent to continue to improve the management and oversight of the FFRDC within VA, the original Governance plan was recently updated to reinforce compliance with recent procedural changes. The Governance Plan now incorporates executive level oversight regardless of which FFRDC is used. This update centralizes governance and contract execution across VA, ensuring consistency with implementation and documentation as it relates to governance.

CONCLUSION

Mr. Chairman, VA is focused on providing Veterans with high-quality products and services through appropriate contracting practices. As I have previously stated, we take the GAO findings seriously, agree with the recommendations, and believe that the efforts we have since taken, and those planned, more than sufficiently address the concerns of GAO and will noticeably improve our Interagency Acquisition and FFRDC processes, which in turn, will place us in an even better position to meet Veterans' needs.

Mr. Chairman and Members of the Committee, this concludes my statement. Thank you for the opportunity to testify before the Committee today. My colleagues and I would be happy to respond to any questions you may have.

United States Government Accountability Office

GAO

Testimony before the Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs, House of Representatives

For Release on Delivery
Expected at 4:00 p.m. ET
Tuesday, July 21, 2015

VETERANS AFFAIRS CONTRACTING

Improved Oversight Needed for Certain Contractual Arrangements

Statement of Michele Mackin, Director, Acquisition and Sourcing Management

GAO-15-770T

Chairman Coffman, Ranking Member Kuster, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Department of Veterans Affairs' (VA) use of interagency agreements (IAA) and Federally Funded Research and Development Centers (FFRDC). In fiscal year 2014 VA obligated about $19 billion to buy goods and services. Part of this overall amount is spent through IAAs—written agreements where other federal agencies award contracts on VA's behalf or perform services for VA. VA also uses FFRDCs—government-funded entities that have long-term relationships with federal agencies to perform certain tasks. These contractual arrangements can help VA meet its needs and take advantage of unique expertise. However, our recent work found that improved oversight is needed.

My remarks today are based on our recently issued report on VA's use of IAAs and FFRDCs.[1] Accordingly, this testimony addresses (1) the extent of use and effectiveness of VA's management of IAAs for fiscal years 2012 through 2014, and (2) the extent of use and effectiveness of VA's management of FFRDCs during this same period. My testimony today will summarize our findings from that report.

For our July 2015 report, we analyzed data from VA's Electronic Contract Management System (eCMS) on its obligations to other federal agencies via interagency agreements and to FFRDCs operated by the MITRE Corporation (MITRE) in fiscal years 2012 through 2014.[2] VA does not centrally track contract actions to non-MITRE FFRDCs; therefore, we identified VA contract actions to non-MITRE FFRDCs through our own analysis of Federal Procurement Data System-Next Generation data. In addition, we reviewed the Federal Acquisition Regulation (FAR) and relevant VA policies and guidance regarding interagency agreements and FFRDCs; reviewed a sample of 21 interagency agreements and 10 FFRDC task orders; and interviewed officials from VA responsible for

[1]GAO, *Veterans Affairs Contracting: Improved Oversight Needed for Certain Contractual Arrangements,* GAO-15-581 (Washington, D.C.; July 2, 2015).

[2]We determined that the eCMS data on IAAs were not sufficiently reliable to determine VA's use of IAAs for the period of our review. We present this data for illustrative purposes only to demonstrate issues related to the completeness of the data. However, we determined that the eCMS data on FFRDC contracts were sufficiently reliable for the purposes of our report. Our report provides further details on our scope and methodology.

contracting and oversight of interagency agreements and FFRDCs, officials from other agencies, such as Department of Defense agencies that provide services to VA under interagency agreements, and representatives from MITRE, the primary FFRDC with which VA does business.

More detailed information on our objectives, scope, and methodology for our work can be found in our July 2, 2015 report. We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, we found the extent of VA's use of IAAs is unknown, and in some cases did not comply with policy; there are also opportunities to improve VA's management of FFRDCs. VA needs to strengthen its oversight of these arrangements to ensure that its needs are being met and it is getting what it pays for.

Background

VA's administrations each have their own contracting offices—in the case of the Veterans Health Administration (VHA), many offices across the country. Additionally, the Office of Acquisition Operations runs two contracting offices that serve customers across VA: the Technology Acquisition Center (TAC) and the Strategic Acquisition Center (SAC). All contracting offices are generally required to use VA's eCMS, which is intended to act as a repository for all contract actions and their supporting documentation.

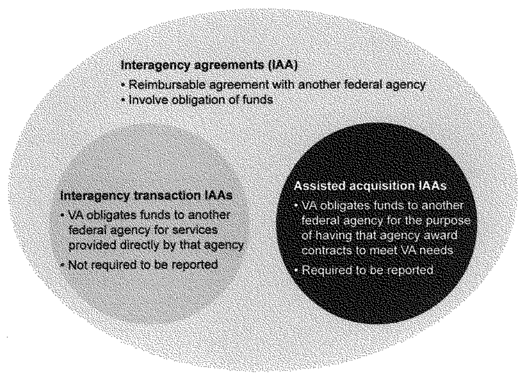
Interagency Agreements

An IAA is a written agreement between federal agencies. While IAAs have many similar characteristics to contracts, they are not contracts. In many cases, a contract is awarded by the servicing agency (such as a Department of Defense agency) to a contractor to meet VA's requirements for goods or services. VA, as the requesting agency, reimburses the servicing agency by paying a fee.

Further, IAAs can take different forms.

