Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

WISCONSIN PHYSICIANS SERVICE INSURANCE CORPORATION CLAIMED UNALLOWABLE MEDICARE PART A ADMINISTRATIVE COSTS FOR FISCAL YEAR 2013

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July 2018
A-05-16-00052

Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: July 2018
Report No. A-05-16-00052

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

WISCONSIN PHYSICIANS SERVICE INSURANCE CORPORATION CLAIMED UNALLOWABLE MEDICARE PART A ADMINISTRATIVE COSTS FOR FISCAL YEAR 2013

Why OIG Did This Review

The Centers for Medicare & Medicaid Services (CMS) contracted with Wisconsin Physicians Service Insurance Corporation (WPS) to process Part A claims as a fiscal intermediary under Medicare Contract HCFA 87-319-1. CMS requested that we audit WPS's Medicare Part A final administrative cost proposal (FACP) for Federal fiscal year (FY) 2013.

Our objective was to determine whether the administrative costs WPS claimed on its FACP for FY 2013 were allowable and in accordance with its Medicare contract and applicable Federal regulations.

How OIG Did This Review

When claiming administrative costs, Medicare contractors must follow cost reimbursement principles in part 31 of the Federal Acquisition Regulation (FAR) and other applicable criteria. Our audit covered $4.0 million of the $4.1 million in Medicare Part A administrative costs that WPS claimed for FY 2013. (The remaining $74,766 was for pension costs, which will be reviewed in a separate audit.) We determined whether these claimed costs were reasonable, allowable, and allocable and in compliance with WPS's Medicare contract and applicable Federal regulations.

What OIG Found

Administrative costs WPS claimed on its FY 2013 FACP were generally allowable and in accordance with its Medicare contract and applicable Federal regulations. Of the $4.0 million that we reviewed, we accepted $3.9 million as allowable, allocable, and reasonable and questioned the remaining $99,649 as unallowable costs.

What OIG Recommends and WPS Comments

We recommend that WPS reduce its FACP for FY 2013 by $99,649 to eliminate the unallowable costs identified in this report. We also recommend that WPS improve procedures to distinguish between allowable and unallowable costs in accordance with the applicable Medicare contract, Cost Accounting Standards (CAS), and FAR provisions. Specifically, WPS should ensure (1) that when an unallowable cost is incurred, its directly associated costs are properly identified and excluded and (2) that revenue, payroll, and net-book-value of assets percentages used in developing three-factor formula rates are consistent with guidance defined in the CAS and the FAR provisions defining reasonableness.

In written comments on our draft report, WPS referred to comments on previously issued OIG reports. WPS's previous comments indicate that it does not concur with the majority of our findings related to our recommendation to reduce its FACP by $99,649. Specifically, those comments indicate that WPS does not concur with reducing RHO expenses, EIP bonuses, and related payroll taxes by $98,965 but does concur with reducing lobbying salaries totaling $684.

We maintain that all of our findings and recommendations are valid.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Centers for Medicare & Medicaid Services (CMS) contracted with Wisconsin Physicians Service Insurance Corporation (WPS) to process Part A claims as a fiscal intermediary (FI)[1] under Medicare Contract HCFA 87-319-1 (Medicare contract). CMS requested that we audit WPS's Medicare Part A final administrative cost proposal (FACP) for Federal fiscal year (FY) 2013 (October 1, 2012, through September 30, 2013).

OBJECTIVE

Our objective was to determine whether the administrative costs WPS claimed on its FACP for FY 2013 were allowable and in accordance with its Medicare contract and applicable Federal regulations.

BACKGROUND

Title XVIII of the Social Security Act established the Medicare program. CMS administers the Medicare program through contractors, including Part A FIs that process and pay Medicare claims submitted by health care providers. Contracts between CMS and the Medicare contractors define the functions to be performed and provide for the reimbursement of allowable administrative costs incurred processing Medicare claims.

Following the close of each FY, contractors submit to CMS an FACP that reports the Medicare administrative costs incurred during the year. The FACP and supporting data provide the basis for the CMS contracting officer and contractor to negotiate a final settlement of allowable administrative costs. When claiming administrative costs, Medicare contractors must follow cost reimbursement principles contained in part 31 of the Federal Acquisition Regulation (FAR) and other applicable criteria.

During FY 2013, WPS processed Part A claims as an FI for select providers from all 15 Part A and Part B Medicare administrative contractor jurisdictions, which cover 49 States, under its Medicare contract. WPS reported Medicare Part A administrative costs totaling $4,064,667 in its FY 2013 FACP.

[1] Under section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, CMS was required to transfer the Medicare Part A and Part B workloads to Medicare administrative contractors within a 6-year period starting in October 2005. Due to delays in the implementation of some of these transitions, CMS authorized WPS to continue operating as an FI for Part A provider claims that were processed by Mutual of Omaha until November 5, 2007.

HOW WE CONDUCTED THIS REVIEW

After reconciling the FACP to WPS's accounting records, we performed additional testing of high risk areas identified in prior Office of Inspector General (OIG) audit reports[2] and termination-related costs.[3] Specifically, we performed additional testing of residual home office (RHO) expenses, employee incentive program (EIP) bonuses and related payroll taxes, select salary allocations, lobbying salaries, and dues and donation expenses, and we reviewed the advance agreement on termination costs. We determined whether these claimed costs were reasonable, allowable, and allocable and in compliance with WPS's Medicare contract, advance agreement on termination costs, and applicable Federal regulations. We limited our internal control review to those controls related to the recording and reporting of costs on the FY 2013 FACP.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology, Appendix C contains the contract provisions and regulations applied to determine allowable costs, Appendix D shows the FY 2013 FACP cost classifications reviewed, and Appendix E contains OIG's FY 2013 recommended cost adjustments.

FINDINGS

Administrative costs WPS claimed on its FY 2013 FACP were generally allowable and in accordance with its Medicare contract and applicable Federal regulations. WPS claimed $4,064,667 in Medicare Part A administrative costs for FY 2013, including $74,766 in pension costs that were not reviewed. The pension costs will be the subject of a separate review. Of the $3,989,901 reviewed, we accepted $3,890,252 as allowable, allocable, and reasonable and questioned the remaining $99,649 as unallowable costs, as follows:

Cost Category	Unallowable Costs
RHO expenses	$52,437
EIP bonuses	43,106
Payroll taxes	3,422
Lobbying salaries	684

[2] See Appendix B, *Related Office of Inspector General Reports*.

[3] The contract was terminated July 1, 2013.

WPS's procedures were insufficient to identify these unallowable costs that did not comply with applicable regulations, including part 31 of the FAR, the Cost Accounting Standards (CAS), and WPS's Medicare contract.

RESIDUAL HOME OFFICE EXPENSES WERE OVERSTATED

WPS overstated the allocation of RHO expenses on its Medicare Part A FACP by $52,437. WPS overstated the RHO expenses allocated to its Medicare business segment because it applied an overstated Medicare three-factor formula (3FF) rate to its RHO expense pool, which was then allocated to specific Medicare contracts. Figure 1 (below) shows how the $52,437 in overstated RHO expenses claimed on its Medicare Part A FACP was calculated.

