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Health, Education and Human Services Division

B-276638

June 16, 1997

The Honorable Christopher S. Bond
Chairman
The Honorable Barbara A. Mikulski
Ranking Minority Member
Subcommittee on VA, HUD,
and Independent Agencies
Committee on Appropriations
United States Senate

The Honorable Jerry Lewis
Chairman
The Honorable Louis Stokes
Ranking Minority Member
Subcommittee on VA, HUD,
and Independent Agencies
Committee on Appropriations
House of Representatives

Subject: VA Construction: Contract Award Delays

The Department of Veterans Affairs' (VA) annual appropriations act for each fiscal year since 1984 has set deadlines for awarding contracts for major construction projects.¹ VA is required to award a construction documents² contract by September 30 of the fiscal year in which funds were appropriated for a major construction project, and award a construction contract by

¹A major construction project is a project with an estimated cost of \$3 million or more. P.L. 104-262, dated Oct. 9, 1996, changed the definition of major construction projects to those estimated to cost \$4 million or more, starting in FY 1997.

²Construction documents are working drawings and other documents that an agency must have prepared in order to offer a construction contract to bidders.

September 30 of the following fiscal year. VA's annual appropriations act also requires

- VA to report to your Committees and the Comptroller General the projects that did not meet these time limits and
- GAO to review the contracting delays of reportable projects for impoundment implications under the Impoundment Control Act of 1974.

VA's fiscal year 1996 appropriation (P.L. 104-134) contained funding for five new projects that required construction documents contracts by September 30, 1996. In addition, VA's appropriation for fiscal year 1995 (P.L. 103-327) included funding for 12 projects for which VA was required to award construction contracts by September 30, 1996.

On December 12, 1996, VA reported that, as of September 30, 1996, it had not awarded 15 contracts (for 11 major construction projects) with award deadlines of September 30, 1996, or earlier. The delayed awards, which are described individually in the enclosure to this letter, follow:

- construction documents contracts for two of the five fiscal year 1996 projects;
- construction documents contracts for 3 of the 12 fiscal year 1995 projects, which had award deadlines of September 30, 1995;
- a construction documents contract and a construction contract for each of four projects first funded between 1991 and 1995; and
- two construction contracts for projects funded in 1990 and 1993, respectively.

To meet our responsibility under the Impoundment Control Act of 1974, we reviewed these contract award delays to determine whether they had any impoundment implications. We first assessed whether VA had reported all of the project awards it should have reported as delayed by identifying

- projects first funded in fiscal year 1996, with construction documents contracts due by September 30, 1996;
- projects first funded in fiscal year 1995, with construction contracts due by September 30, 1996;

- projects that were delayed as of September 30, 1995, as we reported in August 1996³; and
- any projects funded before fiscal year 1995 that meet reporting requirements.

To identify this universe of projects, we reviewed the legislative histories of VA's major construction appropriations for fiscal years 1995 and 1996, and VA's budget requests for those fiscal years. We then identified delayed contract awards by comparing the universe of required awards with VA's December 5, 1996, status report on all current construction projects. Finally, we compared our list of delayed projects with VA's December 12, 1996, major construction delay report (which covered projects with required award dates through September 30, 1996).

We discussed projects that appeared to be delayed with staff in the Veterans Health Administration's Office of Facilities Management to determine the projects' status and reasons for delays. When VA indicated it had made a contract award after September 30, 1996, we obtained and reviewed award documents. We used this information to determine whether VA had withheld funds from obligation instead of awarding contracts as required by the acts. We conducted this review during March and April 1997 in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

VA's December 12, 1996, letter to your Committees identified 15 awards, for 11 major construction projects, for which VA did not award a construction documents contract or a construction contract by September 30, 1996. In addition, through our review of VA's construction project status report, we identified two more awards that we believe VA should have reported as delayed:

- a construction contract for site development at Palo Alto and

³Letter to the Chairmen and Ranking Minority Members, Subcommittees on VA, HUD, and Independent Agencies, Senate and House Committees on Appropriations (GAO/HEHS-96-188R, Aug. 9, 1996).

