

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Department of Veterans Affairs

*Audit of
VHA's Use of Appropriations
To Develop a System
Enhancement and Mobile
Health Applications*

January 17, 2018
15-01005-18

ACRONYMS AND ABBREVIATIONS

CBO	Chief Business Office
DMC	Debt Management Center
FDA	Food and Drug Administration
IT	Information Technology
MS	Medical Services
MS&C	Medical Support and Compliance
OIG	Office of Inspector General
OI&T	Office of Information and Technology
VA	Department of Veterans Affairs
VHA	Veterans Health Administration
VistA	Veterans Health Information Systems and Technology Architecture

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Telephone: 1-800-488-8244



EXECUTIVE SUMMARY

Why We Did This Audit

The OIG conducted this audit to determine whether VA used non-Information Technology (IT) Systems appropriations to finance IT development costs.

What We Found

VHA's Chief Business Office (CBO) misused approximately \$3.1 million of Medical Support and Compliance (MS&C) appropriations when they funded the Debt Management Center's (DMC) development of the Veterans Health Information Systems and Technology Architecture (Vista) system enhancement. The former Deputy Director of Finance and Logistics for CBO Revenue Operations stated she thought she could obligate the MS&C appropriation because it was the only funding available and the DMC recovers costs through its customers. However, public law states that MS&C appropriations are only authorized for necessary expenses in the administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities—not IT development. In addition, guidance provided on May 31, 2013 from the Office of General Counsel advised that the DMC could use Franchise Funds, as opposed to IT Systems appropriations, to pay for the Franchise Fund VISTA enhancements necessary to provide common administrative support services. Nothing in the Office of General Counsel guidance suggested that MS&C funds could be used for this purpose.

Because the DMC was developing the enhancement for the operation of its administrative services, it should have used Franchise Fund revenues earned to cover the cost of IT expenses, consistent with the Office of General Counsel guidance. As a result of the OIG's work, the Office of Management reimbursed the Veterans Health Administration (VHA) in June 2016 for the approximately \$3.1 million inappropriately used from the MS&C appropriation.

The OIG also found that VHA used the MS&C, Medical Services, and IT Systems appropriations to finance five mobile health application development contracts. A fundamental principle of appropriations law is that public funds may be used only for the purpose for which they were appropriated. However, the Principles of Federal Appropriation Law, Volume 1, states that when an agency has two appropriations available for the same purpose, the agency must select which one to use. When that election is made, the agency must continue to use that appropriation (commonly referred to as the "pick and stick rule") for that purpose unless the agency informs Congress of its intent to change appropriations.

VHA used multiple appropriations for the same purpose because it had not updated its financial policies to include how VHA should fund mobile health application development. According to the director of IT Financial Management and Oversight Service, the Office of Information and Technology had been trying to establish and implement a new policy since 2014. The director stated the process of obtaining concurrences from VA's administrations is complicated and, due

to other priorities and competing interests, it has taken a long time to implement new policy. As a result, VHA lacked consistency and transparency in the execution of its appropriations. In August 2016, while the OIG was finalizing its work, the former Assistant Secretary for the Office of Information and Technology issued VA Directive 6008, *Acquisition and Management of VA Information Technology Resources*. The directive replaced current guidance and various memos issued over the past 11 years.

What We Recommended

The OIG recommended the acting Assistant Secretary for the Office of Information and Technology ensure the directive reflects updates so that new and emerging advances in information technology are included. The OIG also recommended the Acting Under Secretary for Health ensure VHA's Chief Financial Officer, in consultation with VA's Chief Financial Officer and Office of General Counsel, determine which medical care appropriation VHA should use to fund mobile health application development and notify VHA staff offices accordingly. Lastly, the OIG recommended the Acting Assistant Secretary for the Office of Management issue a memo reiterating the importance of complying with the Code of Federal Regulations and VA's current policies on the proper use of appropriations.

Agency Comments

Management concurred with the recommendations and has taken acceptable corrective actions. The OIG considers the recommendations closed.



