

# EXPLORING VA'S OVERSIGHT OF CONTRACT DISABILITY EXAMINATIONS

---

---

## HEARING

BEFORE THE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND  
MEMORIAL AFFAIRS  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FIFTEENTH CONGRESS  
SECOND SESSION

THURSDAY, NOVEMBER 15, 2018

**Serial No. 115-81**

Printed for the use of the Committee on Veterans' Affairs



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2019

## COMMITTEE ON VETERANS' AFFAIRS

DAVID P. ROE, Tennessee, *Chairman*

GUS M. BILIRAKIS, Florida, <i>Vice-Chairman</i>	TIM WALZ, Minnesota, <i>Ranking Member</i>
MIKE COFFMAN, Colorado	MARK TAKANO, California
BILL FLORES, Texas	JULIA BROWNLEY, California
AMATA COLEMAN RADEWAGEN, American Samoa	ANN M. KUSTER, New Hampshire
MIKE BOST, Illinois	BETO O'ROURKE, Texas
BRUCE POLIQUIN, Maine	KATHLEEN RICE, New York
NEAL DUNN, Florida	J. LUIS CORREA, California
JODEY ARRINGTON, Texas	CONOR LAMB, Pennsylvania
CLAY HIGGINS, Louisiana	ELIZABETH ESTY, Connecticut
JACK BERGMAN, Michigan	SCOTT PETERS, California
JIM BANKS, Indiana	
JENNIFFER GONZALEZ-COLON, Puerto Rico	
BRIAN MAST, Florida	

JON TOWERS, *Staff Director*

RAY KELLEY, *Democratic Staff Director*

## SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

MIKE BOST, Illinois, *Chairman*

MIKE COFFMAN, Colorado	ELIZABETH ESTY, Connecticut, <i>Ranking Member</i>
AMATA RADEWAGEN, American Samoa	JULIA BROWNLEY, California
JACK BERGMAN, Michigan	CONOR LAMB, Pennsylvania
JIM BANKS, Indiana	

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

# CONTENTS

Thursday, November 15, 2018

	Page
Exploring VA's Oversight Of Contract Disability Examinations .....	1
OPENING STATEMENTS	
Honorable Mike Bost, Chairman .....	1
Honorable Elizabeth Esty, Ranking Member .....	2
Honorable Phil Roe, Chairman, House Veterans Affairs Full Committee .....	3
WITNESSES	
Ms. Elizabeth H. Curda, Director, Education, Workforce, and Income Security Team, U.S. Government Accountability Office .....	5
Prepared Statement .....	21
Ms. Margarita Devlin, Principal Deputy Under Secretary for Benefits, Vet- erans Benefits Administration, U. S. Department of Veterans Affairs .....	6
Prepared Statement .....	25
Accompanied by:	
Ms. Beth Murphy, Director, Compensation Service, Veterans Benefits Administration, U. S. Department of Veterans Affairs	
Ms. Mary Glenn, Deputy Director, Compensation Service, Veterans Bene- fits Administration, U. S. Department of Veterans Affairs	
Mr. Phillip W. Christy, Deputy Executive Director, Office of Acquisition, Logistics, and Construction, U. S. Department of Veterans Affairs	
STATEMENT FOR THE RECORD	
Veterans of Foreign Wars of The United States (VFW) .....	27



## **EXPLORING VA'S OVERSIGHT OF CONTRACT DISABILITY EXAMINATIONS**

**Thursday, November 15, 2018**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
SUBCOMMITTEE ON DISABILITY ASSISTANCE  
AND MEMORIAL AFFAIRS,  
*Washington, D.C.*

The Subcommittee met, pursuant to notice, at 10:30 a.m., in Room 334, Cannon House Office Building, Hon. Mike Bost [Chairman of the Subcommittee] presiding.

Present: Representatives Bost, Coffman, Radewagen, Esty, and Lamb.

Also Present: Representative Roe.

