

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NATIONAL GOVERNMENT  
SERVICES, INC., CLAIMED SOME  
UNALLOWABLE MEDICARE  
SUPPLEMENTAL EXECUTIVE  
RETIREMENT PLAN COSTS THROUGH  
ITS INCURRED COST PROPOSALS**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
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Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services

September 2019  
A-07-19-00565

# *Office of Inspector General*

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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: September 2019  
Report No. A-07-19-00565

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



### Why OIG Did This Review

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' Supplemental Executive Retirement Plan (SERP) costs.

At CMS's request, the HHS, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit, and any other pension-related cost elements claimed by Medicare contractors through Incurred Cost Proposals (ICPs).

Previous OIG reviews found that Medicare contractors did not always correctly identify and claim SERP costs.

Our objective was to determine whether the calendar years (CYs) 2007 through 2014 SERP costs that National Government Services, Inc. (NGS), claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

### How OIG Did This Review

We reviewed \$698,931 of Medicare SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2007 through 2014.

## National Government Services, Inc., Claimed Some Unallowable Medicare Supplemental Executive Retirement Plan Costs Through Its Incurred Cost Proposals

### What OIG Found

The CYs 2007 through 2014 SERP costs that NGS claimed for Medicare reimbursement, and reported on its ICPs, were not always allowable and correctly claimed. Specifically, NGS claimed Medicare segment SERP costs of \$698,931 for Medicare reimbursement, through its ICPs, for CYs 2007 through 2014. However, we determined that the allowable SERP costs for this period were \$430,298. The difference, \$268,633, constituted unallowable Medicare SERP costs that NGS claimed on its ICPs for CYs 2007 through 2014. This overclaim occurred primarily because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

### What OIG Recommends and Auditee Comments

We recommend that NGS work with CMS to revise its ICPs for CYs 2007 through 2014 to reduce its claimed Medicare SERP costs by \$268,633.

NGS did not specifically agree or disagree with our recommendation but stated that it did not agree with the approach we took to calculate the unallowable SERP costs. NGS did not agree with the incorporation of the adjustment from the ICP audits conducted by independent accounting firms, as those adjustments, according to NGS, had not been negotiated with CMS. NGS also stated, though, that it did concur with our specific findings and added that it would establish processes to ensure that it would apply the federally established compensation benchmarks when determining benefit payments. NGS also stated that it would work with CMS to negotiate the ICP audit adjustments to determine the net impact due to or from CMS.

We revised some of our calculations of the Medicare segment SERP costs for this final report. We incorporated the ICP audit adjustments because the ICP audit report from the independent accounting firms has been issued in final. Therefore, we maintain that our finding and recommendation, as revised, are valid.

## TABLE OF CONTENTS

INTRODUCTION.....	1
Why We Did This Review .....	1
Objective .....	1
Background .....	1
National Government Services, Inc., and Medicare .....	1
National Government Services, Inc., Supplemental Executive Retirement Plan Costs .....	2
Accounting Methodologies.....	3
Incurred Cost Proposal Audits .....	3
How We Conducted This Review .....	4
FINDING.....	4
Allocable Supplemental Executive Retirement Plan Costs Overstated .....	4
Supplemental Executive Retirement Plan Costs Claimed.....	6
Unallowable Supplemental Executive Retirement Plan Costs Claimed.....	6
RECOMMENDATION .....	7
AUDITEE COMMENTS .....	7
OFFICE OF INSPECTOR GENERAL RESPONSE .....	8
APPENDICES	
A: Audit Scope and Methodology .....	9
B: Federal Requirements Related to Supplemental Executive Retirement Plan Costs.....	11
C: Auditee Comments .....	13

## INTRODUCTION

### WHY WE DID THIS REVIEW

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' Supplemental Executive Retirement Plan (SERP) costs. In claiming SERP costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulation (FAR), Cost Accounting Standards (CAS), and Medicare contracts. Previous Office of Inspector General (OIG) reviews found that Medicare contractors did not always correctly identify and claim SERP costs.

At CMS's request, the OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit (PRB), and any other pension-related cost elements claimed by Medicare fiscal intermediaries and carrier contractors and Medicare administrative contractors (MACs) and CAS- and FAR-covered contracts through Final Administrative Cost Proposals, Incurred Cost Proposals (ICPs), or both.

