



# Department of Veterans Affairs Office of Inspector General

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## Review of Allegations of Acquisition Planning Weaknesses and Cost Overruns on the Contract Awarded to Catapult Technology, Ltd.

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## **Executive Summary**

### **Introduction**

In June 2010, the Office of Inspector General (OIG) received a Hotline complaint from an anonymous source alleging problems with a contract awarded to Catapult Technology, Ltd. (Catapult). The complainant outlined six specific allegations related to acquisition planning weaknesses and cost overruns. The OIG conducted a review of the contract to determine the merits and validity of each of the allegations.

On October 6, 2008, the Department of Veterans Affairs (VA) awarded a contract to Catapult for the installation of wireless fidelity (Wi-Fi) location-based infrastructure at 236 VA sites nationwide. The contract was a task order awarded against the Veterans Technology Services Government-Wide Agency Contract (GWAC) awarded by the U.S. General Services Administration (GSA). The contract award was valued at \$91.4 million and the length of the contract was not to exceed five years. The contract was structured with 7 pilot sites to be completed within 90 calendar days after award, and 12 additional Phase I Contract Line Item Numbers (CLINs) to be completed within 100 calendar days after the completion of the pilot sites. The remaining 217 CLINs, designated as Phase II, were to be completed within 21 months following the date of award. Phase III was made up of the four option years for maintenance and warranty. In October 2010, the VA Contracting Officer (CO) issued a Stop-Work Order because of invoicing and pricing issues. To date (after two years of performance), Catapult has completed Wi-Fi installation at only 45 sites.

### **Results**

We determined that the time frames established to plan, solicit, and award a contract were unreasonable. The acquisition team established a very aggressive timeline for the acquisition process, even though it was a complex procurement and the Independent Government Cost Estimate was in excess of \$150 million. The acquisition team anticipated awarding a contract in less than two months from the date the acquisition plan was established. Our review determined that because of the rush to award, VA did not establish firm requirements and issued a Statement of Objectives (SOO) that lacked the detail needed for vendors to submit reasonable firm-fixed-price (FFP) proposals to VA. The lack of detail has caused contract costs to escalate under the contract as well as significant delay of installation of Wi-Fi nationwide.

We verified the allegation that contract costs have escalated significantly since award. The current contract costs are projected at \$161.5 million, which is a \$70.5 million (77 percent) increase in contract costs. This is even after the Office of Information and Technology (OI&T) officials have taken steps to reduce the requirement, including proposing to reduce the number of sites and scaling back the required Wi-Fi coverage at some locations. We believe costs will continue to increase if the contract continues

because VA cannot accurately project the total costs to complete Wi-Fi installation at the remaining VA sites.

Although the solicitation required offerors to submit an FFP for installation at each identified site, these prices are essentially meaningless because the contract contains an Engineering Change Request (ECR) provision that permits pricing modifications. Our review determined that there have been a significant number of ECR modifications approved that have increased contract costs. As of October 5, 2010, there were 27 ECRs pending with VA and Catapult stated that an additional 12 ECRs would be submitted. We found that the majority of the ECR modifications were due to inadequate site maps and related information that were provided by VA during the solicitation process. These site maps contained unreliable and even erroneous information such as incorrect square footage, incorrect number of buildings at site, and no details regarding the building materials in the buildings where Wi-Fi was to be installed (for example, thick concrete and x-ray shielded walls). Specific information provided in the site maps and other documentation was critical for vendors to develop an FFP for each site as required by terms of the solicitation. Documentation shows that VA program officials knew that much of the information was incomplete and/or unreliable, yet they continued with the procurement and simply planned to process ECR modifications to address any incorrect information.

We also substantiated that VA has been inappropriately paying Catapult on a milestone basis from the award of the contract to the Stop-Work Order in October 2010. We found that the task order awarded by VA did not have any provision for milestone payments. Catapult should have invoiced VA at the completion of each site (each site was a CLIN). However, Catapult had been invoicing VA at four different times for each site and VA paid each invoice as received. This was not only inconsistent with the terms of the contract; it was also inconsistent with the information provided to vendors during the solicitation process.

We could not determine with certainty that the increase in costs after award violated the Competition in Contracting Act (CICA). However, we did find that the contract was modified to add 83 CLINs representing additional sites. This significant increase could be viewed as a cardinal change because the contract did not include a provision allowing for an increase in the number of sites.

During our review, we also learned that VA is considering a significant restructuring of the contract and pricing schedule that we believe violates CICA. These changes include changing existing pricing for CLINs from FFP for each site to an FFP for separate line items, such as site surveys, equipment and installation, travel, management oversight, and hardware and software. Thus, Catapult's services would be purchased by VA in a manner similar to an Indefinite Order, Indefinite Delivery Contract, rather than FFP by

site as originally awarded. We believe the proposed changes represent a cardinal change to the contract.

We also discovered evidence that raises a question whether Catapult is in compliance with the provisions of FAR clause 52.219-27 Notice of Total Service-Disabled Veteran-Owned Small Business (SDVOSB) Set-Aside contained in the underlying GWAC. The GSA contract was a set-aside for SDVOSBs. The clause requires that at least 50 percent of the costs for labor must be spent for employees of the SDVOSB or those of another SDVOSB.

## **Recommendations**

We recommend that the Deputy Assistant Secretary, Office of Acquisitions and Logistics (DAS), in coordination with the Assistant Secretary for Information and Technology:

1. Not issue the contract modification proposed by the CO in October 2010 because it represents a prohibited cardinal change to the contract;
2. Review the award documentation to determine whether the award encompassed 236 sites or was limited to the 19 sites cited in the award document;
3. Determine whether Catapult is in compliance with FAR clause 52.219-27 contained in the underlying GWAC, which requires that 50 percent of the labor costs must be spent for employees of the SDVOSB;
4. If it is determined that there is a valid contract in place and that Catapult is in compliance with FAR clause 52.219-27, consider terminating Catapult contract GS-06F-0511Z, Task Order V200P-1971, and re-competing the remaining requirements for Wi-Fi at VA sites.

If VA decides to re-compete the requirement, we recommend that the DAS, in coordination with the Assistant Secretary for Information and Technology:

5. Conduct an evaluation of the risks and benefits of issuing a procurement to conduct site surveys to be used to develop and support the requirements for a separate procurement for the installation of Wi-Fi at each site;
6. Conduct an evaluation of the risks and benefits of awarding regional contracts for both the site surveys and installation;
7. If the new contracts are to be FFP, evaluate the risks and benefits of eliminating the ECR clause or modifying the clause so that it clearly delineates what changes in site conditions would allow for an ECR, and what changes would not be

allowed, because ECRs fall within the risks assumed by the contractor under an FFP CLIN.

### **Office of Acquisitions and Logistics Comments**

The DAS provided a written response to our findings and recommendations on March 28, 2011. The DAS noted that the entity that awarded the contract was not part of the Office of Acquisitions and Logistics at the time of award. The DAS concurred with our findings for *allegations* 2, 3, 4 and 5. The DAS partially concurred with our findings on the first allegation, citing that the additional year ensured adequate time was taken to perform a thorough evaluation, proposal revision, and selection process. We do not disagree that the year should have provided adequate time for these actions. However, the defects in this procurement that should have been addressed during the additional time period were not addressed, which resulted in the failure of this contract. Although the DAS also non-concurred with our finding in the sixth allegation, that modifications to add additional sites violated CICA, the DAS acknowledged that an IDIQ contract would have been the proper approach to avoid violating CICA. The DAS noted that the contract was also modified to decrease the number of sites. The point is moot because the contract has been terminated. However, we note that there was no provision in the contract to add additional sites. In comparison, 217 of the 236 sites identified in the contract were optional; therefore, there was no need to modify the contract to delete the sites.

The DAS concurred with six of our seven *recommendations*. Although the DAS did not concur with Recommendation 3, which called for a determination whether Catapult was in compliance with FAR clause 52.219-27, the DAS noted that this determination needs to be made by the Contracting Officer for the VETS GWAC. The DAS notified the VETS GWAC CO concerning this issue and forwarded Catapult's data to the CO for evaluation. This action addresses our concern in this area. The contract has been partially terminated for convenience, with only three sites under the current contract to be completed, and the remaining Wi-Fi requirements will be re-competed for all other sites. Further, site surveys will be contracted for separately for future sites, and future contract actions will no longer contain an ECR clause that allows for price adjustment based on differing site conditions. We will follow up on the implementation of planned actions until they are completed.

MARK A. MYERS  
Director, Healthcare Resources Division  
Office of Contract Review



## **Introduction**

### **Purpose**

On June 10, 2010, the Office of Inspector General (OIG) Hotline Division received a complaint from an anonymous source alleging problems with a contract awarded to Catapult Technology, Ltd. (Catapult). The Department of Veterans Affairs (VA) awarded a contract to Catapult in October 2008, for the installation of wireless fidelity (Wi-Fi) location-based infrastructure at 236 VA sites. The allegations were related to acquisition planning weaknesses and cost overruns. Specifically, the complainant alleged that:

1. The contract was awarded too quickly and without proper reviews;
2. Post-award modifications increased the estimated contract cost by \$72 million, from the awarded amount of \$91 million to \$162.7 million;
3. There are 11 additional modifications pending, yet the contract is less than a third complete;
4. The modifications were needed due to incorrect site maps from VA, additional equipment requirements, and additional sites;
5. Catapult was being paid on a milestone basis, rather than on a completed site basis as called for in the contract; and,
6. The Competition in Contracting Act (CICA) may have been violated as a result of the significant expansion in the contract's cost and scope after award.