### **OPENING STATEMENT OF MIKE BOST, CHAIRMAN**

Mr. BOST. Good morning and welcome. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order. Veterans who apply for compensation may receive a disability exam. The purpose of the examination is to determine if the veteran has a disability, the extent of the disability, and whether the disability is linked to his or her military service. In other words, the medical evaluation is a key part of the VA exam process, and we have an obligation to ensure that these exams are completed accurately and within a responsible amount of time.

Some people may be surprised to learn that the disability exam may not be performed by the VA employee. In the past years, VA has been using independent vendors to carry out these exams. From January 1, 2017, to April 2018, contractors performed about 1 million exams, or about half of all disability exams.

And in fiscal year 2017 and fiscal year 2018, VA actually paid contractors \$639 million and \$919 million, respectively. So given how important disability exams are, I was very concerned when the GAO recently released a report that found serious gaps in the way the VA is overseeing the contract examiners.

As a businessman, I know that you have to stay on top of contractors to ensure that the program is working as well as it should. One of the biggest concerns is the -- and the most -- one of the biggest concerns, that most contractors are not meeting the VA's quality goal of 92 percent accuracy. In fact, GAO reports that quality scores for contracts rating -- ranging from only 62 percent to 92 percent. Of course, that raises the question of whether veterans are getting correct decisions if the exams are not accurate.

GAO also says that VA does not have a way to verify whether or not contractors are taking the required training, which may explain why the quality of exams is so low. Now, that isn't to say that the vendors wouldn't welcome feedback on how they can improve service to veterans. I am almost -- but I am also frustrated that GAO found that the VBA could not accurately measure whether contractors are meeting timelessness goals.

Providing exams within a reasonable time frame is very important to the compensation-claims process. Unnecessary delays in scheduling exams force veterans to wait longer for decisions and add to the backlog. According to VA, it did not have the staffing and IT needed to effectively oversee the program. I am concerned the VA chose to expand a potentially \$6.8 billion program without having the necessary controls in place to hold the vendors accountable.

The contract specifically -- hold on.

The contract specifically -- financial incentives are penalties for the vendors based on their performance. However, last year, VA did not have the resources required to timely verify the contractors' invoices for accuracy, much less quality. It is unfair for veterans and taxpayers to pay the price of a potentially mismanaged program. That being said, we don't know what this is, in fact, a mismanaged program. The issue -- if this program is mismanaged, the issue is, the VA does not have the data that Congress needs to make such a determination.

I know the VA set up an exam program office to improve oversight of contractors. I am interested in learning more about how this office will help improve contract exams, as well as getting an update on the VA's progress in implementing GAO's recommendations. Again, I want to thank everyone for being here.

Now I would like to turn to our Ranking Member for any opening statements she might have. Ms. Esty?

**OPENING STATEMENT OF ELIZABETH ESTY, RANKING MEMBER**

Ms. **Esty**. Thank you, Chairman Bost. I want to thank you very much for calling this hearing today, and for taking the lead in requesting the GAO report, which is the basis of this oversight hearing of the VA's contract medical examination program.

Well before I joined this Committee, I was involved with improving the medical evaluation system used by the VA to determine a fair level of compensation for veterans who are injured, or made ill as a result of their military service. I heard often from veterans in my home State of Connecticut that their lack of faith in the medical evaluations they received was a major reason why they filed appeals.

In the past, veterans would tell me that the outside doctors who they saw for evaluation sometimes didn't appear to have the necessary understanding of their illness or injury to make a valid medical determination. And they also described that -- a feeling of being, frankly, pushed around by the bureaucracy. For example, people were sent from rural Connecticut to New York City for an exam which fit within the VA's mileage criteria, but didn't take into account the transportation difficulties for an elderly, World

War II veteran in rural Connecticut to make it in the middle of winter for an exam.

Others had the experience of having the three required notification phone calls, all received on the exact same day, to provide them notice of when their exam is. Again, those are the sorts of frustrations that we received.

Over the last couple of years, VBA has worked to create a new system that veterans can have more faith in. In order to get the exams they need to support their claims, the use of outside contractors has increased to the point that about 50 percent of all of the medical exams are being done by outside contractors at this point. We applaud the progress VBA has made in timeliness and efforts towards improved quality, and I invite the program directors here today to describe that progress, especially in timeliness. Nevertheless, the GAO findings that the training doctors are supposed to receive is not always verified independently, concerns me.

