

TriWest Learns Price of Fraud by Losing \$20 Billion TRICARE Contract

Written by Nick Sanders
Friday, 13 April 2012 00:00

On March 19, 2012, Federal Times [reported](#) that the Pentagon had awarded the latest military healthcare contract (called TRICARE) to UnitedHealth Military & Veterans (UHMV), a part of the UnitedHealth Group. The incumbent contractor, TriWest, lost the contentious competition and nobody at Federal Times was quite sure why.

But the author of the Federal Times story noted two interesting facts that may have played a role in TriWest's loss.

1.

During the competition, "new bids" were solicited "after UnitedHealth Group argued that Tricare chose contractors that promised to negotiate discounts with health providers at levels below Medicare. That, they said, forced contractors to focus on low costs rather than quality care."

1.

In September, 2011, TriWest "was ordered to pay \$10 million after a whistle-blower lawsuit said the company 'systematically defrauded' Tricare by not passing on savings to the government gained through negotiations with health care providers; by pushing through large numbers of claims without checking them for errors to avoid late fees; and by paying for ineligible beneficiaries, non-covered services, unknown services and services paid for by another provider."

So while nobody knows for sure what the debrief would tell TriWest, the clear implication is that TriWest's hands were tainted by fraudulent conduct, which caused the company to lose out on the \$20 Billion TRICARE award.

A couple of weeks later, [Bloomberg](#) reported that TriWest had protested the award decision at the GAO. According to the Bloomberg article, TriWest argued that—

TriWest Learns Price of Fraud by Losing \$20 Billion TRICARE Contract

Written by Nick Sanders
Friday, 13 April 2012 00:00

The U.S. Department of Defense made an ‘inexplicable decision’ to award the contract to UnitedHealth, ‘a company with a long history of performance problems and legal issues, and with no history of providing health care to the military,’ David McIntyre Jr., TriWest’s chief executive officer, said in a statement yesterday.

TriWest’s bid was lower than UnitedHealth’s offer and also included ‘several hundred million dollars’ in discounts that the government failed to include in its review, McIntyre said during a conference call with reporters today.

The Bloomberg article reported that UnitedHealth has had its own problems with allegations of fraud. According to the story—

UnitedHealth’s legal issues include an American Medical Association lawsuit against the company, McIntyre said. The lawsuit filed in 2000 alleged the insurer manipulated payments to out-of-network doctors. UnitedHealth announced in January 2009 it would pay \$350 million to settle the suit, which sought damages for the physicians.

Apparently, TriWest is arguing that the DOD should have considered UnitedHealth’s settlement in its evaluation of past performance. Bloomberg reported—

The Pentagon only consulted five references provided by UnitedHealth in its review of the company’s track record, McIntyre said. Tricare officials should have done more to examine the company’s prior performance, such as contacting insurance commissions in states where UnitedHealth operates and reviewing the insurer’s public financial documents, he said. ‘It’s a little like buying a house without an inspection,’ McIntyre said.

It seems that TriWest is arguing that, if its own recent fraud settlement affected perceptions of the company’s performance, then UnitedHealth’s 2009 fraud settlement should have counted against it, as well—kind of like offsetting penalties in football.

We’re not going to delve into the rules of evaluating past performance here. But it is not at all clear that the Pentagon evaluators had to impute a 2009 UnitedHealth fraud settlement to the entity (UHMV) that was the legal entity submitting the official bid.

This was a “must-win” bid for TriCare. According to Bloomberg—

Closely held TriWest, based in Phoenix, risks losing what founder McIntyre has called its ‘only business.’ The company has helped manage the military’s health services for the past 16 years. The work has generated more than \$20 billion in contracts for the company since fiscal

TriWest Learns Price of Fraud by Losing \$20 Billion TRICARE Contract

Written by Nick Sanders
Friday, 13 April 2012 00:00

2000, according to data compiled by Bloomberg Government. ‘It is likely if we weren’t doing this work anymore, we would shut down the corporation,’ McIntyre said in today’s conference call.

For its part, the Pentagon is playing its cards close to its vest—as one would expect. This [Washington Post article](#) noted that TriCare asserted that it was told by the debriefers that “the decision to award the contract to UnitedHealth was based on ‘technical proficiency, past performances and price.’”

But the fraud allegations—and settlement—may have figured into the award decision, as well. We’ll wait for the GAO decision to learn more of the details. But in the meantime, readers should consider this to be a reminder that the price of fraud may be more expensive than it seems at first glance.