

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Veterans Health Administration

*Review of
Selected Construction
Projects at Oklahoma City
VA Health Care System*

March 22, 2018
17-00253-102

ACRONYMS

ADA	Anti-Deficiency Act
AE	Architect and Engineer
AIB	Administrative Investigation Board
CO	Contracting Officer
DUSHOM	Deputy Under Secretary for Health for Operations and Management
FY	Fiscal Year
NRM	Non-Recurring Maintenance
OIG	Office of Inspector General
OR	Operating Room
SDVOSB	Service-Disabled Veteran-Owned Small Business
SICU	Surgical Intensive Care Unit
TLS	TL Services, Inc.
VA	Department of Veterans Affairs
VAHCS	VA Health Care System
VHA	Veterans Health Administration
VISN	Veterans Integrated Service Network

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Executive Summary

Why the OIG Did This Review

Concerns raised by the Oklahoma City VA Health Care System (VAHCS) Director prompted this VA OIG review into potential mismanagement in the planning and oversight of two construction projects at the Oklahoma City VAHCS. Specifically, the OIG reviewed the management of construction of a new Surgical Intensive Care Unit (SICU)¹ and expansion of the Operating Room (OR) Suite.² The two projects were estimated to cost under \$10 million each, and together they were budgeted for about \$18 million. The SICU project construction contract, awarded in November 2013, was to build a new floor on top of the existing seven-story clinical building with an initial budget of \$9.9 million and a scheduled completion date of February 2015. The contract to expand the OR Suite into the space vacated by the current SICU was budgeted to cost about \$8.1 million. Construction on the OR project began in March 2015 with an estimated original completion date of September 2016.

This review was part of a larger OIG review of healthcare and administrative issues at the Oklahoma City VAHCS. The OIG recently issued a report detailing the results of an evaluation conducted at the facility³ and will issue a separate report detailing the results of a review of resident and part-time physician time and attendance issues at the facility.

From November 2016 through January 2018, OIG auditors reviewed applicable laws, construction documentation, policies, and procedures for the SICU and OR projects at the Oklahoma City VAHCS and made site visits to the Oklahoma City VAHCS to observe the two construction areas. The OIG team interviewed Veterans Integrated Service Network (VISN) 16 and 19 Capital Asset Managers, a Capital Support Consultant with the Office of Capital Asset Management Engineering and Support, Oklahoma City VAHCS medical center facility management, and finance and engineering officials involved with the two construction projects. For more information on the extent of this review, see Appendix B.

The two projects evolved from the time of initial conception in 2006. For instance, the SICU and OR projects were envisioned as one combined effort, but several changes to the plans altered the timing and cost of the projects. The initial 2006 plan included renovating space on the fifth floor, relocating the SICU to that space, then renovating the vacated seventh floor space for expansion of the OR Suite. In 2007, Oklahoma City VAHCS management decided instead to pursue a more

¹ Referred to in this report as “the SICU project.”

² Referred to in this report as “the OR project.”

³ Healthcare Inspection: *Evaluation of System-Wide, Clinical, Supervisory, and Administrative Practices, Oklahoma City VA Health Care System*, Report No. 16-02676-13, November 2, 2017.

ambitious project by building vertically above the existing building to add an eighth floor that would accommodate the SICU and renovate the vacated space to expand the OR Suite.

Subsequently, in 2007, the scope of the project changed again to separate the two projects, with the expansion of the OR Suite removed from the SICU project. The SICU project under this plan included a dedicated, two-floor elevator between the existing seventh floor and the new eighth floor. For more information on the evolution of the projects, see Appendix A; for a chronology of significant events, see Appendix C.

What the OIG Found

The OIG team concluded that VISN 16 and Oklahoma City VAHCS officials mismanaged the planning of the SICU and OR projects, and both projects are behind schedule. In addition, Oklahoma City VAHCS officials mismanaged oversight of the SICU project. The various factors the OIG team identified as significantly contributing to the issues and current condition of the two projects are detailed below by project.

The SICU Project

As of January 2018, the SICU project was more than two-and-a-half years behind schedule, and estimated to be about 60–65 percent complete. The construction contractor, however, had been paid more than 90 percent of the construction portion of the project's funds. Inadequate oversight of the project by Oklahoma City VAHCS officials contributed to widespread workmanship deficiencies, such as misaligned and inadequately supported electrical conduit and uneven stairs. In March 2017, portions of the SICU construction area were open to the weather and deteriorating. As of October 2017, the facility was still in the process of sealing the area. The SICU construction contractor, TL Services, Inc. (TLS), initiated litigation against VA in July 2016 for additional costs, primarily for delays allegedly caused by VA's failure to remedy another contractor's interference with TLS' access to the work site, and construction was suspended. A contract modification to resume work was issued in March 2017, however, work stopped again in July 2017. According to the facility's Acting Associate Director, TLS reported work to seal the area was completed, and TLS left the site. There were no plans to correct existing work, or to complete the project, pending the outcome of the mediation related to the litigation, which began in October 2017.

Multiple factors contributed to the current situation:

- VISN 16 and Oklahoma City VAHCS officials failed to ensure that the final cost estimate for the project, which was restricted to Service-Disabled Veteran-Owned Small Business (SDVOSB) bidders, did not exceed the cost target. As a result, construction was delayed for about two years for redesign.
- Required elements were removed from the project and a dedicated two-floor patient elevator was transferred to the OR project to remain within budget.
- The former Project Engineer, who was also the Contracting Officer's (CO) representative, did not identify and timely report quality issues to the CO and Oklahoma City VAHCS engineering management.

- Facility Engineering management failed to:
 - Adequately supervise the Project Engineer,
 - Identify quality issues during routine safety inspections of the SICU project site, and
 - Verify that the reported status of the project was accurate prior to approval of progress payments.

The final cost and completion date of the SICU project are unknown and at least partially dependent on the outcome of the legal action initiated by the construction contractor. Poor planning and oversight of this project by facility and VISN officials have resulted in VA spending about \$8.2 million out of the approximately \$8.8 million construction budget for work that was either incomplete or, according to VA officials, did not meet VA’s standards and requirements.

The OR Project

The partially completed OR expansion project has been suspended with no set completion date. Oklahoma City VAHCS management’s decision to start the OR project prematurely—when the project was approved by the VISN earlier than expected—resulted in conflicts between the different contractors working on the OR and the SICU projects simultaneously and in overlapping space. In addition, weather intrusion in the SICU project affected the OR construction area. The OR project’s restart is dependent on the completion of the SICU project to prevent the recurrence of conflicts between contractors working in shared space.

Conclusion

Schedule slippages for both projects and workmanship issues in the SICU project are the result of poor planning of the two projects by Oklahoma City VAHCS and VISN 16 officials and inadequate oversight of the SICU project by Oklahoma City VAHCS officials. The ultimate completion dates and eventual cost of these two projects are unknown, largely due to the ongoing legal dispute concerning the SICU project.

In December 2016, VA convened an Administrative Investigative Board (AIB) to conduct an investigation of the facts and circumstances regarding an apparent violation of the Anti-Deficiency Act (ADA) associated with both projects. In May 2017, the AIB reported that an ADA violation occurred because Oklahoma City VAHCS Engineering staff had removed an elevator from the SICU project and added it into the design of the OR project in order to keep the SICU project classified as “minor construction,” which is a construction project that costs under \$10 million.⁴

⁴ Construction projects that exceed \$10 million are funded through VA’s Major Construction Program and require congressional approval. Minor construction programs are approved at the Veterans Health Administration level.

What the OIG Recommended

The OIG recommended the Executive in Charge, Office of the Under Secretary for Health, ensure that:

- Construction areas in the SICU project are sealed to prevent further weather damage,
- The Oklahoma City VAHCS implements procedures to strengthen oversight of minor and non-recurring maintenance construction projects, and
- Recommendations by technical experts who evaluate construction completion status and conformance to contract specifications are implemented by the Oklahoma City VAHCS.

In addition, the OIG recommended the Executive in Charge, Office of the Under Secretary for Health consider administrative action for key officials responsible for the SICU project as appropriate.