I am also concerned about whether veterans travel reimbursements are being tracked and accounted for by VBA. This is a particular issue we have heard about involving contract exams, and whether those reimbursements actually ever reach the veterans as intended.

And, of course, this Subcommittee is always concerned that the IT infrastructure necessary for this key element of the disability compensation claims process is up and functioning well.

So while we all applaud VBA's progress, it is our job to ensure that the system is being managed to a standard that earns veterans' trust and doesn't leave them feeling as if they are a profit center for outside contractors. They should be treated as heroes. So, thank you to our witnesses for their commitment to veterans and for being here on this snowy morning, which we did not all anticipate. I look forward to hearing your testimony, and with that I yield back.

Mr. BOST. Thank you.

I also want to welcome Full Committee Chairman, Phil Roe, to this hearing. Chairman Roe, would you like to say a few words?

**OPENING STATEMENT OF PHIL ROE, CHAIRMAN, HOUSE  
VETERANS AFFAIRS FULL COMMITTEE**

Mr. ROE. Thank you, Mr. Chairman and Ranking Member Esty, for holding the hearing, I appreciate that. And one of the priorities as Chairman of the House Committee on Veterans' Affairs is ensuring the Nation's veterans receive timely and accurate compensation decisions. Timely and accurate disability exams are a key input into those decisions.

Some of you may not know that in 1996, Congress approved the use of contract examiners to allow VHA to focus more on its resources of treating patients and to expedite the scheduling of disability exams. And that is to be commended because the VA is short-staffed now. So I think that was probably a good move.

As Chairman Bost pointed out in his statement, since Congress originally authorized the pilot program, the Department has dramatically expanded both the size and cost of the program. While it is important for VA to schedule examinations in a timely man-

ner, it is equally important that contract examiners are rendering accurate and consistent medical opinions.

For these reasons, when I first became -- came on as Chairman as of the Full Committee, I immediately requested that GAO investigate whether VA is effectively overseeing contract exams.

When I reviewed the report, I was incredibly frustrated to learn that VA does not have procedures in place to monitor a program that is vital to providing the medical information needed to decide veteran claims. Moreover, of the last 2 fiscal years, the contract exam program cost almost \$1.6 billion, and the VA cannot timely verify if contractors are charging the correct amount.

As a physician, I know that my medical practice would not have succeeded if I were unaware of whether my patients were receiving quality and timely care. Unfortunately, VA hasn't been collecting information necessary to assess whether the contract exams are satisfactory, and to hold the vendors accountable if not.

Congress needs this information to determine if the contract examiners are effectively serving veterans, and to ensure that the program is a wise use of taxpayer funding. Today I am interested in hearing how the VA is addressing the GAO's recommendations to improve how VA evaluates contractor performance.

For example, GAO suggested that VA develop and implement a plan for how we use EMS to oversee the contractors. I am looking forward to hearing from VA about how the Department intends to use EMS in a way that will prevent -- will benefit veterans while holding vendors responsible for any delay or inadequate exams.

Additionally, I am concerned by GAO's findings that VA does not monitor the adequacy of its training for medical examiners. If VA's training is not sufficient, then examiners may render an inaccurate medical opinion, which could result in a rater denying a veteran's claim.

Ultimately, I am committed to ensuring that the men and women who served our country receive the benefits that they have earned, and I am looking forward to hearing from today's witnesses about ways to improve VA's oversight of contract exams.

And, again, Chairman Bost, I appreciate you holding this hearing, and I yield back my time.

Mr. BOST. Thank you, Mr. Chairman.

I want to welcome all the witnesses who have joined us here this morning, and thank you for taking the time out of your day to be here. Joining us from the VA is Ms. Margarita Devlin, who is the Principal Deputy Under Secretary for Benefits. She is accompanied by Ms. Beth Murphy, the Director of Compensation Services for VBA. Also with Ms. Mary Glenn, the Deputy Director of Compensation Services for the VBA, and Mr. Phillip Christy, the Deputy Executive Director of the OALC.