On June 15, 2010, the Office of Inspector General (OIG) Office of Contract Review initiated a review in response to the allegations made by the complainant.

### **Background**

“Wi-Fi,” or wireless communications, allows VA IT resources at a given location to communicate with VA’s network without a hardwire connection to the network. According to VA planning documents prepared in 2007, VA’s Wi-Fi infrastructure was 5-7 years old, and an upgrade was needed to meet VA’s current and future Wi-Fi needs. The Department’s Office of Information and Technology (OI&T) was the program office for the National Wireless Infrastructure Project. Among those needs was the planned rollout of VA’s Bar Code Expansion project, which in mid-2007 was expected to occur over the next 12-18 months. The Wi-Fi upgrade would also allow VA to standardize Wi-Fi equipment Department-wide, and to provide secure wireless telecommunications for other VA data, video, and voice requirements.

The VA’s Center for Acquisition Innovation (CAI) in Austin, TX, within VA’s Office of Acquisition, Logistics, and Construction, executed the Wi-Fi procurement on behalf of OI&T. CAI determined that a task order against the Veterans Technology Services Government-Wide Agency Contract (GWAC) was the most appropriate contract vehicle for the acquisition. This GWAC was awarded by the U.S. General Services

Administration (GSA). Also, a Statement of Objectives (SOO), rather than a Statement of Work, was prepared by CAI and OI&T for the solicitation, in order to give offerors more latitude in proposing Wi-Fi solutions to meet VA's needs at 236 different locations.

Installing Wi-Fi primarily involved the installation of an Access Point (AP)—a device similar in size to a large smoke detector—at appropriate intervals on the ceilings and walls of each VA building. The number and location of the APs needed can only be determined by a detailed site survey in which “heat maps” of each building are created to measure signal strength for optimal coverage. Generally, VA's goal was to have 100 percent coverage (no dead spots anywhere within a VA building), which OI&T officials said required the triangulation of three APs in any given area. That is, any given location in a building had to have access to three APs so the coverage of Wi-Fi enabled equipment could be triangulated and coverage confirmed.<sup>1</sup> The APs were to be cabled to various IT closets within a VA building, which were in turn to be connected to a centralized controller system. Many VA locations also had legacy Wi-Fi systems, which offerors needed to factor into their proposals for incorporation or replacement.

On July 25, 2007, CAI issued Request for Quote (RFQ) 220487 (Solicitation Number 200-206-07) on GSA's “E-Buy” system to 35 vendors under GSA's Functional Area 2 Veterans Technology Services GWAC. This GWAC is a set-aside for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs). The RFQ required the awardee to be able to implement a Wi-Fi installation at 7 pilot sites within the first 90 days after contract award, with the remaining 229 sites to be implemented in two phases, on a schedule to be proposed by the offerors.<sup>2</sup> The proposals were also to incorporate the cost of conducting site surveys in their offered pricing. To aid in the preparation of proposals, VA provided site maps for the seven pilot sites and square footage totals for other locations. Proposed offers had to be Firm-Fixed-Price (FFP) proposals for each of the 236 Contract Line Item Numbers (CLINs), one for each VA location. CAI amended the solicitation twice—Amendment 1 was to change the name of the assigned Contracting Officer (CO) and Amendment 2 was to provide additional instructions and to address 170 questions posed by vendors regarding the RFQ. Offers were due on August 17, 2007.

VA received quotes from 10 vendors. A VA Technical Evaluation Team (TET) evaluated the offers based on the factors of technical merit, management, and past performance. Technical, management, and past performance criteria were considered significantly more important than price. The TET completed its proposal evaluations on September 18, 2007, and recommended the award to Catapult. Catapult's offer had the highest proposed price at over \$91.4 million. Also, Catapult's offer included a uniform assumption of an average AP density of 2,800 square feet of coverage per unit, whereas

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<sup>1</sup> This would also allow VA to pinpoint the location of IT assets within each VA building, which was seen as a longer term objective of the Wi-Fi upgrade.

<sup>2</sup> The seven pilot sites are as follows: (1) VAMC Dallas, TX; (2) VA Central Office Washington, DC; (3) VAMC Dublin, GA; (4) VAMC Boise, ID; (5) Corporate Franchise Data Center Austin, TX; (6) VAMC Marion, IL; and, (7) VAMC Buffalo, NY.

other offers assumed an average AP density of 5,000 square feet per unit.<sup>3</sup> Catapult, a Service-Disabled Veteran-Owned Small Business, stated in its proposal that it would rely on subcontractors for the actual Wi-Fi installation at VA sites.

After the TET completed its evaluation, a VA Business Clearance Review (BCR) team disapproved the selection methodology and recommended that the CO establish a competitive range for the proposals and conduct discussions with the five offerors with the most highly rated proposals. Negotiations were held with five vendors, which had received “green-acceptable” or “blue-exceptional” ratings: (1) Catapult (blue); (2) VETS America (green); (3) Vision Technologies (green); (4) SMS (green); and, (5) MedTrend (green). Technical proposal revisions were submitted by these contractors to VA on July 29, 2008, and final proposal revisions were received by August 15, 2008. After review, Catapult’s offer was again deemed to be the best value to the Government by the TET.

On October 6, 2008, CAI awarded Task Order V200P-1971 to Catapult under GSA GWAC Contract Number GS-06F-0511Z. Although it appears that the intent was to award a task order for 236 sites, that was not to exceed five (5) years, including options, with an estimated award value of \$91,396,141, the Standard Form (SF) 1449, which is the first page of the awarded contract, shows the award value of only \$9,069,384 and lists only 19 CLINs as technically being awarded, which were the 7 pilot sites (Phase I), to be completed in 90 calendar days after award, and 12 additional Phase I CLINs to be completed within 100 calendar days after the completion of the pilot sites.

Assuming for the purposes of this discussion in this report that the award was for the entire 236 sites, the remaining 217 CLINs, designated as Phase II, were to be completed within 21 months following the date of award. The 7 pilot sites, the 12 Phase I sites, and the 217 Phase II sites were collectively referred to as the “base period” in planning documents. Phase III was made up of the four option years for maintenance and warranty. However, the SF 1449 should have awarded *all* CLINs—including the optional CLINs and listed the total FFP award as \$91,396,141 for the base period plus the four option years. VA obligated \$10 million for Catapult to complete as many sites (CLINs) as possible during FY 2009 and planned to obligate more funds as needed for additional (optional) CLINs. All CLINs, beyond the initial 19 CLINs, were described as optional in the award document, but the awarded contract does not show them being awarded; therefore, when those “options” were exercised it was technically a sole source award of additional sites to the 19 sites that were awarded on the SF 1449. For the purposes of discussion in this report we will assume that VA did award a contract for all 236 CLINs with a contract value of \$91.4 million.

After award, the contract was assigned to a different CAI CO for administration. Between the date of award and May 2010, four different COs were responsible for

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<sup>3</sup> After the Wi-Fi installation at the seven pilot sites was completed, Catapult determined that the average AP density would be closer to 1,200 square feet per unit and not 2,800 square feet per unit because of building construction materials, wall thickness, and radio frequency barriers such as metal cabinets and x-ray shielding.

contract administration. In May 2010, when the current CO was assigned to the contract, Wi-Fi installation had been completed on only 39 (16.5 percent) of the 236 planned sites even though VA had planned that all sites would be completed by June 2010. The new CO raised questions with Catapult regarding the manner in which Catapult was invoicing VA on a milestone basis for each CLIN, rather than the CLIN basis as specified in the contract. The CO was also concerned that Catapult had been submitting a large number of Engineering Change Requests (ECRs) to modify the contract, which significantly increased prices above the awarded FFP prices. The previous COs modified the Catapult contract 21 times, which increased the initial award amount of \$9,069,384 by \$73,599,773, because of ECRs, exercising optional CLINs, and adding new sites to the contract. To get some resolution on these issues, on October 5, 2010, the CO issued a Stop-Work Order to Catapult.<sup>4</sup> On October 25, 2010, the CO sent Catapult a request for historical cost information. In an effort to reduce the number of future ECRs, he also requested a restructured pricing proposal for the remainder of the contract. The CO informed Catapult that, if a satisfactory pricing solution could not be found, the Government may need to terminate the contract for convenience. On November 19, 2010, Catapult submitted a response to the CO's October 25 request, which included its proposed restructured pricing proposal; however, the response did not provide the requested historical cost information necessary to evaluate the proposal.

## **Scope and Methodology**

To evaluate the merits of the allegations raised by the Hotline complainant, we conducted phone interviews with the CO and met with the CO and other CAI officials, in Austin, TX, on November 8-9, 2010. We spoke with the CO's Technical Representative (COTR) by telephone. We obtained and reviewed the Catapult contract file thru VA's Electronic Contract Management System database. We also met with OI&T's Senior Systems Implementation Manager for the Wi-Fi project and reviewed project documentation for VA's National Wireless Infrastructure Project. We toured the following three locations, where the Wi-Fi installation had been completed: (1) Austin Information Technology Center Austin, TX; (2) VA Medical Center (VAMC) Temple, TX; and, (3) VA Central Office (VACO) Washington, D.C. In addition, we met with Catapult's outside counsel and Catapult's Chief Technology Officer and Senior Vice President, Technology and Management Solutions. We also obtained and reviewed supplemental documentation provided to us by Catapult.