Management Comments

The Executive in Charge, Office of the Under Secretary for Health concurred with the OIG's findings and recommendations and provided responsive action plans to address them. The OIG will monitor VHA's progress and follow up on the implementation of the recommendations until all proposed actions are completed.



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INTRODUCTION

Objective

The OIG conducted this review in response to concerns from the Oklahoma City VA Health Care System (VAHCS) Director. The objective was to review issues associated with the planning and oversight of two construction projects at the Oklahoma City VAHCS. Specifically, the review focused on Oklahoma City VAHCS's management of construction of a new Surgical Intensive Care Unit (SICU)⁵ and expansion of the Operating Room (OR) Suite.⁶

Oklahoma City VAHCS Overview

The Oklahoma City VAHCS is a 192-operating bed facility located in central Oklahoma and serves 48 Oklahoma counties, as well as two counties situated in north central Texas, for a veteran population of over 225,000. The Oklahoma City VAHCS has specialized programs, including Mental Health Intensive Case Management, a Center for Alzheimer and Neurodegenerative Diseases, and Animal Assisted Therapy.

Construction Projects Reviewed

In October 2016, during a separate OIG review of health care and administrative issues at the Oklahoma City VAHCS reported separately by the OIG,⁷ the Director, in place since May 2016, brought two ongoing construction projects to the attention of the OIG. Each project was estimated to cost under \$10 million, and together they were budgeted for about \$18 million. One project, funded with minor construction funds,⁸ involved the construction of a new floor on top of the existing seven-story clinical building, with an initial budget of about \$9.9 million. Once completed, the new eighth floor will house a relocated SICU and will encompass about half of the existing roof area.

The second construction project involved the expansion of the OR into the space vacated by the existing SICU. This project was budgeted to cost about \$8.1 million. The purpose of the project is to increase the number of operating rooms in response to increased specialty surgical demand. This project is a non-recurring maintenance (NRM) construction project, funded with medical facility funds overseen by the medical facility director.

⁵ Referred to in this report as "the SICU project."

⁶ Referred to in this report as "the OR project."

⁷ VA Healthcare Inspection, *Evaluation of System-Wide, Clinical, Supervisory, and Administrative Practices, Oklahoma City VA Health Care System*, Report No. 16-02676-13, November 2, 2017. OIG will also issue a separate report detailing the results of a review of resident and part-time physician time and attendance issues at the facility.

⁸ VHA's Minor Construction Program funds projects for enhancements or additions to VA medical facilities with estimated costs under \$10 million. Construction projects that exceed \$10 million are funded through VA's Major Construction Program and require congressional approval of individual projects.

The Director had concerns about the management of the two projects and provided the OIG with a report on the projects prepared by representatives from the Veterans Integrated Service Network (VISN) 19 and Veterans Health Administration's (VHA) Office of Capital Asset Management Engineering and Support in October 2016.⁹ As a result, the OIG initiated a review of the two projects in November 2016. A description of the evolution of the projects is located in Appendix A and a chronology of significant events is in Appendix C.

**Status as of
January 2018**

Both projects were suspended in July 2016 by the Contracting Officer (CO) due to disputes between the different construction contractors working in the shared space. On July 1, 2016, TL Services, Inc. (TLS), the construction contractor for the SICU project, filed a claim with VA for additional costs. The additional costs of approximately \$1.8 million were primarily for delays allegedly caused by VA's failure to remedy another contractor's interference with TLS's access to the work site. In a January 31, 2017, response, the CO denied TLS's claim for \$1.8 million and issued a \$3.75 million counterclaim against TLS for failure to construct the SICU project in accordance with contract specifications. On March 9, 2017, the CO issued a contract modification requiring the SICU construction contractor to return to work and extended the period of performance to December 2017. In response, on March 15, 2017, TLS filed an appeal with the Civilian Board of Contract Appeals on its claim. According to Oklahoma City VAHCS officials, TLS personnel also returned to work on the SICU project in March 2017 to address safety concerns arising from unfinished or inadequate work potentially exposing the facility to weather-related issues. According to the facility's Acting Associate Director, TLS reported weatherization work had been completed and its workers left the site in July 2017. There are no plans to correct existing work, or to complete the project, until after mediation, which began in October 2017, with a judge on the claim and counterclaim. The OR project remains suspended until completion of the SICU project, to prevent recurrence of conflicts between contractors working in shared space. Litigation was still pending at the time of this review.

⁹ In October 2015, VA reorganized its regional VISNs, which resulted in the transfer of responsibility for Oklahoma City VAHCS from VISN 16 to VISN 19. The Office of Capital Asset Management Engineering and Support provides VHA's guidance, oversight, and technical support for capital initiatives and engineering operations, including major and minor construction and non-recurring maintenance.

RESULTS AND RECOMMENDATIONS

Finding **Oklahoma City VAHCS and VISN 16 Mismanaged Two Construction Projects**

VISN 16 and Oklahoma City VAHCS officials mismanaged the planning of the SICU and OR projects, Oklahoma City VAHCS officials mismanaged oversight of the SICU project, and both projects are behind schedule. As of November 2017, the SICU project was estimated to be only about 60 to 65 percent complete despite the fact that the construction contractor had already been paid more than 90 percent of the construction portion of the project's funds. Furthermore, the project had widespread workmanship issues. Portions of the SICU construction area were open to the weather and deteriorating, which also negatively affected the OR construction area as shown in Figures 3 and 7. As of January 2018, the SICU project was more than two-and-a-half years behind schedule and the OR project was suspended with no established completion date. The SICU construction contractor initiated litigation against VA in March 2017, and final project costs and completion dates are unknown pending the outcome of the legal action. Both projects were delayed because of poor project planning by VISN 16 and Oklahoma City VAHCS officials, and project quality concerns exist because of inadequate oversight of the contractor's work on the SICU project by Oklahoma City VAHCS officials. Poor planning and oversight of this project by VISN and facility officials resulted in VA spending about \$8.2 million out of the approximately \$8.8 million construction budget for work that was either incomplete or, according to VA officials, does not meet VA's standards and requirements.

According to the Oklahoma City VAHCS Acting Associate Director, leaders have taken some steps during the OIG's review to address these issues—including sealing the SICU area and proposing the removal of certain officials involved with managing these projects—but challenges and uncertainties remain. Despite the ongoing litigation on the SICU project, the OIG has offered recommendations to improve planning and oversight of future minor construction and NRM projects at the facility and other recommendations the facility may need to consider for these projects.

The SICU Project

The SICU project evolved from the time of initial conception in 2006, when it was envisioned as a single construction project including the expansion of the OR Suite. In 2007, the scope of the project changed to separate the two projects, with the expansion of the OR being removed from the original project.

After separating the two projects, the facility solicited bids for the SICU project, which were received in September 2011. However, all bids received

exceeded the \$10 million minor construction limit when design costs were included. According to a May 2017 Administrative Investigation Board (AIB) report, facility personnel removed some items from the design and solicited bids for the project again in September 2012, which again resulted in bids in excess of the minor construction limit. Facility personnel redesigned the project in early 2013, which included transfer of a two-floor elevator from the SICU project to the OR project. According to the AIB report, bids were solicited a third time and the SICU construction contract was awarded to TLS for approximately \$8.9 million.

The decision to transfer the elevator from the SICU project to the OR project became the subject of a VA inquiry by an AIB in December 2016. Specifically, the AIB investigated the facts and circumstances regarding an apparent violation of the Anti-Deficiency Act (ADA)¹⁰ that occurred because Oklahoma City VAHCS Engineering staff removed the elevator from the SICU project and added it into the design of the OR project. The AIB concluded that facility staff did this in order to keep the SICU project classified as a “minor construction” project, which is a project with costs under \$10 million. The AIB report, released in May 2017, made a series of recommendations including administrative disciplinary actions against those responsible for the ADA violation both at the Oklahoma City VAHCS and at VISN 16.