Also joining us today is Ms. Elizabeth Curdy -- Curda -- I'm sorry -- the Director of Education Workforce and Income Security Team for GAO.

We want to welcome all of you, and I want to remind the witnesses that your complete written statement will be entered into the hearing record. I want to make sure -- Ms. Curdy -- or Curda, I have done that twice to you, I apologize -- you are now recognized for 5 minutes.



**STATEMENT OF ELIZABETH H. CURDA**

Ms. CURDA, Chairman Bost, Ranking Member Esty, and Members of the Subcommittee, thank you for inviting me to discuss GAO's findings on VBA's oversight of its contracted examiners.

In addition to VHA physicians, VBA relies on private physicians via contracts to examine veterans who claim benefits for a service-connected disability. Between 2012 and 2017, the number of exams completed by contracted examiners more than tripled to about 600,000, and currently accounts for about half of all exams. All told, VBA awarded five private firms contracts that are worth up to \$6.8 billion over 5 years.

Today, I will highlight the findings and recommendations from our recently issued report in three areas: First, what is known about the quality and timeliness of VBA contracted exams; second, the extent to which VBA monitors contractors' performance; and, third, how VBA ensures that its contractors provide qualified and well-trained examiners.

Regarding the first area, VBA lacks accurate and complete information on whether contractors are meeting the agency's quality and timeliness targets. As of last summer, VBA staff had not completed reviews of the quality of the contracted exams for the latter half of 2017. Of those that VBA had completed, the agency reported that almost all contractors missed VBA's quality target of 92 percent in the first half of calendar year 2017, with scores ranging from 62 to 92 percent.

Further, VBA could not accurately assess the timeliness of the contracted exams. Per the contracts, VBA should measure timeliness as the amount of time it takes for a contractor to complete and submit the initial exam report, and exclude any time taken to make corrections. However, VBA systems did not accurately capture the date that corrected exams were initially reported.

Although the timeliness data could not be used to assess contractor compliance, we analyzed the data on all contracted exams completed between February 2017 and January 2018, including the corrected ones. We found that about half of the exams completed were done within the general 20-day target, while the other half exceeded 20 days, and 12 percent took more than twice as long to complete.

VBA officials told us they planned to hire additional staff by the end of fiscal year 2018 to complete the remaining quality reviews. In addition, VBA officials said their new information system would more accurately track contractor timeliness. However, at the time of our review, the system was not yet producing accurate data.

Regarding the second area, on monitoring contractors, VBA identified and addressed some contractor issues, such as delays in completing specific exams. However, VBA lacked adequate data and plans for overseeing contractors' overall performance. For example, without sufficient quality and timeliness information, VBA could not apply financial penalties for exams needing correction or for contractor performance that did not meet timeliness or quality targets.

Further, VBA has not conducted any comprehensive analyses that would allow it to identify and address higher-level trends and program-wide challenges. For example, such analyses could identify

challenges in conducting exams across different contractors, geographic regions, exam types, or other relevant factors.

To address these issues, we recommended that VBA develop and implement a plan for using data from the new exam management system to regularly monitor contractor performance. We also recommended that VBA regularly assess aggregate performance data, higher-level trends and program-wide challenges. VA agreed with these recommendations.

Finally, regarding examiner qualifications, we found VBA had systems in place to check that examiners had proper credentials, such as licenses, to perform exams. However, VBA lacked information it needed to verify that contracted examiners had taken required training. Instead, the contractor's self-reported this information.

VBA also lacked plans to evaluate the quality of the training it provided to examiners, to ensure that they are able to provide high quality exams and reports. This is particularly problematic given the low-quality scores VBA gave to many of the contractors.

To address this, we recommended that VBA implement a way to verify that contracted examiners have completed required training. We also recommended VBA assess the effectiveness of its training and make improvements as needed. VA agreed with our recommendations.