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<sup>4</sup> On December 29, 2010, a new Stop-Work Order, Modification 24, was issued and signed by Catapult, which was effective January 3, 2011.

## Results and Conclusions

### **Allegation 1: The Catapult Contract was Awarded Too Quickly and Without Adequate Review**

We essentially substantiated this allegation. Although approximately 14 months passed between the adoption of the SOO and the Acquisition Plan approval on July 17, 2007, and the award of the contract on October 6, 2008, we determined that VA program and acquisition officials intended and attempted to award a contract in only two months by September 14, 2007, which is the planned contract award date listed in the contract file. The TET did, in fact, complete its review of the 10 proposals submitted in response to the solicitation on September 18, 2007, and concluded that Catapult's proposal and pricing represented the best value for VA. However, the contract award was subsequently delayed by the BCR team for about a year, mainly because they thought the selection of Catapult was done without adequate consideration of other proposals, which were priced below Catapult's proposal. Although VA conducted another review of the proposals submitted by Catapult and four competing vendors, the TET again recommended an award to Catapult. VA did not use this delay in the award process to address shortcomings and ambiguities in the solicitation and thoroughly and properly address issues raised by vendors.

We believe that VA's initial aggressive timeline and rush to award a contract has caused many of the cost overruns and delayed implementations. The specific problems we identified that substantiate the allegation include:

1. Acquisition planning documents established unrealistic target dates for key acquisition and implementation milestones for the Wi-Fi project.
2. Acquisition planning documents did not adequately assess the cost risks involved in implementing the Wi-Fi project.
3. The Wi-Fi solicitation was issued with a "Statement of Objectives" (SOO) rather than a detailed Statement of Work, which was vague or silent on key areas that could affect pricing.
4. The Wi-Fi solicitation gave vendors only a 23-day period to prepare offers, and VA refused requests for extensions.
5. The solicitation provided vendors with square footage estimates and/or VA site maps that were inadequate to estimate project costs and VA refused vendors' requests for more detailed information and the opportunity to conduct site surveys.

Concerns about the rushed nature of this procurement and the impact were raised by the Chief of Enterprise Solutions Service (Chief) in an e-mail to the CO in January 2009 about the awarded Catapult contract. The Chief stated that the procurement was a rushed end-of-year order with no time for a pre-award site survey. Furthermore, he noted that after site surveys were conducted for the seven pilots, that *all* seven sites required more

APs and hardware than planned. The Chief estimated that based on the changes in costs of the pilot sites, the final program costs could increase by a factor of 2 or 3.

1. Unrealistic Target Dates. On July 18, 2007, the OI&T COTR prepared an Acquisition Planning Memorandum (APM), or acquisition plan, which identified the objectives of the Wi-Fi project, the significant conditions affecting the project, the estimated projected costs (\$154 million, per an Independent Government Cost Estimate (IGCE)) and other planning matters. We noted that the APM included exceedingly tight milestones for completion of the acquisition cycle for a contract of this value and complexity. For example, the solicitation was to be issued on July 20, 2007, with an offer due date of August 17, 2007. Offers were to be evaluated by August 20, 2007, and negotiations completed by August 24, 2007. The APM estimated that the contract would be awarded just three weeks later, on September 14, 2007, with a planned program start date effective October 1, 2007. Given that this procurement was for nationwide Wi-Fi implementation at 236 VA locations, with an estimated overall cost of \$154 million, this timeframe was insufficient for properly planning and evaluating such a large acquisition.

Our review of the documentation showed VA program and acquisition officials continued to conduct the procurement using these unrealistic milestones, despite the fact that vendors raised a multitude of issues that should have signaled a problem with the solicitation. VA officially issued the SOO and solicitation on July 25, 2007, with a response due date for offers of August 17, 2007. On August 7, 2007, VA issued an Amendment to the solicitation to respond to 170 unique questions that were consolidated from 235 total questions submitted by the vendors who had received the solicitation. The vendor's questions show that there were a number of significant issues concerning the requirements. For example, vendors pointed out that information provided by VA for some locations was clearly in error. VA officials also notified the vendors that VA would not grant an extension to the due date for proposals even though some vendors requested a mere 10 day extension. The TET completed its technical evaluation of 10 proposals in 21 business days and on September 18, 2007, made its recommendation to award to Catapult. However, due to the concerns raised by the BCR regarding the adequacy of the evaluation of the proposals, VA did not award the contract until October 6, 2008.

The APM states that the solicitation was being issued through the GSA Veterans Technology Services program because it would "help cut-down on the procurement lead time in order for this contract to be awarded before the end of [Fiscal Year] FY07." We believe this statement, as well as the projected award date of the contract on September 14, 2007, suggests that loss of end-of-FY funding was a consideration and explanation for the aggressive timeline established for the procurement. COs should not use the loss of FY funds as the basis for expediting contract award with inadequate planning, especially given that insufficient and erroneous information was provided to vendors, which impacted their ability to submit adequate proposals.

In response to the BCR, on or after May 27, 2008, VA re-evaluated Catapult's and four other acceptable proposals. VA received updated technical proposals from the vendors; however, VA again found Catapult's offer to be the best value to the Government even though they had the highest proposed cost.

The APM and other documents set unrealistic targets for implementing and completing the project. The APM stated that the contractor was to start work within 10 days after the kick-off meeting and complete the installation at all 236 VA locations within 12 months from the date of award. The contract's Schedule of Supplies and Services required that the seven pilot sites were to be completed and accepted within 90 days of award and Appendix A, the Wi-Fi Planned Deployment Schedule, required that installation would be completed by July 23, 2009, which was about 23 months after the anticipated award date. These targets proved to be unrealistic—the final pilot site was not completed until June 2009 (more than 270 days after award on October 6, 2008). With regard to installation at all sites, as shown in Exhibit A, and as of October 5, 2010, the date the Stop-Work Order was issued, only 45 (19 percent) of the 236 sites were completed.

2. Inadequate Risk Assessment. The APM included a section on "Risks," but the acquisition plan erroneously focused solely on the risks for not completing the project, and not on the risks of going forward with the procurement. The acquisition plan explained that the main business driver for the procurement was the mission-critical Bar Code Expansion project within VA, which was to be rolled out within the next 12-18 months. Other driving factors included data networking, laptop mobility, biomedical, mobile medical devices, and other VA applications.

When we met with CAI officials in November 2010, the new Chief, IT Telecommunications Service of CAI (who was not with VA when the acquisition plan was prepared) said that the purpose of the "Risks" section in the acquisition plan should have been to identify the risks in going forward with the procurement such as unknowns regarding site conditions that could affect costs, not to identify the risks of not going forward with the procurement. However, the acquisition plan made no mention of the many risks potentially affecting costs and implementation milestones that emerged during the administration of the contract, including the inadequacy of square footage estimates and inaccurate and inadequate site maps. These risks and issues should have been identified, addressed, and mitigated prior to award. The 170 questions submitted by vendors during the solicitation process identified many of the potential risks that ultimately led to project delays and cost overruns. However, prior to award, VA program and acquisition officials did not properly address the concerns raised by these vendors during the solicitation process. In fact, we found that VA's responses to the 170 questions were inadequate and resulted in many of the problems encountered during contract administration.

3. Shortcomings in SOO. VA issued a SOO for this acquisition rather than a detailed Statement of Work. A SOO is intended to give offerors more latitude in proposing creative solutions to meet agency needs. Regardless of whether a SOO or a Statement of Work was the better choice, the SOO should have included sufficient detail to identify VA's actual requirements. Many of the 170 questions submitted in response to the SOO identified areas where the SOO lacked sufficient detail for vendors to make an offer. Examples of the questions that vendors raised include whether:

- VA had any constraints regarding the speed at which it could effectively manage a successful implementation (for example, deliverables review, site prep, management approvals);
- VA wanted Continuous Wireless Intrusion Detection/Prevention, which is a Department of Defense wireless requirement;
- VA wanted the new Wi-Fi solution to be capable of detecting performance issues, such as congestion and overload, and providing automated, pro-active alerting of appropriate VA personnel; and,
- VA could be more specific about the type, scope, or criteria of certification and validation required from the contractor.

We believe these questions could have been answered prior to award, if adequate acquisition planning had been done. However, for these and 43 other questions, VA offered a standard response that failed to address the questions:

VA used a Statement of Objectives (SOO) in order to provide Contractors latitude and creativity for developing the solution they determine to be the most advantageous and the best value for the Government. VA will not further qualify an answer to this question in order to provide contractors the greatest flexibility possible in crafting the solution they determine can best meet VA's objectives as defined in the SOO.

The large number of questions submitted by vendors should have put VA on notice that there were significant problems with the detail provided in the solicitation that would impact a vendor's ability to submit an adequate and reliable offer for an FFP contract.

4. No Extensions of Deadline for Offers. The acquisition plan anticipated 30 calendar days (July 20 to August 20, 2007) between the issuance of the solicitation and the evaluation of proposals. However, the solicitation was not issued until July 25, 2007, and responses were due August 17, 2007 (21 days later), which gave vendors only about 22 days to prepare a response to this complex requirement. This time period was inconsistent with the requirement in FAR 5.203(d), which specified a minimum of 30 days for the proposal preparation period.