LARRY M. REINKEMEYER
Assistant Inspector General
for Audits and Evaluations

TABLE OF CONTENTS

Introduction.....	1
Results and Recommendations	2
Finding 1 VHA Used Medical Support and Compliance Appropriations To Finance an Information Technology System Enhancement	2
Finding 2 VHA Did Not Follow the Pick and Stick Rule To Finance Mobile Health Application Development	4
Recommendations	8
Appendix A Scope and Methodology.....	10
Appendix B Acting Assistant Secretary for the Office of Information and Technology Comments	12
Appendix C Acting Under Secretary for Health Comments	14
Appendix D Acting Assistant Secretary for the Office of Management Comments.....	17
Appendix E OIG Contact and Staff Acknowledgments.....	19
Appendix F Report Distribution	20

INTRODUCTION

Objective The goal of this audit was to determine whether VA used non-Information Technology (IT) Systems appropriations to finance IT development costs.

IT Systems Appropriation In FY 2006, the Senate Committee on Appropriations expressed concerns that VA was not using taxpayer funds efficiently to leverage IT system development.¹ VA's administrations managed their own projects and there was no single accountable authority overseeing the entire department's IT efforts. To create transparency and assist the VA to organize and accurately report its IT efforts, the committee created the IT Systems appropriation account specifically for IT systems.

Franchise Fund and Debt Management Center The mission of VA's Franchise Fund is to provide common administrative support services to VA and other Government agency customers. The Franchise Fund comprises six self-supporting business entities, one of which is VA's Debt Management Center (DMC). The DMC is enhancing the Veterans Health Information Systems and Technology Architecture (VistA) by developing debt management tools, such as administrative wage garnishment, to comply with the Debt Collection Improvement Act of 1996.

Chief Business Office The Veterans Health Administration's (VHA) Chief Business Office (CBO) is responsible for the development of administrative policies, regulations, and directives associated with the delivery of VA health benefit programs. The CBO manages the revenue operations business line that supports the standardization and uniformity across the Consolidated Patient Account Centers.²

Related OIG Reviews In a previous review, the OIG substantiated allegations that VHA violated appropriations law when it used Medical Support and Compliance (MS&C) appropriations to finance IT development costs.³ The OIG recommended VHA establish oversight mechanisms, seek the return of MS&C appropriations, and de-obligate all related MS&C funds.

¹ Senate Report 109-105, *Military Construction and Veterans Affairs and Related Agencies Appropriations Bill 2006*, July 21, 2005.

² Effective April 2016, the CBO was reorganized as the Office of Community Care.

³ *Review of Alleged Misuse of VA Funds To Develop the Health Care Claims Processing System*, Report No. 14-00730-126, March 2, 2015.

RESULTS AND RECOMMENDATIONS

Finding 1 VHA Used Medical Support and Compliance Appropriations To Finance an Information Technology System Enhancement

VHA's CBO used approximately \$3.1 million of the MS&C appropriation from June 2013 through October 2013 to fund the DMC's development of the VistA system enhancement. The former Deputy Director of Finance and Logistics for CBO Revenue Operations told us that she thought the MS&C appropriations could be used to cover the development costs because it was the only funding available to CBO and the DMC recovers costs through its customers. However, public law states that MS&C appropriations are only authorized for necessary expenses in the administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities—not IT development.⁴ As a result of the OIG's work, VA's Office of Management, which oversees the Franchise Fund, reimbursed VHA in June 2016 for the approximately \$3.1 million inappropriately used from the MS&C Appropriation. Therefore, the OIG did not recommend that VHA seek the return of the misused funds.

IT Development Contracts

During its review of 80 potential IT development contracts, totaling about \$1.1 billion, the OIG found 13 contracts identified the Franchise Fund as the source of funding. Because the Franchise Fund can only be used for IT development that will support common administrative services for its enterprise centers, the OIG conducted a more in-depth review of the funding.

The OIG interviewed key personnel and reviewed documentation like performance work statements to confirm whether the IT development would support a common administrative service. Then the OIG validated funds used to pay for the development by reviewing the payments in VA's Financial Management System. Based on its assessment, the OIG identified one IT development effort that was funded using the MS&C appropriation. Specifically, the OIG identified service-level agreements between the CBO and DMC that included approximately \$3.1 million of MS&C appropriations. The MS&C appropriations were transferred to the Franchise Fund to complete the IT development work.