- Instances in which VA obligates funds for services provided directly by another agency are known as interagency transactions.
- By contrast, when VA obligates funds to another agency to award contracts on its behalf, these are called assisted acquisition IAAs.

Figure 1: Types of Interagency Agreements Used by the Department of Veterans Affairs



Source: GAO analysis of VA policy. | GAO-15-770T

VA issued a new policy memorandum on IAAs in 2013, which replaced a previous policy that had been in effect since 2009. The 2013 policy no longer requires interagency transaction IAAs to be awarded by contracting officers or entered into eCMS. It also created a new requirement for a Best Procurement Approach memorandum, and no longer required new IAAs under $25 million to be reviewed by the Deputy Senior Procurement Executive.

Federally Funded Research and Development Centers

FFRDCs are entities that are sponsored under a broad charter by a government agency to perform, analyze, integrate, support, or manage basic or applied research and development.[3] According to the FAR, an FFRDC is intended to meet a special long-term research or development need which cannot be met as effectively by the agency itself or other contractors. Since 2008, VA has been a co-sponsor of the Center for Enterprise Modernization (CEM), along with the Internal Revenue Service. CEM is operated by MITRE, a not-for-profit corporation that also operates several other FFRDCs. VA also has contractual relationships with other FFRDCs, but CEM is by far the largest.

VA's primary FFRDC policy document is its Governance Plan, which provides guidelines and procedures for ensuring compliance with the government-wide policies on FFRDCs in the FAR and with the agency's sponsoring agreement. It also designates the TAC as the contracting office responsible for all FFRDC actions across VA. The FAR prohibits FFRDCs from competing with commercial contractors. Accordingly, VA's Governance Plan requires that all proposed task order requirements meet several criteria before award to an FFRDC, including that:

- the work requires the special FFRDC relationship,
- is within the core competencies of the FFRDC, and
- cannot be performed by a commercial contractor.

TAC leads the teams responsible for reviewing all proposed task orders prior to solicitation to determine if the work is appropriate for an FFRDC, and for assessing FFRDC performance on individual task orders.

[3]FAR 2.101.

Extent of VA's Use of IAAs Is Unknown, and in Some Cases Management of IAAs Did Not Comply with Policy

In July 2015, we reported that according to available data we reviewed from VA's eCMS, for fiscal years 2012 through 2014, VA obligated about $1.7 billion to other federal agencies via IAAs.[4] However, we found that this amount may be inaccurate due to several significant limitations with the data. Until last year, eCMS was not suited to recording IAAs, resulting in inconsistent recording of data. Further, as noted above, current VA policy does not require all IAAs to be entered into eCMS (interagency transactions are not subject to this requirement), and this policy has been implemented inconsistently. While some contracting offices are no longer entering interagency transactions into eCMS, officials at others told us they are continuing to do so. Excluding interagency transaction IAAs from eCMS reporting, in conjunction with this variability in recording them, results in VA having limited visibility into the full extent of its dollars obligated through all IAAs. The VA Inspector General has also reported on shortcomings with eCMS, including incomplete data and a lack of integration with VA's accounting system.[5]

We conducted additional analysis in an attempt to derive a more robust estimate of IAA obligations and estimate that the total amount transferred to other agencies is between $2.3 billion and $2.6 billion, a difference of $600 to $900 million from the actions included in eCMS for this same period. We made this estimate by comparing the eCMS data to data from VA's accounting system. Though not specifically designed to track IAAs, the accounting system is used to initiate nearly all actions that transfer VA funds to external entities, including other federal agencies. Because no direct link exists between eCMS and VA's accounting system, actions can be initiated directly in the accounting system without being recorded in the contract management system, counter to VA policy requirements. To address these issues, in July 2015, we recommended that VA revise its policies on IAAs to (1) clarify which interagency transactions must be recorded in eCMS, and (2) improve the completeness of IAA data in eCMS, which could include routinely checking eCMS data against transaction data from the accounting system, as some VA offices already

[4]GAO-15-581.

[5]Department of Veterans Affairs Inspector General, Audit of VA Electronic Contract Management System, (Washington, D.C.: July 30, 2009); and Veterans Health Administration: Audit of Support Service Contracts, (Washington, D.C.: Nov. 19, 2014). This latter report had findings related to eCMS, but did not have additional recommendations specific to the system.

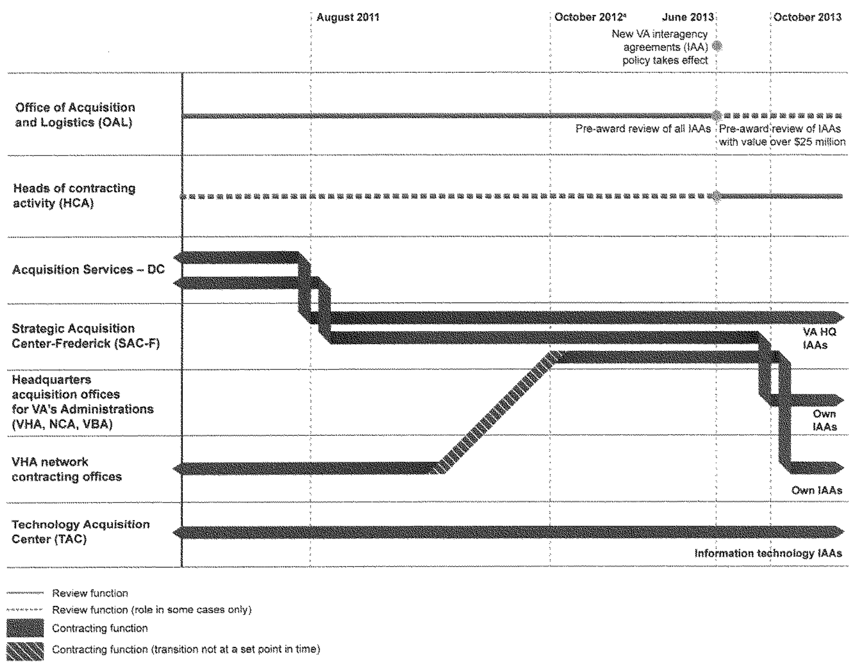
do.[6] VA agreed with our recommendation, stating that it will revise its existing policy to clearly identify which interagency transactions must be recorded in eCMS. However, VA did not address what steps it would take to improve the completeness of eCMS data. We believe it is important that VA make an effort to obtain a more complete picture of IAAs; as we suggested, one way to do so would be to routinely check eCMS data against transaction data in VA's accounting system.