SICU Project Quality Issues

The SICU project, as of March 2017, had a wide variety of workmanship issues and portions of the construction site were deteriorating. During its on-site walk-throughs of the construction area in November 2016 and February 2017, the OIG team observed numerous examples of construction workmanship and quality issues related to the eighth floor roof, plumbing, electrical systems, and stairwells, as shown in Figures 1–6. These issues were identified by the SICU project designer, the Architect and Engineer (AE),¹¹ in its March 2017 Property Condition Report. According to the CO, Engineering and Contracting requested a site visit and assessment by the AE under the terms and conditions of the contract because the litigation needed an assessment of the condition of the site compared to the design. Some of the issues noted call into question the structural integrity of portions of the eighth floor, and the deterioration of installed systems and piping may result in the need for full replacement. In other cases, questionable workmanship had resulted in weather-related intrusion and subsequent deterioration of interior space on both the eighth and seventh floors. The OIG team’s observations of poor-quality construction were similar to those identified in the AE report, as shown in Figures 1–6. In addition, the AIB report noted

¹⁰ The Anti-Deficiency Act prohibits federal employees from making or authorizing expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund, 31 U.S.C. § 1341(a)(1)(A).

¹¹ Benham, a Haskell Company.

that, during its tour of the construction area, “it became apparent that the SICU Minor project was significantly poorly constructed.”

Structural Integrity Concerns

The AE’s report noted that the new concrete columns at the southeast stairs were not constructed in accordance with the design. The new concrete columns are not rectangular, but round, and they extend past the face of the existing rectangular columns on at least three sides. According to the AE, the designer was not provided—and therefore did not review—any shop drawings related to the new concrete columns. The AE stated that additional investigation is necessary to determine the structural integrity of the new concrete columns.

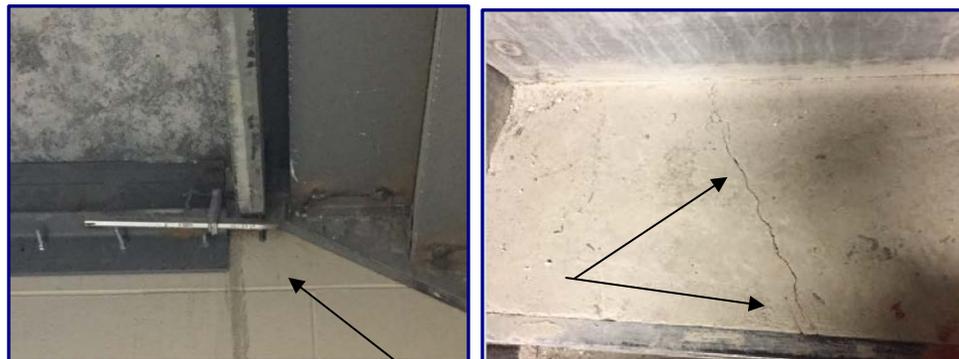
The AE report also noted steel columns placed on the new concrete columns at the southeast stairs did not appear to align with the center of the existing concrete columns as shown in the design documents. The AE recommended additional investigation to determine the structural integrity of the new steel columns.

Stairs to the New Roof

The stairs to the new roof had a number of issues. According to the AE’s report, some of the steel beam connections at the new stairs deviate from the design. The design required bolted, single-angle connections, but the as-built connections were welded to the steel beams, causing an alternate load path. Consequently, the AE recommended additional investigation to determine the structural integrity of the as-built condition.

The OIG team observed one area where a clamp was in place in the connection from the stairs to the steel beam and deterioration was evident, as revealed by the cracks in the concrete stairs (see Figure 1.) According to the Project Engineer, the materials did not meet specifications and the stairs flexed causing cracks.

Figure 1. SICU Project: Stairs to New Roof Clamped to Beam, Cracked



Source: VA OIG; Oklahoma City, OK; 11:00 a.m.; February 28, 2017

Building Roof

The new roof on the eighth floor had numerous quality and workmanship issues that need correction. The AE’s report noted VA’s project construction documents state that the existing roof is to be a built-up bituminous roofing

system with gravel surface.¹² Specifications indicate this type of roof is for existing construction. New construction is to have an SBS Modified Bituminous Roofing System.¹³ However, the AE's inspection concluded that the roofing membrane installed does not appear to meet either specification. In addition, the OIG team observed numerous areas during site visits where the roof membrane was coming off, as shown in Figure 2. According to the Project Engineer, this allowed weather seepage, as evidenced by visible mold and water damage on the walls around the SICU project windows.

Figure 2. SICU Project: Building Roof Membrane Coming Off



Source: VA OIG; Oklahoma City, OK; 1:00 p.m.; November 8, 2016

The AE's report and the OIG team's site visits confirmed numerous other quality issues with the roof. For example, the AE's report noted that there were roof areas with little to no spray fire protection applied and many areas that lacked required flashing.¹⁴

*Building
Expansion
Joint*

The AE's report noted that a building expansion joint on the north side of the construction area had not been installed.¹⁵ The OIG team observed a portion of the building in the construction site was open to the weather where the expansion joint should have been installed. As a temporary compensating measure, plastic sheeting had been installed to collect and redirect water infiltration into a plastic drum, as shown in Figure 3. According to the current Project Engineer, water infiltration was still a problem during heavy rain.

¹² Bitumen is a black, sticky substance such as tar or asphalt, used for making roads and roofs.

¹³ Styrene Butadiene Styrene (SBS) Modified Bituminous Roofing System is used for low-slope commercial, industrial, and institutional buildings when an asphalt system is desired.

¹⁴ Flashing is the use of components to weatherproof or seal the roof system edges.

¹⁵ In building construction, an expansion joint is a complete break through structural and non-structural elements that allows both contraction and expansion resulting from temperature changes.

Figure 3. SICU Project: Construction Area Open to Weather, Water Diversion, and Collection



Source: VA OIG; Oklahoma City, OK; 1:00 p.m.; November 8, 2016

*Steel
Beams*

The OIG team observed miscellaneous structural steel beams and pieces of steel were stacked on a portion of the existing elevator machine room roof, as shown in Figure 4. The Project Engineer was not sure where the beams belonged, expressed concern that the beams should have been incorporated somewhere in the project, and suggested that a hole would need to be punched into the outer wall for removal of the large and heavy beams using a crane. According to the AE's report, the purpose of the steel beams is unknown and it was not apparent whether the material would be used in the future.

Figure 4. SICU Project: Structural Steel Left On Site



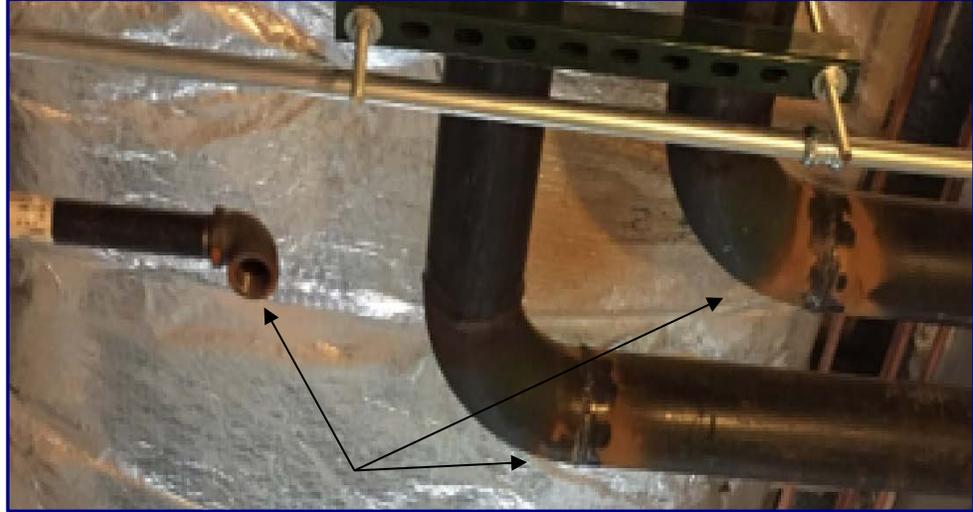
Source: VA OIG; Oklahoma City, OK; 11:00 a.m.; February 28, 2017

*Fire
Suppression
Pipes*

The AE's report indicated that installation of the fire suppression system was not completed, uncapped pipes were open to contamination, and as a result, the system will need to be cleaned and tested. The OIG team observed the uncapped and deteriorating rusted pipes during its site visit, as shown in Figure 5.