Figure 1 – Calculation of Overstated Medicare Part A Residual Home Office Expenses Claimed

RHO adjusted expense pools[4]	$13,036,814
Overstated Medicare 3FF rate	23.25%
Overstated Medicare RHO expenses	$3,031,059
Percent allocated to Medicare contract[5]	1.73%
Overstated Part A RHO expenses	$52,437

WPS allocates RHO expenses to its lines of business, including Medicare, using the 3FF, as described in the CAS.[6] The 3FF is the average of three percentages: revenue, payroll, and net-book-value (NBV) of assets. Each percentage compares specific performance in one business segment, such as Medicare, to the total of all WPS business segments, including subsidiaries. WPS's calculation of these percentage factors contains errors or unjustified omissions from the guidance described in the CAS[7] in developing its 3FF rate for allocating RHO expenses. These errors and unjustified omissions resulted in WPS's Medicare business segment 3FF rate for allocating RHO expenses to be overstated by 23.25 percentage points (WPS average Medicare 3FF rate of 44.97 percent less the OIG average Medicare 3FF rate of 21.72

[4] OIG developed the adjusted RHO expense pools to avoid possible duplications in determining unallowable costs. OIG reduced the RHO pool to reflect the impact of RHO pool expenses determined to be unallowable in OIG's findings on EIP bonuses, payroll taxes, and salaries.

[5] Percentage represents how WPS allocated RHO expenses within its Medicare segment to specific CMS Medicare contracts, such as WPS's Medicare contract HCFA 87-319-1.

[6] Codified in 48 CFR § 9904.403.

[7] Codified in 48 CFR § 9904.403-50(c)(1).

percent, as shown in Figure 2). The most significant error was how WPS calculated the Medicare revenue segment percentage, which occurred because WPS included Medicare benefit claims paid to providers and beneficiaries (paid claims) as Medicare operating revenue. Figure 2 illustrates the impact these errors and unjustified omissions had in overstating WPS's Medicare 3FF rate.

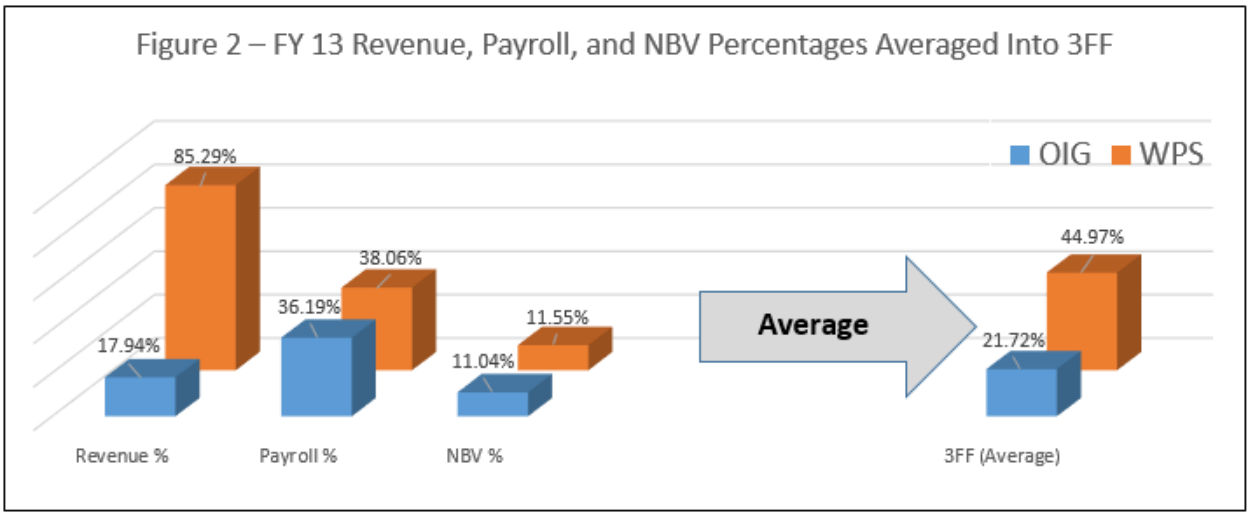

Figure 2 Notes

Note 1 – The WPS percentages are an average of WPS's 12 monthly Medicare 3FF rates applied during FY 2013.

Note 2 – We calculated the OIG percentages using WPS's general ledger account information for FY 2013.

Revenue Percentage Factors Were Calculated Incorrectly

WPS incorrectly included $50.8 billion in Federal funds received for paid claims as Medicare operating revenue in developing its Medicare revenue segment percentages. These paid claims are fully paid with Federal funds, which is evidenced on WPS's general ledger.[8] Therefore, the funds received for these benefit claims paid do not constitute operating revenue in accordance with the CAS[9] and the Medicare contract.[10] Also, WPS's treatment of the paid claims as

[8] WPS records these benefit claims paid in general ledger revenue accounts as well as in offsetting general ledger contra-revenue accounts when the Federal funds are received to pay providers and beneficiaries for allowable Medicare services.

[9] Codified in 48 CFR § 9904.403-30(a)(3).

[10] The Medicare contract, Article II, paragraph A; Article II, paragraph B; Article III, paragraph C; and Article XII, paragraph D.

operating revenue for developing its 3FF revenue percentage factors is inconsistent with the $172.5 million in Medicare revenues reported on its consolidated financial statements,[11] and is contrary to the CAS and the Federal regulations concerning allowability and reasonableness (the FAR §§ 31.201-2(a), 31.201-2(d), and 31.201-3(b)). See Appendix F for CMS's February 21, 2017, notice to WPS that its recording and reporting of operating revenue is in noncompliance with CAS 403.

Our analysis properly excluded $50.8 billion in benefit claims paid, which resulted in a reasonable Medicare operating revenue total of $175.9 million for FY 2013. That amount is comparable to WPS's financial statements. Figure 2 illustrates that WPS overstated its average revenue percentage by 67.35 percentage points (the calculated WPS rate of 85.29 percent less the calculated OIG rate of 17.94 percent). The overstatement increased the 3FF rate and overstated the allocated RHO expenses claimed on the FACP.

Payroll Percentage Factors Were Calculated Incorrectly

WPS calculated its Medicare payroll percentages by excluding select payroll costs, without sufficient justification, thereby inappropriately increasing these percentages. The payroll costs WPS excluded were capitalized payroll costs related to developing software for internal use.

Excluding these payroll costs is contrary to the CAS and the Federal regulations on determining allowability and reasonableness (the FAR §§ 31.201-2(a), 31.201-2(d), and 31.201-3(b)). Our analysis included the payroll costs that WPS excluded as well as recommended adjustments for unallowable EIP bonus payments allocated to Medicare and salary costs already allocated by the 3FF. Figure 2 illustrates that WPS overstated its average payroll percentage by 1.87 percentage points (the calculated WPS rate of 38.06 percent less the calculated OIG rate of 36.19 percent). The overstatement increased the 3FF rate and overstated the allocated RHO expenses claimed on the FACP.