Almost half of the assisted acquisition IAA orders we reviewed—9 of 21—did not comply with VA procurement policy that was in effect at the time these orders were issued. For instance, a Determination and Findings—which explains VA's reasoning for using an IAA instead of another procurement approach, such as a direct contract with a private firm—was not in the eCMS file in 5 cases, counter to VA policy requirements. In one instance, VA officials were not able to provide a copy of the IAA order itself, which is the document that establishes basic terms such as the estimated dollar value and period of performance.

We identified several issues that contributed to these compliance gaps. Specifically, we found that awareness of IAA policy requirements varied among VA officials. Officials from two of the five contracting offices we spoke with told us that they typically spend most of their time on contract actions and have limited experience with IAAs. Additionally, responsibility for assisted acquisition IAA award and oversight shifted between different organizations within VA several times in recent years, as shown in figure 2, which contributed to lack of awareness regarding policy requirements for IAAs.

[6]GAO-15-581.

Figure 2: Shifts in Responsibility for Contracting and Review of Assisted Acquisition Interagency Agreement (IAA) Awards, 2011-2013



NCA: National Cemetery Administration
VBA: Veterans Benefits Administration
VHA: Veterans Health Administration

Source: GAO analysis of VA policies and interviews with VA officials. | GAO-15-770T

[a]We did not identify any formal policy decision regarding transfer of IAAs to SAC-F, but both VHA network contracting offices we visited reported that SAC-F took over processing of their IAAs between October 2011 and October 2012.

Currently, VA does not provide agency-wide IAA training to VA staff. During our review of selected IAA file documentation, we found correspondence showing that one contracting specialist initially refused to award a new IAA order because she lacked experience with them; however, upon supervisory instruction, she ultimately processed the action. We found that some localized IAA training efforts exist, and VA is planning departmentwide training on assisted acquisition IAAs for contracting officials, although plans for implementation are not yet set. Thus, in July 2015, we recommended that VA ensure this planned training reaches the full range of program and contracting officials, particularly those who only occasionally award IAAs, and VA agreed with this recommendation, stating that several different offices are collaboratively developing training that will reach the intended audience.[7]

VA's Use of MITRE FFRDCs Increased during the Period, and VA Has Opportunities to Improve Oversight and Contract File Documentation

As we reported in July 2015, from fiscal years 2012 through 2014, VA obligated over $244 million to FFRDCs.[8] The vast majority of these obligations, about $241 million, were to two MITRE FFRDCs including CEM—which VA co-sponsors—and the Centers for Medicare & Medicaid Services Alliance to Modernize Healthcare (CAMH), which is sponsored by the Centers for Medicare & Medicaid Services. In addition, VA obligated a relatively small amount to three non-MITRE FFRDCs, approximately $3.5 million, as shown in table 1 below.

[7]GAO-15-581.

[8]GAO-15-581.

Table 1: Veterans Affairs Obligations to Federally Funded Research and Development Centers, Fiscal Years 2012 through 2014

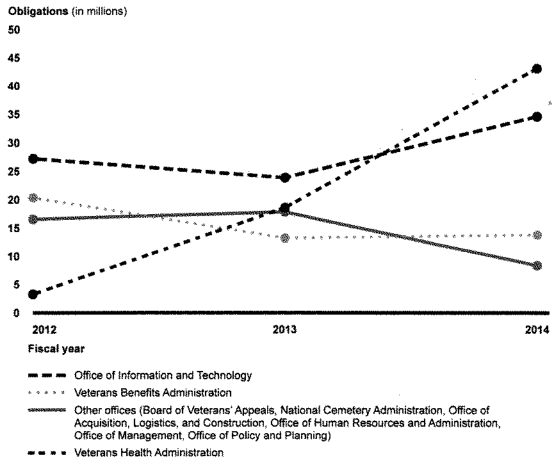
Federally Funded Research and Development Center	Total obligations
MITRE Center for Enterprise Modernization (CEM)	$210,915,546
MITRE Centers for Medicare & Medicaid Services Alliance to Modernize Healthcare (CAMH)	$29,971,302
Non-MITRE Operated Federally Funded Research and Development Centers	$3,561,440[a]
Total	**$244,448,288**

Source: GAO analysis of U.S. Department of Veterans Affairs and Federal Procurement Data System-Next Generation data | GAO-15-770T

[a]VA only centrally tracks contract actions to MITRE FFRDCs. We identified actions to three non-MITRE FFRDCs through our own analysis of Federal Procurement Data System-Next Generation data. During our review, we also identified that VA had a contract worth approximately $5.9 million with a fourth non-MITRE FFRDC via one of the interagency agreements that we reviewed.