- a construction documents contract for the renovation of Waco's building 11.

We believe the contracting delays for these projects, as described in the enclosure, do not constitute impoundments of budget authority under the Impoundment Control Act of 1974. In our view, VA has shown no intent to refrain from using the funds appropriated.

Instead, information VA provided indicated that legitimate programmatic considerations caused the contracting delays. Common reasons for delays, as cited by VA, included (1) changes in project scope or design, (2) funding of projects before VA had completed design work, and (3) insufficient funds appropriated for the scope that VA planned. VA made 5 of the 15 reported delayed awards after September 30, 1996: construction documents contracts for the Albany National Cemetery and the Boston Ambulatory Care Addition, a construction contract for the Honolulu Ambulatory Care Addition, and a design/build⁴ contract for the Portland Research Addition. VA expects to award the Mountain Home laundry and warehouse design/build contract in June 1997.

Of the two additional awards that we identified as being late, VA plans to award a construction documents contract to renovate Waco's Building 11 in August 1997 and a construction contract for site development at Palo Alto in March 1998.

AGENCY COMMENTS AND OUR EVALUATION

Officials at VA's Office of Facilities Management reviewed a draft of this letter in which we suggested that four projects not reported by VA be reported as having delayed contracts. On the basis of a discussion with VA officials, we revised the letter to say that only two projects had been omitted from VA's report. That is, the construction contracts for the Leavenworth and Travis ambulatory care clinics need not have been reported by VA. In the case of Leavenworth, although design funds were appropriated, no construction funds were awarded through 1996. For the ambulatory care clinic at Travis, the Congress appropriated funds for fiscal year 1996, and VA correctly reported in its 1996 report only that the construction documents contract was not awarded.

⁴A design/build contract is a combined construction documents and construction contract.

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Originally, we believed that the construction contract was also reportable for fiscal year 1996 because \$22.6 million was appropriated in fiscal year 1995 for a replacement medical center. But because the Travis medical center project was disapproved in 1996, no contracts for it are reportable. See the enclosure for more details on the history of this project.

The two projects that VA should have reported are the Waco and Palo Alto construction projects. VA officials agreed that the construction documents contract for Waco should have been reported in addition to the construction contract that VA did report. Funds were awarded in 1990, and neither contract has yet been awarded.

However, VA disagrees with our position that the construction contract for the Palo Alto site development should be reported as a delayed project and expressed concern that our reporting the project as delayed would suggest a deliberate omission on their part. VA officials did not report this contract because they considered it the last phase of a single project for which approximately 90 percent of the funds had been obligated and because it was not reported in earlier construction delay reports. Site development must await demolition of the old building which, in turn, has been delayed pending construction of the replacement building. Although these facts reasonably explain the delay in awarding the construction contract for site development and do not constitute a deliberate omission, we believe the delay should have been reported for the following reasons: The December 1996 project status report from VA's Construction Management Information System lists site development for Palo Alto as a separate project, construction funds were awarded before 1995, and the total cost estimate of \$6.8 million exceeds the \$3 million reporting threshold.

We incorporated other VA comments into the letter and the enclosure as appropriate.

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We are sending copies of this letter to the Secretary of Veterans Affairs; the Director, Office of Management and Budget; and other interested congressional parties. We will also make copies available to others on request.

Lawrence L. Moore was Evaluator-in-Charge on this assignment. Please contact me or him at (202) 512-7101 if you have any questions about this letter. George F. Poindexter, Assistant Director, and Edda Emmanuelli-Perez, Senior Attorney, also contributed to this letter.



Stephen P. Backhus
Director, Veterans' Affairs and
Military Health Care Issues

Enclosure

ENCLOSURE

ENCLOSURE

MAJOR CONSTRUCTION PROJECTS FOR WHICH
VA HAD NOT AWARDED CONTRACTS AS OF SEPTEMBER 30, 1996

ALBANY NATIONAL CEMETERY, NEW YORK

Type of project: Phase I development

Type of contract: Construction documents

Time limit: September 30, 1996

Award date: November 15, 1996

Reason for delay: Lengthy price negotiations with the architect/engineer firm delayed award of the construction documents contract. According to VA officials, the construction documents work is now on schedule.