For this review, we focused on one entity, National Government Services, Inc. (NGS). In particular, we examined the allowable Medicare segment SERP costs that NGS claimed for Medicare reimbursement and reported on its ICPs.

### OBJECTIVE

Our objective was to determine whether the calendar years (CYs) 2007 through 2014 SERP costs that NGS claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

### BACKGROUND

#### **National Government Services, Inc., and Medicare**

NGS is a wholly owned subsidiary of Federal Government Solutions, which is a holding company created and owned by Anthem, Inc. (formerly WellPoint, Inc.). NGS administered Medicare Parts A and B under cost reimbursement contracts with CMS until its contractual relationships ended on July 13, 2013, and August 20, 2012, respectively. Effective November 17, 2006, WellPoint consolidated its Government contracting segments into one segment, AdminaStar Federal, Inc. (AdminaStar), which included the following Government contracting segments: AdminaStar; Anthem Health Plans of Maine, Inc.; Anthem Health Plans of New Hampshire, Inc.; United Government Services, LLC (UGS); and WellChoice, Inc. (formerly Empire). As of that same date, AdminaStar changed its corporate name to NGS.

With the implementation of Medicare contracting reform,<sup>1</sup> NGS continued to perform Medicare work as a MAC. NGS was awarded the MAC contracts for Medicare Durable Medical Equipment (DME) and Medicare Parts A and B, Jurisdiction B and Jurisdiction 13, effective January 1, 2006, and March 18, 2008, respectively.<sup>2, 3</sup> NGS continued its MAC work after again being awarded the DME contract, Jurisdiction B, on September 2, 2010. NGS was also awarded the Medicare Parts A and B contracts (which include home health and hospice services) for Jurisdiction 6 and Jurisdiction K, effective September 27, 2012, and February 22, 2013, respectively.<sup>4, 5</sup>

The disclosure statement that NGS submits to CMS states that NGS uses pooled cost accounting. Medicare contractors use pooled cost accounting to calculate the indirect cost rates (whose computations include pension, PRB, and SERP costs) that they submit on their ICPs. The indirect cost rates are used to calculate contract costs reported on the ICPs. CMS uses these indirect cost rates in determining the final indirect cost rates for each contract.<sup>6</sup>

### **National Government Services, Inc., Supplemental Executive Retirement Plan Costs**

Anthem sponsors two SERPs: the Cobalt Corporation Supplemental Executive Retirement Plan (Cobalt) and the WellPoint Health Networks, Inc., Supplemental Executive Retirement Plan (EVP).<sup>7</sup> Cobalt's primary purpose is to provide a benefit to a select group of management or highly compensated employees. The EVP plan's primary purpose is to provide deferred compensation for a select group of management or highly compensated employees within the meaning of the Employee Retirement Income Security Act of 1974. Anthem's SERPs are thus

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<sup>1</sup> Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, required CMS to transfer the functions of fiscal intermediaries and carriers to MACs between October 2005 and October 2011. Most, but not all, of the MACs are fully operational; for jurisdictions where the MACs are not fully operational, the fiscal intermediaries and carriers continue to process claims. For purposes of this report, the term "Medicare contractor" means the fiscal intermediary, carrier, or MAC, whichever is applicable.

<sup>2</sup> DME Jurisdiction B consists of the States of Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin.

<sup>3</sup> Medicare Parts A and B Jurisdiction 13 consists of the States of Connecticut and New York.

<sup>4</sup> Medicare Part A and B Jurisdiction 6 consists of the States of Illinois, Minnesota, and Wisconsin. NGS's jurisdiction for home health and hospice services consists of the States of Alaska, Arizona, California, Hawaii, Idaho, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Washington, and Wisconsin, and the U.S. Territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

<sup>5</sup> Medicare Parts A and B Jurisdiction K consists of the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. NGS's jurisdiction for home health and hospice services consists of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

<sup>6</sup> Each Medicare contractor submits to CMS an ICP that reports the Medicare direct and indirect costs that the contractor incurred during that year. The ICP and supporting data provide the basis for the CMS Contracting Officer and the Medicare contractor to determine the final billing rates for allowable Medicare costs.

<sup>7</sup> Anthem acquired Cobalt Corporation, of which UGS was a subsidiary, in CY 2003.

designed to restore benefits to participants who lost benefits under the Cobalt Corporation and the UGS qualified defined-benefit plans because of the Internal Revenue Code, sections 401(a) and 415, limits.<sup>8, 9</sup>

This report addresses the SERP costs that NGS claimed under the provisions of its MAC contracts and CAS- and FAR-covered contracts. We are addressing the SERP costs that NGS claimed under the provisions of its fiscal intermediary and carrier contracts in a separate review.