Fire Protection & Code Consultants conducted a site survey of the SICU project in November 2016 and noted the automatic sprinklers that were present were not installed at the proper height and were not in service.

Figure 5. SICU Project: Uncapped and Rusting Fire Suppression Pipes



Source: VA OIG; Oklahoma City, OK; 11:00 a.m.; February 28, 2017

*Uneven,
Deteriorating
Floor*

The AE's report noted visible trowel marks on the floor-leveling compound, varied floor thickness, and failed floor-leveling material. In addition, the AE's report stated that there were areas where the material was spalling.¹⁶ The OIG team observed the deteriorating condition of the floor, as shown in Figure 6.

Figure 6. SICU Project: Uneven and Fragmenting Floor



Source: VA OIG; Oklahoma City, OK; 11:00 a.m.; February 28, 2017

¹⁶ Spalling refers to fragmenting of a concrete surface, usually of flaky shape, detached from a larger mass by pressure, expansion from within the larger mass, a blow, or by the action of weather.

*Medical
Gas System*

The material used for medical gas piping does not meet the specification requirements according to the AE report. Specifically, it noted that Copper Tube Type L was installed rather than the specified OxyMed Type K. The Type L piping has thinner walls and, therefore, is not an acceptable substitute. The AE concluded that the entire medical gas piping system must be removed and reinstalled.

*Air Control
Equipment*

The air control system on the roof was not installed properly, according to the AE report. It noted that the unit's coils froze in the winter because of incomplete installation of the glycol, which is used as an antifreeze solution in chilled water systems. The coils need a thorough inspection to determine if they were damaged. In addition, the AE report stated that the curb flashing was not properly installed and that the roof opening for pipe penetrations inside the unit's piping vestibule was not sealed. This caused water leaks inside the building. The AE report also pointed out that some of the pipes and pipefittings inside the unit's pipe vestibule had not been properly insulated or painted and were badly rusted as a result.

*SICU
Project
Schedule
Delays*

The SICU project construction was initially awarded in November 2013 and scheduled to be completed in February 2015. A series of contract modifications were needed due to various reasons, such as weather delays, extending the completion date to January 2016. Work on the project continued until July 2016, when it was suspended because of disputes between the OR and SICU project construction contractors. Construction on the SICU project did not restart until March 2017. However, TLS stopped work July 2017. According to the facility's Acting Associate Director, TLS reported work to seal the area had been completed and TLS left the site. There are no plans to correct existing work or to complete the project until after mediation on the claim and counterclaim, which began in October 2017.

*Causes of
the SICU
Project's
Issues*

Schedule slippages in the SICU project were the result of poor planning by Oklahoma City VAHCS and VISN 16 officials, and workmanship issues were the result of inadequate oversight of the contractor's work on the SICU project by Oklahoma City VAHCS officials.

*Not Designed
for the Bidding
Market and
Budget*

The SICU project was restricted to Service-Disabled Veteran-Owned Small Business (SDVOSB) bidders as required by regulations detailed below. However, the project was ineffectively planned, as evidenced by the VISN 16 and Oklahoma City VAHCS officials' failure to ensure the AE's final cost estimate for the project did not exceed the cost target and statutory minor construction limit of \$10 million.¹⁷ The VHA Minor Construction Handbook 1002.02 specifies that:

¹⁷ In 2012, the year of the SICU project design award, Public Law 112-74 *Consolidated Appropriations Act, 2012* stated that minor construction projects are equal to or less than the

- The VISN Contract Manager, or CO, must ensure the AE final cost estimate did not exceed the approved cost targets prior to construction bid solicitation (Section 12.d);
- The facility director is responsible for ensuring approved projects remain within the approved cost targets (Section 13.b);
- The facility Chief Engineer is responsible for project planning, and cost must include any anticipated mark-ups for small and disadvantaged business contractors (Section 16.a); and
- The Project Engineer is responsible for submitting the project through the facility director for approval of the design prior to construction solicitation to ensure the AE's estimate was within the approved total project cost (Section 15(i)(2)).

Despite the requirement to ensure AE estimates met cost targets, Oklahoma City VAHCS management failed to consider the effect of an SDVOSB market. A June 2011 AE estimate did not include costs associated with a restricted bid market. Nevertheless, the former VISN 16 Contract Manager,¹⁸ the former CO,¹⁹ the former Oklahoma City VAHCS Director, the former facility Chief Engineer, and the former SICU Project Engineer proceeded with soliciting bids only from SDVOSBs for the SICU project.

In accordance with VA regulations, the CO shall set aside an acquisition for competition restricted to SDVOSBs when there is a reasonable expectation that offers will be received from two or more eligible bidders, and the award will be made at a fair and reasonable price.²⁰ The former SICU Project Engineer conducted pre-bid market research and identified several potential SDVOSB bidders. Thus, it was determined the project could be limited to this market.

However, the SICU project's initial design assumed an unrestricted, open bid market. The AE, in October 2011, estimated approximately \$8.6 million in construction costs for an open bid market competition and \$9.8 million for a bid market restricted to SDVOSBs. However, because design costs reached almost \$975,000, the total cost for the project was estimated to be almost \$10.8 million, exceeding the statutory minor construction cap of \$10 million. Consequently, the estimated \$9.8 million construction cost for a design for a restricted bid market was not feasible under the minor construction cap.

amount set forth in 38 U.S.C. § 8104 (a)(3)(A), which states that a major medical facility project is more than \$10 million.

¹⁸ The then VISN 16 Contract Manager is no longer with VA, according to his successor.

¹⁹ The former CO is now retired, according to the former SICU Project Engineer.

²⁰ VA Acquisition Regulation, *Part 819 - Small Business Program*, section 7005(a).

*Result of Poor
Planning of the
SICU Project*

The decision to proceed with solicitation for the project despite the failure to include costs for a restricted bid market had several negative results. First, it delayed the start of the SICU project by about two years because of the need to redesign the project to lower construction contract costs. To meet cost targets, required elements of the SICU project were removed, such as a nurse call system and patient bed service walls.²¹ In addition, construction of the dedicated two-floor patient elevator was transferred from the SICU project to the OR project. This transfer was the primary factor in the AIB's determination that an ADA violation had occurred.

VA convened the AIB in December 2016 to conduct an investigation into the facts and circumstances regarding the SICU and OR projects that may have violated the ADA by exceeding the minor construction threshold without specific authorization and appropriation, as required by United States Code 31 and 38. In May 2017, the AIB found that an ADA violation had occurred. The AIB report stated:

This violation was due to Engineering staff removing key components from the SICU Minor project and adding them into the design of an active OR NRM [non-recurring maintenance] project in order [to] not exceed the Major Construction program threshold of \$10M [million].

The two projects combined exceed the \$10 million minor construction limit and, according to VA officials and the AIB, required additional funding to complete. The AIB concluded this occurred due to the lack of execution of project management and administrative responsibilities of various individuals, including the former facility Project Engineer, former Supervisory Engineer,²² former Chief and Assistant Chief Engineers, and VISN officials.

In addition, market conditions changed during the two-year delay, leading to a request for a cost increase of \$299,000. The request stated construction and material costs increased in areas such as structural steel, electrical, and plumbing.

*Inadequate
Oversight of
SICU Project*

Quality issues related to the contractor's work on the SICU project were not identified and corrected timely because of ineffective oversight from the Project Engineer, the Supervisory Engineer, and others in the Oklahoma City VAHCS engineering chain of command.

²¹ Patient bed service walls house all permanent bedside services. Services include, but are not limited to, power outlets, telephone outlets, medical gas outlets, and television remote controls.

²² The Supervisory Engineer functions as Chief of Projects in performance of all engineering staff responsibilities involved in the engineering and design of buildings, grounds, and utilities.

