



A no-bid contract worth \$123 million cloaked in secrecy



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Five years ago, a West Des Moines corporation signed a modest, no-bid contract with a federal agency for \$340,473.

Over the next three years, the Iowa Foundation for Medical Care and the government agreed to a series of changes to the contract, calling for the company to provide additional goods and services in return for more money.

Those change orders would eventually increase taxpayers' liability under the contract from \$340,473 to almost \$123 million - a 36,000 percent increase in spending - according to documents obtained by The Des Moines Register under the Freedom of Information Act.

The federal agency that paid out all of that money took more than four years to respond to the Register's open records request, and now refuses to disclose any of the government's audit reports on that or

other foundation contracts. It also refuses to disclose the cost of any of the individual purchases associated with those contracts.

That lack of transparency with public money concerns Iowa Sen. Chuck Grassley and others.

"There's no reason this government program should be allowed to operate under a cloak of secrecy and without accountability," Grassley said. "It's ironic that Medicare officials let a program designed to be a check on quality be so unchecked itself."

Joe Newman, spokesman for the nonprofit Project on Government Oversight, said he sees "a culture of secrecy in a lot of these federal agencies."

"This is the kind of information the public needs to know - how their money is being spent," Newman said.

The foundation - paid by the federal Centers for Medicare and Medicaid

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Services to improve the quality and efficiency of Iowa's health care system - is a privately run corporation located off University Avenue in West Des Moines, amid dozens of medical offices and clinics.

Iowa foundation largest of all QIOs

The foundation is part of a national network of "quality improvement organizations," or QIOs. There's a QIO serving every state in the nation, working to improve the quality and efficiency of health care. The Iowa foundation, which performs work on a national scale, is the largest of all the QIOs, spending about 1.8 million tax dollars every week. It is headquartered in West Des Moines but maintains offices in Illinois, Maryland, New York and Oklahoma. Last year, it employed almost 800 people and generated \$97 million in revenue.

And despite congressional investigations and findings of improper billing, the company continues to collect millions from taxpayers through multiyear, no-bid contracts.

The foundation declined to provide details about the change orders to the 2006 federal contract and answer other questions from the Register about the contract.

"Our work on these contracts supports a national health care system that aspires to deliver the right care every time," the foundation said in a statement to the Register. "Beyond improving health care, this contract work brought revenue into

Iowa and provided valuable jobs to our fellow Iowans."

Six years ago, amid reports of exorbitant salaries, executive perks and island parties hosted by some of the nation's other QIOs, Grassley launched an investigation and called for more public accountability in their spending.

So far, though, little has changed. Multimillion-dollar contracts are still awarded to QIOs without bidding and, after that money is spent, there's no public disclosure of the taxpayer-funded audits that would show any problems with those purchases.

The Register has been seeking access to the public records related to the foundation since 2006, partly because of concerns raised over past spending practices:

- In 2005 and 2006, the foundation gave two former executives a total of \$848,659 in severance pay. Foundation Vice President Fred Ferree of Urbandale

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collected a total of \$415,593 in pay one to two years after he stopped working there. By 2006, Ferree was also collecting \$204,000 in annual pay as the CEO of Alabama's quality improvement organization, another taxpayer-funded contractor.

- Ferree's successor, Don Lovasz, was paid \$525,935 in 2008. That included \$128,000 in bonuses and incentive payments. He was fired in 2010, but the foundation has declined to say whether he was given a severance package. If such a payment was made, it wouldn't have to be publicly disclosed until later this year with the filing of the foundation's 2010 tax return. The foundation refuses to say what Lovasz's successor, Jeffray Chungath, is being paid.

- In 2007, the inspector general of the U.S. Department of Health and Human Services questioned the foundation's spending on executive pay, retreats for board members, chartered airplane trips and food for employees. The foundation was alleged to have spent more than \$83,000 on cellphones, computers and other equipment given to employees of the Centers for Medicare and Medicaid Services - a potential problem given the government prohibition on kickbacks from contractors.

The Register's 2006 FOIA request sought access to correspondence between the foundation and the Centers for Medicare and Medicaid Services, as well as the most recent contract between the two, along with any change orders.

Under federal law, the agency had 20 days to respond. After four years and eight months, the agency responded on April 5 of this year. It turned over excerpts of one contract and provided partial copies of the first 14 change orders to the contract.

The records that were made public detail some, but not all, of the dozens of tasks the foundation was being asked to perform, such as maintaining a data-processing system and a national Web site for quality improvement tools for health care providers. However, the unit costs associated with those specific tasks are being kept secret as "proprietary" information or "trade secrets."

Only the even-numbered pages of one part of the contract have been disclosed, and many other pages are being kept confidential. Thirty-one of 45 change orders are being withheld in their entirety.

As a result, the total dollar amount of the initial contract and the content of 14 change orders are known. But the

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individual cost of each product or service, and the content of 31 change orders, remain secret.

The documents show that the foundation is entitled to collect not just the agreed-upon basic fee for various products and services, but also bonuses that are described as minimum-performance fees, excellent-performance fees and group-award fees. Those bonuses are capped at amounts that are blacked out in the public version of the contract, but they can add 3 percent - potentially, tens of thousands of dollars - to the cost of each product or service.