### **Accounting Methodologies**

The Medicare contracts require NGS to calculate SERP costs in accordance with the FAR and CAS 412 and 413. The FAR and the CAS require that the costs for nonqualified defined-benefit plans be measured under either the accrual method or the pay-as-you-go method. Under the accrual method, allowable costs are based on the annual contributions that the employer deposits into its trust fund. For nonqualified defined-benefit plans that are not funded through the use of a funding agency, costs are to be accounted for under the pay-as-you-go method. This method is based on the actual benefits paid to participants, which are comprised of lump-sum payments and annuity payments.

### **Incurred Cost Proposal Audits**

At CMS's request, CliftonLarsonAllen LLP (CLA) and Kearney & Company (Kearney) performed audits of the ICPs that NGS submitted for the periods of 2007 through 2014. The objectives of the CLA and Kearney reviews were to determine whether costs were allowable in accordance with the FAR, the U.S. Department of Health and Human Services Acquisition Regulation, and the CAS.

For our current audit, we relied on the CLA and Kearney audit findings and recommendations when computing the allowable SERP costs discussed in this report.

We incorporated the results of the CLA and Kearney audits into our computations of the audited indirect cost rates, and ultimately the SERP costs claimed, for the contracts subject to the FAR. CMS will use our report on allowable SERP costs, as well as the CLA and Kearney audit reports, to determine the final indirect cost rates and the total allowable contract costs for NGS for CYs 2007 through 2014. The cognizant Contracting Officer will perform a final settlement

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<sup>8</sup> The section 401(a)(17) limit is the maximum annual compensation that can be used to calculate pension benefits.

<sup>9</sup> Internal Revenue Code section 415 limits the amounts of benefits that may be paid to a participant in a defined-benefit plan. It also limits the amount of contributions that may be made to a participant's account in a defined-contribution plan.

with the contractor to determine the final indirect cost rates. These rates ultimately determine the final costs of each contract.<sup>10</sup>

## **HOW WE CONDUCTED THIS REVIEW**

We reviewed \$698,931 of Medicare SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2007 through 2014.<sup>11</sup>

In accordance with the FAR and the CAS, for the SERP, we calculated the allowable SERP pension costs based on periodic payments made to SERP recipients, plus a 15-year amortization of lump-sum SERP payments. Our calculation included an allowable interest rate identified in the qualified defined-benefit pension plan actuarial valuation reports. We incorporated the results of CLA's and Kearney's ICP audits into our calculations of allowable SERP costs.

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 finding and conclusions based on our audit objectives.

Appendix A contains details of our audit scope and methodology.

## **FINDING**

The CYs 2007 through 2014 SERP costs that NGS claimed for Medicare reimbursement, and reported on its ICPs, were not always allowable and correctly claimed. Specifically, NGS claimed Medicare segment SERP costs of \$698,931 for Medicare reimbursement, through its ICPs, for CYs 2007 through 2014. However, we determined that the allowable SERP costs for this period were \$430,298. The difference, \$268,633, constituted unallowable Medicare SERP costs that NGS claimed on its ICPs for CYs 2007 through 2014. This overclaim occurred primarily because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

### **ALLOCABLE SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS OVERSTATED**

During this audit (and before we incorporated the results of the CLA and Kearney ICP audits), we calculated the allocable SERP pension costs based on periodic payments made to SERP

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<sup>10</sup> In accordance with FAR 42.705-1(b)(5)(ii) and FAR 42.705-1(b)(5)(iii)(B), the cognizant Contracting Officer shall "[p]repare a written indirect cost rate agreement conforming to the requirements of the contracts" and perform a "[r]econciliation of all costs questioned, with identification of items and amounts allowed or disallowed in the final settlement," respectively.