Net-Book-Value of Assets Percentage Factors Were Calculated Incorrectly

WPS did not follow the CAS[12] in computing the NBV of assets percentage; it used cumulative asset totals rather than the average of actual values on two specific dates. In comments on prior OIG findings, WPS indicated that using cumulative asset totals was a "reasonable alternative" because the CAS standard cannot be used. The CAS[13] states that the NBV is the

[11] Notes to the consolidated financial statements prepared by Grant Thornton, LLP, reported WPS's calendar years 2012 and 2013 Medicare revenues of $164.0 million and $172.5 million, respectively. Also, the notes explained that the claims paid under WPS's Medicare administrative service contracts are excluded from operations because they are paid, or fully reimbursed, with Government or corporate funds.

[12] Codified in 48 CFR § 9904.403-50(c)(1)(iii).

[13] *Id*.

average of the NBV at the beginning of the organization's FY and the NBV at the end of the FY. Even though WPS's fiscal year is a calendar year and is therefore different from the FY in which the FACPs are prepared, WPS can determine a reasonable average that is consistent with the timeframes established in the CAS. WPS did not provide justification for its assertion that using cumulative totals is a "reasonable alternative" to the CAS standard, such as whether the methodology had been discussed with, or approved by, CMS.

We calculated the NBV of asset percentages based on beginning and ending FY NBV of asset values, net of assets already allocated by 3FF allocation rates. Figure 2 illustrates that WPS overstated its estimated NBV of assets percentage by 0.51 percentage points (the calculated WPS rate of 11.55 percent less the calculated OIG rate of 11.04 percent). The overstatement increased the 3FF rate.

EMPLOYEE INCENTIVE PROGRAM BONUSES AND RELATED PAYROLL TAXES CLAIMED WERE UNALLOWABLE

WPS claimed $43,106 in unallowable EIP bonuses and $3,422 in directly associated unallowable payroll taxes. WPS based its EIP bonuses on achieving specified corporate profits. The creation of costs on the basis of reaching specified profits contradicts the Medicare contract's intent that WPS be paid under the principle of neither profit nor loss.[14] Despite certain circumstances in which bonus payments may be allowable (FAR § 31.205-6(f)), WPS's procedures were insufficient to identify that claiming costs on FACPs that depend on reaching specified corporate profits is consistent with the principle that costs are allocable on the basis of relative benefits received or other equitable relationship (FAR § 31.201-4).

The payroll taxes related to the unallowable EIP bonuses were unallowable because costs directly associated with unallowable costs are also unallowable (FAR § 31.201-6(a)).

UNALLOWABLE LOBBYING SALARIES WERE CLAIMED

WPS claimed a total of $684 in salaries and benefits directly related to unallowable lobbying costs. Lobbying costs are prohibited under the Medicare contract and Federal regulations (FAR § 31.205-22). Further, when an unallowable cost is incurred, directly associated costs are also unallowable (FAR § 31.201-6). WPS's procedures were insufficient to ensure that unallowable lobbying salaries it identified, which were based on an estimate of time spent by the employee performing the lobbying activities, were excluded from the FACP. We accepted the estimate and determined the unallowable salaries and related fringe benefits.

[14] The Medicare contract, Article XII, paragraph A.

RECOMMENDATIONS

We recommend that WPS:

- reduce its FACP for FY 2013 by $99,649 to eliminate the unallowable costs identified in this report, and

- improve procedures to distinguish between allowable and unallowable costs in accordance with the applicable Medicare contract, CAS, and FAR provisions; specifically:

    - ensure that when an unallowable cost is incurred, its directly associated costs are properly identified and excluded, and

    - ensure that revenue, payroll, and NBV of assets percentages used in developing 3FF rates are consistent with guidance defined in the CAS and the FAR provisions defining reasonableness.

WISCONSIN PHYSICIANS SERVICE INSURANCE CORPORATION COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, WPS stated that comments it provided in response to previously issued OIG audit reports listed in Appendix B fully respond to our current findings. WPS's prior comments indicate that WPS does not concur with the majority of our findings related to our recommendation to reduce its FACP by $99,649. Specifically, those comments indicate that WPS does not concur with reducing RHO expenses, EIP bonuses, and related payroll taxes by $98,965 but does concur with reducing lobbying salaries totaling $684. WPS's prior comments on our recommendation for procedural improvements were limited. We included WPS's May 4, 2018, response in its entirety as Appendix G.

We maintain, through reference to previous OIG responses to WPS's comments in our prior audit reports, that all of our findings and recommendations remain valid.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

WPS claimed Part A administrative costs totaling $4,064,667 during our audit period, October 1, 2012, through September 30, 2013, which included pension costs of $74,766 that were not reviewed. The pension costs will be the subject of a separate review to determine their allowability. Therefore, we reviewed $3,989,901 in administrative costs. We limited our internal control review to those controls related to the recording and reporting of costs on the cost proposals. We accomplished our objective through judgmental testing.

We conducted fieldwork at WPS's facility in Madison, Wisconsin, from June 2016 through November 2017.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Medicare laws, regulations, and guidelines;
- reviewed WPS's contract and termination-related advance agreement with CMS;
- reviewed WPS's external audit reports for calendar years 2012 and 2013 and OIG audit reports for FYs 2007 through 2012;
- interviewed WPS officials regarding cost accumulation processes for its cost proposal and cost allocation system;
- reconciled line item expenses on the FACP and cost classification report with WPS accounting records;
- reviewed and discussed with WPS prior OIG audit findings to determine whether they had been resolved;
- performed additional testing, on the basis of prior OIG reports, for reasonableness, allowability, and allocability of costs considered to be high risk areas, specifically costs related to RHO expenses, EIP bonuses and related payroll taxes, select salary allocations, lobbying salaries, dues and donation expenses, and additional costs as determined necessary;
- reviewed the contractor's application of the 3FF allocation method described in CAS 403;

- traced WPS's methodology for developing 3FF rates for October 2012 and October 2013, which covered expenses recorded to general ledgers as of September 2012 and September 2013;

- reviewed total compensation paid to the highest paid executives;

- reviewed selected termination-related costs and reviewed WPS's advance agreement on allowable termination-related costs; and

- shared the results of this review with WPS officials, including details of our recommended adjustments.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part A Administrative Costs for Fiscal Year 2012	A-05-15-00046	09/21/2017
Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part B Administrative Costs for Fiscal Year 2012	A-05-15-00047	09/21/2017
Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part B Administrative Costs for FYs 2009, 2010, and 2011	A-05-13-00019	10/30/2015
Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part A Administrative Costs for FYs 2009, 2010, and 2011	A-05-13-00020	10/30/2015
Audit of Medicare Part B Administrative Costs for the Period October 1, 2006, Through September 30, 2008, at Wisconsin Physicians Service Insurance Corporation	A-05-09-00096	11/28/2011
Audit of Medicare Part A Administrative Costs for the Period November 5, 2007, Through September 30, 2008, at Wisconsin Physicians Service Insurance Corporation	A-05-09-00101	05/24/2011

APPENDIX C: MEDICARE CONTRACT PROVISIONS AND FEDERAL REGULATIONS

MEDICARE CONTRACT HCFA 87-319-1 PROVISIONS

Contract HCFA 87-319-1 documents the Medicare Part A claims processing activities performed by WPS. Specifically, the contract stipulates:

"The term 'Secretary' means the Secretary of Health and Human Services or the Secretary's delegate, unless otherwise specified" (Article I, paragraph A).