BOSTON, MASSACHUSETTS

Type of project: Ambulatory care clinic

Type of contract: Construction documents

Time limit: September 30, 1996

Award date: April 7, 1997

Reason for delay: This project was delayed because construction could not begin until a parking deck construction project was completed.

BREVARD COUNTY, FLORIDA

Type of project: Ambulatory care clinic

Type of contract: Construction documents

Time limit: September 30, 1996

Estimated award date: Unknown

Reason for delay: Recent congressional actions have affected the project's proposed scope. VA had proposed a new medical center and nursing home in Brevard County, and the Congress appropriated \$17.2 million in fiscal year 1995 to design this center.

Since September 30, 1995, the Congress has significantly changed the Brevard County project's scope. VA's fiscal year 1996 appropriations act (P.L. 104-134), enacted April 26, 1996, appropriated \$7.8 million for VA to construct a stand-alone ambulatory care clinic in Brevard County, instead of the originally planned medical center and nursing home. The House and Senate Appropriations Committees directed that these funds, along with the \$17.2 million appropriated for the project in fiscal year 1995, be used to construct the clinic, estimated to cost \$25 million. The House and Senate Appropriations Committees also directed VA to proceed with construction of the clinic as soon as possible.

In its fiscal year 1997 budget request, VA nevertheless sought partial construction funding for the medical center and nursing home project. VA also planned to use the ambulatory care clinic at the Orlando Naval Hospital and convert the hospital there into a nursing home. (See the description of the Tampa project below.) The Appropriations Committees did not give VA the funding it requested and instead directed VA to proceed with the ambulatory care clinic project as provided in VA's 1996 appropriations act.

Subsequently, VA's major construction authorization law,⁵ enacted October 9, 1996, directed VA to suspend work on the Brevard ambulatory care clinic and the Orlando nursing home and report within 60 days to the Congress on the health care needs of veterans in east central Florida. On March 10, 1997, in response to this direction, VA reported it could best meet the health care needs of veterans in east central Florida, including Orlando and Brevard County, by constructing the planned ambulatory care clinic in Brevard County, building a 120-bed nursing home facility in Orlando, converting Orlando's former bachelor enlisted quarters into a 60-bed domiciliary, and referring patients to other VA facilities and the private sector for other medical care. Pending congressional review of this report, VA has ceased all contracting activities for Orlando and Brevard County for at least 45 days and cannot estimate when construction documents contracts will be awarded. VA did not request any new construction funds for Brevard County in its 1998 budget request.

⁵The Veterans' Health Care Eligibility Reform Act of 1996, P.L. 104-262, sec. 351.

CLEVELAND (WADE PARK DIVISION), OHIO

Type of project: Ambulatory care clinic and spinal cord injury facility

Type of contracts: Construction documents and construction

Time limit: September 30, 1994, and September 30, 1995, respectively

Estimated award date: Unknown

Reason for delay: Delays have occurred in resolving issues about the amount of space required for this project and how the project would be developed at each of the Cleveland VA Medical Center's two divisions (Wade Park and Brecksville). The design completed on March 6, 1997, significantly downsized the project from earlier plans.

HONOLULU, HAWAII

Type of project: Ambulatory care clinic and building wing remodeling

Type of contract: Construction

Time limit: September 30, 1994

Award dates: May 23 and 27, 1997

Reason for delay: VA decided to carry out the ambulatory care clinic construction and the E wing remodeling in two phases: The ambulatory care clinic will be constructed first, thus requiring a new design for the E wing area.

MOUNTAIN HOME, TENNESSEE

Type of project: Laundry building and warehouse

Type of contracts: Construction documents and construction

Time limits: September 30, 1991, and September 30, 1992, respectively

Estimated award date: June 1997 (design/build contract for both the laundry and warehouse)

ENCLOSURE

ENCLOSURE

Reason for delay: Design was delayed because the Congress appropriated funds in 1991, before VA requested funding. The amount appropriated was insufficient for the project as originally planned, so VA changed the scope of this project. Instead of separate contracts for the laundry and warehouse, a single design/build contract will be awarded for both facilities. VA has received three bids and plans to award a contract this month.