<sup>11</sup> NGS's ICPs included only direct SERP costs related to the Medicare segment. We followed NGS's methodology, and for that reason, our audited SERP costs included only direct SERP costs related to the NGS Medicare segment.

recipients, plus a 15-year amortization of lump-sum SERP payments, in accordance with the FAR and the CAS. Our calculation included an allowable interest component in the amortization installment; to calculate this component, we used the interest rate identified in the qualified defined-benefit plan actuarial valuation reports (Appendix A). Accordingly, we determined that the allocable pay-as-you-go SERP costs for CYs 2007 through 2014 totaled \$689,652. As discussed below, NGS identified allocable SERP costs of \$996,812. Therefore, NGS overstated the allocable SERP costs by \$307,160.<sup>12</sup>

The Medicare contracts require NGS to calculate SERP costs in accordance with the FAR and CAS 412 and 413. Contrary to Federal regulations at CAS 412.40(a)(3) (Appendix B), NGS did not use an interest component in the determination of the amortization installment. In accordance with those regulations, our calculations of the allowable SERP costs included an allowable interest component in the lump-sum amortizations. We based our amortization installments on the interest rate used to determine costs for the qualified defined-benefit pension plan.

We used these allocable SERP costs to determine the allowable SERP costs for Medicare reimbursement. Table 1 below compares the allocable SERP costs that we determined for CYs 2007 through 2014 with the costs that NGS reported for the same timeframe.

**Table 1: Medicare Segment Allocable SERP Costs**

<b>CY</b>	<b>Allocable Per Audit</b>	<b>Per NGS</b>	<b>Difference</b>
2007	\$39,031	\$1,839	\$37,192
2008	71,752	10,747	61,005
2009	67,286	19,091	48,195
2010	96,128	27,088	69,040
2011	100,156	470,975	(370,819)
2012	103,866	154,997	(51,131)
2013	104,939	155,302	(50,363)
2014	106,494	156,773	(50,279)
<b>Total</b>	<b>\$689,652</b>	<b>\$996,812</b>	<b>(\$307,160)</b>

After performing the calculations discussed above, we then used the allocable cost information to adjust the indirect cost rates (i.e., the fringe benefit and general and administrative rates) and, in turn, to calculate the information presented in Table 2 later in the report. (Our calculation does not appear in this report because those rate computations that NGS used in its ICPs, and to which we referred as part of our review, are proprietary information.)

<sup>12</sup> Because this section of the report discusses our calculations before we incorporated into them the results of the CLA and Kearney ICP audits, the dollar amounts conveyed in this paragraph differ from those conveyed both earlier in the “Finding” section and later in our recommendation.

## **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS CLAIMED**

NGS claimed SERP costs of \$698,931 on its ICPs for CYs 2007 through 2014. We calculated the allowable Medicare SERP costs in accordance with the FAR and the CAS. For details on the Federal requirements, see Appendix B.

## **UNALLOWABLE SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS CLAIMED**

After incorporating the results of the CLA and Kearney ICP audits into the calculations discussed earlier in this report, we determined that the allowable SERP costs for CYs 2007 through 2014 were \$430,298. Thus, NGS claimed \$268,633 of unallowable SERP costs on its ICPs for CYs 2007 through 2014. This overclaim occurred because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

In our review of the benefit payment calculations, we determined that NGS based its claimed SERP costs on unallowable compensation. We obtained and recalculated five benefit payments using the compensation limits described in FAR 31.205-6(p) (Appendix B). These five payments were made on behalf of one of the five most highly compensated employees in management positions at each of Anthem's home offices and in management positions over each of the SERPs' Medicare segments. The benefit payments should have been limited to the compensation benchmarks determined by the Office of Federal Procurement Policy (OFPP).

In our recalculation of these five benefit payments, we limited each participant's compensation for the year in which he or she was considered one of the five most highly compensated employees in accordance with FAR 31.205-6(p). After recalculating these payments, we calculated the allowable SERP costs for CYs 2007 through 2014 to be \$430,298. Therefore, NGS overstated these costs by \$268,633 because it did not limit executive compensation in accordance with FAR 31.205-6(p) when requesting Medicare reimbursement.

Accordingly, Table 2 on the following page compares the Medicare segment SERP costs that we calculated (using our adjusted indirect cost rates) with the SERP costs that NGS claimed for Medicare reimbursement for CYs 2007 through 2014.

**Table 2: Comparison of Allowable SERP Costs and Claimed SERP Costs<sup>13</sup>**

<b>CY</b>	<b>Allowable Per Audit</b>	<b>Per NGS</b>	<b>Difference</b>
2007	\$4,385	\$0	\$4,385
2008	19,432	2,222	17,210
2009	32,486	9,183	23,303
2010	48,251	17,021	31,230
2011	58,409	274,751	(216,342)
2012	69,684	104,092	(34,408)
2013	96,973	143,303	(46,330)
2014	100,678	148,359	(47,681)
<b>Total</b>	<b>\$430,298</b>	<b>\$698,931</b>	<b>(\$268,633)</b>

Because NGS did not calculate its SERP costs in accordance with Federal regulations and the Medicare contracts' requirements, it claimed \$268,633 of unallowable SERP costs.