Prior to award, VA received at least two requests for extension, but they were denied. Amendment 2, which included VA's responses to the 170 questions submitted by vendors, stated that there would not be an extension of the due date. Amendment 2 was issued on August 10, 2007, only 10 days before the due date for offers which further decreased the time for vendors who were seeking clarification to submit a comprehensive proposal that required FFP prices for 236 separate line items representing different sites. Question 13 was a request for a 10-day extension for the solicitation due date, due to the significant pricing requirements of the task order. Question 90 asked for a 2-week extension, to August 31, 2007, because the "current August 17<sup>th</sup> due date is limiting and additional details are required, based on Q&A, in order to scope and price our response to provide the best value to the Government."

VA's response to the requests for extension was that no extension would be granted. We found no justifiable reason for VA to not grant an extension for such a complex procurement, especially in light of multiple requests and the number of questions received by VA and the fact that VA did not provide answers until only 10 calendar days before the proposal due date. We believe vendors were correct in that additional time was needed to "scope and price our response to provide the best value to the Government." The uncertainty regarding the requirements and VA's failure to allow and extension may have impacted the number of offerors as well as the quality of the proposals received.

5. Inadequate information. The RFQ included site maps for the seven pilot sites and square footage totals for the other locations. The site maps were simply floor plans of the buildings and their locations. However, they were not provided with detailed site surveys or heat maps of VA locations and buildings. In fact, it was VA's desire that offerors incorporate formal site surveys as part of their proposals. As discussed in the introduction section, detailed site surveys with heat maps are needed to accurately determine how many APs are needed and where they needed to be located. Questions submitted after the RFQ was issued (for example, Questions 62 and 92), asked for survey information or for the opportunity to conduct surveys prior to proposing pricing for the AP installation. This was to be an FFP contract and the site surveys were critical to final determination of the required number of APs per site. VA declined to provide, conduct, or allow vendors the opportunity to conduct formal site surveys prior to award.

Offerors also submitted questions about the accuracy of the seven pilot site maps as well as the accuracy of the square footage estimates for the remaining VA sites that VA provided. In fact, questions submitted showed that some vendors knew that the information was incorrect. However, despite information to the contrary, VA told offerors, that: (a) the information provided was the best available; (b) they should assume it was accurate; and, (c) they were not allowed to do surveys prior to the contract award. Records show that the shortcomings in the data provided with the RFQ were substantial. For example, neither the square footage estimates nor the site maps provided information

necessary to determine placement of APs (for signal strength purposes). They also did not include relevant information regarding site conditions, such as wall thicknesses, ceiling heights, equipment, or other room obstructions which were necessary to determine the installation costs associated with that site. The impact these issues had on the administration of the contract are discussed in detail under Allegation 4 below.

Another example of the inadequacy of the information provided during the solicitation involves potential “Tenting” requirements, which is the placement of an environmental barrier around the AP installer during installation so that dust and debris are kept isolated. In Amendment 2, the response to question 38 clearly stated that none of the cabling locations would require Tenting during installation—thus, the Government never solicited cost proposals relative to the number of tented AP installs needed. The OI&T’s Senior Systems Implementation Manager for the Wi-Fi project explained that Tenting has proved to be a significant *unanticipated* cost under the contract. We question how Tenting could be considered an *unanticipated* cost, given that a vendor raised this very issue during the solicitation phase, and the knowledge that a majority of the installations would be taking place in a hospital or clinical setting.

We concluded that the program managers did not address the issue of Tenting, as well as other issues raised by the vendor in Amendment 2, because they insisted on maintaining an aggressive timeline to award a \$100 million contract with nation-wide implementation within a two month period. Addressing the shortcomings of the SOO, as well as providing thorough answers to the questions provided by potential offerors, would have required VA to extend the offer deadline as well as all the milestones for this procurement.

## **Allegation 2: Estimated Contract Costs Have Increased by \$72 Million**

We substantiated this allegation. The value of the FFP contract award for the base year and all option years was \$91,396,141. Total costs for 236 sites are now estimated at \$162.7 million—an increase of over \$71 million—and VA officials told us that the costs are likely to continue to increase. Although this was an FFP contract, it has been modified by VA on multiple occasions to increase the contract cost. All the modifications were processed under the ECR clause, which effectively negated the benefits of having an FFP contract. If contract costs can be adequately predicted, an FFP contract is in the best interests of the Government, because the risk of cost overruns is borne by the contractor rather than the Government. Even though the contract awarded to Catapult included an FFP for each CLIN for installation of Wi-Fi at a particular site, the contract ECR clause has effectively eliminated the benefits of having an FFP contract. The failure to include adequate information in the RFQ and to provide adequate responses to questions raised during the solicitation phase of the award have led to the uncontrolled increase in cost. This clause allowed Catapult to submit ECR requests for price increases for a wide range of situations not covered in the SOO.

The ECR clause was Section 5.6 of the SOO, and was referenced by VA several times in Amendment 2 in response to questions from offerors (see Allegation 4 discussion). VA assured offerors that any differences between site conditions and the information that was provided under the SOO would be addressed by the ECR clause. This ECR clause was substantially incorporated into the contract as section 1.6 of Catapult's technical proposal. The use of the ECR clause essentially resulted in a meaningless competitive process. Not knowing what factors, known, unknown, or suspected, the vendor used in determining its FFP for each site, has put VA in a weakened position when the vendor submits a request for price increase under the ECR.

As discussed above, the site maps and square footage estimates that VA provided contained essentially no information on site conditions. Also, the site maps and square footage estimates did not provide information about the precise number of APs needed to obtain the necessary signal strength, as that could only be identified via a site survey and the generation of heat maps. Thus, Catapult was able to propose ECRs for price increases for a wide array of circumstances, effectively eliminating any benefits that should have been derived from having an FFP for each CLIN location. At the time of the Stop-Work Order, Catapult had submitted 70 ECRs totaling \$19,817,255 to VA for payment on the 45 completed projects, which had original proposed costs totaling \$17,073,019. An additional 32 ECRs, totaling \$356,178 had been submitted to VA for approval and payment on 29 in-process sites, which had original proposed costs of \$28,109,262.

The Wi-Fi installation at the VAMC Buffalo, NY (CLIN 0007) is illustrative of the considerable cost increases that arose from allowing ECRs to correct deficiencies in

planning this procurement. There were five ECRs issued for CLIN 0007, which increased contract costs from an original estimate of \$164,255 to \$1,167,037, an increase of over 610 percent (see Exhibit A).<sup>5</sup> The justifications offered for the ECRs included:

- The square footage provided with the original solicitation was understated by 750,000 sq. ft., necessitating an increase in the number of APs and associated equipment and a cost increase of \$354,524 (ECR #01).
- An additional 412 APs and associated equipment were needed because of the site's construction with high density building materials, resulting in a further cost increase of \$518,001 (ECR #03).
- Additional labor and materials were required for various site specific conditions, such as Tenting for 62 APs, additional cabling components for 250 APs in hard ceiling areas such as patient rooms (which were not shown to Catapult in its initial walk through), and special covers for 15 APs in the psychiatric ward to mask AP light emissions. The total additional cost for these changes was \$62,361 (ECR #08).

In future FFP contracts, if an ECR clause is deemed necessary, VA should include a clause that more clearly defines or delineates the changed site conditions that would justify an ECR. The solicitation should also identify the types of variations in site conditions that would fall within the risk assumed by the contractor under an FFP CLIN, if an FFP contract is pursued.

As of the October 5, 2010, Stop-Work Order, the projected cost of the contract has been revised to \$161.5 million, which represents an additional \$70.1 million for 176 sites and no maintenance or warranty costs. This new total is over 177 percent of the initial estimated contract award amount. According to CAI officials, the \$161.5 million estimate was identified by the new CO, based on ECRs submitted by Catapult to date and projecting out estimated costs to the remaining sites to be implemented. As of September 30, 2010, Catapult has been paid \$40,178,526 out of the original contract value of \$91.4 million; however, only 45 of the original 236 sites (19 percent) are complete.

Based on our review, we also determined the following:

- The FFP award to Catapult valued at \$91.4 million was not realistic, because neither Catapult nor the other vendors had sufficient information upon which to base accurate FFP prices for each CLIN. As discussed under Allegation 1 above, square footage totals and site maps did not convey enough information for determining the number of APs that would be required to meet system requirements. They did not provide information such as wall thicknesses, ceiling

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<sup>5</sup> Two of the ECRs were for upgrades after the site installation was completed. Of the total price increase, \$67,895 was attributable to these two ECRs.

heights, equipment, or other room obstructions. A thorough site survey at each location would have been necessary to adequately develop FFPs for the original 236 sites.