The Project Engineer reported to the Supervisory Engineer who, according to performance standards, must tour the facility, observe employees at the work site, and take corrective actions when necessary. The Supervisory Engineer's duties included responsibility for "continual evaluation of the day-to-day services provided by Engineering Service" and management of subordinate staff. The position description for the Chief Engineer included supervision of all construction projects and managerial responsibility for the engineering program staff.

Primary responsibility falls with the Project Engineer, who also served as the Contracting Officer's Representative from the start of the project until April 2016. VA construction standards state the Project Engineer, in partnership with the CO, is responsible for keeping the project on schedule, ensuring the construction site is frequently visited, and ensuring the project is constructed in accordance with the construction documents, among other duties.²³

Nevertheless, the former Project Engineer did not identify and timely report quality issues on the SICU project to the CO and Oklahoma City VAHCS engineering management. According to that Project Engineer, site visits were performed daily. The status of the project was reported at weekly meetings with engineering management, and to the CO during weekly teleconferences. The Project Engineer also updated the Project Tracking Report monthly.²⁴ However, the majority of the Project Tracking Report entries were brief comments with no mention of the project's quality issues. For example, entries included statements such as, "contractor is preparing to core holes for electrical and plumbing," and "contractor is continuing to install drywall."

In addition, Contract Progress Reports were attached to invoices the Project Engineer forwarded to engineering management.²⁵ Both the Project Tracking and Contract Progress Reports included the project status and percentage of completion. Therefore, the former Project Engineer failed to use the multiple methods available to report the actual project status and quality problems, which should have been identified during routine site visits.

The former Project Engineer did not identify and report quality problems until issues were identified by another facility engineer during a weekly routine safety inspection—one month before the project was scheduled to be completed. The SICU project was planned for completion in January 2016

²³ VA Handbook 1002.02, *Minor Construction Program*, Section 15.a(5).

²⁴ The Project Tracking Report is a tool used by the VISN Capital Asset Manager to monitor the status of projects. The Minor Construction Handbook requires the Project Engineer to update the Project Tracking Report with actual information on a monthly basis.

²⁵ A Contract Progress Report was prepared by the SICU construction contractor for each progress payment submitted. It provided the reviewer with a comparison of actual to scheduled percent completion, and value of work installed to date to total contract value.

following several extensions. At the end of December 2015, the former Project Engineer requested another Oklahoma City VAHCS engineer participate in a joint site inspection of the SICU construction area. The inspection team consisted of the engineer and electrical, plumbing, and other trade specialists. The former Project Engineer forwarded the results of the site inspection to the CO, engineering management, and the construction contractor, which identified multiple quality issues including misaligned and inadequately supported electrical conduit and uneven stairs. The results of the joint inspection stood in stark contrast to the lack of construction quality issues reported by the former Project Engineer from construction inception in December 2013 until the inspection two years later.

Why the Project Engineer Failed To Provide Adequate Oversight

In addition to the VA Minor Construction Program Handbook, the Project Engineer's performance standards clearly state the responsibilities for project oversight. For example, the Project Engineer's fiscal year (FY) 2016 performance standards included the requirement to "perform daily construction site inspections." The Project Engineer's standards for FYs 2015 and 2014 included the requirements to "coordinate with construction contractors to ensure accurate, proficient completion of all construction projects within the established deadline," and "monitor the A/E and/or construction contractor's performance to assure compliance with the technical requirements of the contract." Despite these clearly delineated job requirements, the former Project Engineer stated that the daily site walk-throughs were conducted only for safety reasons, not quality assurance purposes. However, safety issues were only one aspect of the Project Engineer's responsibilities and not the sole responsibility.

Management Failed To Adequately Supervise the Project Engineer

The deficient oversight by the former Project Engineer was compounded by management's inadequate supervision of the Project Engineer through the chain of command within Oklahoma City VAHCS Engineering Service. Despite the obvious flaws in the construction contractor's performance on the project, the former Supervisory Engineers rated the Project Engineer's performance as Excellent or higher for three consecutive years—FYs 2014, 2015, and 2016. The former Chief Engineer concurred with that performance rating and signed annual appraisals for FYs 2015 and 2016 as the approving official.

Review comments during the SICU project construction periods included the following statements:

- "[The Project Engineer] consistently keeps key members of the Engineering Department and his customers involved in a project throughout the process through coordination meetings, e-mails and phone calls."
- "[The Project Engineer] has been outstanding in monitoring contractor's activities through both the design and construction phases."

- “[The Project Engineer] makes sure to coordinate with construction contractors and customers to achieve effective time management in completion of all construction projects ultimately meeting or in some cases beating established deadlines. [The Project Engineer] has gone way above and beyond the call of duty by providing COTR [Contracting Officer’s Technical Representative] services for several high profile projects.”

According to the former Supervisory Engineer, the former Project Engineer’s performance rating was not supportable and no documentation of the Project Engineer’s failure to adequately perform his duties was prepared by the previous SICU project supervisor. Furthermore, despite the requirement to tour the facility and evaluate daily services, the former Supervisory Engineer expressed to the OIG team a lack of awareness regarding quality issues with the SICU project prior to December 2015, when a staff engineer informed him of numerous issues with construction. As explained below, the Supervisory Engineer participated in routine safety site inspections that provided numerous opportunities to observe the quality of construction.

The former Chief Engineer also reported to the OIG team that awareness of the issues was lacking until they were brought up by a staff engineer. The former Assistant Chief Engineer noted that there was no awareness of problems with the SICU project until it was apparent that the project was trending off schedule. Engineering management’s concurrence with the former Project Engineer’s high performance ratings, failure to document and adequately rate that same Project Engineer’s performance, and lack of awareness of quality issues demonstrated inadequate supervision.

*Engineering
Management
Failed To
Identify Quality
Issues*

Engineering management also failed to identify quality issues during routine safety inspections of the SICU project site, as detailed below. According to Oklahoma City VAHCS officials, representatives from Engineering Service participated in weekly, multidisciplinary construction safety inspections of all construction areas, including the SICU project. Oklahoma City VAHCS provided the OIG team with copies of 108 safety inspection logs signed by participating personnel from October 2014 through February 2017.

Safety logs indicated the former Chief Engineer first participated in safety inspections starting in October 2016. The former Assistant Chief Engineer attended only two safety inspections during November and December 2015. Thus, as of December 2015—when another Oklahoma City VAHCS engineer reported problems after participating in a joint site inspection of the SICU construction area—the former Assistant Chief Engineer had only joined the safety inspections twice, and the former Chief Engineer, not once.

The former Supervisory Engineer attended 92 percent of the safety inspections from October 2014 until his retirement in June 2015. The subsequent Supervisory Engineer participated in 60 percent of the safety

inspections from June to December 2015. The former Chief Engineer also stated that he visited the site for major milestones, such as the structural steel installation. Thus, engineering management had numerous occasions to recognize and identify quality issues but failed to do so.

Project
Payments Did
Not Match
Project
Progress

Oklahoma City VAHCS engineering management also failed to verify that the reported status of the project was accurate prior to approval of progress payments, as evidenced by the significant difference between the former Project Engineer's reported percentage of completion and VA officials' opinion of the actual status of the project.

According to the former Chief Engineer, the former Project Engineer prepared a summary cover sheet for each progress payment request. In addition, each application for payment included a certification by the Project Engineer that the work was completed according to the contract. A Contract Progress Report that included the percentage of completion was attached. Once the request was reviewed and approved by the Supervisory Engineer and Chief Engineer, the Project Engineer processed the payment.