In summary, we found that several gaps in the information VBA needs to effectively manage and oversee contract performance. As VA continues to rely on contracted examiners, it is important that the agency is well-positioned to carry out effective oversight of contractors to help ensure that veterans receive high quality and timely exams and contractors are paid correctly.

This concludes my prepared statement, and I will be happy to address the Subcommittee's questions.

[THE PREPARED STATEMENT OF MS. CURDA APPEARS IN THE APPENDIX]

Mr. BOST. Thank you, Ms. Curda.

Ms. Devlin, this is your first time testifying before the Subcommittee. We thank you for being here, and you are recognized for 5 minutes.

#### **STATEMENT OF MARGARITA DEVLIN**

Ms. DEVLIN. Good morning. Thank you, Chairman Bost and Ranking Member Esty, and Members of the Committee. We appreciate the opportunity to come and speak to you about our contract medical disability examination program, or MDE. I would like to take a moment to just provide an overview of our MDE program. VBA requests a disability exam or a medical opinion when necessary to adjudicate a disability claim for disability or pension, commonly referred to as C&P exams.

For a decade, VA relied only on VHA to provide these exams. Then in 1996, as you mentioned, Congress provided VA the authority to contract exams using the mandatory fund. VA began using this authority in 1998, which was originally limited to 10 regional offices. After 16 years, the statutory authority was extended to 12 regional offices in fiscal year 2015 and in 2016, as many regional

offices as the Secretary deemed necessary, starting in fiscal year 2017.

Claims processors at VBA's 56 regional offices now can use an online tool, enabled by real-time data, to assess by exam type if VHA has the capacity to conduct the exam, and if not, to direct that exam to a contract vendor.

VBA's current contract is structured in five districts across the continental United States, with two vendors per district. There is also an overseas contract -- or overseas district served by one vendor, and an additional district with one vendor serving our transitioning servicemembers who go through our pre-discharge program such as benefits delivery at discharge, or BDD, and integrated disability evaluation system, or IDES.

VBA's contract vendors have also begun conducting exams for incarcerated veterans where the prison systems will allow us in. Over 1.3 million veterans or servicemembers received C&P exams in fiscal year 2017, with vendors fulfilling more than 45 percent of those requests. For fiscal year 2018, vendors performed nearly 60 percent of the 1.4 million exam requests completed. This included more than 14,000 veterans and servicemembers overseas, where VHA has no footprint and our contract vendors are the only method to provide this service.

The total cost over the last 2 fiscal years for contract vendor exams, including the ancillary support contracts, were approximately \$765 million in fiscal year 2017, and \$896 million in fiscal year 2018. Each exam request can contain one or more disability benefits questionnaires, or DBQs. The average number the DBQs per exam request is between three and four.

After the award of VBA's contract in 2016, there were multiple protests and an appeal of the award in the five continental U.S. districts, followed by contractual ramp-up time periods. Based on these events, the evaluation period for Districts 1 through 5, did not begin until September 27th, of 2017. To ensure seamless service to veterans, VBA relied on a series of bridge contracts as necessary to avoid any gap in service. VBA anticipates continuing to use these bridge contracts until December of 2018.

Execution of the current MDE contracts was impacted by many unforeseen challenges, including the award protests I just mentioned, one nonperforming vendor who is no longer working under contract for VBA, and system limitations for managing exam requests. These issues have since been resolved.

Also VBA worked with our industry partners to modify the contracts more than a hundred times to enhance service delivery to veterans and servicemembers.

VBA concurs with the recommendations in the report released this week by the Government Accountability Office. As stated in the report, GAO reviewed timeliness and quality data through February of 2018. The GAO findings validate the issues VBA was already working on, and VBA has already implemented many improvements. For example, our exam management system is fully operational, and we are on track to finish all of our quality reviews.

Also, I am pleased to announce that the contracting officer is sending out today, for signature and award, the new contracts for

Districts 1 through 5, with updated terms based on all the lessons we have learned and our current business needs.

VBA appreciates the authority provided by Congress to obtain contract exams to supplement VHA's capabilities. The MDE program enabled VBA to obtain the necessary evidence in deciding 1.4 million disability rating claims in fiscal year 2018, in an average of under a hundred days processing time with 95 percent quality. This would not have been possible if we had to rely only on VHA's capacity.