DMC's VistA System Enhancement

Because the DMC was developing the enhancement to transfer delinquent debt to the Department of the Treasury, a common administrative service, it should have used Franchise Fund revenues earned to cover the cost of IT expenses. VA policies and procedures state that the Franchise Fund operates

⁴ Public Law 113-6, Consolidated and Further Continuing Appropriations Act, March 26, 2013.

as a self-supporting entrepreneurial entity to provide common administrative services on a fee for service basis. The Franchise Fund functions entirely from the fees charged for the services it provides, consistent with its statutory authority, and funds all IT expenses necessary for the maintenance and operations of its administrative services.⁵

In a series of emails beginning in May 2013, the Office of General Counsel and the former Deputy Assistant Secretary for IT Resource Management, Chief Financial Officer advised the former DMC Director that he could use the Franchise Fund, instead of the IT Systems appropriation, to pay for the VistA system enhancement. Nothing in the Office of General Counsel guidance suggested that MS&C funds could be used for this purpose.

Contrary to that guidance, the former DMC Director initiated three service-level agreements with CBO so the DMC could develop the Vista system enhancement. The service-level agreements, approved from June 2013 through October 2013, served as a funding mechanism for CBO to obligate MS&C appropriations. The DMC deposited the funds into the Franchise Fund, counted them as revenue earned, and used the appropriations to finance the VistA system enhancement. The service-level agreements included amendments for one-time charges so the DMC could complete the enhancement.

The former Deputy Director of Finance and Logistics for CBO Revenue Operations told the OIG that CBO is a DMC customer, and as such it will eventually recover its costs through its customers. Thus, MS&C appropriations could be used to cover the development costs. However, public law states that MS&C appropriations are only authorized for necessary expenses in the administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities—not IT development. As a result of the OIG's work, VA's Office of Management, which oversees the Franchise Fund, reimbursed VHA in June 2016 for the approximately \$3.1 million inappropriately used from the MS&C Appropriation. Therefore, the OIG did not recommend that VHA seek the return of the misused funds.

⁵ VA *Financial Policies and Procedures Franchise Fund*, February 2010.

Finding 2 VHA Did Not Follow the Pick and Stick Rule To Finance Mobile Health Application Development

VHA used the MS&C, Medical Services (MS), and IT Systems appropriations for the same purpose—to finance five mobile health application development contracts. A fundamental principle of appropriations law is that public funds may only be used for the purpose for which they were appropriated. Moreover, appropriations law states that where an agency has two appropriations available for the same purpose, the agency must select which one to use. When that election is made, the agency must continue to use that appropriation (commonly referred to as the “pick and stick” rule) for that purpose unless the agency informs Congress of its intent to change appropriations.⁶ MS&C appropriations are only authorized for necessary administrative expenses and research activities—not IT-related activities or equipment purchases.⁷

VHA’s use of multiple appropriations for the same purpose occurred because VA had not updated its financial policies to include how VHA should fund mobile health application development. According to the Director of IT Financial Management and Oversight Service, the Office of Information and Technology (OI&T) had been trying to establish and implement a new policy since 2014. The director stated the process of obtaining concurrences from the administrations is complicated and, due to other priorities and competing interests, it has taken a long time to implement new policy. As a result, VHA lacked consistency and transparency in the execution of these appropriations.

In August 2016, while the OIG was finalizing its work, the former assistant secretary for OI&T issued VA Directive 6008, *Acquisition and Management of VA Information Technology Resources*. The directive replaced current guidance and various memos issued over the past 11 years.

Mobile Health Application Development

During its review of 80 potential IT development contracts totaling about \$1.1 billion, the OIG found 13 contracts that identified a combination of the MS&C and MS appropriations as the source of funding. Because the MS&C appropriation is authorized only for necessary administrative expenses and research activities, the OIG conducted a more in-depth review of funding. To assess the appropriateness of funding, the OIG interviewed key personnel to confirm whether IT development occurred. Then the OIG validated the funds used to pay for the development by reviewing the payments in VA’s Financial Management System. Based on its assessment, the OIG identified

⁶ Government Accountability Office, *Principals of Federal Appropriations Law*, Third Edition, Volume 1, January 1, 2004.