According to the former Chief Engineer, the Supervisory Engineer reviewed and initialed all progress payment requests to indicate concurrence and approval. The Chief Engineer then certified that services were received in accordance with the contract, for each approved monthly invoice, and recommended payment in accordance with VA policy which states:

Under 31 U.S.C. 3528, Certifying Officials are responsible for information stated in the invoice, supporting records, the computation of a certified invoice, and the legality of a proposed payment under the appropriation or fund involved.²⁶

Despite these processes and requirements, payments that did not match the actual progress of construction were made to the contractor. By December 2015, the Supervisory Engineers and Chief Engineer approved 23 SICU construction invoices for approximately \$7.4 million. By March 2016, engineering management had approved \$8.2 million of the \$8.8 million, or about 93 percent of the planned construction costs for the SICU project. The corresponding Contract Progress Report stated that the project was approximately 90 percent complete. However, according to the Capital Support Consultant with the Office of Capital Asset Management Engineering and Support, a VISN 19 engineer, and the subsequent Project Engineer, the SICU project was only about 60 to 65 percent complete as of November 2017.

²⁶ VA Fiscal Policies and Procedures Volume VIII, Chapter 1, *Administrative Fiscal Policies and Procedures*, section 010204.C.

Several factors caused Oklahoma City VAHCS engineering management's failure to adequately monitor the SICU project. For instance, the former Chief Engineer stated that he relied upon the Supervisory Engineer who, in turn, stated that he relied upon his predecessor's high opinion of the Project Engineer's abilities. The Chief Engineer, Assistant Chief Engineer, and Supervisory Engineers also relied upon the Project Engineer's weekly verbal reports, monthly Project Tracking Reports, and Contract Progress Reports attached to each invoice. Reliance upon the former Supervisory Engineer's assessment and failure to verify the Project Engineer's status reports was evidence of inadequate supervision and poor project oversight by engineering management.

Results of Poor Oversight of SICU Project

Inadequate oversight of the SICU project caused a series of compounding problems. For example, because the CO was not timely notified of quality issues by the Project Engineer, the CO did not exercise a contract clause of the AE contract that authorized AE site visits when requested by the CO or authorized representative to observe the construction, advise the engineer of any deviation or deficiencies, and recommend appropriate corrective measures. According to the AE invoice dated August 2015, none of the 27 authorized site visits had been performed or invoiced. Poor oversight of the SICU project resulted in a lack of timely notification of project quality issues and, consequently, failure to exercise the AE site visit option, which could have identified problems earlier.

Failure to adequately monitor the SICU project resulted in a project with a number of quality deficiencies and overpayments to the construction contractor for work not meeting VA standards and requirements. As of March 2016—the date of the last payment to the construction contractor—more than 90 percent of the construction funds had already been paid to the contractor for a partially completed project.

Due in part to the numerous deficiencies, the CO denied the SICU construction contractor's claim for \$1.8 million for additional costs and issued a counterclaim for \$3.75 million to correct construction quality issues. In turn, the SICU construction contractor filed an appeal in March 2017 with the Civilian Board of Contract Appeals. Also in March 2017, work resumed on the SICU project to address safety concerns from unfinished or inadequate work potentially exposing the facility to weather-related issues. However, disagreements and additional costs incurred by the contractor will reportedly be added to the construction contractor's appeal, according to the current Project Engineer. Construction halted in July 2017 and there are no plans to correct existing work or to complete the project until after mediation meetings, according to the facility Acting Associate Director, which began in October 2017.

The OR Project

The partially completed OR project is currently suspended with no established completion date. Oklahoma City VAHCS engineering management originally planned several years between the OR project and the SICU project because of VHA requirements described below. Nevertheless, construction on the OR project started in March 2015, before the SICU project was completed, because approval and funding for the project was received sooner than expected from VISN 16, as explained below. This project was originally scheduled to be completed September 2016. However, management's decision to start the OR project prematurely resulted in conflicts between the OR project contractor and the SICU project contractor working in overlapping space, and weather intrusion from the SICU project affected the OR construction area.²⁷ As a result, the OR project was suspended in July 2016; it is currently behind schedule, and there is no planned completion date as this project's restart is now pending completion of the SICU project to prevent recurrence of conflicts between construction contractors.

According to VHA policy, the medical facility director is responsible for ensuring non-recurring maintenance (NRM) funds are not used to remodel, alter, amend, construct, extend, improve, modify, or change a minor construction project within one year of the project's final acceptance.²⁸ Oklahoma City VAHCS management planned to wait several years before the OR project started to comply with this requirement because the OR project would have altered common elements like power; air conditioning; and a new, dedicated two-floor elevator in the SICU project's space.

Why the OR Project Started Early

According to the former Chief Engineer, management officials submitted the OR project to the VISN in 2011 because Oklahoma City VAHCS management did not expect the project to be approved so quickly, or on the first application. According to Oklahoma City VAHCS engineering management, the VISN approved the project unexpectedly in March 2011 for award in FY 2012. Because NRM projects are funded by medical facility funds that expire annually, Oklahoma City VAHCS officials were faced with starting the OR project in FY 2012, long before the SICU project was completed, or returning the funding and seeking approval and funding in a later fiscal year.²⁹

In January 2012, a former Facility Director attended a meeting with engineering officials and the SICU project designers to discuss the reasons construction bids for the SICU project exceeded the budget. The meeting

²⁷ The acting Facility Director in place for about one month when the OR project design was awarded is now retired, according to the facility's Human Resource Officer.

²⁸ VHA Directive 1002.1, *Non-Recurring Maintenance Program*, section 4.e.

²⁹ The FY 2012 Medical Facilities appropriation was available for one year, from October 1, 2011 until September 30, 2012. *Consolidated Appropriations Act, 2012, P.L. 112-74, December 23, 2011.*

minutes indicate that the then Facility Director preferred to reduce the scope for the SICU project in order to obtain bids within the budget. Therefore, the Facility Director was aware that the SICU construction award was falling behind schedule. Nevertheless, Oklahoma City VAHCS management decided to continue with the OR project rather than defer it.

The decision by Oklahoma City VAHCS management to allow the two projects to proceed simultaneously resulted in both construction contractors working in adjacent, and in some areas overlapping, spaces. Oklahoma City VAHCS engineering staff struggled to coordinate the work between the two projects. This led to conflicts between the two construction contractors. In some instances, the SICU construction contractor reported its work was altered by the OR construction contractor, including cutting penetrations into the SICU roof, removing electrical work previously completed, and dismantling previously installed plumbing requirements. The two-floor elevator shaft also shared common space between the two projects. Consequently, two contractors working in shared space created a difficult environment for all parties involved. In addition, approximately \$1.5 million of the SICU construction contractor's \$1.8 million claim for increased costs was primarily for delays due to conflicts with, and working around, the OR construction contractor.

Questionable workmanship in the SICU project also resulted in weather intrusion in the OR construction area, as evidenced by mold around the windows (see Figure 7). According to the current Project Engineer, removal or repair of the damaged areas will cause increased OR project costs.

Figure 7. OR Project: Mold Around Windows



Source: VA OIG; Oklahoma City, OK; 1:00 p.m.; November 8, 2016

As a result, the CO issued a suspension of work order for both projects in July 2016. The OR project is currently behind schedule and remains suspended until the SICU project is completed to prevent recurrence of conflicts between the contractors. According to the CO, costs continue to accumulate because of the delay.

**Recent
Leadership
Actions**

During the OIG review, Oklahoma City VAHCS leadership took some steps to address the poor planning, inadequate oversight of the SICU and OR projects, and weather intrusion. For example, as of October 2016, the Facility Director required the Chief Engineer, Assistant Chief Engineer, and Supervisory Engineer to attend the weekly safety inspections. The Acting Associate Director, Chief Engineer, and Supervisory Engineer are now included at all weekly project meetings with an open invitation for budget representatives to attend. At a minimum, once a month a representative from the Fiscal Service budget section attends a weekly project meeting and a construction site visit to monitor progress and ensure alignment with contracting, VISN, and Engineering Service. As of October 2017, the facility was also in the process of additional work to seal the SICU area, according to the facility's Acting Associate Director.

In addition, the Office of Capital Asset Management Engineering and Support and VISN 19 officials evaluated Oklahoma City VAHCS's construction process and the status of the projects in progress. In March 2017, according to the facility Director, the Chief Engineer, Assistant Chief Engineer, Supervisory Engineer, and the former Project Engineer were reassigned pending the outcome of the AIB's inquiry into the ADA violation. The facility Acting Associate Director proposed removals of the Chief and Assistant Chief Engineers in July 2017 for waste of government funds and failure to provide direct oversight. Subsequently, the Chief Engineer, Assistant Chief Engineer, and Supervisory Engineer retired before completion of disciplinary action. In addition, the facility terminated the Project Engineer's employment.