PALO ALTO, CALIFORNIA

Type of project: Site development

Type of contract: Construction

Time limit: September 30, 1993

Estimated award date: March 1998

Reason for delay: Work on the site was delayed because a replacement building needed to be completed and an old building demolished before site development could begin.

PORTLAND, OREGON

Type of project: Research addition

Type of contracts: Construction documents and construction

Time limit: September 30, 1995, and September 30, 1996, respectively

Award date: December 10, 1996 (design/build contract)

Reason for delay: The Congress provided funding in fiscal year 1995, before VA had completed design development. Because the funding was unanticipated, VA was unprepared to award a construction documents contract. The project was also delayed because selecting and approving an architect/engineer took longer than anticipated.

TAMPA (ORLANDO), FLORIDA

Type of project: Conversion of former Orlando Naval Hospital into an ambulatory care clinic and 120-bed nursing home

Type of contracts: Construction documents and construction

Time limit: September 30, 1995, and September 30, 1996, respectively

Estimated award date: Unknown

Reason for delay: Congressional and other actions have delayed VA's plans for the former Naval Hospital that was transferred to VA. The Congress appropriated \$14 million for the ambulatory care clinic in fiscal year 1995. Lengthy negotiations with the prospective contractor delayed award of the design development contract until March 1996. In addition, the Congress⁶ directed VA not to obligate funds for the nursing home conversion until VA had completed a study of east central Florida veterans' health care needs.

On March 10, 1997, VA reported its needs for medical facilities in East Central Florida, including Orlando and Brevard County. VA concluded that veterans' needs could be best met by constructing an Outpatient Clinic in Brevard County, constructing a 120-bed nursing home facility in Orlando, converting Orlando's former bachelor enlisted quarters into a 60-bed domiciliary, and referring patients to other VA facilities and the private sector for other medical care. Pending congressional review of this report, VA has ceased, for at least 45 days, all contracting activities in Orlando and Brevard County and cannot estimate when construction documents contracts will be awarded.

TRAVIS AIR FORCE BASE, CALIFORNIA

Type of project: Ambulatory care clinic

Type of contracts: Construction documents

Time limit: September 30, 1996

Estimated award date: Unknown

Reason for delay: The required contracts have not been awarded because of continuing discussions between the Congress and the administration about the scope of this project.

⁶Sec. 351(b) of the Veterans' Health Care Eligibility Reform Act of 1996 (P.L. 104-262) and the House Appropriations Committee report on VA's fiscal year 1997 appropriations.

Through fiscal year 1995, the Congress had appropriated \$22.6 million to partially fund a joint VA/Air Force medical center project at Travis Air Force Base, which was estimated to cost \$211 million. VA planned to award both construction documents and construction contracts during fiscal year 1995 but put them on hold because of discussions about its fiscal year 1996 budget request.

For fiscal year 1996, instead of funding the full project, the Congress appropriated \$25 million for an ambulatory care clinic at Travis. However, VA did not award any contracts because it still sought permission for the full medical center.

VA's 1997 appropriations act provided \$32.1 million in additional construction funds for the medical center, which are not to be released before January 1, 1998, without further congressional action. The act also directed VA to study the medical needs of veterans in Northern California before obligating the funds. VA hired a consultant for that study whose report is due in June 1997. All new spending has stopped pending that report.

WACO, TEXAS

Type of project: Renovatation of building 11

Type of contracts: Construction documents and construction

Time limit: September 30, 1990, and September 30, 1991, respectively

Estimated award date: August 1997 for construction documents and February 1998 for construction

This project has been delayed because it was the last of a series of projects at the medical center. Originally, it was approved as one project, but VA chose to divide the project into several phases, thereby requiring multiple contract awards. When the other phases were completed in 1996, the remaining funds were inadequate to complete Building 11. Thus, the contract awards were delayed until the Congress approved VA's reprogramming of \$8.8 million and also because VA changed the scope of the project.

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