⁷ Public Law 113-6, *Consolidated and Further Continuing Appropriations Act*, March 26, 2013.

five development contracts, totaling about \$128.5 million, that were being funded using three different appropriations—MS&C, MS, and IT.

**VHA's
Inconsistent
Use of
Appropriations**

VA does not have policies that dictate the appropriation it should use for mobile health application development. Therefore, VHA used three different appropriations to award five contracts totaling approximately \$128.5 million. The contracts' scope of work included services to complete application design and development, user instruction manuals, certification and accreditation packages, product testing, program software code, IT help desk support, and project management.

Table 1 further illustrates VHA's inconsistent use of appropriations to fund mobile health application development.

Table 1. Mobile Health Application Contract Funding

Application Name	Appropriation: MS&C	Appropriation: MS	Appropriation: IT Systems
Mobile Application Development Capacity	√	√	
Production Application Maintenance and Support	√		
Web and Mobile Image Viewing Solution	√		
Modernized Progress Notes		√	
Web and VA Mobile Solution	√	√	√

Source: OIG analysis of Electronic Contract Management System and Financial Management System data.

The following summarizes the OIG's review of the memos and mobile health application development contracts.

- In May 2011, a former Under Secretary for Health and a former Assistant Secretary for OI&T issued a memo for the *Use of Medical Care Funds to Develop Mobile Device Applications for Clinical Support*. However, the

memo did not identify which appropriation within the medical care fund that VHA should use.⁸ Subsequently, VHA elected to use the MS appropriation for the development of mobile health applications that met the intent of the memo.

- From June 2012 through July 2013, the then Under Secretary for Health, a past Assistant Secretary for OI&T, and a former Deputy Assistant Secretary for IT Resource Management used the July 2011 Food and Drug Administration's (FDA) *Mobile Medical Application Guidance for Industry and FDA Staff* to justify creating three memos that authorized the use of VHA's medical care funds for mobile health application development.
- In September 2013, VHA used MS and MS&C appropriations to fund the Mobile Application Development Capability contract for enhancing mobile applications. During that same month, VHA used MS&C appropriations to procure the Production Application Maintenance and Support contract. As a result of this audit, VHA swapped the MS&C appropriation to the MS appropriation.
- In February 2014, VHA used MS&C to finance the Web and Mobile Image Viewing Solution contract, a commercial-off-the-shelf product. The purpose of the contract was to enable the viewing of clinical images, stored in VistA Imaging, on web-enabled and mobile devices. As a result of this audit, VHA swapped the MS&C appropriation to the MS appropriation.
- In April 2014, VHA switched back to MS funds to pay for Modernized Progress Notes, a mobile web kit enabled application for mobile systems. Modernized Progress Notes was designed to give users a similar visual and operational experience to the current system.
- In September 2014, VHA used the MS, IT, and MS&C appropriations to pay for the Web and VA Mobile Solution contract. The contract is for mobile applications maintenance and help desk support. According to OI&T's Contracting Officer's Representative, the IT Systems appropriation was used to provide help desk support for mobile health applications. As a result of this audit, VHA took action to return the misused MS&C appropriations.

Based on VA's May 2011 memo, it chose to fund mobile health application development with the MS appropriation and, as a result, should have stuck with that election going forward or notified Congress of its intention to change. However, according to VA officials, VA did not notify Congress of its intent to change the initial election.

⁸ Although medical care funds include the MS&C, MS, and Medical Facilities appropriations, the MS appropriation is the only one available to be used for medical equipment and devices, such as a mobile health application.

The issue of the use of medical funds versus IT funds has been the subject of multiple OIG reviews. For example, in the OIG report *Review of Alleged Mismanagement of the Service-Oriented Architecture Research and Development (SOARD) Pilot Project*, the OIG commented that some of VA's explanations for the way it funded its IT systems appeared to be internally inconsistent or difficult for VA employees to understand.⁹ The OIG reported that when VA does not clearly state these distinctions in policies, even well-meaning VA employees may not be able to comply with the proper application of appropriations. The OIG further warned that if VA did not revise its policy to better clarify the definition of IT development, there was the potential for misuse of funds in the future.