Conclusion

Both projects were delayed due to circumstances within the control of VISN 16 and Oklahoma City VAHCS management, and the delays are the result of questionable decisions. As of March 2017, the delays and disputes with—and between—the contractors caused portions of the projects to deteriorate due to weather intrusion. As of October 2017, the SICU project area was still in the process of being sealed, suffered from poor workmanship, and the construction contractor had filed a claim against VA. This could have been avoided if the Project Engineer or engineering management had identified and reported problems in a timely manner. The AE contract clause for a technical evaluation of the site by the AE and specialists could have been timely exercised to verify construction and materials were meeting the terms of the contract.

The AIB found that Oklahoma City VAHCS violated the ADA. According to the AIB, the violation stemmed from the engineering staff removing key components from the SICU project and adding them to the design of the active OR project in order to not exceed the major construction program threshold of \$10 million. The AIB team concluded that an independent evaluation needed to be done to assess and formulate an accurate estimate of the full costs of completing the project—including work already completed

that may need to be replaced or corrected—before requesting congressional authorization for expenditures greater than \$10 million. The AIB made several recommendations, including strengthening the program requirements and giving Fiscal Service a larger role in the management of funds. The AIB also recommended administrative disciplinary actions against those responsible for the ADA violation both at the Oklahoma City VAHCS and VISN 16.

The ultimate completion dates and eventual cost of these two projects are unknown due to the ongoing litigation between VA and the SICU construction contractor. Nevertheless, the OIG has offered recommendations to improve the planning and oversight of future minor and NRM construction projects at the facility, as well as other recommendations the Oklahoma City VAHCS may need to consider for the two projects.

Recommendations

1. The OIG recommended the Acting Under Secretary for Health ensure the construction areas in the Surgical Intensive Care Unit project are sealed to prevent further weather damage.
2. The OIG recommended the Acting Under Secretary for Health ensure the Oklahoma City VA Health Care System implements procedures to strengthen minor and non-recurring maintenance construction oversight.
3. The OIG recommended the Acting Under Secretary for Health determine if administrative actions should be taken concerning key officials responsible for the Surgical Intensive Care Unit project.
4. The OIG recommended the Acting Under Secretary for Health ensure the Oklahoma City VA Health Care System establishes procedures to ensure recommendations by technical experts, who perform site visits to evaluate project completion status and conformance to contract specifications as provided in design and construction contracts, are implemented.

Management Comments

The Executive in Charge, Office of the Under Secretary for Health, concurred with Recommendations 1–4.

To address Recommendation 1, the Executive in Charge stated the Deputy Under Secretary for Health for Operations and Management (DUSHOM) will issue a memorandum to VISN 19 requiring the VISN to certify that the construction areas in the SICU project are sealed. Once the certification is received, the Office of Capital Asset Management Engineering and Support will conduct a site visit to ensure the facility has implemented the recommendation.

To address Recommendation 2, the DUSHOM will issue a memorandum to the VISN 19 Network Director that requires the Oklahoma City VAHCS to develop procedures to strengthen construction oversight for minor and non-recurring maintenance. The Office of Capital Asset Management Engineering and Support will review the VISN and medical center program changes to ensure the facility has implemented the recommendation.

To address Recommendation 3, the Executive in Charge stated the DUSHOM will review the relevant information and consult with VHA's Office of Accountability and Whistleblower Protection. VHA will subsequently determine whether administrative actions are warranted and identify the office responsible for ensuring action is taken, if appropriate.

To address Recommendation 4, the DUSHOM will issue a memorandum to the VISN 19 Network Director that requires the Oklahoma City VAHCS to develop procedures that ensure recommendations by external technical experts are addressed and/or implemented as recommended. VISN 19 will provide the completed procedures to the Office of Capital Asset Management Engineering and Support for final review and input.

Appendix D contains the full text of the Executive in Charge, Office of the Under Secretary for Health's response.

OIG Response

The Executive in Charge, Office of the Under Secretary for Health, provided responsive action plans to address the recommendations. The OIG will monitor VHA's progress and follow up on the implementation of the recommendations until all proposed actions are completed.

Appendix A Background

Types of Projects

VHA's Minor Construction Program funds projects for enhancements or additions to VA medical facilities with estimated costs under \$10 million. Construction projects that exceed \$10 million are funded through VA's Major Construction Program and require congressional approval of individual projects. VA's annual minor construction appropriation funds minor construction projects, and VHA approves individual minor construction projects and change requests. The Facility Director and Facility Management Services Chief are responsible for minor construction project oversight. VA requested approximately \$406 million in FY 2016 and about \$372 million in FY 2017 for minor construction projects.

An NRM project is for the renovation, repair, maintenance, or modernization of an existing infrastructure within the existing facility square footage or expansion of up to 1,000 square feet, or surface parking. The NRM program is funded by the medical facilities component of the VA Medical Care appropriation and is overseen by the Medical Facility Director.

Project Evolution

The two projects discussed in this report evolved from the time of initial conception in 2006. Initially, the SICU and OR projects were envisioned as one combined effort, but several changes to the plans altered the timing and cost of the projects. The initial 2006 plan was concerned with renovating space on the fifth floor and relocating the SICU to that space, then renovating the vacated seventh floor space for expansion of the OR Suite. This was to be funded under the minor construction program, with an initial target cost of \$6.7 million. However, in 2007, Oklahoma City VAHCS management decided instead to pursue a more ambitious project by building vertically above the existing building to add an eighth floor to accommodate the SICU and renovate the vacated space to expand the OR Suite. The target budget for this plan was approximately \$7 million.

Subsequently, in 2007, the scope of the project changed again to separate the two projects, with the expansion of the OR Suite removed from the project. The target cost to add the eighth floor for the SICU under this plan was \$6.1 million and included a dedicated, two-floor elevator between the existing seventh floor and the new eighth floor. In 2008, the planned total costs were revised to \$9.7 million due, in part, to the use of updated cost guidelines. The design contract for the SICU project was issued in 2010 for just under \$1 million.

VA conducted a competitive solicitation process among SDVOSB contractors in 2011. All bids received exceeded the minor construction limit because the design was for an open bid market—that is, one not restricted to small businesses. The project was then redesigned, which included transfer of the two-floor elevator to the OR project.

The contract to construct the eighth floor addition was awarded to TLS in November 2013, for approximately \$8.9 million. A series of subsequent modifications decreased the construction costs to about \$8.8 million and extended the completion date to January 2016.

The OR expansion, now a separate project, was approved in March 2011 by VISN 16 as an NRM project for a total cost of approximately \$8.6 million for construction and design. The OR project's design contract was awarded in May 2012 for approximately \$740,000, and the design was completed in April 2014. The construction contract was awarded December 2014 for approximately \$7.4 million, and construction began March 2015 with a scheduled completion date of September 2016. The expected construction costs increased to about \$7.7 million through the last modification dated June 2016.

Appendix B Scope and Methodology

Scope and Methodology

The OIG team conducted its review from November 2016 through January 2018. It reviewed applicable laws, construction documentation, policies, and procedures for the SICU and OR projects at the Oklahoma City VAHCS. The OIG team visited the Oklahoma City VAHCS and observed the two construction areas. It also interviewed VISN 16 and VISN 19 Capital Asset Managers, a Capital Support Consultant with the Office of Capital Asset Management Engineering and Support, Oklahoma City VAHCS medical center facility management, and finance and engineering officials involved with the two construction projects.

The OIG team obtained the SICU project construction, AE payment documentation, and the logs of safety inspections from facility and financial officials. The scope of the OIG team analysis included four approved payments to the AE contractor from February 2011 to August 2015, and 27 approved payments to the SICU construction contractor from December 2013 to March 2016. The OIG universe of safety inspections included 108 logs from October 2014 to February 2017.