VBA is committed to continuous improvement of the MDE program. We know how important it is to get this right for veterans.

Mr. Chairman and Ranking Member, this concludes my statement. My colleagues and I welcome any questions that you have.

[THE PREPARED STATEMENT OF MS. DEVLIN APPEARS IN THE APPENDIX]

Mr. BOST. Thank you. And you hit that right on 5 -- for this, your first time, you hit it right on 5 minutes. That was really good. But I am going to start with questioning. I am going to allow myself 5 minutes if I can.

Ms. Curda, please provide your perspective on the extent to which VBA was adequately prepared to manage and oversee the contract exam program once the contracts were put into place in the summer of 2017.

Ms. CURDA. Overall, we found that VBA was not prepared to manage the contractors and provide adequate oversight at the time. Early on, we found that some contractors did not have the capacity to do the exams that were assigned to them and had to be reassigned.

There were, as I mentioned earlier, some problems with the quality of the exams, and the systems that VBA was using at the time could not provide accurate timeliness information which is necessary to execute and monitor the contracts.

And some of the causal factors I mentioned in my oral statement, that there were inadequate number of staff in the program management office to oversee the contracts, both in terms of quality reviewers and contractor-officer representatives. And as I mentioned, the system at the time was not producing accurate timeliness data.

Mr. BOST. Ms. Devlin, has VA exercised any physical -- fiscal incentives or penalties to contractors based on their quality or timeliness performance?

Ms. DEVLIN. We have not.

Mr. BOST. Okay. Can you tell us if there are any new plans in place -- first off, why not?

Ms. DEVLIN. I will defer to our acquisition colleague here to answer that.

Mr. CHRISTY. Hi, good morning. To pick up that, the one contractor that did not perform, we did go through a settlement to mitigate the nonperformance there, but no incentives or de-incentives were made. We did do the settlement to make sure that the work that needed to be done, that they did not do, was picked up by the other contractors. And they were required to pay that -- that amount to make sure that that work could be done. Once those other contractors picked up, the contractor did not perform, was

just, through the settlement, no more work was provided to them, and that contract ended for them.

Mr. BOST. So, Mr. Christy or Ms. Devlin, either one, so what are we -- what are our plans in the future to make sure that we actually have penalties and have those things in place to make sure they are doing the timeliness and all of the things that are required under the contract?

Mr. CHRISTY. I will answer from the procurement side very specifically. So both the current contracts and the ones that are being awarded this morning, have incentives and de-incentives in them for timeliness and quality. The procurement vehicle itself, the contract has that built into it. I will defer now to the program, and I think they are going to talk to you about the things that have gotten better and improved over the last year, and I think that has been a good teaming arrangement, actually, between industry, program, and the procurement folks.

Go ahead and I will let you finish that good-news story there.

Ms. DEVLIN. Yes, thank you for the question. First of all, we are almost caught up on our quality reviews and have submitted many of them to the acquisition office for review. Secondly, I would like to point out that while we had not submitted those reports at the time of the GAO report, we had been conducting reviews and having feedback sessions with our contractors on a regular basis. We issue memorandum with guidance memos on a routine basis, based on lessons learned, based on the quality reviews that we have done.

In addition, with the new contract, we were able to staff up our business office to the 17 people. We have got two left to get on board so that we can conduct our quality reviews in a timely manner and get any feedback to the contracting office as quickly as we can.

Mr. BOST. Just real quick, because I am going to run out of time, I am afraid, but what are you doing as far as, from here on out, to do the proper audits, to make sure that we know and you know that the contractor is doing everything they are supposed to be doing?

Ms. DEVLIN. We actually have another contract that comes in and does invoice audits as well. And in addition to those -- because we are now staffed appropriately to conduct the quality reviews, we will do those quality reviews in a timely manner and get them to the contracting office and then take any actions, both related to incentives or disincentives, in a timely manner. And I would like to, if it is okay, allow my colleagues to elaborate.