- In June 2007, the OI&T COTR generated an IGCE which projected the total overall cost at \$154,014,304. While the IGCE, coincidentally, is closer to the program cost currently projected, \$161.5 million, it could not be relied upon to evaluate pricing proposals for this project. For example, many of its cost elements were gross estimates rounded to the nearest thousand—such as “Medium Site” Implementation, \$300,000, and “Large Site” Implementation, \$500,000—with no cost breakdown. Also, equipment estimates were based on a unit estimate multiplied by a list price, less a 38 percent discount. However, there was no explanation for the basis of the unit projections, the source of the list prices, or the rationale for applying a 38 percent discount. Most critically, because pre-award site surveys were not approved for this procurement, the IGCE could not have been prepared with the information needed to accurately project costs.
- Although the current CO is aware of the \$161.5 million revised program cost estimate, he is not using this estimate as the final projection of total costs to complete the project. Rather, in his October 25, 2010 letter to Catapult, the CO requested a revised price proposal and sought historical cost information from Catapult in order to arrive at a more accurate cost projection.<sup>6</sup>
- OI&T has sought ways of reducing the cost of the project. For example, the OI&T Senior Implementation Manager told us that, within some locations, OI&T has agreed to a reduction in number of APs in a given area from three (for triangulation purposes) to two APs or even one AP. Also, OI&T’s current plans do not envision exercising the options on CLINs for the 51 Veterans Benefits Administration locations, which were part of the original 236 locations. (As of December 2010, only 131 locations are now planned for installation, beyond the 45 that have already been completed. OI&T told us that it has notified Catapult that it will not exercise the maintenance and warranty options under the contract).<sup>7</sup>

Based on the above and our findings under Allegation 1, we do not believe the Department can accurately project the total costs to implement the Wi-Fi update at the remaining 131 planned sites. Rather, VA intends to rely on information provided by the contractor doing the work to determine projected costs. To determine the number of APs needed and identify the construction challenges related to the installation, detailed site surveys must be conducted at each location. Given VA’s inability to accurately project costs, an FFP contract is not an appropriate procurement vehicle for implementing the Wi-Fi upgrade.

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<sup>6</sup> Although this letter identifies 41 completed sites, we determined that 45 sites were completed when the Stop-Work Order was issued based on a December 2010 report provided by the Senior Systems Implementation Manager.

<sup>7</sup> Our review did not include examining the technical merits or requirements for the Wi-Fi project, so we have not attempted to make any assessment as to whether establishing long-term maintenance support (up to 4 years, as originally envisioned) should be a necessary component of this project.

### **Allegation 3: There are 11 Additional Modifications Outstanding and the Wireless Project is Less Than One Third Complete**

We substantiated the allegation that there were additional outstanding modifications but found that the number of modifications or ECRs were significantly more than the eleven. As of the October 5, 2010 Stop-Work Order, there are 27 additional ECR requests outstanding and the Wireless Project is far less than a third complete.

Some key facts:

- As of October 5, 2010, only 45 (19 percent) of the 236 original planned sites had been completed despite the fact that the contract required the Wi-Fi installation to be completed by July 2009.
- As of October 5, 2010, Catapult had been paid just over \$40.2 million (44 percent) of the originally projected \$91.4 million contract price to complete only 19 percent of the project.
- As of October 5, 2010, there were 27 ECRs for contract modifications, which had been submitted by Catapult but had not yet been approved for by VA.
- As of October 5, 2010, there were an additional 12 ECRs that Catapult had prepared but had not submitted to VA.

Both Catapult and VA officials that we spoke with readily acknowledged that there have been a large number of ECRs and contract modifications on this contract, which they hope to resolve through a restructuring of the contract pricing and deliverables.

We question whether both the past and pending modifications to the contract are improper cardinal changes. Certainly the addition of 83 sites could be considered a cardinal change since the contract did not advise vendors that this was a possibility. Also, allowing this number of ECRs, based on information the contractor was allowed to obtain and review after award, that was not available to other vendors, which the contractor was allowed to use to renegotiate the contracts FFPs, and resulted in a significant increase in price, would have changed the solicitation requirements significantly.

#### **Allegation 4: Modifications Were Due to Incorrect Site Maps, Additional Equipment Requirements, and Additional Sites**

We substantiated that incorrect site maps, lack of site surveys and other key information in the SOO, additional equipment requirements, and additional sites contributed to the large number of ECRs and subsequent modifications to this contract. Some examples:

- For the VAMC Buffalo, NY installation, Catapult was provided with a site map that only showed the ground floor of a 5-story building. Thus, when Catapult arrived on site, an ECR was necessary to account for the significant increase in square footage.
- For the VAMC Temple, TX installation, the opposite problem was encountered—Catapult was provided with a square footage estimate of over 5 million square feet upon which it based its cost estimates. However, the actual square footage required was just over 1 million square feet. We were unable to uncover a satisfactory explanation for the cause of this discrepancy. Catapult and VA agreed to a lower price for Wi-Fi installation at VAMC Temple, which further demonstrates that Catapult or VA officials never really viewed the contract as an FFP contract.
- Catapult and VA officials said there were instances where Catapult was provided with the square footage of a VA location or campus, but not told that there were additional buildings on the VA campus that required Wi-Fi installation.
- Additional equipment was often required when Tenting was needed for an AP installation. According to the OI&T Senior Systems Implementation Manager for the Wi-Fi project, nobody anticipated how much tenting would ultimately be required. As discussed above, when asked about tenting during the solicitation process, VA responded that it would not be required.

As discussed above, the deficiencies in VA's information were evident prior to contract award. Specifically, in Amendment 2 to the solicitation, questions and answers, vendors raised concerns about the accuracy of the site maps and square footage estimates. They were told: (a) to assume the information was accurate; (b) that they could not do site visits; and, (c) that any changes would be addressed via the ECR clause. VA's response clearly shows an acknowledgement of and the problems with the SOO and other information provided to vendors and their approach was to simply use the ECR clause and modify the contract as problems arose. This approach clearly undermines the procurement process because vendors cannot submit a reasonable proposal when there are so many significant unknown variables and other uncertainties regarding the requirements. The approach also undermines the benefits of an FFP contract because the risks are now to the Government.

Question 132 of Amendment 2, for example, was from a vendor who said that, based on previous wireless experience; they knew that the VAMC Minneapolis, MN was 1.3 million square feet, not including other VA buildings across the street or the new spinal

cord center being constructed. The vendor noted that this was inconsistent with the data on the spreadsheet provided with the RFP, which only listed 80,001- 82,500 square feet. The vendor said that the square footage estimate was a critical parameter in the overall pricing of the solution, and asked how differences in the spreadsheet and actual data from the site surveys were to be resolved. VA's response was:

The numbers indicated in the spreadsheet are the best available. Changes or deviations will be address [sic] through section 5.6 of the Statement of Objectives after award.

Thus, even when a vendor pointed out that anticipated square footage needs at an individual VAMC were, at a minimum more than *15 times greater* than what the SOO projected ( $1.3 \text{ million} \div 82,500 = 15.75$ ) VA refused to address the issue and amend the requirements and planned on rectifying any discrepancies through an ECR.<sup>8</sup> VA either did not understand or just ignored the problems and impact this would cause with regard to the competitive process and the ultimate costs of the project.

Even if the site maps and square footage estimates were largely accurate for a given location, this data would still be insufficient to reasonably project an FFP cost for a location. As previously discussed, both VA and Catapult officials told us that a site survey heat map would be required to identify the number of APs needed and their optimal locations. Also, site conditions would have to be assessed, such as the number of AP installations where tenting would be required, and construction considerations such as wall thicknesses or ceiling heights. Because VA failed to address these key issues, a large number of ECRs and contract cost increases were therefore inevitable.

In a white paper prepared in September 2010, CAI recommended that a separate contract vehicle be issued solely for the purpose of conducting independent site surveys. Independent site surveys would provide VA with the information needed to establish AP needs and would be independent of the installing manufacturer. CAI warned that the current contract terms provided a financial incentive to Catapult, because Catapult proposes price increases under ECRs based on the cost of each additional AP. Because Catapult must conduct both the pre-installation site survey--which will determine the number and location of APs--and then install the APs at each location, Catapult would gain financially by maximizing the number of APs required.

According to CAI officials, OI&T objected to pursuing a separate contract for the surveys, because OI&T believed its review of Catapult's site surveys adequately protects the Government's interests. We also asked the OI&T Senior Systems Implementation Manager for the Wi-Fi project why a separate contract for the surveys would not be acceptable, and he said such an approach would be a "nightmare." His concern was that—should an installation not result in the intended performance of the Wi-Fi system—

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<sup>8</sup> Other questions in Amendment 2 where a similar response was provided include Questions 64, 65, 85, 97, and 98.



VA would have to resolve disputes between an installer blaming the site survey contractor for the fault, and the survey contractor blaming the installer.

While such disputes are possible, we believe that site surveys should have been contracted for and completed before the Wi-Fi implementation solicitation was issued, and the results of the site surveys included with the solicitation. Comprehensive site surveys would have allowed VA to develop a meaningful IGCE, a more comprehensive and accurate solicitation, and a more effective competition for the actual Wi-Fi implementation, because vendors would have had the information needed to make informed proposals. Also, because OI&T must approve the site survey results regardless of whoever performs the surveys, we do not see how having a separate contract for the surveys would have posed a greater risk to VA. In fact, it would pose a lesser risk because it would, at a minimum, have decreased the number of ECRs by the contractor responsible for installation. If VA decides to re-compete the Wi-Fi requirements, we recommend that VA issue a separate procurement for conducting site visits prior to installing Wi-Fi APs and equipment.

### **Allegation 5: Milestone Payments to Catapult Were Not in Accordance With the Contract Payment Terms**

We substantiated this allegation. The contract awarded on October 6, 2008, did not include any terms establishing milestone payments, and the Schedule of Supplies and Services clearly laid out CLINs that had a total FFP amount per location (such as CLIN 0041— VAMC Philadelphia, PA --\$594,109.50). The solicitation or contract contained no other invoicing/payment terms. Therefore, Catapult should have billed, and VA should have paid, the FFP for each CLIN at the completion of work at each CLIN/Site. However, Catapult invoiced VA, and VA paid, on a milestone basis for each CLIN. In May 2010, the current CO appropriately raised the issue that Catapult was not invoicing VA in accordance with the contract terms.