Guidance Not Revised Since 2006

In June 2006, following the creation of the VA IT Systems appropriation, VA issued its *Memorandum on Use of the Information Technology Systems Appropriation*, also referred to as the Henke-Howard Memo.¹⁰ In this memo, VA made it clear when to use IT Systems appropriations versus other medical fund appropriations to pay for items like VA medical systems and software. However, the memo did not address mobile health application development.

Despite continued advances in medical technology that blur the lines between IT and patient care, creating confusion on which appropriation to use, the Henke-Howard Memo has not been significantly revised since it was issued in 2006. This lack of revision led to former senior VA officials developing four memos between May 2011 and July 2013, authorizing VHA to use its medical care funds to pay for mobile health application development. However, the memos did not define which appropriation within VA's medical care funds should be used to pay for the development. This created confusion regarding the appropriate source of funding for mobile health applications. According to VHA officials, their use of the MS&C appropriation to pay for mobile application development was an oversight. They also acknowledged that they should have used the MS appropriation because it was the first medical care appropriation they elected to pay for mobile health application development.

VA Corrective Actions

In August 2016, while the OIG was finalizing its work, the former Assistant Secretary for OI&T issued VA Directive 6008, *Acquisition and Management of VA Information Technology Resources*. The directive replaced current guidance and various memos issued over the past 11 years. VA updated the directive in November 2017. The current directive addresses the concerns raised in this report about identifying proper funding sources for mobile health applications.

⁹ Report No. 14-00545-343, August 5, 2015.

¹⁰ The memo was also published in VA's Franchise Fund Policy in February 2010.

Overall Conclusion

The basic principle underlying the pick and stick rule is that Congress cannot detail every permissible use of appropriated funds, but expects consistency, predictability, and regularity in an agency's execution of appropriations. VA should have picked one appropriation to finance mobile health application development and stuck with it. Furthermore, VA needs to better define which medical care appropriation VHA should use when funding mobile health application development.

Congress established the IT Systems appropriation to manage VA's entire IT portfolio and ensure a coordinated and systematic IT funding effort. Congress' intent was that VA be consistent and transparent in the execution of its appropriations for IT development, which was the impetus for keeping creating the IT Systems appropriation account separate from the medical administration account.

Recommendations

1. The OIG recommended the Acting Assistant Secretary for the Office of Information and Technology ensure the new directive reflects updates so that new and emerging advances in information technology are included.
2. The OIG recommended the Acting Under Secretary for Health ensure VHA's Chief Financial Officer, in consultation with VA's Chief Financial Officer and Office of General Counsel, determine which medical care appropriation VHA should use for mobile health application development and notify VHA staff offices accordingly.
3. The OIG recommended the Acting Assistant Secretary for the Office of Management issue a memorandum reiterating the importance of complying with the United States Code, Federal Regulations, and VA's current policies on the proper use of appropriations.

Management Comments

The Executive in Charge for OI&T, Executive in Charge for the Office of the Under Secretary for Health, and Acting Assistant Secretary for Management concurred with the recommendations. VA has taken action to implement all of the OIG's recommendations.

The Executive in Charge for OI&T issued a revised directive to provide more clarity and flexibility for addressing and communicating new and emerging advances in information technology. The Executive in Charge of the Office of the Under Secretary for Health reported that VHA's Chief Financial Officer consulted with the Office of General Counsel, who provided guidance that the MS appropriation should be used for the purchase of new mobile medical application development. She provided a financial alert the VHA Office of Finance issued in late October 2017 conveying this guidance. Finally, the Acting Assistant Secretary for Management issued a memorandum to various VA offices reiterating the importance of complying

with the Code of Federal Regulations, and VA's current policies on the proper use of appropriations.

OIG Response

Management's corrective actions to address the report's recommendations are responsive and the OIG considers the recommendations closed.

Appendix A Scope and Methodology

Scope

The OIG conducted its audit work from January 2015 through September 2017. To accomplish its objective of determining whether VA used non-IT Systems appropriations to finance IT development costs, the OIG assessed the funding specific to five IT development efforts valued at about \$128.5 million.