"The term 'Intermediary' means the contractor [WPS] which is a party to this agreement pursuant to section 1816 of the [Social Security] Act, as amended" (Article I, paragraph J).

WPS shall: "[m]ake determinations as to the coverage of services, of the amounts of payments and make payments to providers of services and eligible individuals in accordance with the provisions of the Act, Regulations, and General Instructions" (Article II, paragraph A).

WPS shall: "[r]eceive, disburse, and account for funds in making such payments" (Article II, paragraph B).

The Secretary shall: "[p]rovide funds to the Intermediary for making payments to providers of services and eligible individuals and for the Intermediary's cost of administering this agreement" (Article III, paragraph C).

"The Intermediary shall not use its position as a Medicare contractor for purposes of furthering its private business interests or gain, nor shall the Intermediary use any materials or information it obtains from the Secretary or develops in performing its functions under this agreement to promote its private business interests" (Article XI, paragraph B).

"It is the intent of this agreement that the Intermediary, in performing its functions under this agreement, shall be paid its costs of administration under the principle of neither profit nor loss to the Intermediary, subject to paragraph B below" (Article XII, paragraph A).

> The Secretary shall pay to the Intermediary the total amount of allowable costs of the Intermediary incurred in the performance of this agreement subject to the provisions of Article XIII. In determining the costs allowable under this agreement, the Secretary shall take into account the amount which is reasonable and adequate to meet the cost which must be incurred by an efficiently and economically operated Intermediary in carrying out the terms of this agreement. The types of costs allowable and allocable under this agreement shall be determined in accordance with the provisions of Part 31 of the FAR, as interpreted and modified by Appendix B to this agreement . . . . (Article XII, paragraph B).

"In connection with the allowability of any particular item of cost, the Intermediary may from time to time submit to the Secretary a request as to whether such item of cost is allowable. A written communication from the Secretary to the Intermediary that such item of cost is allowable shall constitute a determination of allowability for purposes of this agreement" (Article XII, paragraph C).

"Any costs which are properly chargeable by a provider of services as benefit costs, in accordance with the Act and Regulations, shall not be chargeable to this agreement as administrative costs" (Article XII, paragraph D).

"The Intermediary, as soon as possible, but not later than 3 months after the close of the Federal fiscal year, unless the Secretary approves a different time period or fiscal year, shall submit to the Secretary a Final Administrative Cost Proposal, including supporting data, of the allowable costs incurred by it during the Federal fiscal year . . ." (Article XIII, paragraph K).

"The Intermediary shall maintain adequate accounting records covering the use of funds under this agreement. The Intermediary agrees that the Secretary . . . until the expiration of three years after final payment . . . shall have access to and the right to examine any directly pertinent books, documents, papers, and records . . ." (Article XIX, paragraph A).

"No part of any funds under this agreement shall be used to pay the salaries or expenses of any Contractor, or agent acting for the Contractor, to engage in any activity designed to influence legislation or appropriations pending before the Congress. Lobbying costs are defined in and are unallowable in accordance with FAR 31.205-22" (Appendix A, Article V).

"The types of costs allowable and allocable under this agreement/contract shall be determined in accordance with the provisions of Part 31 of the Federal Acquisition Regulation . . ." (Appendix B § I, paragraph A).

Appendix B § XV – Specific Unallowable Items states:

> The following items are unallowable:
>
> A. All direct and indirect costs which relate to the contractor's non-Medicare business and do not contribute to the Medicare agreement/contract. These include, but are not limited to:
>
> . . . 3. costs relating to the contractor's underwriting activities, including related actuarial and statistical services, and . . . .

COST ACCOUNTING STANDARD 403

According to CAS 403, entitled "Allocation of Home Office Expenses to Segments," the 3FF is an arithmetical average of three specified factors: payroll factor, revenue factor, and NBV of assets factor. This formula is considered to result in appropriate allocations of the residual expenses

of home offices. It takes into account three broad areas of management concern: (1) the employees of the organization, (2) the business volume, and (3) the capital invested in the organization. These factors are defined at 48 CFR § 9904.403-50(c)(1) as follows:

> (i) The percentage of the segment's payroll dollars to the total payroll dollars of all segments.
>
> (ii) The percentage of the segment's operating revenue to the total operating revenue of all segments. For this purpose, the operating revenue of any segment shall include amounts charged to other segments and shall be reduced by amounts charged by other segments for purchases.
>
> (iii) The percentage of the average net book value of the sum of the segment's tangible capital assets plus inventories to the total average net book value of such assets of all segments. Property held primarily for leasing to others shall be excluded from the computation. The average net book value shall be the average of the net book value at the beginning of the organization's fiscal year and the net book value at the end of the year.

Furthermore, 48 CFR § 9904.403-30(a)(3) defines operating revenue as "amounts accrued or charge to customers, clients, and tenants, for the sale of products manufactured or purchased for resale, for services, and for rentals of property held primarily for leasing to others . . . ."

According to 48 CFR § 9904.403-40(c)(2), contractors are required to use the 3FF if its residual expenses (excluding any unallowable costs and before eliminating any amounts to be allocated under an approved special allocation) exceeds a calculated operating revenue value. This operating revenue value is calculated as follows:

- 3.35 percent of the first $100 million in operating revenue,
- 0.95 percent of the next $200 million in operating revenue,
- 0.30 percent of the next $2.7 billion in operating revenue, and
- 0.20 percent of all operating revenue over $3 billion.

FEDERAL ACQUISITION REGULATION

The FAR § 31.201-2, entitled "Determining Allowability," states:

> (a) A cost is allowable only when the cost complies with all of the following requirements:

(1) Reasonableness.
(2) Allocability.
(3) Standards promulgated by the CAS Board, if applicable, otherwise, generally accepted accounting principles and practices appropriate to the circumstances.
(4) Terms of the contract.
(5) Any limitations set forth in this subpart.

The FAR § 31.201-2, entitled "Determining Allowability," states:

> (d) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.

The FAR § 31.201-3, entitled "Determining Reasonableness," states:

> (a) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. . . .
>
> (b) What is reasonable depends upon a variety of considerations and circumstances, including—
>
> (1) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the contractor's business or the contract performance;
>
> (2) Generally accepted sound business practices, arm's length bargaining, and Federal and State laws and regulations;
>
> (3) The contractor's responsibilities to the Government, other customers, the owners of the business, employees, and the public at large; and
>
> (4) Any significant deviations from the contractor's established practices.