In a meeting with a Catapult official and Catapult's outside counsel, we were told that Catapult believes that milestone payments were agreed to and part of the contract. In Catapult's proposal, under section 6.3 Pricing Assumptions, item 10, Catapult stated that its proposal to VA assumed a specific payment plan. Under this plan, Catapult invoiced VA, at each site, four milestone payments at a percentage of the total proposed price, as follows:

- (a) 15 percent on completion of the Pre-installation Site Survey;
- (b) 40 percent on acceptance of the wireless components at the site by VA;
- (c) 35 percent on completion of systems installation; and,
- (d) 10 percent on final acceptance of the site.

The Catapult official we met with explained that the milestone payment plan was reasonable because Catapult was a small company and needed the money for payment on the high equipment costs related to the Wi-Fi installation. The Catapult representative also said that the first two COs, prior to the current CO coming on board, accepted and made payment on the proposed milestone basis. Finally, the Catapult representative and Catapult's counsel said that, in accepting Catapult's proposal, VA also accepted the milestone payment approach.

Our review of the contract and related documentation found that the awarded contract did *not* incorporate section 6.3 of Catapult's proposal as part of the contract's terms and conditions. We also found that this was not done in error. During the legal/technical review of Catapult's proposal, there was a specific recommendation that the CO omit Catapult's Pricing Assumptions because the task order would be an FFP and that all risk should remain with the Catapult. We also found that, during the contract's solicitation phase, one vendor *asked* if VA would consider a phased procurement strategy, breaking the FFP into components such as site survey, staging and deployment, operations and maintenance. (Question 86 in Amendment 2 to the Solicitation). VA responded that "VA will not change the approach." Under these circumstances, allowing Catapult to be

paid on a milestone basis constituted a cardinal change to the solicitation/contract because it is likely that permitting payment on a milestone basis would have impacted competition, especially considering that the award was against a GWAC that was set-aside for SDVOSBs. For example, vendors may have decided not to submit a proposal because of the financial impact of having to wait to be paid until the completion of the work for each CLIN site. We also note that this issue should have been identified during the technical evaluation of the proposal and discussed with Catapult; and, if Catapult did not agree, it had the opportunity to amend its offer or withdraw from the competition. From a technical standpoint, given VA's position that milestone payments were not allowed, arguably Catapult's proposal was not responsive to the solicitation and should not have been considered.

We also noted that the final contract contained the clause Contract Interpretation which read: "No interpretation of any part of this contract, including applicable specifications, shall be binding on the Government unless furnished or agreed to in writing by the contracting officer." However, Catapult claims that if payments do not continue on a milestone basis that it would be a hardship for them because they needed the funds to pay for project equipment for installation. Because the Government and Catapult never established the milestone payments as part of the terms of the contract, and there was no subsequent written agreement to do so, we conclude that milestone payments were not authorized under the terms of the contract.

## **Allegation 6: The Contract's Expansion in Size and Scope Violated CICA**

Under CICA, a company may protest the award of a Government contract if it believes the original solicitation restricted competition, or if a subsequent modification made a cardinal change to the contract—either the requirements were significantly increased or decreased, or unrelated requirements were added. Our review of the contract found three areas of concern and cardinal changes may have occurred which would violate the provisions of CICA: 1) increase in the number of sites; 2) decrease in the number of sites; and, 3) the proposed restructuring of the contract.

**Increase in the number of sites.** We did find that significant changes were made to the Catapult contract after award regarding the number of sites considered for Wi-Fi installation. At award, VA established an FFP contract for Wi-Fi installation at 236 sites (of which 217 were designated as optional CLINs). Through three contract modifications in 2009, VA added 83 sites, increasing the total Wi-Fi sites to 319. However, according to program officials, VA now intends to install Wi-Fi at only 176 sites (45 completed, 131 yet to be completed), but the contract has not yet been modified to reflect this change. The addition of 83 sites represents a 35 percent increase in the 236 sites originally considered for Wi-Fi installation. Our review of the contract found no provision that would allow sites to be added to the contract. Therefore modifications increasing the number of sites could be viewed as a cardinal change.

**Decrease in the number of sites.** VA has formally deleted six sites from the contract and currently plans to install Wi-Fi at a total of 176 sites. Since, at the time of award, all but 19 sites were listed as “optional,” a decrease in the number of sites is not a reduction of scope or a cardinal change. VA officials do not technically need to delete any of the “optional” sites but merely can choose not to exercise the option. Our review has determined that this is not a violation of CICA.

The dramatic increase in the projected cost of the contract—from \$91 million to over \$162 million for the 236 original sites—was extrapolated from the large number of ECRs and cost overruns for the 45 completed sites. We cannot say with certainty that any of the site-specific ECRs would have been sufficient to violate CICA, given that VA informed offerors in the solicitation that they could submit ECRs for unanticipated site-specific conditions. Unfortunately, these unanticipated site conditions were significant, due to the many flaws in the site information provided with the solicitation (as discussed throughout this report).

**Proposed Modifications Restructuring Price Schedule Does Violate CICA.** We believe the proposal to allow the vendor to submit a plan to restructure the entire pricing schedule of the contract would be a prohibited cardinal change. To resolve the milestone invoicing issue and the significant amount of ECR modifications to the contract, the CO has asked for a new price proposal from Catapult. In an October 25, 2010 letter to Catapult, the CO asked Catapult for historical cost information on 41 completed sites,

because the CO proposed breaking down all CLINs, by location, into four separate FFP line items. The separate line items are as follows: (1) the initial site survey priced as a function of size by square footage; (2) AP equipment and installation; (3) travel and management oversight, also, priced as a function of facility size; and, (4) hardware and software. Catapult's services would be purchased by VA in a manner similar to an Indefinite Order, Indefinite Delivery Contract, rather than FFP by site as originally awarded. The CO intended to use the historical cost information to evaluate the reasonableness of Catapult's new proposal. However, we believe these actions would result in a cardinal change to the contract and should not be pursued.

First, as discussed previously, during the solicitation process, vendors were told directly that VA would *not* consider breaking out the FFP pricing into components (Question 86 of Amendment 2 of the solicitation). To negotiate such a change with Catapult after award would mean that vendors were misled during the solicitation process about the pricing structure VA would accept. Other GWAC vendors eligible to submit a proposal did not have the opportunity to present separate offers for the survey component or the AP installation component or other services provided, so Catapult would now be unfairly advantaged under this procurement.

Second, the CO intends to evaluate the reasonableness of Catapult's proposed new pricing by examining Catapult's historical pricing for 41 of the sites that have been completed. Catapult would therefore have the benefit of having its proposed pricing judged on the basis of its own data, while other eligible vendors had no such benefit.

Also, the Government's interests are not protected if it cannot generate a truly independent IGCE, but merely relies on the adequacy of the historical pricing from a current contractor in order to evaluate the current contractor's future pricing. Although we agree that the failure of Catapult to review the contract before beginning installation and the failure of VA to adhere to the terms and conditions of the contract has created an issue between the parties, we do not agree that issuing a contract modification to set up this new payment approach should be pursued. To do so, would give Catapult a significant advantage that other eligible vendors did not have during the solicitation process.

Therefore, we recommend that VA not break out the Catapult contract into separate line items using Catapult's historical data to determine pricing. Separate line item pricing would represent a cardinal change to the contract because this type of pricing was rejected in guidance provided in Amendment 2 responses to vendor questions. However, if it is determined that this approach is in the best interest of the Government, we recommend that VA terminate the contract with Catapult and conduct a new procurement for the remaining sites. That is, award one contract for conducting site surveys and award a second contract for the AP installation itself. A competitive and separate contract for the surveys would allow VA to reduce any potential conflict of interest by having the Wi-Fi installer doing the surveys and installation based on its own survey.

Additionally, an independent site survey would provide a reliable basis for an independent and more accurate IGCE. The survey results could then be incorporated into a new competitive procurement for the Wi-Fi installation itself, which would allow vendors to make informed proposals for any FFP CLINs.

## **Additional Issues**

1. **Contract Award Appears Faulty.** As stated in the background section, our review found that the executed contract between VA and Catapult included only 19 CLINS (sites) and the award value of the FFP was only \$9.4 million. VA should have awarded all CLINS including the optional CLINs. As a rule, an option cannot be executed unless it has been awarded. Technically, when VA added additional sites, VA was making sole source awards to Catapult. Our review of the data in Federal Procurement Data System (FPDS) showed VA reported an award to Catapult of only \$9.4 million as well. Additional awards, on additional sites, are reported in FPDS as “Supplemental Agreement for Work within Scope.” The award was faulty at the beginning which is further support that the contract should be terminated.

2. **Significant Risk of Non-Compliance with FAR Clause 52.219-27.** There is significant risk that Catapult is not in compliance with FAR 52.219-27 Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside. The GWAC is a set-aside and contains FAR 52.219-27, by reference, which requires that at least 50 percent of the labor cost be paid to the employees of the vendor or of another SDVOSB. Catapult discloses in its proposal that it would be partnering with five additional subcontractors to perform under this contract. This fact was confirmed at each of the three sites visited, because we were told that the installation of the APs and other Wi-Fi equipment was performed by subcontractors. Only two of the five subcontractors listed in Catapult’s proposal are SDVOSBs. However, there is no indication in the contract file regarding what percentage of the work was to be performed by any of the identified subcontractors and VA did not include the subcontracting plan in the final award. VA also did not request documentation to ensure compliance with the applicable FAR provision; therefore, we were not able to verify compliance through invoices or other documentation submitted to or maintained by VA. We were unable to conduct a further evaluation of this issue using VA records because VA did not require the vendor to verify on invoices or in other documentation the amount of labor costs paid to Catapult employees and subcontractors.