VA obligations to MITRE FFRDCs increased by about 48 percent during the period—from about $67 million in fiscal year 2012 to nearly $100 million in fiscal year 2014. Overall, nine VA organizations used MITRE FFRDCs. All of VA's obligations to MITRE FFRDCs from fiscal years 2012 through 2014 were for services. Across the 10 task orders that we reviewed, VA used MITRE for a variety of services, including strategic management support, technical management support, and acquisition support. As shown in figure 3, VHA and the Office of Information and Technology account for most of the increase in obligations.

Figure 3: Obligations to MITRE Federally Funded Research and Development Centers by Veterans Affairs Organization Fiscal Years 2012 through 2014



Source: GAO analysis of U.S. Department of Veterans Affairs Electronic Contract Management System data. | GAO-15-770T

These two organizations accounted for 62 percent of total obligations over the period. The significant increase in VHA obligations to MITRE during the period is largely attributed to a $30 million task order issued to CAMH in September 2014 to conduct and integrate independent assessments of VA healthcare processes as required by the Veterans Access, Choice, and Accountability Act of 2014.[9] The Office of Information and Technology provides information technology tools and

[9]Section 201(a) of the Choice Act requires VA to enter into one or more contracts with a private sector entity or entities to conduct twelve independent assessments of the hospital care, medical services, and other health care furnished in medical facilities of the Department. According to VHA officials, CAMH is conducting 11 of the 12 assessments, and the Institute of Medicine is conducting one assessment that was in progress when VHA awarded the task order to CAMH.

support department-wide; therefore, FFRDC support procured by this office is generally on behalf of another VA organization.

Contracts with FFRDCs can be advantageous, but are noncompetitive, which can pose risks to the government in that it has less leverage to negotiate than it would have in a competitive environment. VA has established a Governance Plan, updated in January 2015, for managing and using FFRDCs. The plan calls for reviews to monitor FFRDC use when individual task orders are issued for work. A team led by the TAC—the Acquisition Integrated Process Team—is to review all potential FFRDC task order requirements to determine whether the proposed work meets VA's criteria for award to an FFRDC. And a separate team, also led by TAC, is required to monitor FFRDC performance on individual task orders.

The Governance Plan is to apply to all FFRDC awards; however, we found that TAC officials were not aware of awards made by other contracting offices to three non-MITRE FFRDCs. According to our analysis of data from the Federal Procurement Data System-Next Generation, these actions totaled over $3.5 million from fiscal years 2012 through 2014. In addition, during our review we identified that VA had a contract worth approximately $5.9 million with a fourth non-MITRE FFRDC via one of the interagency agreements that we reviewed.[10] As a result of this lack of comprehensive information, VA is limited in providing effective oversight of these awards. In July 2015, we recommended that VA ensure that all FFRDC actions are centrally reviewed, and VA concurred with our recommendation, stating that it will enforce compliance with the Governance Plan via an executive memorandum to all VA Heads of Contracting Activity.[11]

In July 2015, we also found that VA has opportunities to improve documentation for individual FFRDC task orders. Two key areas pertain to the rationale for determining that (1) MITRE's proposed prices were acceptable, and (2) the proposed work was appropriate for an FFRDC:

[10]Since this FFRDC action was awarded via an interagency agreement, it did not appear in our search of VA FFRDC actions in Federal Procurement Data System-Next Generation. We could not ascertain the VA obligations for this contract because the files we reviewed did not contain this information.

[11]GAO-15-581.

- All 10 task orders we reviewed were issued for the exact dollar value of MITRE's proposal. In six cases, the award amount was more than VA's own cost estimate, by an average of about 12 percent. In these six instances, VA accepted MITRE's proposal, and we found no evidence of negotiation for these awards, specifically for the number of labor hours needed and the experience level of MITRE staff members. Further, in three of these six cases, we found that the contract files did not fully explain how VA determined that MITRE's price proposal was acceptable. Because these task orders are issued noncompetitively, it is especially important for VA to document how it evaluated MITRE's pricing and determined it to be acceptable. Without sufficient documentation, it is not clear whether VA effectively negotiated with MITRE to ensure that the cost is appropriate for the level of effort required.
- The 10 MITRE task orders we reviewed complied with the basic requirements in VA's Governance Plan for award and oversight. However, contract files contained limited evidence of the basis for the Acquisition Integrated Process Team's determination that individual task order requirements met VA's criteria for award to an FFRDC. This includes determining whether the requirement could be met by a commercial contractor, which is especially important in this noncompetitive environment. According to TAC and program officials, during Acquisition Integrated Process Team reviews they discuss changes in the scope of proposed work, and sometimes the team makes a determination that a requirement, or portions of a requirement, are not appropriate for FFRDC performance. However, these discussions are not being documented. This documentation is important to allow comparison of any future changes to existing work to ensure that they align with the original rationale for issuing the task order to an FFRDC.