Ms. MURPHY. Sir, I just wanted to add that our new exam management system, EMS, which is now functional, has that automatic invoicing, auditing, built in, so that we are able to do a better job going forward, validating the invoices.

Mr. BOST. I am out of time, so I am going to go ahead and yield to the Ranking Member, 5 minutes.

Ms. ESTY. Thank you, and I want to thank the witnesses for joining us here today.

Quick question for Ms. Devlin. Do you feel, with 17 full-time equivalents who are now about to be on boarded, will that be a sufficient number to do the kind of oversight and review that we need? Do you believe that is a sufficient number?

Ms. DEVLIN. Yes. Based on our estimates, we believe it is.

Ms. ESTY. All right. I think we will be revisiting that in, you know, 6 months' time to verify if, in fact, it is, because we all want to be providing the resources necessary, and if that proves not to be, then we need to know that and not wait for another GAO report.

I am interested about, I am looking at the testimony that we received today about concerns about this process. So I want to know if the VSOs are part of that feedback loop. There ought to be continuous improvement in this process on both timeliness and quality. And the people on the front lines, you have 17 full-time equivalents who are supervising the program. We have thousands, probably tens of thousands of VSOs around the country. They can, and should be, eyes and ears about what is going on. How are they involved with you in ensuring that you are getting on-the-ground feedback about timeliness and quality?

Ms. DEVLIN. That is a great question. We collaborate with our VSO partners regularly, and on this topic, as well as other topics, we have quarterly training sessions with our VSOs where we talk to them about various initiatives. And we have talked to them about the MDE program in particular, to make sure that we are explaining to them where we are in the process and to get feedback from them about what they are hearing on the ground.

In addition to the quarterly training sessions, we have regular meetings with the Under Secretary for Benefits and VSOs, as well as other meetings at the staff level.

Ms. ESTY. Thank you. I want to, again, because, to highlight from the written testimony today, the VFW listed five major concerns they are still seeing: late notification of exams, and I mentioned that; lack of options for veterans to reschedule exams, that can be important, depending on health, transportation, weather; lack of availability of adequate examiners within a reasonable distance from the veteran; no adequate review of the veteran's claim filed prior to the exam. I can tell you personally I have heard about that from folks in my district, that they did not get a review sufficiently ahead of time; and inadequate time for providers due to the volume and the pressure and turnaround time.

So those are the specific issues we are concerned about, and that goes to the totality of the experience. I have a specific question, though, on the "20-day within the system, 30-day outside of the system" timeliness criteria. We want it to be timely, but even more important, it has to be accurate. If it is not accurate, people are going to file claims, and they should. That will slow down the whole system, gum up the works, cost money, and lead, most importantly, to veterans not trusting the results.

So what do you -- do you feel that those are reasonable time goals? And if not, you know, how are we going to make a determination? Because we are hearing someone anecdotally, I can say, I am hearing from VSOs, they do not want to be a slave to that 20- or 30-day time period. So I want to make sure we are not measuring the wrong metrics and losing something more important, which is faith and quality in the system.

Ms. DEVLIN. Thank you for that question. I would like to start and then allow my colleagues to elaborate. We take quality very se-

riously. And as I indicated, our disability claims quality is at 95 percent for the end of the fiscal year, and, of course, the disability exams are part of that process. So I feel confident in the quality of our disability-claims decisions.

With respect to the quality of the exams, I did want to point out that when we review for quality, we review a combination of technical accuracy and administrative accuracy. So when you look at the statistics provided in the GAO report, I would just like to point out that some of that includes errors based on administrative procedures.

For example, if the provider failed to put their license number on the DBQ, or on the report, or if they failed to check a box of something that is administrative and not related to the disability exam itself, those are counted as errors as well and will be reflected in the scores. We do take quality very, very seriously. I will allow my colleagues to discuss the 20-day time frame.