"Without public disclosure, there is no public accountability," said Dr. Sidney Wolfe of Public Citizen, a nonprofit government watchdog group. "The extent to which the Q IOs are accountable to the public depends entirely on the extent to which we can find out the details about what they are doing."

Lucy Dalglish, the executive director of the Reporter's Committee for Freedom of the Press, called the government's delay in handling the open records request a travesty and said it can be almost impossible for anyone to get information on contracts the federal government has with private companies.

"In almost every state, if you ask for a copy of a contract that the state has bid out, you're going to get far more information than you'd ever get out of the feds," she said.

Correspondence, audits are not

made public

The Register's FOIA request for correspondence between the Centers for Medicaid and Medicare Services and the Iowa foundation was ignored by the federal agency. No correspondence was turned over, and no rationale for that decision was given.

Agency spokesman Don McLeod said he can't explain why that part of the request was ignored. He said he has referred the question to the agency's FOIA office, which has yet to offer any explanation.

Last month, the Register wrote to the foundation and the Centers for Medicare and Medicaid Services and posed 14 questions about their contracts. The two entities conferred with each other about how to respond.

CMS issued a written statement that said while the original contract was never put up for bids, the Social Security Act gives the

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government the authority to renew existing contracts without bidding. The three-year contract signed in January 2006 took effect the following month but was treated as a renewal of past contracts that date back to 1972, they said.

The 2006 contract was valued at \$12.2 million, but CMS had only \$340,473, or one month's worth of funding, available at that time, so the lower amount was written as the base amount of the contract. That contract allowed for unspecified "special projects," including information-technology work that was later added to the agreement, they said.

Process eliminates competitive bidding

CMS said the foundation is no longer the agency's sole-source contractor for information technology. That task is now purchased in a "competitive environment and is geared towards more efficient operations with a more robust IT infrastructure," the agency said.

But the agency continues to dole out hundreds of millions of dollars to QIOs through a process that eliminates competitive bidding. In 2009, for example, it awarded a \$48 million contract to the Iowa foundation for its Physician Quality Reporting Initiative. In 2008, the foundation received an \$88 million contract that, for the most part, was not competitively bid.

Because the government's audit reports on these contracts are said to contain proprietary information belonging to the

foundation, the audits will not be made public, the agency says. In 2006, the agency said the audits would not be made public because they had yet to be finalized.

The Register has appealed the agency's response to the 2006 FOIA request and reiterated its request for all correspondence between CMS and the foundation.

While federal law gives the agency 20 business days to respond to an appeal, the law is not enforced. Last year, the agency took an average of 1,420 days - almost four years - to respond to an appeal. In one instance, the agency responded to an appeal after a delay of 11 years.

"The fact that the responses are so late and so screwed up is no surprise," said Dalglish. "This is the federal Freedom of Information Act, after all, and the Freedom of Information Act is broken."

What the Iowa foundation says

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The Des Moines Register posed seven questions to the Iowa Foundation for Medical Care, most of which went unanswered.

In a written statement, the foundation said the three-year contract it signed with the federal government in 2006 was initially for \$340,473 because the federal Centers for Medicaid and Medicare Services needed to finalize certain work requirements. Change orders to that contract were then used to finalize those requirements and to develop other, unrelated programs, such as a data-processing system, a national Web site for quality improvement tools for health care providers, and a program that provides hospitals with technical expertise on the collection of data.

“Our work on these contracts supports a national health care system that aspires to deliver the right care every time,” the foundation said in its statement. “Beyond improving health care, this contract work brought revenue into Iowa and provided valuable jobs to our fellow Iowans.”

The foundation declined to answer questions about the contract change orders, the current salary of the foundation’s CEO, whether it considers the money it collects under federal contracts to be proprietary information, and whether its 2006 federal contract was subject to open bidding.

About change orders, no-bid deals

A change order is an agreement between the government and a contractor for extra work or materials.

Government investigators say the abuse of change orders is a problem. A company can submit a low bid to be assured of winning a contract, with the understanding that a series of change orders will be approved, increasing the amount of money paid to the contractor. In some cases, the contractor and the government’s procurement officer share in the excessive reimbursements resulting from the scheme.

In this case, there are no allegations of wrongdoing. The federal government awarded the Iowa Foundation for Medical Care a \$340,473 contract in 2006, and through a series of 45 change orders to the contract, the value of the agreement grew by 36,000 percent to almost \$123 million.

The contract was not subject to open bidding. The government has the authority to renew contracts with quality improvement organizations like the Iowa foundation without putting the work up for bids. These renewals needn’t be simple extensions of existing contracts. They can be totally new contracts, with all-new work requirements.

About the Iowa Foundation

The Iowa Foundation for Medical Care is a federal contractor. It’s part of a network of privately run, but publicly funded, quality improvement organizations paid to improve the quality and efficiency of health care in every state.

Like many QIOs, the Iowa foundation pays no income tax because it is organized as a tax-exempt nonprofit organization. However, most of the money routed to the foundation and other QIOs has come from taxpayers through no-bid contracts awarded by the Centers for Medicare and Medicaid Services.

One of the primary functions of every QIO is to field patient complaints about the medical care they received as Medicare beneficiaries. There are 536,000 Medicare beneficiaries in Iowa, but last year the foundation reviewed just 22 complaints. There were five cases in which the foundation was able to confirm the patients’ quality-of-care concerns.

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