



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

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VETERANS AFFAIRS CONTRACTING

Improved Oversight Needed for Certain Contractual Arrangements

Statement of Michele Mackin, Director, Acquisition
and Sourcing Management

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

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

²We 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.

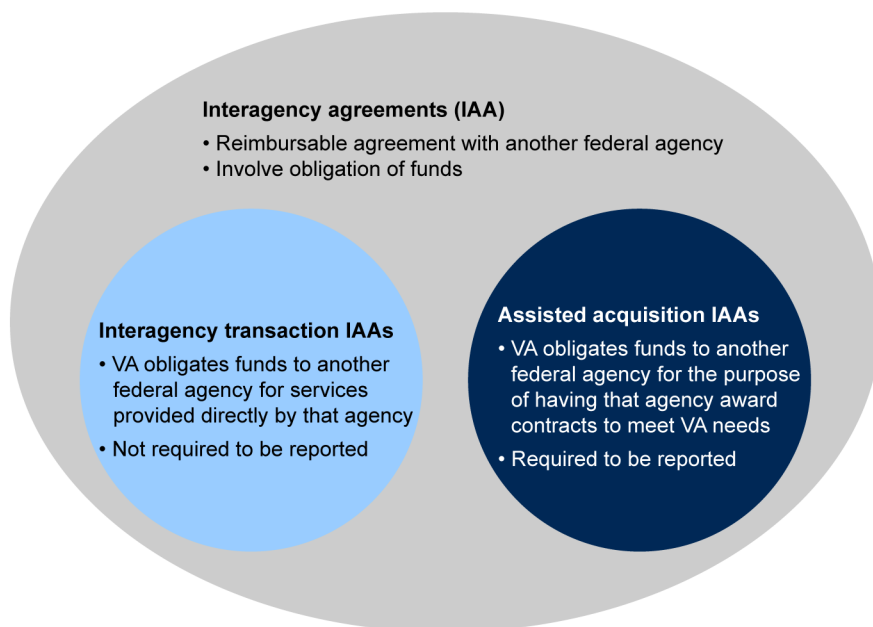
Interagency Agreements

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.

³FAR 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](#).

⁵Department 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.

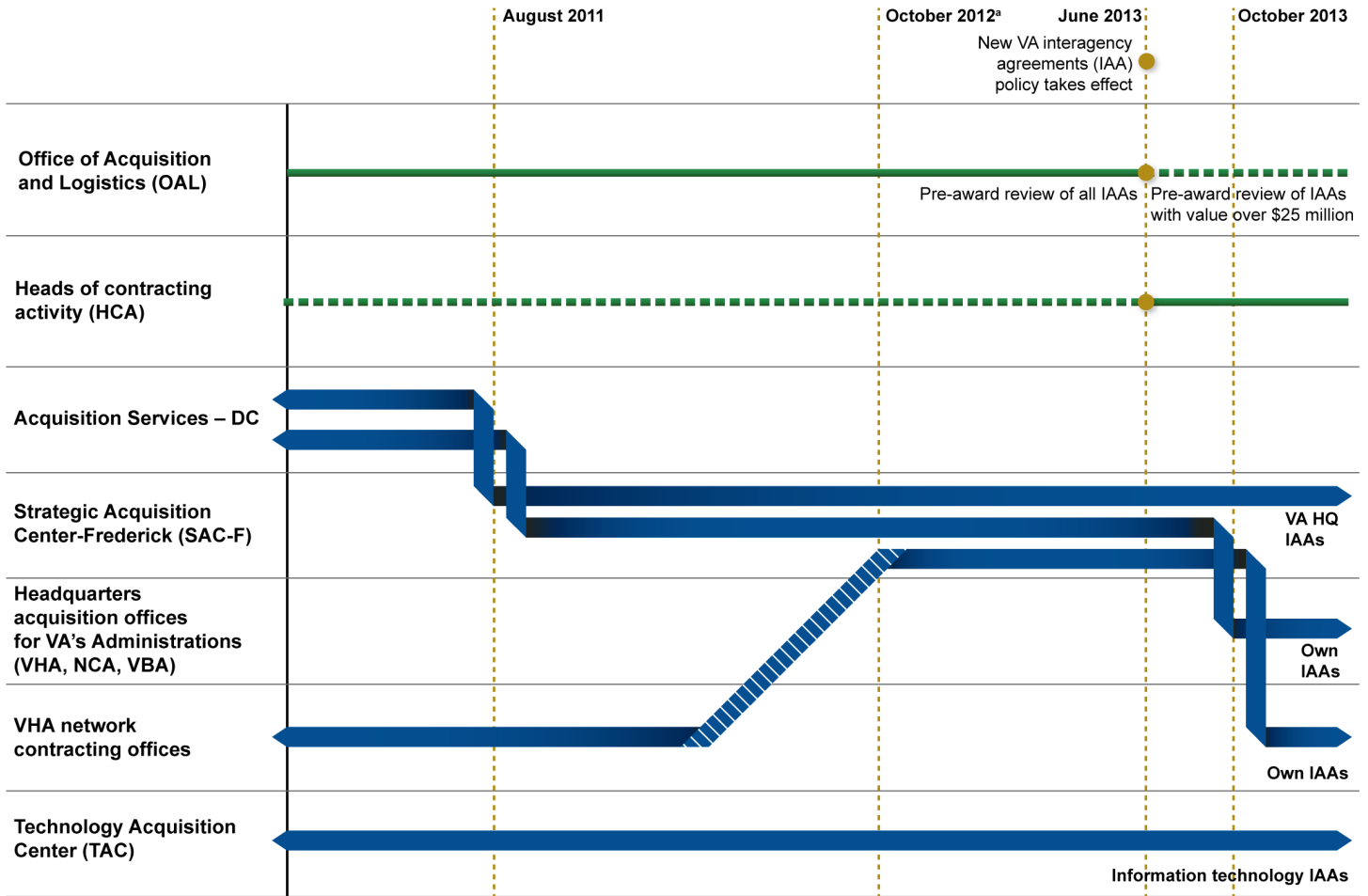
do.⁶ VA agreed with our recommendation, stating that it will revise its existing policy to clearly identify which interagency transactions must be recorded in eCMS. However, VA did not address what steps it would take to improve the completeness of eCMS data. We believe it is important that VA make an 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