Thus, in July 2015, we recommended that VA take additional steps to ensure that its reviews of FFRDC appropriateness and task order negotiations with FFRDCs are appropriately documented, and VA agreed to make changes to its processes to better document pre-award reviews and how the costs were negotiated.[12]

Finally, VA uses cost reimbursable contracts for its work with MITRE's FFRDCs and pays a fixed fee on nearly all costs estimated, including

[12]GAO-15-581.

travel.[13] For task orders issued to MITRE's CEM during the period of our review, this fee was 4 percent. Across the 10 task orders we reviewed, this translated to MITRE being eligible to receive about $5.5 million in fixed fee. Of this total potential fee, $50,092 is estimated for travel costs. While the negotiation of a fee for an FFRDC's work is consistent with the FAR guidance, in certain circumstances other federal agencies have made decisions not to pay fixed fee on contractor travel costs. For example, we identified several Space and Naval Warfare Systems Command cost-plus-fixed-fee task orders for professional support services where the government pays the contractor fixed fee on labor hours, but it reimburses the contractor for actual, reasonable travel costs without any fee. This approach may allow the government to reduce its overall costs. TAC officials told us that while travel costs are considered low risk, to their knowledge VA has not considered excluding travel costs from fixed fee. In July 2015, we recommended that VA consider doing so, and VA agreed, stating that it will enter into negotiations with MITRE with the intent of excluding travel from calculation of the fee.

Chairman Coffman, Ranking Member Kuster, and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgements

If you or your staff have any questions about this statement, please contact Michele Mackin, Director, Acquisition and Sourcing Management at (202) 512-4841 or MackinM@gao.gov. In addition, contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony are Lisa Gardner, Assistant Director; Laura Greifner; Janelle House; Julia Kennon; Katherine Lenane; Teague Lyons; Jean McSween; Kenneth Patton; Sylvia Schatz; Roxanna Sun; Eli Yani; and Andrea Yohe.

[13]Under a cost-plus-fixed-fee task order, the government pays the contractor's allowable costs, plus an additional fee that was negotiated at the time of contract award. We previously concluded that these contracts, while sometimes appropriate, are considered high risk for the government because of the potential for cost escalation and because the government pays a contractor's allowable cost of performance regardless of whether the requirement is fulfilled. GAO, *Contract Management: Extent of Federal Spending under Cost-Reimbursement Contracts Unclear and Key Controls Not Always Used*, GAO-09-921 (Washington, D.C.: Sept. 30, 2009).

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Executive Summary: GAO Testimony before the Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs, House of Representatives; July 21, 2015, 4 PM

VETERANS AFFAIRS CONTRACTING: Improved Oversight Needed for Certain Contractual Arrangements

In July 2015, GAO found that the Department of Veterans Affairs (VA) cannot document the extent to which it used interagency agreements in fiscal years 2012 through 2014, and in some cases its management of these agreements did not comply with policy. GAO reviewed data from VA's contract management system and found that VA obligated about $1.7 billion to other government agencies via such agreements. However, GAO's analysis of data from VA's accounting system found that the total amount transferred to other agencies over this period was between $600 million to $900 million more than that for the same period. GAO found that VA's contract management system data are incomplete due to several shortcomings. For example, no direct link exists between VA's contract management system and VA's accounting system, thus, actions can be initiated directly in the accounting system without being recorded in the contract management system, counter to VA policy requirements. In addition, VA recently revised its policy to no longer require certain interagency agreements to be entered into the contract management system, further limiting its visibility into the full extent of its use of interagency agreements. Thus, GAO recommended that VA revise its policies on interagency agreements so that it can better record and track them; VA agreed, but in its response, did not address what steps it would take to improve the completeness of the data in its contract management system. Moreover, VA's management of the award and oversight of the interagency agreements GAO reviewed varied, and in some cases did not comply with its policy. Nearly half of the 21 interagency agreements GAO reviewed were missing items such as documentation of VA's reasons for using an interagency agreement instead of another procurement approach, for example. Some contracting officials were not aware of policy requirements, in part due to an absence of training opportunities. VA has begun developing training, but it may not cover all who need it. Thus, GAO recommended that VA ensure that planned training reach the full range of program and contracting officials; to which VA agreed, stating that training will reach the intended audience.

As GAO reported in July 2015, VA obligated over $244 million to Federally Funded Research and Development Centers (FFRDC) from fiscal years 2012 through 2014, and has opportunities to improve documentation and oversight. Almost all of these obligations were to FFRDCs operated by the MITRE Corporation (MITRE). Contracts with FFRDCs can be advantageous, but are noncompetitive, which can pose risks to the government in that it lacks the leverage to negotiate that it would otherwise have in a competitive environment. VA used MITRE for strategic and technical management support and other consulting services. GAO found that VA has processes to review individual FFRDC task order requirements, but not all awards are subject to these reviews, as VA does not centrally track contract actions to non-MITRE FFRDCs. As a result, VA is missing opportunities to provide more effective oversight for all of its FFRDC awards. In addition, all 10 MITRE task orders GAO reviewed complied with VA's basic requirements. However, these contract files contained limited documentation of some of the factors VA is to consider during pre-award reviews to determine the appropriateness of an FFRDC, and for some awards the contract files did not fully explain how VA determined that the contractor's proposed price was acceptable. Without this information, contracting officials who later revisit the file to make modifications will be limited in their abilities to make well-informed decisions. In addition, VA has opportunities for costs savings by reassessing whether to continue paying a fixed fee on travel costs. GAO recommended, among other things, that VA ensure all FFRDC actions are centrally reviewed and appropriately documented. VA agreed.