## Conclusions

Five of the six allegations from the Hotline complainant were substantiated while the sixth allegation was only partially substantiated. Acquisition planning for the Wi-Fi contract was inadequate, costs for the project have risen substantially, and the timeline for completion has been delayed. The primary cause of these shortcomings was that VA did not have sufficient information at the time of award to obtain reliable proposals and go forward with an FFP contract. Without site surveys to determine the site conditions and number of APs needed for each location, VA could neither prepare an adequate IGCE nor provide eligible vendors with the information necessary to make informed FFP proposals prior to award. Thus, the CO did not have a basis for establishing fair and reasonable pricing at the time of the award to Catapult. Also, to compensate for the inadequacy of the information it did provide, VA incorporated an open-ended ECR clause into the contract that has allowed Catapult to submit multiple modifications to increase pricing substantially above the FFP amounts negotiated. This approach basically negated the FFP prices, shifted the risk from the contractor to the Government, and gave all leverage to the contractor regarding costs. As a result, the Government cannot hold the contractor to the awarded FFPs and has no leverage to control costs. VA has approved a significant number of ECR changes resulting in a significant increase in price. The sixth allegation that the procurement violated the provisions of CICA was partially substantiated because of the modifications to add additional sites. We also believe that the new contract modifications proposed by the CO, which restructures pricing, would represent a cardinal change to the contract and thus violates CICA.



## **Recommendations**

We recommend that the Deputy Assistant Secretary, Office of Acquisitions and Logistics (DAS), in coordination with the Assistant Secretary for Information and Technology:

1. Not issue the contract modification proposed by the CO in October 2010 because it represents a prohibited cardinal change to the contract;
2. Review the award documentation to determine whether the award encompassed 236 sites or was limited to the 19 sites cited in the award document;
3. Determine whether Catapult is in compliance with FAR clause 52.219-27 contained in the underlying GWAC, which requires that 50 percent of the labor costs must be spent for employees of the SDVOSB;
4. If it is determined that there is a valid contract in place and that Catapult is in compliance with FAR clause 52.219-27, consider terminating Catapult contract GS-06F-0511Z, Task Order V200P-1971, and re-competing the remaining requirements for Wi-Fi at VA sites.

If VA decides to re-compete the requirement, we recommend that the DAS, in coordination with the Assistant Secretary for Information and Technology:

5. Conduct an evaluation of the risks and benefits of issuing a procurement to conduct site surveys to be used to develop and support the requirements for a separate procurement for the installation of Wi-Fi at each site;
6. Conduct an evaluation of the risks and benefits of awarding regional contracts for both the site surveys and installation;
7. If the new contracts are to be FFP, evaluate the risks and benefits of eliminating the ECR clause or modifying the clause so that it clearly delineates what changes in site conditions would allow for an ECR, and what changes would not be allowed, because ECRs fall within the risks assumed by the contractor under an FFP CLIN.

## Acronyms

AP	Access Point
APM	Acquisition Planning Memorandum
BCR	Business Clearance Review
CAI	Center for Acquisition Innovation
CICA	Competition in Contracting Act
CLIN	Contract Line Item Number
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
CY	Calendar Year
DAS	Deputy Assistant Secretary, Office of Acquisitions and Logistics
ECR	Engineering Change Request
FAR	Federal Acquisition Regulation
FFP	Firm-Fixed-Price
FY	Fiscal Year
GSA	General Services Administration
GWAC	Government-Wide Agency Contract
IGCE	Independent Government Cost Estimate
MOD	Modification
OIG	Office of Inspector General
OI&T	Office of Information and Technology
FPDS	Federal Procurement Data System
RFQ	Request for Quote
SDVOSB	Service-Disabled Veteran-Owned Small Business
SOO	Statement of Objectives
TET	Technical Evaluation Team
VA	Department of Veterans Affairs
VACO	VA Central Office
VAMC	VA Medical Center
Wi-Fi	Wireless Fidelity

## Exhibit A

### Contract Status as of October 5, 2010 Stop-Work Order

Percentage Increase in Actual Costs Over Proposed Costs and Wi-Fi Deployment Schedule for 45 Completed Sites - Proposed And Actual

Count	CLIN	Location	Percentage	Proposed	Proposed	Proposed	Actual	Actual	Actual
			Increase/ (Decrease) in Actual Costs over Proposed Costs	Duration (in Days)	Start Date	End Finish	Duration (in Days)	Start Date	Finish Date
				Note 1			Note 4		
1	0001	VAMC Dallas, TX (North Texas)	77.95%	45	10/1/07	12/4/07	101	11/5/08	3/18/09
2	0002	VA Central Office (VACO) , Washington, DC	30.70%	39	10/1/07	11/26/07	163	11/5/08	6/19/09
3	0003	VAMC Dublin, GA (Carl Vinson)	114.85%	41	10/17/07	12/14/07	85	11/10/08	3/6/09
4	0004	VAMC Boise, ID	82.23%	48	10/16/07	12/26/07	81	11/10/08	3/2/09
5	0005	Corporate Franchise Data Center (CFC, Austin, TX)	3.21%	47	10/16/07	12/21/07	60	11/5/08	1/27/09
6	0006	VAMC Marion, IL	138.59%	50	10/23/07	1/7/08	84	11/5/08	3/2/09
7	0007	VAMC Buffalo, NY	610.50%	42	11/1/07	1/4/08	87	11/10/08	3/10/09
8	0013	VAMC Temple, TX	(49.57%)	97	5/23/08	10/6/08	191	6/2/09	2/24/10
9	0018	VAMC Pittsburgh, PA	32.11%	48	12/11/08	2/16/09	193	7/6/09	3/31/10
10	0025	VAMC Lexington, KY	(29.85%)	67	2/5/08	5/7/08	169	1/22/10	9/15/10
11	0040	VAMC Northport, NY	106.53%	50	1/16/09	3/26/09	195	6/4/09	3/3/10
12	0042	VAMC Chillicothe, OH	118.98%	47	3/26/08	5/29/08	181	6/3/09	2/10/10
13	0048	VAMC Salisbury, NC	191.01%	43	5/20/08	7/17/08	214	6/29/09	4/23/10
14	0050	VAMC Indianapolis, IN	161.07%	27	4/4/08	5/12/08	174	5/15/09	1/14/10
15	0054	VAMC Miami, FL	109.85%	43	12/11/08	2/9/08	188	8/7/09	4/27/10
16	0058	VAMC Washington, DC	92.96%	42	2/5/08	4/2/08	181	5/14/09	1/22/10
17	0062	VAMC East Orange, NJ	242.68%	40	8/28/08	10/22/08	180	8/21/09	4/29/10
18	0066	VAMC Battle Creek, MC	135.15%	Note 2	-	-	167	7/9/09	2/26/10
19	0074	VAMC Tomah, WI	91.14%	36	2/5/08	3/25/08	138	7/20/09	1/28/10
20	0080	VAMC Loma Linda, CA	120.05%	34	12/26/08	2/11/09	182	12/22/09	9/2/10
21	0082	VAMC Kansas City, KS	220.82%	Note 2	-	-	176	5/15/09	1/15/10
22	0085	VAMC Huntington, WV	67.97%	39	10/23/08	12/16/08	150	7/17/09	2/2/10
23	0092	VAMC Denver, CO	284.90%	Note 2	-	-	192	5/14/09	2/5/10
24	0100	VAMC Omaha, NE	171.52%	26	3/7/08	4/11/08	190	6/2/09	2/23/10
25	0101	VAMC White River Junction, VT	96.65%	26	3/9/09	4/13/09	139	7/6/09	1/15/10
26	0105	VAMC Wilmington, DE	90.96%	23	9/1/08	10/1/08	135	6/8/09	12/11/09
27	0130	VAMC Cheyenne, WY	122.47%	15	3/10/08	3/28/08	145	5/14/09	12/2/09
28	0132	VAMC Canandaigua, NY	598.38%	14	11/17/08	12/4/08	173	8/3/09	3/31/10
29	0133	CBOC Portland, OR	(86.82%)	14	7/29/08	8/15/08	169	6/19/09	2/10/10
30	0138	CBOC Grand Island, NE	89.05%	14	4/14/08	5/1/08	173	6/2/09	1/29/10
31	0142	VAMC Portland, OR	653.64%	12	8/18/08	9/2/08	181	6/19/09	2/26/10
32	0146	CBOC Lincoln, NE	143.36%	10	5/27/08	8/9/08	173	6/2/09	1/29/10
33	0159	Denver, CO Health Administration Center (HAC)	145.37%	6	2/5/08	2/12/08	177	5/14/09	1/15/10
34	0174	VAMC Albuquerque, NM	2338.44%	4	4/11/08	4/16/08	164	7/31/09	3/18/10
35	0175	VAMC Minneapolis, MN	2361.81%	4	4/7/08	4/10/08	221	8/7/09	6/11/10
36	0203	OPC Rochester, NY	110.16%	3	8/15/08	8/19/08	173	8/3/09	3/31/10
37	0237	VISN 19 Office, Rocky Mountain Network, Glendale, CO	20.56%	Note 3	-	-	180	5/14/09	1/20/10
38	0238	VAMC Greater LA HCS-- West Los Angeles, CA	203.39%	Note 3	-	-	255	7/6/09	6/28/10
39	0239	Greater LA HCS-- Sepulveda	96.57%	Note 3	-	-	311	7/6/09	9/13/10
40	0240	Greater LA HCS-- Ambulatory Care	105.00%	Note 3	-	-	256	7/6/09	6/28/10
41	0241	VAMC Portland, OR Vancouver Campus VISN 20 Office	683.82%	Note 3	-	-	278	1/20/09	2/11/10
42	0260	Clinic Austin, TX	47.59%	Note 3	-	-	191	6/2/09	2/24/10
43	0261	VAMC Poplar Bluff, MO	107.96%	Note 3	-	-	141	7/27/09	2/9/10
44	0313	OPC Charlotte, NC	12.46%	Note 3	-	-	214	6/29/09	4/23/10
45	0314	CBOC Winston Salem, VA	20.20%	Note 3	-	-	214	6/29/09	4/23/10

Note 1 Duration tracked using Microsoft Project and excludes holidays and weekends. Duration schedule was dated August 17, 2007.