- Review function
- - - Review function (role in some cases only)
- █ Contracting function
- ▨ Contracting function (transition not at a set point in time)

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

^aWe 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.

⁷GAO-15-581.

⁸GAO-15-581.

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

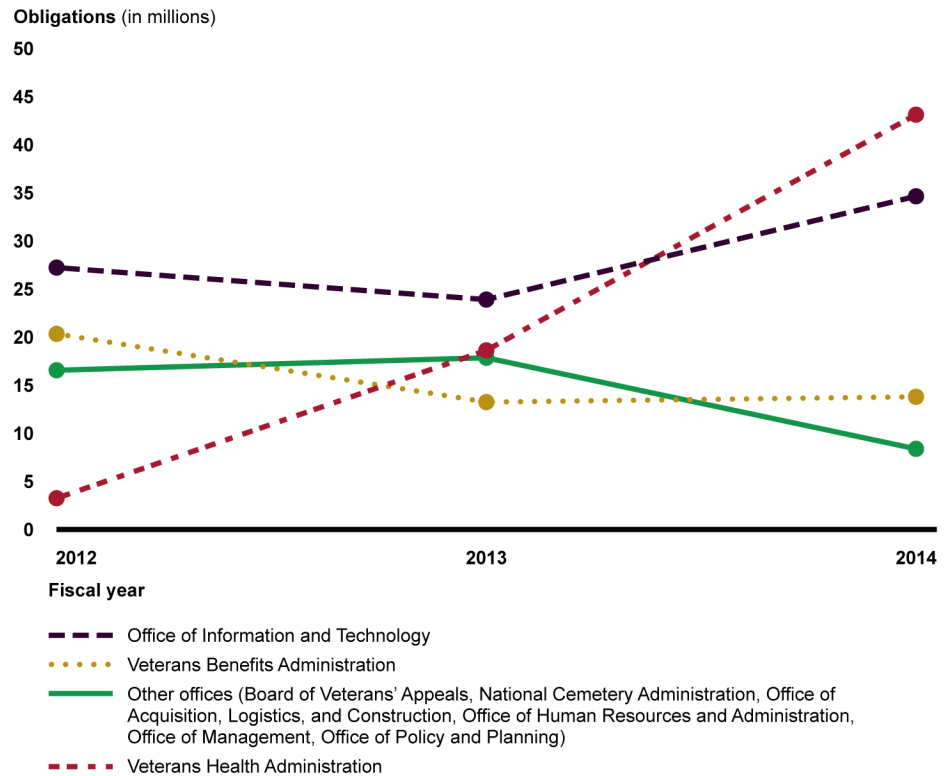
Federally Funded Research and Development Center	Total obligations
MITRE Center for Enterprise Modernization (CEM)	\$210,915,546
MITRE Centers for Medicare & Medicaid Services Alliance to Modernize Healthcare (CAMH)	\$29,971,302
Non-MITRE Operated Federally Funded Research and Development Centers	\$3,561,440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

^aVA 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

⁹Section 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:

¹⁰Since 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](#).

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- 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.

¹³Under 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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