Why GAO Did This Study
VA spent about $19 billion to buy goods and services in fiscal year 2014—partly through agreements where other agencies award contracts on VA's behalf. VA also uses FFRDCs—government-funded entities that have relationships with federal agencies—to perform certain tasks. These arrangements can help VA meet its needs and take advantage of unique expertise.

In light of questions about VA's use of interagency agreements and FFRDCs, GAO was asked to look at how VA uses and manages these methods of procuring goods and services. This testimony is based on GAO-15-581, and like the report, assesses (1) the extent of use and effectiveness of VA's management of interagency agreements for fiscal years 2012 through 2014, and (2) the extent of use and effectiveness of VA's management of FFRDCs during this same period. GAO reviewed VA procurement policies, federal acquisition regulations, VA contract data, a sample of 21 interagency agreements and 10 FFRDC task orders, chosen, in part, based on obligation amounts; and interviewed officials from VA, other agencies, and MITRE, the primary FFRDC with which VA does business.

What GAO Recommends
In its July 2015 report, GAO made five recommendations to VA on actions to ensure consistent implementation and documentation of actions related to interagency agreements and FFRDC task orders. VA agreed with GAO's recommendations.

Questions for the Record
House Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations Oversight Hearing

"Lack of Oversight of Interagency Agreements- VA Procurement Failures Continued"

Questions for the Record from Chairman Mike Coffman

1. Based on a 2009 VA OIG report, VA agreed to assess the feasibility of integrating eCMS into VA's accounting system but GAO found that no such integration has occurred to date. Why is that the case?

VA Response: In 2009, a feasibility study was commissioned by Enterprise Acquisition Systems Service to determine the best approach to integrate the VA's Electronic Contract Management System (eCMS) with VA's Financial Management System (FMS) and/or Integrated Funds Distribution, Control Point Activity, Accounting and Procurement System (IFCAP). The study concluded that due to VA's ongoing project to replace FMS, the best approach was to integrate eCMS with IFCAP.

In April 2012, a project team was chartered to develop an interface between eCMS and IFCAP. The first phase of the project would allow IFCAP to transfer purchase requests (PR) data to eCMS and allow eCMS to return PR data to IFCAP. The first phase successfully rolled out in December 2012. Phase 2, the passing of obligation data from eCMS to IFCAP, could not be completed. This was a result of the decentralized nature of IFCAP and the numerous versions that were in place throughout VA. VA is currently planning for a new integrated financial management system that will remedy this problem for VA.

2. **VA told GAO that its Financial Services Center is implementing a new internal control to prevent VA offices from initiating funding transfers without having a copy of the IAA available in a central repository. When does VA plan to implement this internal control?**

   VA Response: By August 31, 2015, VA will implement a new control in the Financial Accounting Service Intra-Governmental Payment and Collection application (FASPAC) to make attaching Interagency Agreements (IAAs) mandatory for processing an Intra-Government Payment and Collection transaction.

3. What are VA's plans to improve the tracking of servicing agency fees paid on IAA's?

VA Response: VA manages the data regarding servicing agency fees at the contracting officer level. VA has the ability to produce relevant information regarding

%/fees agreed to in the Interagency Agreement to amount of fees paid. Additionally, VA Office of Management has established an Interagency Agreement Repository to the Financial Accounting Service Payment and Collections system. That Office has also directed that all intergovernmental charges be promptly and accurately loaded in the VA Financial Management System.

4. During the hearing, VA stated that IAA servicing agency fees range from two to 14 percent. How does VA determine whether a given level of servicing agency fee is fair and reasonable? What is VA's rationale for accepting a 14 percent servicing agency fee?

VA Response: Fees vary as a result of the servicing agency best value support. The extent of the services provided and the risk assumed by the agency are factors in determining the fee.

5. Provide details on when additional IAA training will be provided to contracting personnel, including what it will be, who will it reach, and whether it will be mandatory?
VA Response: The Department has developed a draft package on Interagency Agreements (IAAs) related to interagency acquisitions; VA is working to incorporate updates initiated as a result of the GAO report findings.

- The training package is planned to be completed and ready for presentation by December 1, 2015.

- The training will address planning and approval of the acquisition plan, development, coordination, and approval of the IAA, contract file maintenance, reconciliation of the action and contract closeout.

- The training will be included in VA curriculum for Contract Specialist and Contracting Officer Representative and other members of the acquisition workforce who are engaged with interagency acquisitions and agreements as appropriate.

VA Office of Acquisitions, Logistics and Construction and Office of Management will collaborate on this curriculum to ensure consistent application of policy for interagency acquisitions and agreements in VA.

6. In the past, VA had transferred millions of dollars to OPM under an IAA, where the money sat unobligated for more than two years. What controls has VA put in place to ensure this does not happen again?

VA Response: In regard to the reference to the OPM IAA, the OALC, Office of Acquisition Operations (OAO) took the following actions to ensure better controls are in place in the acquisition process:

- Specify period of performance not to exceed 5 years. Each year is an option year to be exercised by VA based on need and performance.
- Fund each option year with the funds of the year where the services would be needed and not send the full amount for the entire possible performance period to the agency.
- Hold monthly progress meetings to include the VA Contracting Officer and Program Managers and the Servicing Agency and the contractor (if appropriate).
- If progress is not acceptable, cancel the IAA and ensure unobligated funds are promptly returned to be used by VA to acquire the services by another means.
- Close-out all IAAs using official closeout procedures to liquidate unused funds as appropriate.