Note 2 Not an original site in Catapult Proposal submitted, dated August 17, 2007; however, the following were listed in the award document as "optional" CLINs: (a) 0066; (b) 0082; and (c) 0092.

Note 3 The following CLINs were added by Modification (MOD) : (a) 0237-0312 (MOD #8, dated July 8, 2009), and (b) 0313-0316 (MOD #11, dated September 22, 2009).

Note 4 Actual duration does not adjust for Government caused delays.

## Appendix A

### Management Comments

#### *Introduction*

OAL General Comment – We note that, during the time of the Catapult award, the contracting organization was aligned within the Office of Information and Technology (OI&T). Since the time of the Catapult award, the CAI – Austin contracting activity has increased in staffing and the contracting organization has been realigned to the Office of Acquisition Logistics (OAL).

#### *Allegation 1: The Catapult Contract was Awarded Too Quickly and Without Adequate Review*

OAL Response – Partially concur. Although the initial solicitation and evaluation period did not provide adequate time, the review process was adequate. The review authority correctly determined the proposals and evaluation were insufficient to award without discussions, then directed the contracting officer (CO) to make a competitive range determination and hold discussions with all offerors within the competitive range. These additional steps ensured adequate time was taken to perform a thorough evaluation, proposal revision, and selection process. The current direction is to complete the re-competition for the remaining installations within Fiscal Year 2011, allowing adequate time for the re-procurement. Regarding the report finding at Allegation 1, subparagraph (4), the response time requirement in FAR 5.203(d) does not apply to orders placed under the General Services Administration (GSA) Veterans Technology Services Governmentwide Acquisition Contract (VETS GWAC).

#### *Allegation 2: Estimated Contract Costs Have Increased by \$72 Million*

OAL Response – Concur. Costs were incurred at a higher-than-estimated rate; however, we find no specific evidence of overpricing. We believe higher costs are due primarily to differences in site conditions not understood at time of award. Specifically, the radio frequency (RF) coverage required was presumed to be 2,800 sq ft per access point (AP) and the site surveys reported a reduction to approximately 1,200 sq. ft. The increased coverage, as driven by increased numbers of APs, is a major contributor to the increased costs. More thorough acquisition planning could have determined a more realistic estimate of the costs involved. We do not concur the work should proceed on a cost-reimbursement basis since risk can be directly mitigated. We are now soliciting for separate site survey contracts. Providing site survey data to installation offerors will give them all data needed to quote on a fixed-price basis, leaving a reasonable amount of contractor-borne risk. The survey data will include the layout for the areas needed and

the approximate number of APs required. The solicitation for installations will include the detailed site survey data for each site. We further plan to use pre-proposal site visits, for several representative site types, so offerors may see the conditions first hand prior to proposing.

*Allegation 3: There are 11 Additional Modifications Outstanding and the Wireless Project is Less Than One Third Complete*

OAL Response – Concur. Prior to the issuance of this report, the contracting activity partially terminated this contract for convenience. A few critical sites, as identified by OIT will continue installation through to completion.

*Allegation 4: Modifications Were Due to Incorrect Site Maps, Additional Equipment Requirements, and Additional Sites*

OAL Response – Concur. The need for modifications could have largely been averted had detailed site surveys been completed prior to contracting for installations. Changes to the number of sites were driven by OIT having to adjust due to site managers not providing sufficient site drawings. We recognize if VA expects the number of sites to change over the life of the program, indefinite-delivery/indefinite-quantity (IDIQ) is a proper type of contract vehicle for the installations. We note the current regional solicitation packages in work for site surveys contain a fixed population of sites, so the separate contract for installations can be acquired using the same population set. Therefore, a single award is now feasible versus award of IDIQ. See also comment to recommendation 6 herein.

*Allegation 5: Milestone Payments to Catapult Were Not in Accordance With the Contract Payment Terms*

OAL Response – Concur. While Catapult initially proposed milestone payment terms pre-award, we concur the final proposal and the resulting contract did not provide for milestone payments. The current contracting officer rejected contractor invoices submitted for milestone payments from the time he took control of contract administration to the present.

*Allegation 6: The Contract's Expansion in Size and Scope Violated CICA*

OAL Response – Non-concur. The scope of effort was to obtain Wi-Fi capability at VA medical facilities. The original scope was for 236 facilities. Changes were made to identify different locations, but the same work was to be performed at every site, and the number of sites was ultimately reduced, not increased. Quantities changed and the costs increased on a per-site basis. A proper contracting approach, in order to facilitate quantity, schedule, or funding variability and avoid a potential Competition In

Contracting Act violation, is to award an IDIQ type contract. Since the partial termination of the Catapult contract, we established a firm quantity enabling planning for a single contract.

*Additional Issues –*

*Contract Award Appears Faulty*

OAL Response – Please see comment under recommendation 2 below.

*Significant Risk of Non-Compliance with FAR Clause 52.219-27*

OAL Response – Please see comment under recommendation 4 below.

**RECOMMENDATIONS**

1. *Not issue the contract modification proposed by the Contracting Officer (CO) in October 2010 because it represents a prohibited cardinal change to the contract;*

OAL Response – Concur. Contracting activity withdrew the proposed restructuring modification December 7, 2010.

2. *Review the award documentation to determine whether the award encompassed 236 sites or was limited to the 19 sites cited in the award document;*

OAL Response – Concur. We reviewed the contract file and determined the award contemplated 236 sites. The 217 unfunded sites are shown as optional quantities.

3. *Determine whether Catapult is in compliance with FAR clause 52.219-27 contained in the underlying GWAC, which requires that 50 percent of the labor costs must be spent for employees of the SDVOSB;*

OAL Response – Non-concur. Since the contract in question is a task order under GSA's VETS GWAC, this determination must be made by the contracting officer for the VETS GWAC.

The contractor responded with data suggesting it is in compliance with FAR clause 52.219-27. However, we referred the allegation, and information obtained

from the contractor, to GSA's VETS GWAC contracting officer for further evaluation.

4. *If it is determined that there is a valid contract in place and that Catapult is in compliance with FAR clause 52.219-27, consider terminating Catapult contract GS-06F-0511Z, Task Order V200P-1971, and re-competing the remaining requirements for Wi-Fi at VA sites.*

OAL Response – Concur. We partially terminated for convenience the Catapult contract. Three critical sites were permitted to continue to completion. We are re-competing the remainder of the requirements for Wi-Fi associated with all other VA sites.

*If VA decides to re-compete the requirement, we recommend that the Deputy Assistant Secretary, Office of Acquisitions and Logistics, in coordination with the Assistant Secretary for Information and Technology:*

5. *Conduct an evaluation of the risks and benefits of issuing a procurement to conduct site surveys to be used to develop and support the requirements for a separate procurement for the installation of Wi-Fi at each site;*

OAL Response – Concur. OIT and OAL agreed to award separate contracts to conduct site surveys, and then use the survey data to solicit and award a separate contract for installations.

6. *Conduct an evaluation of the risks and benefits of awarding regional contracts for both the site surveys and installation;*

OAL Response – Concur. OIT and OAL agreed to award regional contracts to conduct site surveys. The planned approach is to use survey data to award a single contract for installations. The plan provides if the survey data is not available by May 2011, a regional approach will be used for the installations in order to make the awards in Fiscal Year 2011, and execute activities concurrently.

7. *If the new contracts are to be FFP, evaluate the risks and benefits of eliminating the ECR clause or modifying the clause so that it clearly delineates what changes in site conditions would allow for an ECR, and what changes would not be allowed, because ECRs fall within the risks assumed by the contractor under an FFP CLIN.*

OAL Response – Concur. The “ECR” clause, meaning Engineering Change Request, is a performance work statement (PWS) provision included by Catapult in its now partially terminated contract, and provided for price adjustments arising from changes in site conditions identified by its site surveys. The reason Catapult could include the

provision is because the solicitation was issued with a statement of objectives (SOO). Contractors write the PWS for solicitations issued with SOOs. The re-competition will have a Government PWS and there will be no terms providing for price adjustment based on differing site conditions. The inclusion of site survey data in the installation solicitation will be sufficient for offerors to provide firm-pricing. In addition, pre-proposal site visits are planned.



## Appendix B

### OIG Contact and Staff Acknowledgements

OIG Contact	Maureen Regan
Acknowledgments	Ralph Taylor Gary Petrovich

## Appendix C

### Report Distribution

#### **VA Distribution**

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