The OIG focused on whether VA used the MS&C and MS appropriations and the Supply and Franchise Funds to finance IT development projects. The OIG did not evaluate or validate the progress of IT development.

Methodology

To conduct its audit, the OIG obtained the Technology Acquisition Center's open and active service contracts for FY 2013 and 2014. Some of these contracts were also ongoing through 2016. Because the Technology Acquisition Center was unable to break out IT development contracts from other IT acquisitions, the OIG reviewed 2,593 contracts valued at about \$27.6 billion and identified 80 potential IT development contracts totaling about \$1.1 billion. The OIG also examined applicable VA criteria and federal regulations to determine whether MS&C and MS appropriations and the Supply and Franchise Funds could be used for IT development. The OIG conducted interviews with VA and VHA personnel and reviewed contract documentation from the Electronic Contract Management System. In addition, the OIG reviewed financial documentation from the Financial Management System and other key documentation like service-level agreements. Furthermore, the OIG obtained documentation to identify the total amount of obligated and transferred appropriations.

Fraud Assessment

The audit team assessed the risk that fraud, violations of legal and regulatory requirements, and abuse could occur during this audit. The audit team exercised due diligence in staying alert to any fraud indicators by taking actions like:

- Soliciting the OIG's Office of Investigations for indicators
- Developing a fraud indicator checklist

Based on its review, the OIG made one potential fraud referral to the OIG Office of Investigations.

Data Reliability

To test for reliability, the OIG compared the contract values, service-level agreement one-time charges, and purchase orders to the Financial Management System obligations and expenses. The OIG also compared the expensed appropriation amounts to the invoiced amounts and did not identify significant discrepancies. Thus, the OIG concluded the data were sufficiently reliable to support its audit findings and conclusions.

**Government
Standards**

Our assessment of internal controls focused on those controls relating to our audit objectives. We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. The evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B Acting Assistant Secretary for the Office of Information and Technology Comments

Department of Veterans Affairs Memorandum

Date: October 18, 2017

From: Executive in Charge for the Office of Information and Technology (005)

Subj: OIG Draft Report, *"Audit of VHA's Use of Appropriations to Develop a System Enhancement and Mobile Health Applications"*

To: Assistant Inspector General for Audits and Evaluations (52)

Thank you for the opportunity to review the Office of Inspector General (OIG) draft report, *"Audit of VHA's Use of Appropriations To Develop a System Enhancement and Mobile Health Applications."* The Office of Information and Technology submits the attached written comments. If you have any questions, contact me at (202) 461-6910 or have a member of your staff contact Rick Chandler, OI&T Chief Financial Officer, at 202-461-7200.

(Original signed by)

Ricci Mulligan for

Scott R. Blackburn

Attachment

Office of Information and Technology
Comments on OIG Draft Report,
Audit of VHA's Use of Appropriations To Develop a System Enhancement and Mobile Health Applications

OIG Recommendation 1: *We recommended the Acting Assistant Secretary for Information and Technology ensure the new Directive reflects updates so that new and emerging advances in information technology are included.*

Comments: OI&T concurs with the recommendation. Revision to Directive 6008- "Acquisition and Management of VA Information Technology Resources" provides more clarity and flexibility for addressing and communicating new and emerging advances in information technology. The target completion date for the revised directive is October 31, 2017.

OIG Recommendation 2: *We recommended the Acting Under Secretary for Health ensure VHA's Chief Financial Officer, in consultation with VA's Chief Financial Officer and Office of General Counsel, determine which medical care appropriation VHA should use for mobile health application development and notify VHA staff offices accordingly.*

Comments: OI&T defers to the Veterans Health Administration, VA's Chief Financial Officer and Office of General Counsel to respond.

OIG Recommendation 3: *We recommended the Acting Assistant Secretary for the Office of Management issue a memorandum reiterating the importance of complying with the United States Code, Federal Regulations, and VA's current policies on the proper use of appropriations.*

Comments: OI&T defers to the Office of Management to respond.

OI&T Comments on the OIG Draft Report Findings (if applicable):

OIG Finding: N/A

Comments: N/A

For accessibility, the format of this appendix has been modified to fit in this document and comply with Section 508 of the Americans with Disabilities Act.