#### **RECOMMENDATION**

We recommend that NGS work with CMS to revise its ICPs for CYs 2007 through 2014 to reduce its claimed Medicare SERP costs by \$268,633.

#### **AUDITEE COMMENTS**

In written comments on our draft report, NGS did not specifically agree or disagree with our recommendation. NGS stated that it did not agree with the approach we took to calculate the unallowable SERP costs. Specifically, NGS did not agree with the incorporation of the adjustments from the ICP audits. These adjustments, according to NGS, have not been "fully negotiated or vetted with CMS. . . . As a result, the unallowable costs cited in the recommendation of this report may be misrepresented by the inclusion of ICP audit adjustments that have not been fully negotiated."

NGS also stated, though, that it did concur with "the specific findings noted in the report" and added that it would establish processes to ensure that when applicable, it would apply the compensation benchmarks when determining benefit payments. NGS also said that it would work with CMS to negotiate the ICP audit adjustments to determine the net impact due to or from CMS.

NGS's comments are included in their entirety as Appendix C.

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<sup>13</sup> Our calculations incorporated the rate ceilings associated with the Medicare Parts A and B and DME contracts. We applied the indirect cost rates associated with these contracts when computing the allowable SERP costs for the Parts A and B and DME contracts. The amounts identified in this table represent the allowable Medicare SERP costs during our audit period and do not represent the Total Company allowable costs on the ICPs.

## OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing NGS's comments, we revised some of our calculations of the Medicare segment SERP costs for this final report. Our revisions to this final report, which resulted in an increase of \$3,838 in allowable SERP costs, were related to adjustments that were either incorrect or omitted from the ICPs calculations in our draft report. We maintain that our finding and recommendation, as revised, are valid.

With respect to NGS's statement that it disagreed with our calculation of the unallowable SERP costs because the incorporation of the adjustments from the ICP audits had not been negotiated with CMS, we incorporated those findings and recommendations because the ICP audit report has been issued in final.

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed \$698,931 of Medicare SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2007 through 2014 (footnote 10).

Achieving our objective did not require that we review NGS's overall internal control structure. We reviewed the internal controls related to the SERP costs that were included in NGS's ICPs and ultimately used as the basis for Medicare reimbursement, to ensure that these costs were allocable in accordance with the CAS and allowable in accordance with the FAR.

We performed our audit work at our office in Jefferson City, Missouri.

### METHODOLOGY

To accomplish our objective, we:

- reviewed the portions of the FAR, CAS, and Medicare contracts applicable to this audit;
- reviewed Cobalt and EVP's SERP documents;
- reviewed accounting records and information provided by NGS to identify the amount of SERP costs claimed for Medicare reimbursement for CYs 2007 through 2014;
- calculated the allowable SERP costs based on periodic payments made to SERP recipients, plus a 15-year amortization of lump-sum SERP payments, and including an allowable interest component in the amortization installment (which we calculated using the interest rate identified in the qualified defined-benefit plan actuarial valuation reports), in accordance with applicable provisions of the FAR and the CAS;
- reviewed the results of CLA's and Kearney's ICP audits and incorporated those results into our calculations of allowable SERP costs;
- incorporated information from the CMS PRB Settlement Agreement;<sup>14</sup> and
- provided the results of our review to NGS officials on April 30, 2019.

We performed this review in conjunction with the following audits and used the information obtained during these audits:

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<sup>14</sup> On August 22, 2017, CMS and NGS executed this agreement, which closed the prior accounting periods for the PRB costs claimed from FY 2007 through FY 2009. This agreement also allowed NGS to change its method of accounting for the PRBs from the accrual basis to pay-as-you-go (cost basis).

- *National Government Services, Inc., Understated Its Allocable Pension Costs for Calendar Years 2006 Through 2009 (A-07-14-00453; May 21, 2015);*
- *National Government Services, Inc., Claimed Some Unallowable Medicare Pension Costs Through Its Incurred Cost Proposals (A-07-19-00564);*
- *National Government Services, Inc., Did Not Claim Some Medicare Postretirement Benefit Plan Costs Through Its Incurred Cost Proposals (A-07-19-00566); and*
- *National Government Services, Inc., Claimed Some Unallowable Medicare Nonqualified Plans Costs Through Its Incurred Cost Proposals (A-07-19-00572).*

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 finding and conclusions based on our audit objectives.