The FAR § 31.201-4, entitled "Determining Allocability," states:

> A cost is allocable if it is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government contract if it—

(a) Is incurred specifically for the contract;

(b) Benefits both the contract and other work, and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown.

The FAR § 31.201-6, entitled, "Accounting for Unallowable Costs," states:

(a) Costs that are expressly unallowable or mutually agreed to be unallowable, including mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, or proposal applicable to a Government contract. A directly associated cost is any cost that is generated solely as a result of incurring another cost, and that would not have been incurred had the other cost not been incurred. When an unallowable cost is incurred, its directly associated costs are also unallowable . . . .

The FAR § 31.205-6, entitled "Compensation for Personal Services," states:

(f) *Bonuses and incentive compensation.*

(1) Bonuses and incentive compensation are allowable provided the—

(i) Awards are paid or accrued under an agreement entered into in good faith between the contractor and the employees before the services are rendered or pursuant to an established plan or policy followed by the contractor so consistently as to imply, in effect, an agreement to make such payment; and

(ii) Basis for the award is supported.

The FAR § 31.205-22, entitled "Lobbying and Political Activity Costs," states:

(a) Costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activities;

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(3) Any attempt to influence—

(i) The introduction of Federal, state, or local legislation, or . . . .

APPENDIX D: FISCAL YEAR 2013 FINAL ADMINISTRATIVE COST PROPOSAL BY COST CLASSIFICATION

Cost Category	Total[15]
Salaries/Wages	$1,450,604
Fringe Benefits	377,356
Pension Costs	75,642
Facilities/Occupancy	86,512
EDP	451,797
Subcontractors	1,113,963
Outside Prof Services	178,722
Telephone/Telegraph	32,616
Postage and Express	213,276
Furniture and Equipment	75,266
Materials & Supplies	10,756
Travel	27,503
Miscellaneous	60,628
Other	2,348
Subtotal	**$4,156,989**
Credits	(92,322)
Total Costs Claimed	**$4,064,667**
Pension Costs Excluded[16]	(74,766)
Total Costs Reviewed	**$3,989,901**
Recommended Cost Adjustments[17]	(99,649)
Total Accepted Costs	**$3,890,252**

[15] FACP Supplement No. 01.

[16] WPS claimed pension costs of $75,642 that included $1,694 in pension costs allocated from the RHO expense pool using an overstated allocation factor. We recommend reducing the Part A FACP by $876 in pension costs that were questioned based on the RHO expense recommended adjustment. Accordingly, we excluded from our review pension costs totaling $74,766, which will be the subject of a separate review to determine allowability.

[17] See Appendix E.

APPENDIX E: OFFICE OF INSPECTOR GENERAL
FISCAL YEAR 2013 RECOMMENDED COST ADJUSTMENTS

Recommended Cost Adjustments	Total
RHO Expenses[18]	$52,437
EIP Bonuses	43,106
Payroll Taxes	3,422
Lobbying Salaries	684
Total Recommended Cost Adjustments[19]	**$99,649**

[18] RHO expenses include $876 in pension costs incurred because WPS used overstated 3FF rates to allocate RHO expenses.

[19] See Appendix D for how these adjustments affect the audited FACP.

APPENDIX F: DETERMINATION OF CAS 403 NONCOMPLIANCE FOR WISCONSIN PHYSICIANS SERVICE INSURANCE CORPORATION

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop B2-14-21
Baltimore, Maryland 21244-1850

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
OFFICE OF ACQUISITION
& GRANTS MANAGEMENT

February 21, 2017

Wisconsin Physician Services Insurance Corporation
[redacted]
1717 W. Broadway
Madison, WI 53713

SUBJECT: Determination of CAS 403 Performance Noncompliance for Wisconsin Physician Services Insurance Corporation (WPS) effective January 1, 2008

REFERENCE: FAR 30.602-2 Noncompliance with CAS requirements;
FAR 30.602-3 Voluntary Changes
FAR 52.230-2 Cost Accounting Standards
FAR 52.230-6 Administration of Cost Accounting Standards
FAR Part 31 Contract Cost Principles & Procedures

Background

The Health and Human Services (HHS) Office of Inspector General (OIG) has raised a CAS 403 issue in their audit of the Title 18 MAC contract. The issue relates to the CAS 403 allocation base used to allocate home office expenses to the divisions, specifically, the element of revenue in the three factor formula. WPS claims benefits paid as operating revenue which causes home office expenses allocated to the Medicare division to be significantly overstated. The OIG opined WPS uses an incorrect calculation in allocating home office expenses under the 3 factor formula specifically with respect to WPS' calculation of revenue thus making them non-compliant with CAS 403.

However, WPS asserts that including claimed benefits paid as part of the allocation of the TFF is acceptable per DCAA audit reports dated April 10, 2008, June 30, 2008, and January 26, 2012. WPS provided DCAA with general ledger data to to show their procedures of how they report operating revenue. The data WPS provided to DCAA displayed payments of claims recorded by WPS' as a liability in their accounting system as a reimbursable cost, and then a reimbursable cost was then sought from CMS. Upon receiving a reimbursement, WPS recorded the transaction as revenue. Upon reviewing the general ledger information, DCAA determined WPS is compliant with CAS.

The contested issue between the CMS OIG and DCAA is whether WPS properly recorded and reported operating revenue. 48CFR 9904.403-30 (a)(3) defines operating revenue as amounts accrued or charge to customers, clients, and tenants, for the sale of products manufactured or purchased for resale, for services,

OIG Note—Some text in this appendix is redacted because it is personally identifiable information or proprietary information.

and for rentals of property held primarily for leasing to others. It includes both reimbursable costs and fees under cost-type contracts and percentage-of-completion sales accruals except that it includes only the fee for management contracts under which the contractor acts essentially as an agent of the Government in the erection or operation of Government-owned facilities. It excludes incidental interest, dividends, royalty, and rental income, and proceeds from the sale of assets used in the business. The CMS OIG maintain its assertion that due to WPS's claims being fully reimbursed with Federal funds, they are in noncompliance with CAS 403.

Due to the differing audit opinions, CMS clarified the claims payment process of Medicare Administrator Contractors (MAC) to DCAA. CMS explained that WPS paid providers with money funded from CMS. Next, WPS would submit a bulk summary of claims to a specific bank under contract by CMS per the Tripartite Agreement. The bank would then request money from the Medicare Trust Fund (maintained by the US Treasury), and deposit the requested funds into an account maintained by WPS. WPS would issue checks to providers from the account.

The bank account was not a WPS asset, but rather a means for any Agent (in this case, WPS) to obtain funding and pay providers. These payments do not meet the definition of a reimbursable cost, and thus cannot be reported as operating revenue. Therefore, CMS requested DCAA to revisit their findings of WPS's CAS 403 compliance to provide further explanation based upon these new facts presented by CMS.