Appendix C Acting Under Secretary for Health Comments

Department of Veterans Affairs Memorandum

Date: October 30, 2017

From: Executive in Charge, Office of the Under Secretary for Health (10)

Subj: OIG Draft Report, Department of Veterans Affairs: Audit of VHA's Use of Appropriations to Develop a System Enhancement and Mobile Health Applications (VAIQ 7849338)

To: Assistant Inspector General for Audits and Evaluations (52)

1. Thank you for the opportunity to review and comment on VA Office of Inspector General (OIG) draft report Department of Veterans Affairs: Audit of VHA's Use of Appropriations To Develop a System Enhancement and Mobile Health Applications. I concur with recommendation 2. The attachment to this memorandum contains an action plan in response to recommendation 2.
2. OIG assigned recommendation 1 to the Department of Veterans Affairs Office of Information and Technology and recommendation 3 to the Office of Management.
3. If you have any questions, please email Karen Rasmussen, M.D., Director, Management Review Service at VHA10E1DMRSAction@va.gov.

(Original signed by)

Carolyn M. Clancy, M.D.

Attachment

VETERANS HEALTH ADMINISTRATION (VHA)

Action Plan

OIG Draft Report, Department of Veterans Affairs: Audit of VHA's Use of Appropriations To Develop a System Enhancement and Mobile Health Applications

Date of Draft Report: September 27, 2017

Recommendations/ Actions	Status	Target Completion Date
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Recommendation 1. We recommended the Acting Assistant Secretary for Information and Technology ensure the new Directive reflects updates so that new and emerging advances in information technology are included.

Responsibility of VA's Office of Information and Technology

Recommendation 2. We recommended the Acting Under Secretary for Health ensure VHA's Chief Financial Officer, in consultation with VA's Chief Financial Officer and Office of General Counsel, determine which medical care appropriation VHA should use for mobile health application development and notify VHA staff offices accordingly.

VHA Comments: Concur.

The Veterans Health Administration's (VHA) Chief Financial Officer (CFO) consulted with the Office of General Counsel (OGC) on which VHA appropriation to use for mobile applications. VHA awaits OGC's reply. This guidance was issued in a financial alert (Attachment A) to the field published on October 30, 2017. VHA considers this recommendation fully implemented and requests closure.

Recommendation 3. We recommended the Acting Assistant Secretary for the Office of Management issue a memorandum reiterating the importance of complying with the United States Code, Federal Regulations, and VA's current policies on the proper use of appropriations.

Responsibility of the Office of Management

VHA OFFICE OF FINANCE

Financial Management & Accounting Systems

ALERT

VOLUME 2018, ISSUE 001

OCTOBER 27, 2017

New Purchases of Medical Mobile Application

1. Purpose. This alert provides VHA facilities guidance on the correct account to use when making NEW purchases of Mobile Medical Applications (Apps) to include development expenses, in Fiscal Year 2018.

2. Background. A recent OIG investigation revealed that Mobile Medical Apps purchases have been made with different appropriations accounts. However, in the absence of specific legal authority, multiple accounts should not be used for the same purpose. In a July 16, 2013 memorandum, the VA CIO and Under Secretary for Health clarified that the development, procurement, and/or support of mobile health apps projects and supporting mobile devices would be funded as non-IT costs of the Medical Services account using the Federal Drug Administration (FDA) definition of a medical mobile application. The current FDA guidance states the following: "When the intended use of a mobile app is for the diagnosis of disease or other conditions, or the cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body of man, the mobile app is a device." See Mobile Medical Applications Guidance for Industry and Food and Drug Administration Staff (issued on February 9, 2015, superseding prior guidance). The definition of mobile medical application applies throughout the lifecycle of the mobile medical app, including the manufacturing/development phase. If a VA mobile app is a "medical device," its expenses (included development) are funded by the Medical Services account.

FDA Guidance <https://www.fda.gov/downloads/MedicalDevices/.../UCM263366.pdf>

3. Guidance.

a. For purchases of new Mobile Medical Apps in FY 2018 and subsequent FYs (including development expenses), the correct account to use is Medical Services (0160).

b. For questions if a current or prior purchase meets the definition of a Mobile Medical App please contact Charles Hume and Kim Pugh for review by the Office of Technology (OT) / Non-OT Workgroup.