Fraud Assessment

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

- Conducting interviews with VA officials responsible for various aspects of the Oklahoma City VAHCS projects,
- Reviewing contract progress reports for vague or inconsistent information, and
- Reviewing the SICU project construction contract payment approvals to ensure the inclusion of signatures from two authorized officials.

The OIG team did not identify any instances of fraud during this review.

Data Reliability

To test the reliability of data, the OIG team corroborated source documentation extracted from the Electronic Contract Management System with documentation provided by Oklahoma City VAHCS and VISN officials. The OIG team believes the computer-generated data in the Electronic Contract Management System are sufficiently reliable to support its objectives, conclusion, and recommendations.

Government Standards

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. These standards require that we plan and perform the review to obtain sufficient, competent, and relevant evidence to provide a reasonable basis for our findings, conclusions, and recommendations based

on our review objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

Appendix C Chronology of Significant Events

Aug. 2006	One construction project planned to renovate existing facility space for the SICU then expand the OR in the former SICU space, with design award in FY 2008.
March 2007	Plan revised to specify Phase I to construct a new floor, Phase II to expand the OR and include a two-floor elevator between the OR and the SICU, with design award in FY 2008. Subsequently, the plan was revised for design award in FY 2009 to build a new floor for SICU and the OR project was removed from the plan and deferred.
April 2008	SICU project design award planned for 2010, estimated cost revised from \$6.1 million to \$9.7 million due in part to the use of updated cost guidelines.
Sept. 2010	SICU project design awarded.
March 2011	OR project approved for FY 2012.
June 2011	SICU project AE cost estimate did not include costs associated with a restricted bid market.
Sept. 2011	SICU project SDVOSB bids plus design costs exceeded minor construction limits of \$10 million.
Oct. 2011	SICU project AE estimated approximately \$8.6 million in construction costs for an open bid market competition and \$9.8 million for a bid market restricted to SDVOSB.
Jan. 2012	SICU project AE prepared revised construction cost estimates for an open bid market to about \$8.2 million, and estimated with design changes to de-scope, about \$7.6 million for a market restricted to SDVOSB.
May 2012	OR project design awarded.
Feb. 2013	Dedicated two-floor elevator removed from SICU project, and added to OR project.
April 2013	SICU project redesign completed.
Nov. 2013	SICU project construction awarded to TLS, project initially scheduled to be completed Feb. 2015 revised to April 2015.

April 2014	OR project design completed.
Aug. 2014	SICU project contract modification extended performance to June 2015 along with other work revisions.
Dec. 2014	OR project construction contract awarded, including two-floor elevator.
Feb. 2015	SICU project originally scheduled to be completed.
March 2015	OR project construction began.
Nov. 2015	SICU project construction performance extended to Jan. 2016 (from Feb.–Nov. 2015, performance was extended multiple times for various reasons).
Dec. 2015	CO and engineering management notified of SICU project quality issues by an Oklahoma City VAHCS engineer.
Jan. 2016	SICU project scheduled to be completed as of the Nov. 2015 modification.
July 2016	SICU project construction contractor filed \$1.8 million claim for increased costs. CO subsequently suspended work on both projects due to conflicts between construction contractors.
Jan. 2017	CO denied the SICU project construction contractor’s claim and filed a \$3.75 million counterclaim to correct deficiencies.
March 2017	SICU project construction contractor filed an appeal with the Civilian Board of Contract Appeals for \$1.9 million. CO issued a contract modification for the SICU project construction to resume, contractor to correct deficiencies, and extended performance to Dec. 2017.
May 2017	AIB report finds ADA violation took place; congressional approval for additional funds to complete the projects required.
July 2017	According to Oklahoma City VAHCS Acting Associate Director, the SICU project contractor halted work and there are no plans to resume until mediation on the claim and counterclaim.
Oct. 2017	Mediation meetings on the SICU construction contractor’s claim and VA counterclaim began.

Appendix D Management Comments – Office of the Under Secretary for Health

Department of Veterans Affairs Memorandum

Date: February 9, 2018

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

Subj: OIG Draft Report, Review of Selected Construction Projects at Oklahoma City VA Health Care System (VAIQ 7871271)

To: Assistant Inspector General for Healthcare Inspections (54)

1. Thank you for the opportunity to review the Office of Inspector General (OIG) draft report, Review of Selected Construction Projects at Oklahoma City VA Health Care System.
2. The Veterans Health Administration (VHA) concurs with recommendations 1-4 and provides the attached action plan.
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, Review of Selected Construction Projects at Oklahoma City VA Health Care System

Date of Draft Report: January 18, 2018

Recommendations/ Actions	Status	Completion Date
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OIG Recommendations

Recommendation 1. We recommended the Acting Under Secretary for Health ensure the construction areas in the Surgical Intensive Care Unit project are sealed to prevent further weather damage.

VHA Comments: Concur

The Deputy Under Secretary for Health for Operations and Management (DUSHOM) will issue a memorandum to Veterans Integrated Service Network (VISN) 19 requiring the VISN to certify that the construction areas in the Surgical Intensive Care Unit (SICU) projects are sealed. Once the certification is received, the Office of Capital Asset Management Engineering and Support will conduct a site visit to ensure the facility has implemented Recommendation 1.

To close this recommendation, VHA will provide the following documentation:

1. DUSHOM memorandum to VISN 19
2. Certification from VISN 19 confirming the SICU project construction areas are sealed

Status: In Process	Target Completion Date: March 2018
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Recommendation 2. We recommended the Acting Under Secretary for Health ensure the Oklahoma City VA Health Care System implements procedures to strengthen minor and non-recurring maintenance construction oversight.

VHA Comments: Concur

The Deputy Under Secretary for Health for Operations and Management (DUSHOM) will issue a memorandum to Veterans Integrated Service Network (VISN) 19 Network Director that requires Oklahoma City Veterans Affairs Health Care System (VAHCS) to develop procedures to strengthen construction oversight for minor and non-recurring maintenance. The Office of Capital Asset Management Engineering and Support will review the VISN and medical center program changes to ensure the facility has implemented Recommendation 2.

To close this recommendation, VHA will provide the following documentations:

1. DUSHOM memorandum to VISN 19
2. Procedures from Oklahoma City VAHCS concerning oversight of minor and non-recurring maintenance

Status:
In Process

Target Completion Date:
March 2018

Recommendation 3. We recommended the Acting Under Secretary for Health determine if administrative actions should be taken concerning key officials responsible for the Surgical Intensive Care Unit project.

VHA Comments: Concur

The Deputy Under Secretary for Health for Operations and Management (DUSHOM) will review the findings of this report along with other relevant information to determine need for administrative actions. The DUSHOM will consult with VHA Office of Accountability and Whistleblower Protection (OAWP) for appropriate action. Subsequent to conferring with the OAWP, VHA will determine whether administrative actions are warranted, and the office responsible for ensuring action is taken, if appropriate.

Status:
In Process

Target Completion Date:
April 2018

Recommendation 4. We recommended the Acting Under Secretary for Health ensure the Oklahoma City VA Health Care System establishes procedures to ensure recommendations by technical experts, who perform site visits to evaluate project completion status and conformance to contract specifications as provided in design and construction contracts, are implemented.

VHA Comments: Concur

The Deputy Under Secretary for Health for Operations and Management (DUSHOM) will issue a memorandum to Veterans Integrated Service Network (VISN) 19 Network Director that requires Oklahoma City Veteran Affairs Health Care System (VAHCS) to develop procedures to ensure recommendations by external technical experts are addressed and/or implemented as stated in this recommendation. VISN 19 will provide the completed procedures to the Office of Capital Asset Management Engineering and Support for final review and input.

To close this recommendation, VHA will provide the following documentation:

1. DUSHOM memorandum to VISN 19
2. Procedures from Oklahoma City VAHCS concerning implementation of recommendation from technical experts

Status:
In Process

Target Completion Date:
April 2018

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	Timothy Crowe, Director Dennis Capps William Diaz Valerie J. Kimball Jehri Lawson Brandon Parrinello Christopher Sizemore Steven Toom
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