The VA Office of Management (OM) has established an Interagency Agreement Repository to the Financial Accounting Service Payment and Collections system. That office has also directed that that all intergovernmental charges are promptly and accurately loaded in VA Financial Management System.

7. According to GAO, in 60 percent of the MITRE contracts it reviewed, VA accepted MITRE's proposal, which was more than VA's cost estimate, without any apparent negotiation. In the hearing, VA explained that rates are established in advance by an Air Force administering Contracting Officer. In the hearing, VA explained that its usual practice is to sit down with MITRE and work out the number of hours and the labor mix needed to perform a particular statement of work. Was there any instance when VA disagreed with MITRE's opinion of the necessary labor hours and labor mix, or does VA defer to MITRE in every case?

VA Response: For background purposes, there are several cost elements in a cost proposal that are evaluated to determine that proposal is fair and reasonable. These cost elements include: labor, other direct costs, indirect costs, and fee. Indirect costs proposed by MITRE for VA task orders are based on rates previously negotiated by a Corporate Administrative Contracting Officer, who is assigned by the Department of the Air Force; therefore, these costs are not negotiated by VA. With respect to labor, MITRE proposes published labor rates based on a Defense Contract Administrative Agency audited and approved payroll system; therefore, labor rates are not negotiated by VA. VA does negotiate the proposed labor and other direct costs. Finally, fee was negotiated at the contract level.

There are instances when VA disagrees with MITRE's proposed labor hours and labor mix. In these cases, VA ensures that there is a common understanding of the requirement, as well as an understanding of the technical approach to meet the requirement. Furthermore, VA always ensures that the proposed labor hours and labor mix are reasonable for the requirement. Some examples where the Government disagreed with MITRE's rough order of magnitude (ROM) or proposal include:

a. In some cases, fact finding sessions are needed after the proposal is received in order to ensure the assumptions used by MITRE are correct. For example, for task order VA118A-13-J-0254, the original proposal was received in the amount of $1,938,808, which was higher than the Government independent cost estimate. In order to gain an understanding of the proposed amount, the Government released clarification items and held a fact-finding session with MITRE. The assumptions used in MITRE's proposal were clarified, resulting in a revised proposal in the amount of $1,328,515.

b. In the event a common understanding is achieved based on the pre-solicitation meeting, but VA still disagrees with MITRE's proposed labor hours and labor mix, VA enters into negotiations with MITRE. For example, for task order VA118A-15-J-0072, the initial proposal was received in the amount of $1,230,548; the Government's objective was $1,103,022.19. After VA entered into formal negotiations with MITRE the resulting task order was negotiated for an award value of $1,076,474.99.

8. Regardless of whether VA ultimately accepted MITRE's proposed labor hours and labor mix, can the VA provide pre- and post-negotiation memoranda documenting VA's pricing rationale for the FFRDC task orders that GAO examined? If no such memoranda exists, please provide the meeting minutes where the pricing rationales were discussed.

VA Response: Attached are the price negotiation memoranda for the 10 FFRDC task orders reviewed by GAO.

9. All of FFRDC task orders reviewed by GAO were cost-plus-fixed-fee type. Has VA issued any cost-reimbursement (no fee) or any other cost-variant-type FFRDC task orders?

VA Response: No. All FFRDC task orders issued by the Technology Acquisition Center are cost-plus-fixed-fee type. No other contract type was used. The fee is necessary in order for MITRE to cover costs that are over and above allowable costs, in accordance with FAR 15.404-4. Furthermore, VA determined that the cost-plus-fixed-fee type is the most appropriate contract type for FFRDC requirements. VA researched others including the Department of Treasury, Internal Revenue Service, the Department of Health and Human Services, Center for Medicare and Medicaid Services, the Department of Justice, the Federal Aviation Administration, and the National Institute of Science and Technology. These agencies all have cost-plus-fixed-fee type contracts with MITRE.

10. Is VA obtaining certified cost and pricing data for FFRDC task orders over $700,000 as required by the Truth in Negotiations Act?

VA Response: Yes. VA obtains certified cost and pricing data for every MITRE FFRDC task order valued over $700,000; and every new work modification valued over $700,000.

11. GAO found that VA is paying fixed fee for contractor travel costs on FFRDC task orders. GAO also found that the Space and Naval Warfare Systems Command does not pay fixed fee for travel. Has VA considered excluding these travel costs?

VA Response: Based on GAO recommendations, VA has entered into negotiations with MITRE to change the contract terms so that fee is not calculated based on estimated travel costs.

12. VA's response to GAO's recommendations indicated that VA plans to enter into negotiations with MTRE to remove travel costs from the cost pool against which MITRE's four percent fee is calculated. However, at the same time, MITRE's fee increased when VA previously removed local travel costs. How does VA plan to conduct its negotiation this time to ensure that travel costs do not boost the fee paid to MITRE?

VA Response: VA intends to negotiate the fee calculation change by using GAO's recommendation as an initial negotiation starting point. Secondly, VA intends to gain the support of other Government agencies, including the Air Force Corporate Administrative Contracting Officer, and the Internal Revenue Service FFRDC Contracting Officer, with whom VA co-sponsors the Agreement with The MITRE Corporation, operating as an FFRDC known as the Center for Enterprise Modernization. Finally, VA intends to analyze historical travel costs, and estimate the amount of fee that would be lost by MITRE, by removing travel costs from the four percent fee calculation, to determine a negotiation objective. MITRE is also required to report on the use of fee. VA can use the estimated amount of fee lost, and the understanding of MITRE's use of fee, to ensure any change is fair and reasonable.