FINDINGS

DCAA issued DCAA Memorandum [redacted] dated July 6, 2016 detailing their findings after revisiting WPS's CAS 403 issue. DCAA asserts their previous conclusion was based on comparing WPS's disclosed practices with what was strictly written in CAS 403. Over the course of its meetings with CMS, DCAA was made aware that WPS's disclosed practices were not consistent with their actual practices of the organization. DCAA stated in its memo if WPS is using its own assets to pay providers, they are not adhering to the Tripartite Agreement. Conversely, if WPS is using the Government funds to pay providers as required in the Tripartite Agreement, the funds are not a reimbursable cost and it is incorrect to record it as operating revenue per Generally Acceptable Government Auditing Standards (GAGAS) and Generally Accepted Accounting Principles (GAAP). Such actions are considered CAS 403 noncompliant.

The HHS OIG also issued Final Administrative Cost Proposal audit reports: A-05-09-00101, A-05-09-00096, A-5-13-00020, and A-05-13-00019. The reports cited the methods WPS utilizes to allocate selective financial data (revenue included benefits paid) shift a signifigant and inequitable amount of residual home office expenses to Medicare contracts thus making WPS noncompliant with CAS 403.

Although the OIG originally cited WPS for this CAS 403 performance non compliance commencing on October 1, 2006; the undersigned's determination is not retroactively seeking impact to that date but rather and effective date January 1, 2008. The reasoning for this change in effective dates is based on the fact that DCAA finalized and settled the rates of WPS' Segments for FY 2007 which ended on December 31, 2007. And, since final rates were established, by inference all WPS home office allocations including the improperly recorded and reported operating revenue calculation in WPS' 3 Factor Formula were accepted through that time frame. The undersigned has determined that there is limited recourse to retroactively re-open the final DCAA determined rates for FY 2007.

Determination of CAS 403 Performance Noncompliance for Wisconsin Physician Services Insurance Corporation (WPS) effective January 1, 2008

DETERMINATION OF NONCOMPLIANCE

Therefore, based upon a review of WPS Cost Accounting Practices, the Contracting Officer has determined WPS is in noncompliance with the subject Cost Accounting Standards as follows:

1. CAS 403 – Allocation of Home Office Expenses to Segments effective 1/1/2008 based upon WPS' calculations of improperly recorded and reported operating revenue.

Regardless if WPS is in agreement with the alleged noncompliance, WPS is requested to indicate if existing contracts are or would be affected by such noncompliance.

CMS hereby requests WPS to submit an accounting practice change required to correct the CAS 403 noncompliance and a Detailed Cost Impact (DCI) proposal within 60 days of the date of this letter (see FAR 30.605(c), (e)(2) and (f). Please see submission requirements below.

	Submission Instructions
1.	Submit on CASB-DS-1 as both PDF and Word documents.
2.	Transmittal should include a general description of the corrections and subject (Ex. "Initial Disclosure Statement, effective XX/XX/20XX, corrected XX/XX/20XX").
3.	Include a table/matrix with a summary of disclosure statement corrections that includes the page, D/S item #, description/comments/narrative of each item that has changed, i.e., what it was previously ("Initial") and what it is now with the corrections ("Initial, Corrected"). Accompanied by a General Dollar Magnitude or in lieu a Cost Impact Proposal at CO's discretion.
4.	Include cover sheet and signed certification.
5.	In first line of Item 0.4 of the cover sheet, enter the effective date.
6.	After the effective date, include the date corrected (example: "Effective Date of Initial Disclosure Statement XX/XX/20XX; corrected XX/XX/20XX")
7.	On each page, insert the Effective Date and Corrected Date in the Item Description block.
8.	Insert a revision/correction mark (e.g. "C") in the right hand margin of any line that is corrected.
9.	Submit rationale to support any written statement if you believe the cost impact of the changes is immaterial.
10.	Send to: [redacted]

	Submission Instructions
11.	Also, when submitting a Disclosure Statement Revision, please use the following information when completing Section 0.5: For the Cognizant Federal Agency: Centers for Medicare & Medicaid Services (CMS) [redacted] 7500 Security Boulevard [redacted] Baltimore, Maryland 21244-1850 [redacted] For the Cognizant Federal Auditor: To be determined/coordinated by CMS [redacted]

Failure to comply with the requirements may result in the undersigned notifying all WPS cognizant Contrating Officers to begin withholding ten percent (10%) on subsequent payments on all CAS covered contracts.

If you have any questions, please contact [redacted] or [redacted] or the undersigned at [redacted]

Sincerely,

[redacted]

Director/Contracting Officer
Division of Financial Services (DFS)
Audit and Workforce Group (AWG) formerly (ABSG)
Office of Acquisition and Grants Management
Centers for Medicare & Medicaid Services

cc:

1. DCAA ATTN: Chicago Branch Office: [redacted]
2. CMS ATTN: [redacted]
3. NIH ATTN: [redacted]
4. US DHHS OIG [redacted]
5. DFS Internal CAT Tracker posting [redacted] DFS ID #

Determination of CAS 403 Performance Noncompliance for Wisconsin Physician Services Insurance Corporation (WPS) effective January 1, 2008

HISTORICAL INFORMATION

- March 16, 2006 - CMS requested DCAA examine Wisconsin Physicians Service's (WPS) accounting system as of May 5, 2006 to determine whether it is adequate for accumulating costs under Government contracts and whether the billing procedures are adequate for the preparation of cost reimbursement claims. DCAA opinioned the accounting system is adequate, for accumulating and billing costs under Government contracts.

- June 27, 2006 - CMS requested DCAA to examine WPS Medicare Division and Home Office Initial Disclosure Statement dated October 1, 20005 and revised June 1, 2006. DCAA determined that the disclosed cost accounting practices adequately describe the practices used to estimate, accumulate, and report costs incurred or to be incurred on government contracts covered by 48 C.F.R. Chapter 99.

- August 8, 2006 – DCAA issued an audit of WPS WPS' Medicare Division and Home Office Initial Disclosure Statements Dated June 1, 2006. DCAA opinioned the subject Medicare division and Home Office disclosure statements adequately describe the contractor's cost accounting practices.

- November 14, 2006 - WPS submitted a Cost Plus Award Fee proposal in response to [redacted] to determine if the proposed costs are acceptable as a basis to negotiate a fair and reasonable contract price. DCAA determined WPS submitted adequate cost or pricing data and the proposal was prepared in accordance with applicable Cost Accounting Standards and appropriate provisions of FAR 31and Health and Human Services Acquisition Regulations (HHSAR).

- May 3, 2007 - DCAA examined the corporate expense allocations portion [redacted] of Wisconsin Physicians Services Insurance Corporation (WPS) [redacted] Cost Plus Award Fee proposal dated November 14, 2006 to determine if the part of the proposal examined is acceptable as a basis to negotiate a fair and reasonable contract price. WPS submitted the proposal for Jurisdiction 5 claims processing services for Medicare Parts A and B. The company proposed a performance period of the date of contract award through 2011. DCAA opinioned WPS has submitted adequate cost or pricing data in support of the corporate expense allocations included in its Jurisdiction 5 proposal. The proposed corporate expense allocations were prepared in accordance with applicable CAS and appropriate provisions of FAR Part 31 and HHS AR.