4. Questions. Questions or inquiries regarding the contents of this Alert should be sent to "VHA CFO Accounting Policy (10A3A)" mailbox: VHACOAPOLICY2@va.gov.

Department of Veterans Affairs

VHA Office of Finance (10A3) 1717 H Street
Washington, DC 20006

*For accessibility, the format of this appendix has been modified
to fit in this document and comply with Section 508 of the Americans with Disabilities Act.*

Appendix D Acting Assistant Secretary for the Office of Management Comments

Department of Veterans Affairs Memorandum

Date: October 16, 2017

From: Acting Assistant Secretary for Management and Acting Chief Financial Officer (004)

Subj: Draft Report, Audit of VHA's Use of Appropriations to Develop a system enhancement and Mobile Health Applications (Project Number 2015-01005-R6-0050)

To: Assistant Inspector General for Audits and Evaluations (52)

1. The Office of Management submits this memo in response to the OIG's *Audit of VHA's Use of Appropriations to Develop a System Enhancement and Mobile Health Applications*. The Office of Management was identified as the responsible office for Finding 2, Recommendation 3 of this report.
2. Finding 2: VHA did not follow the pick and stick rule to finance mobile health application development.
3. Recommendation 3: IG recommended the Acting Assistant Secretary for Management and Acting Chief Financial Officer (AASM/ACFO) issue a memorandum reiterating the importance of complying with the United States Code, Federal Regulations, and VA's current policies on the proper use of appropriations.
4. The Office of Management concurs with the finding and recommendation. The AASM/ACFO will issue a memorandum reiterating the importance of complying with United States Code, Federal Regulations, and VA's current policies on the proper use of appropriations.
5. If you have any questions, please contact Mr. Ronald Hallameyer, Acting ADAS for Financial Policy, at (202) 461-6486

(Original signed by)

Edward J. Murray

Attachment

Department of Veterans Affairs Memorandum

Date: October 16, 2017

From: Acting Assistant Secretary for Management and Acting Chief Financial Officer (004)

Subj: Proper Use of Appropriated Funds

To: Under Secretaries, Assistant Secretaries, and Other Key Officials

1. This memo serves to reiterate the importance of complying with United States Code (U.S.C.), Federal Regulations, and VA financial policies on the use of appropriated funds.
2. Congress makes funds available for obligations and expenditures by means of an appropriation act which specifies the purpose for which funds are being appropriated. Article 31 section 1301(a) of the U.S.C. states that except as otherwise provided by law, sums appropriated shall be applied solely to the objects for which they are made and for no others. The objective of this "purpose statute" is to ensure that an agency carries out its programs in accordance with the purpose and intent stipulated by Congress.
3. When seeking to obligate or expend funds from an appropriation, consideration should be given to the purpose statute. In particular, there should be a direct correlation between the obligation or expenditure and the specific purpose of an appropriation
4. Although rare, there are situations in which two appropriations could be construed as available for a particular expenditure, but neither can reasonably be called the more specific of the two. In this instance, the Department may select or "pick" which appropriation to charge for the expenditure in question. Once a selection has been made, the Department must continue to use the same appropriation for that purpose; this is referred to as the "Pick and Stick Rule." Once selected, the appropriation being charged cannot be changed without Congress being informed of the planned change.
5. Further information can be found in VA Financial Policy, Volume II, Chapter 5, Obligations Policy and Volume II, Chapter 7, Various Appropriations Law Related Topics.
6. If you have any questions, please contact Mr. Ronald Hallameyer, Acting ADAS for Financial Policy, at (202) 461-6486 or Ms. Tricia Schmitt, ADAS for Budget at (202) 461-6528.

(Original signed by)

Edward J. Murray

For accessibility, the format of this appendix has been modified to fit in this document and comply with Section 508 of the Americans with Disabilities Act.

Appendix E **OIG Contact and Staff Acknowledgments**

Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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Acknowledgments	Gregory Gladhill Chau Bui Ray English Sherry Fincher Heather Jones Brenda Stepps
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