13. GAO found that, contrary to procedures, the Technology Acquisition Center (TAC) was not involved with at least four FFRDC contracts. How will you go about ensuring that these non-MITRE contracts are reviewed before more money is spent?

VA Response: The requirement to centralize the execution of FFRDC contracts with the TAC was not effective until January 2015. The four FFRDC contracts not issued by the TAC were put in place prior to January 2015. Revisions made to the January 2015 Department of Veterans Affairs Governance Plan for use of an FFRDC expanded the applicability to all FFRDC requirements within VA to include the use of FFRDCs sponsored by other government agencies. In addition, it centralized the execution of tactical level governance across VA to the TAC as the Customer Service Manager to oversee the acquisition planning of all FFRDC efforts and authorized it as the only contracting activity in VA to award FFRDC contract actions, unless otherwise delegated in writing by the VA Acquisition Management Team Chair. The TAC will be reviewing any active FFRDC contracts that they were not involved in over the next 45 days to ensure the Governance process is followed prior to any increase in the funding obligated for these four contracts.

14. Given that FFRDC support on individual projects is not intended to be permanent, can VA give any examples of work that has been transitioned that was formerly performed by an FFRDC in-house or competitively awarded to a commercial contractor?

VA Response: One of the clearest examples of an FFRDC assisting VA in setting up a capacity, and then transitioning off, would be in the establishment of Program Management Offices (PMO's), and the institutionalization of disciplined, Project Management principles in the development and execution of VA's time-critical mandates. This was demonstrated through a series of Major and Supporting initiatives that were established in 2009 to fundamentally transform VA. The FFRDC, in this case MITRE, was used to develop multiple PMOs including support to the Human Capital Investment Plan, and the Enterprise Program Management Office, which was itself tasked with guiding integration of all 16 Major Initiatives within the Departments business lines. Over the course of the last 6 years, VA has developed internal PM capacity and has primarily leveraged commercial vendors for PMO support.

15. In the hearing, Mr. Orso indicated that FFRDCs were involved in the MyVA integrated enterprise effort managed by Mr. Robert Snyder, Executive Director, MyVA Task Force. Please identify every FFRDC involved and describe in detail all of the services they are performing for MyVA. Also, given the extent of FFRDC involvement in MyVA indicated by Mr. Orso along with the fact that Mr. Snyder was previously involved with FFRDCs at the Office of Policy and Planning, please explain why VA chose to keep Mr. Snyder from being present at the hearing despite the Committee's invitation.

a. Please identify every FFRDC involved and describe in detail all of the services they are performing for MyVA.

VA Response: Federally Funded Research and Development Center (FFRDC) support for the MyVA Task Force is being provided by the Center for Enterprise Modernization (CEM) operated by the MITRE Corporation. The principal areas of support are in MyVA planning, integration, decision support and acquisition. A detailed listing of services follows:

- Assisted the Department of Veterans Affairs (VA) in defining the overall outcomes for MyVA, and initial strategies for the five MyVA initial priorities: Veterans Experience, Employee Experience, Support Services Excellence, Performance Improvement and Strategic Partnerships.

- Worked with VA to develop the MyVA Integrated Plan.
- Assisted VA to identify the integration points – both among the initial priorities being sponsored by the MyVA Task Force and between the Task Force priorities and other projects and activities at VA. This work will help to provide the foundation for implementation of MyVA related work and ensure that gaps and overlaps with other work are minimized.
- Provided subject matter expertise and planning support for as-is assessments of VA support services, including Human Resource operations, Finance, Information Technology and Procurement. These analyses are being used to inform high level concepts and plans for Support Services Excellence activities.
- Assisted VA with several MyVA-related acquisitions, including the acquisition of a vendor to support the development of the Veterans Experience office and requirements development and market research to support procurements for Lean Process subject matter expertise (for Performance Improvement) and design research (for Veterans Experience).
- Providing advice for the planned procurement of commercial services to support the implementation of a Shared Services model at VA.

b. Also, given the extent of FFRDC involvement in MyVA indicated by Mr. Orso along with the fact that Mr. Snyder was previously involved with FFRDCs at the Office of Policy and Planning, please explain why VA chose to keep Mr. Snyder from being present at the hearing despite the Committee's invitation.

VA Response: In 2014, Mr. Robert Snyder was reassigned from the Office of Policy and Planning to serve as the Executive Director, MyVA Program Office. Upon receiving the committee hearing invitation letter on 7 July 2015, the Office of Congressional and Legislative Affairs recommended to Committee staff that Mr. David Orso, Executive Director, Enterprise Program Management Office testify in place of Mr. Snyder. Since Mr. Orso is currently responsible for overseeing the management of VA's priorities of work for the FFRDC (the same duties that Mr. Snyder held in his previous assignment), he was in the best position to answer any questions from committee members related to the Department's current use of FFRDCs. The committee staff accepted the recommendation and Mr. Orso provided testimony on behalf of the Department.

<u>Question for the Record from Congresswoman Jackie Walorski:</u>

At the hearing, Mr. Orso promised examples of types of work where VA has

developed its own in-house capacity through working with MITRE (and no longer reaches back to MITRE for support). Please provide this information.

VA Response: Please refer to the earlier response to Question 14, which addresses these concerns in their entirety.