- January 10, 2008 - DCAA examined Wisconsin Physician Service Insurance Corporation-Medicare Division (WPS Medicare), October 20, 2007, Cost Plus Award Fee proposal submitted in response to [redacted] to determine if the proposed costs are acceptable as a basis to negotiate a fair and reasonable contract price. The [redacted] proposal is for Jurisdiction 6 claims processing services for Medicare Parts A and B. The company proposed a performance period of September 1, 2008 through August 31, 2013. DCAA opinioned except for the non-receipt of the technical evaluation and assist audit results, the offeror has subimitted adequate information other than cost or pricing data.

- January 10, 2008 - DCAA examined Wisconsin Physician Service Insurance Corporation - Medicare Division (WPS Medicare), October 20, 2007, Cost Plus Award Fee proposal submitted in response to [redacted] to determine if the proposed costs are acceptable as a basis to negotiate a fair and reasonable contract price. The [redacted] proposal is for Jurisdiction 15 claims processing services for Medicare Parts A and B. The company proposed a performance period of August 1, 2008 through July 31, 2013. DCAA opinioned, except for the non-receipt of the technical evaluation and assist audit results, the offeror has submitted adequate information other than cost or pricing data.

- April 10, 2008 - CMS requested DCAA examine Wisconsin Physical Service Insurance Corporation Medicare Division (WPS) disclosure statement dated January 1, 2007 to determine if the disclosed practices comply with CAS and adequately describes its cost accounting practices, and the disclosed

practices comply with Cost Accounting Standards Board rules, regulations, and standards contained in 48 C.F.R. Chapter 99. DCAA determined the disclosed cost accounting practices comply with applicable Cost Accounting Standards, and FAR Part 31.

- June 30, 2008 – CMS sent a letter to WPS referencing DCAA audit report [redacted] dated June 6, 2008 stating that Wisconsin Physician Services Insurance Corporation disclosed cost accounting practices comply with allowable CAS, and FAR Part 31.

- June 17, 2009 – DCAA issued report number [redacted] which provided a floor check of Wisconsin Physician Service Insurance Corporation (WPS). DCAA performed physical observations (floor checks) to determine that employees are actually at work, that they are performing in their assigned job classifications, and their time is charged to the appropriate jobs. The floor checks included determining if the contractor consistently complies with established timekeeping system policies and procedures for recording labor charges. DCAA opinioned the floor checks disclosed no significant deficiencies in the contractor's timekeeping or labor system.

- April 12, 2010 – DCAA issued Final Rates for WPS FY 2007.

- September 10, 2010 – DCAA examined the Wisconsin Physician Service Insurance Corporation - Medicare Division, (WPS Medicare), Cost Plus Award Fee proposal dated April 23, 2010, for cost realism and possible understatement to assist the contracting officer in performing the analysis. WPS Medicare submitted the proposal for CMS Durable Medical Equipment Jurisdiction D in response to [redacted] The company proposed a performance period of October 31, 2010 through October 30, 2015.

- September 15, 2010 - WPS submitted a contract proposal, dated August 10, 2010, for the definitization of the letter contract, dated July 28, 2010 for the Medicare Part D Coverage Gap Payment project. It was determined the proposed direct labor rates are acceptable for negotiation of a fair and reasonable direct labor cost. In addition, the proposed indirect rates are acceptable for negotiation of a fair and reasonable departmental and division of overhead expenses except the G&A rate which is impacted by the CAS 403 issue which will result in an overstated G&A rate. The letter recommended the impact of the CAS 403 home office allocation issue on the [redacted] G&A budgetary rate be discussed during negotiations as the rate would be lowered by [redacted] minimum.

- October 8, 2010 – DCAA examined Wisconsin Physician Service Insurance Corporation - Medicare Division (WPS Medicare), cost-plus-award fee proposal dated July 9, 2010 for cost realism and possible understatement to assist the contracting officer in performing the analysis. WPS Medicare submitted the [redacted] proposal for Jurisdiction 8 Medicare Parts A and B Medicare Administrative Contractor (MAC) in response to [redacted] The company proposed a performance period of March 1, 2011 through February 29, 2016. DCAA determined WPS submitted adequate cost and pricing data.

- October 21, 2010 – WPS received a letter from CMS providing guidance on estimating and accumulating allowable and allocable direct and indirect costs applicable to Title XVIII Legacy, MAC, and other Cost Accounting Standards (CAS) covered contracts or subcontracts.

- November 16, 2010 – WPS sent a letter to CMS asserting it was not aware of any requirement that it adhere to CAS regulations. WPS asserted that the Legacy Medicare Title XVII contracts have not been subject to CAS as a matter of regulation but only as specified in certain limited provisions of the contract, specifically Appendix B, pension costs. WPS does not believe no other section of the contract references CAS and to assert adherence to CAS will require a contract modification.

- November 17, 2010 - Email Correspondence about CMS Cognizance over WPS.

- November 19, 2010 – DCAA conducted an audit of HPES - USPS Medicare Operations' (Medicare), July 8, 2010, firm-fixed-price proposal submitted in response to [redacted] to determine if the proposed costs are acceptable as a basis to negotiate a fair and reasonable subcontract price. The [redacted] proposal is for information technology services in support of the transition and ongoing support of Part B Medicare Administrative Contractor (MAC) processing for Jurisdiction 8 (J8). The company proposed a performance period of March 1, 2011 through February 28, 2016. CLIN 0001 and CLIN 0002 are in Performance Year (PY) 1; CLINs 0003 - 0006 are in PYs 2-5, respectively. DCAA determined the cost or pricing data submitted by the offeror are inadequate in part (see Notes 3 and 6 on pages 10 and 12). However, the inadequacies described are considered to have limited impact on the subject proposal. The proposal was prepared in accordance with applicable Cost Accounting Standards and appropriate provisions of FAR Part 31 and the HHSAR Supplement.

- December 20, 2010 – CMS sent a letter to DCAA requesting a review to determine if WPS policies, procedures, and practices used to estimate, accumulate, and report costs on Government contracts comply with the requirements of CAS 403. CAS 403 establishes criteria for the allocation of home office expenses (direct and indirect) to the segments of the organization. The request noted HHSAR regulations which differed from the FAR. The regulations included Independent Research & Development (IR&D) and the Facilities Capital Cost of Money.

- January 11, 2011 – A Contracting Officer Determination of Adequacy letter was issued to WPS in reference to their disclosure statement submitted January 1, 2010 to DCAA.

- February 18, 2011 – DCAA examined Wisconsin Physicians Service Insurance Corporation - Medicare Division (WPS Medicare) revised disclosure statement, dated July 2, 2010 and effective January 1, 2010 to ensure it disclosure statement adequately describes its cost accounting practices, and the disclosed practices comply with Cost Accounting Standards Board rules, regulations, and standards contained in 48 C.F.R Chapter 99. DCAA noted certain items are inconsistent within the disclosure statement, certain disclosure statement items and continuation sheet (CS) descriptions were vague, and certain disclosure statement items were incomplete.

