

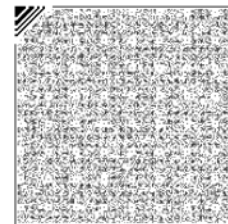
February 3, 2017

Honorable Phil Roe, Chair
House Committee on Veterans Affairs
335 Cannon House Office Building
Washington, DC

Re: Statement of the Blinded Veterans Association on VA's Failure to Address Compliance with Sections 504/508 of the Rehabilitation Act In Conjunction with Its IT Infrastructure Modernization Program

Dear Congressman Roe and members of the House Committee on Veterans Affairs:

Thank you for granting the Blinded Veterans Association an opportunity to provide a statement for the record of your hearing on Assessing the VA IT landscape: Progress and Challenges on February 7, 2017. In March 2016, we testified before this committee that we were pleased by the progress that VA had made toward increasing the accessibility of its internal communications with VA employees who have visual disabilities, as well as external communications with visually impaired veterans. While we continue to stand by that previous statement, another year has passed and at the conclusion of that year, we find that there are significant issues that remain unaddressed. VA's responses to our inquiries about the status of their efforts to address these issues throughout the past year have been sporadic at best and largely uninformative. As VA undertakes its much-needed program to update and modernize its information technology infrastructure, we believe it is crucial that resolution of these issues must be considered an essential component of the program, because it is far less costly to build accessibility in at the ground level than it is to retrofit equipment, software, and databases after they have been put in place. As we will discuss below, we believe that failure to address these matters now could also have adverse financial ramifications for VA in the area of benefit claims. VA may be opening itself up to increased liability for payment of large retroactive benefit claims due to inadequate communications with veterans seeking eligibility for benefits.



Two issues are of concern here:

1. What is VA doing to ensure that it has the capacity to send correspondence and other important communications to veterans who have known visual disabilities in formats other than standard print that they can access independently? And
2. What is the status of VA's effort to bring its websites, software, and hardware into compliance with the requirements of Section 508 of the Rehabilitation Act?

BVA was recently informed that A Power point from the Office of Business process integration (OPBI) dated January 29th to 31st, 2013 states "A recent Office of General Counsel (OGC) memo states VBA notifications are not in compliance with Section 504 of the Rehabilitation Act of 1973". The rationale for the statement is that Section 504 of that Act requires that federal agencies use accessible formats including but not limited to large print, braille, audio recording, electronic mail (e-mail), or Microsoft Word document, to communicate with beneficiaries and other users of services who have known disabilities that prevent them from reading standard print or PDF images. The OGC had determined that VA had not made a significant effort to develop its capability to provide correspondence or other important documents to veterans whom they knew had disabilities that prevented their reading the types of documents mentioned above. Further, since that time, VA has launched several initiatives to upgrade its databases, including those maintained by both VHA and VBA. We have been advised that the goal is to enhance the agencies' ability to gather additional information about the needs and other vital characteristics of veterans, so that services and benefits can be delivered in a more efficient and timely manner. However, there is no indication that these upgrades include data fields and other design features that would enable either VHA or VBA to gather and maintain information about a veteran's need for information in an alternate accessible format. Neither is there any indication that VA is seeking to build its capacity to provide materials to veterans in such formats if requested.

In October 2009, the US District Court for the Northern District of California found the Social Security Administration (SSA) out of compliance with Sec. 504 of the Rehabilitation Act and Ordered that agency to begin allowing beneficiaries whom the agency knew were blind to request letters and other

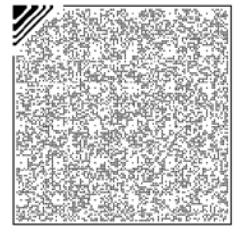


communications about benefits be sent to them in accessible formats. The agency was further ordered to make such upgrades to its equipment, programs, and services as were necessary to enable them to provide information in such formats. The court also said that once sufficient time had passed to allow the specified upgrades to be put in place, no social security benefits may be reduced or terminated to any individual shown in the SSA records to be blind or visually impaired (or whose authorized payee is shown to be blind or visually impaired) unless such person was first provided with the notice in an alternative format (either Braille or a navigable Microsoft Word document). The VA, like SSA, has a significant number of beneficiaries, and users of medical services, who are unable to read print or view images due to blindness, and, also like SSA, VA currently knows who many, if not most, of those individuals are. In addition to the legal basis for urging VA to act on this matter and follow SSA's lead, there are health and safety considerations that make it wise for VA to improve the accessibility of its communications. Veterans with visual impairments can suffer life-threatening injury as a result of their inability to read items like discharge instructions, or the warnings and lists of side effects that accompany prescriptions.

Note also the language in *Clarke v. Nicholson*, 21 Vet.App. 130, 133 (2007), if a regional office (RO) decides a claim but fails to notify the claimant of the decision, the claim remains open, legally, even if the RO clears the corresponding end product (EP). Under such circumstances, if VA denied entitlement to a benefit, failed to notify the claimant of the denial, and then granted entitlement to the same benefit years later, the claimant might be entitled to benefits retroactive to the initial date of claim, because the decision on the initial claim never became final.

By failing to comply with 504 and 508 by insuring that information contained in correspondence and on VA websites is available in accessible formats, the VA may find it is liable to reopen thousands of cases, thus increasing the claims caseload and potentially requiring payment of large retroactive payments.

Software that will enable VA personnel to convert material into accessible alternative formats is currently and readily available to the VA. It is also approved for use on the Department's system through the Technical Reference Manual (TRM) which regulates VA software. We believe it is imperative that implementation begin immediately.



With regard to the VA's progress in addressing issues related to compliance with Sec. 508, BVA's specific outstanding concerns include lack of a timeline for the replacement of outdated Legacy Systems that are not compatible with adaptive software used by VA employees who are blind or with versions of software that allow them to work as productively as their peers using later versions of the systems, as well as kiosks and VBMS documents which are not accessible to blind veterans who rely on the VA for their medical care. We urge this committee to hold the VA accountable for insuring that its information technologies and websites are designed to provide VA with the capacity to disseminate information in a manner that makes it accessible to both department employees who have visual impairments and need information in order to serve veterans, and to those among our nation's veterans who have sacrificed their sight in service to our nation.

In order to demonstrate to you one example of the means that are currently available to accomplish the objectives discussed above, we have included a "Voiceye" bar code on the upper right-hand corner of this document. The Voiceye app is currently available for use on Windows, iOS and Android devices and can be downloaded from the various App Stores. It allows anyone to download the entire text of a document such as this onto a mobile device and review it anywhere. You will find this adaptive software for the blind, which makes documents accessible on mobile devices, is efficient for both blind and sighted individuals who want to scan and review a document on the go. We thought that members and staff of this committee might find it useful to try it out on this document.

Thank you very much for your concern and attention to these issues. We welcome the opportunity to work with you to address them. Please feel free to contact us if you have questions or would like additional information.

Respectfully,

Melanie Brunson
Director of Government Relations