## **APPENDIX B: FEDERAL REQUIREMENTS RELATED TO SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS**

### **FEDERAL REGULATIONS**

Federal regulations (FAR 31.205-6(p)) state that costs incurred after January 1, 1998, for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, OFPP, are unallowable.

Federal regulations (FAR 52.216-7(a)(1)) address the invoicing requirements and the allowability of payments as determined by Contracting Officer in accordance with FAR subpart 31.2.

Federal regulations (CAS 412.40(a)(3)) state that for defined-benefit pension plans accounted for under the pay-as-you-go cost method, the components of pension cost for a cost accounting period are:

- the net amount of periodic benefits paid for the period, and
- an amortization installment, including an interest equivalent on the unamortized settlement amount, attributable to amount paid to irrevocably settle an obligation for periodic benefits due in current and future cost accounting periods.

Federal regulations (CAS 412.50(b)(3)) state that for defined-benefit plans accounted for under the pay-as-you-go cost method, the amount of pension cost assignable to a cost accounting period shall be measured as the sum of:

- the net amount for any periodic benefits paid that period and
- the level annual installment required to amortize over 15 years any lump-sum benefit payments.

Federal regulations (CAS 412.50(c)(3)) state that the cost of a nonqualified defined-benefit pension plan shall be assigned to cost accounting periods in the same manner as the cost of qualified plans under the following conditions:

- the contractor, in disclosing or establishing cost accounting practices, elects to have a plan so accounted for;
- the plan is funded through the use of a funding agency; and
- the right to a pension benefit is nonforfeitable and is communicated to the participants.

Federal regulations (CAS 412.50(c)(4)) state that the cost of a nonqualified defined-benefit pension plan must be assigned using the pay-as-you-go method if the plan does not meet all of the above requirements.

### **MEDICARE CONTRACTS**

The Medicare contracts require NGS to submit invoices in accordance with FAR 52.216-7, "Allowable Cost & Payment." (See our citation to FAR 52.216-7(a)(1) in "Federal Regulations" above.)



MEDICARE

A CMS Medicare Administrative Contractor  
<http://www.NGSMedicare.com>

August 8, 2019

Sent via Email

Mr. Patrick J. Cogley  
Regional Inspector General for Audit Services  
Office of Audit Services, Region VII  
601 East 12<sup>th</sup> Street, Room 0429  
Kansas City, Missouri 64106

Reference: Report Number A-07-19-00565

Dear Mr. Cogley:

We are in receipt of the draft audit entitled "National Government Services, Inc. Claimed Some Unallowable Supplemental Executive Retirement Plan Costs Through Its Incurred Cost Proposals". Thank you for the opportunity to respond to the facts and reasonableness of the recommendation presented in the report.

NGS is not in agreement with the approach taken to develop the unallowable costs cited in the report. The approach consisted of impacting indirect rates not only for the cited OIG findings, but also for audit findings that haven't been fully negotiated or vetted with CMS related to open NGS Incurred Cost Proposal (ICP) audits for years 2007 thru 2014. These proposed ICP adjustments require further discussion with CMS prior to finalizing the ICPs for these cost report years. The incorporation of these adjustments is in no way a concession or agreement by NGS to the proposed ICP adjustments. As a result, the unallowable costs cited in the recommendation of this report may be misrepresented by the inclusion of ICP audit adjustments that have not been fully negotiated.

NGS will work with CMS to complete its negotiations of the proposed ICP audit adjustments for 2007 thru 2014. Thru that process, the audited SERP costs identified in this report (including audited pension, post-retirement and non-qualified plan costs identified in other reports) along with the final audited and agreed to ICP adjustments will be incorporated into the respective ICP reports to develop the net impact due to or from CMS.

With regard to the specific findings noted in the report, NGS is in concurrence. Accordingly, NGS will establish processes to ensure that when applicable, the compensation benchmarks are applied to compensation used in determining benefit payments.



If you have any further questions or need additional clarification, I can be reached at 414-207-2517 or via email at [todd.reiger@anthem.com](mailto:todd.reiger@anthem.com).

Sincerely,

/s/Todd W. Reiger

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