- April 27, 2011 – DCAA issued audit report number [redacted] which examined Wisconsin Physicians Service Insurance Corporation – Home Office (WPS Home Office) revised disclosure statement, dated July 2, 2010 and effective January 1, 2010. DCAA opinioned the revised disclosure statement cannot be relied upon to provide a current, accurate and complete description of WPS Home Office's cost accounting practices for consistently accumulating and reporting costs charged to contracts.

- May 24, 2011 – The U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), issued a final report entitled, "Audit of Medicare Part A Administrative Costs for the Period November 5, 2007, through September 30, 2008 at Wisconsin Physicians Service Insurance Corporation".

- August 12, 2011 – A Contracting Officer Determination of an Adequate Accounting System was issued to WPS in reference to its DCAA reviewed accounting system on June 16, 2006.

- October 17, 2011 – DCAA issued a determination of adequacy on WPS accounting system for accumulating and billing costs under Government contracts.

- October 20, 2011 – CMS issued an adequacy determination to WPS in reference to the October 17, 2011 audit report.

- November 22, 2011 – The U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), issued a final report entitled, "Audit of Medicare Part B Administrative Costs for the Period October 1, 2006, Through September 30, 2008 at the Wisconsin Physicians Service Insurance Corporation".

Determination of CAS 403 Performance Noncompliance for Wisconsin Physician Services Insurance Corporation (WPS) effective January 1, 2008

- December 15, 2011 – DCAA issued a determination on WPS proposed indirect rates for FY 2008.
- December 15, 2011 - DCAA issued a determination on WPS proposed indirect rates for FY 2009.
- January 26, 2012 – DCAA evaluated the of Cost Accounting Standards (CAS) 403 - Allocation of Home Office Expenses to Segments of WPS. The purpose of the examination was to determine if WPS complied with the requirements of CAS 403 and any applicable FAR Part 31 requirements during Contractor Fiscal Year (CFY) 2010. DCAA determined that WPS complied, in all material respects, with the requirements of Cost Accounting Standard 403, allocation of home office expenses to segments, during CFY January 1, 2010 through December 31, 2010.
- March 28, 2012 - DCAA issued a determination on WPS proposed indirect rates for FY 2010.
- September 10, 2015 – DCAA issued a letter to CMS detailing their review of WPS disclosure statement revision 2 dated January 16, 2013 and effective January 1, 2013. WPS issued assignment number [redacted] and determined no cost accounting practice changes occurred in the disclosure statement revision 2 as the changes were administrative. DCAA asserted a compliance determination was not necessary.
- September 10, 2015 – DCAA issued a letter to CMS detailing their review of WPS disclosure statement revision 3 dated April 21, 2015 and effective January 1, 2015. WPS issued assignment number [redacted] and determined no cost accounting practice changes occurred in the disclosure statement revision 3. WPS asserted they revised its disclosed accounting practice to better reflect its business model. DCAA asserted a compliance determination was not necessary.
- October 2015 – The U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), issued a final report entitled, "Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part A Administrative Costs for FYs 2009, 2010, and 2011."
- October 2015 – The U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), issued a final report entitled, "Wisconsin Physicians Service Insurance Corporation Claimed Unallowable Medicare Part B Administrative Costs for FYs 2009, 2010, and 2011."

REFERENCE:

1. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated June 16, 2006
2. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated August 8, 2006
3. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated March 20, 2007
4. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated June 4, 2007
5. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated February 14, 2008
6. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated February 15, 2008
7. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated June 6, 2008
8. CMS CAS Letter to WPS dated June 30, 2008
9. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated June 17, 2009
10. Defense Contractor Audit Agency (DCAA) Final Rate Agreement for FY 2007 dated April 12, 2010
11. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated April 20, 2010
12. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated September 10, 2010
13. CMS Definitization of Letter Contract for Contract [redacted] dated September 15, 2010
14. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated October 8, 2010
15. Defense Contractor Audit Agency (DCAA) Audit Report [redacted] dated November 19, 2010
16. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated January 28, 2011
17. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated February 18, 2011
18. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated April 27, 2011
19. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated October 17, 2011
20. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated December 15, 2011
21. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated December 15, 2011
22. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated March 28, 2012
23. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated January 26, 2012
24. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated January 24, 2011

25. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated January 26, 2012
26. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated January 26, 2012
27. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated September 10, 2015
28. Defense Contractor Audit Agency (DCAA) Audit Report [redacted], dated September 10, 2015
29. Defense Contractor Audit Agency (DCAA) Memorandum [redacted], dated July 6, 2016
30. OIG Audit Report No. A-05-09-00101, dated May 24, 2011
31. OIG Audit Report No. A-05-09-00096, dated November 22, 2011
32. OIG Audit Report No. A-05-13-00020 (Part A), dated November 9, 2015
33. OIG Audit Report No. A-05-13-00019 (Part B), dated November 9, 2015

WPS GOVERNMENT HEALTH ADMINISTRATORS

Wisconsin Physicians Service Insurance Corporation
A CMS Medicare Contractor
1717 W. Broadway | P.O. Box 1787 | Madison, WI 53701-1787

May 4, 2018

Ms. Sheri L. Fulcher
Regional Inspector General for Audit Services
Office of Audit Services, Region V
233 North Michigan Ave, Suite 1360
Chicago, IL 60601

Re: Wisconsin Physicians Service Insurance Corporation;
Draft OIG Report Number A-05-16-00052

Dear Ms. Fulcher:

Thank you for the opportunity to comment on draft Audit Report Nos. A-05-16-00052/53. As you know, the findings in these draft Reports regarding Fiscal Year 2013 generally mirror HHS OIG's findings for Fiscal Years 2007-2012, which are the subject of Contracting Officer Final Decisions that WPS has appealed to the Civilian Board of Contract Appeals and that have been docketed as *Wisconsin Physicians Service Insurance Corporation ("WPS") v. U.S. Department of Health and Human Services., Centers for Medicare & Medicaid Services*, CBCA Nos. 5661, 5757, 5758, 6090, 6091. WPS's position on OIG's findings is set forth in WPS's June 23, 2017 Complaint and April 20, 2018 Supplemental Complaint in those Appeals. WPS's position on OIG's findings is also set forth in WPS's comments on the Audit Reports referenced in Appendix B to draft Audit Report Nos. A-05-16-00052/53. WPS believes that these documents fully respond to each of the findings and recommendations set forth in draft Audit Report Nos. A-05-16-00052/53 and incorporates them by reference here.

Should you have any questions regarding this response, please contact [redacted] at [redacted] or [redacted] .

Sincerely,

Janet Kyle

Janet Kyle
Executive Vice President Medicare
Wisconsin Physicians Service Insurance Corporation

CMS CENTERS FOR MEDICARE & MEDICAID SERVICES