Ms. MURPHY. I did want to elaborate on a couple of the points she made. I saw in the VFW testimony, I am pleased to say that they are hearing frequent positive comments about the contract, and it is important to note, they are a key piece of our oversight. They are partners with us. Mary and I meet with them regularly, and we always emphasize that it is important that if they hear individual, specific situations of the nature you described, we want to hear about that. And they do funnel those to us and we follow-up on every single one.

As far as the timeliness goals, I understand your concern, and we share that concern. We want to make sure we are doing, not only a timely job, but also a quality job. Because that is what is important, and that is how we best serve veterans. We have taken that into account.

I think another thing that is important to going forward is that under this new contract, we have done the research and the homework, done the analysis, including with VHA partners, on how better to balance rural and urban areas within the districts, which will enable the vendors to set up a healthier infrastructure footprint, and then that can help them meet the timeliness measures as well.

Ms. ESTY. Thank you, and I am over time.

Thank you.

Mr. BOST. Thank you.

Chairman Roe?

Mr. ROE. Thank you, Mr. Chairman.

To follow along with what Ms. Esty was talking about, I would like to know how you -- if I am doing the disability claim for VA, how do you train me? And then how do you assess that I am doing a quality exam?

Ms. GLENN. Yes, sir. We use the same training methods that VHA does. We use the same training materials that they do. We also have an additional training --

Mr. ROE. I mean, do I do an online class? Do you come to my office? Or what do you do?

Ms. GLENN. It has been somewhat of both of those things. We have used train-the-trainer method where we pulled the vendors' training officers together in one location and trained them. We

have online materials that they use. So we use whatever training method works and makes sense for whatever the topic is.

Mr. ROE. And then to measure the quality, how do you do that? And I agree with Ms. Devlin, if you miss checking a box, that is not really an issue about the quality exam that you gave. And I do understand why you need -- the VA needs help to evaluate 1.4 million claims. You just don't have the internal capacity to do that, I don't think. You barely have the -- I mean, 35 percent of the health care the VA provides outside now. I know they don't have the capacity to see all those patients in addition.

Ms. GLENN. So, sir, when we do our quality reviews, if you are talking about how do we maintain quality for --

Mr. ROE. How would you evaluate me, to know that I am providing quality care?

Ms. GLENN. When we do our quality reviews, if we notice that there is one specific doctor or one specific vendor that continues to have problems -- and this is something that we do track -- we notify the vendors and --

Mr. ROE. Well, what is a problem? That is where I don't -- when you say that, what does that mean?

Ms. GLENN. That they did not fill out the form correctly.

Mr. ROE. Okay.

Ms. GLENN. They gave inadequate information, that the DBQ, the disability benefits questionnaire that they completed was not adequate for rating purposes.

Mr. ROE. Okay. The other thing, I guess, once again, we are back to IT, and anecdotally, as Ms. Esty was talking about, I ran into a man on Veterans Day -- you run into a lot of veterans on Veterans Day, but this fellow was asked to go get a hearing exam 2 hours' drive up into southwest Virginia for his disability claim, when we have one of the best hearing departments right there in Johnson City at Mountain Home Medical Center. He finally got it fixed where he didn't have to drive essentially 4 hours to get this disability. Those are the kind of things, I think, that people also get upset about, is when they know they can have the exam right there if they can, instead of going 2 hours.

And I think if I were a veteran, and I were given the option, hey, you can wait a month to get seen here locally, or you can drive in 2 weeks, 2 hours one way, I would just wait the couple of weeks. I hadn't been able to hear for 30 years, so why would I care about 2 more weeks? So those are the kind of commonsense things, I think, that we need to do.

The other question I want to ask -- and this is one that goes to, not just this particular part of VA, but we had a hearing yesterday, we are going to have another one on the GI bill later today -- is that, why would you expand this to all -- other than I understand the need to get these done -- to all 56 ROs when you didn't have the IT to evaluate what GAO said? Why would you expand a program until you had the systems in place to adequately see if I am doing it in a timely fashion and I am doing quality work? Why would you do that?

Ms. MURPHY. So, great question, sir. Mary and I came on to this program in about the middle of 2016, and the plans were in place for the IT infrastructure and the program requirements going for-



ward. There was a protest to the original award. It happened in March 2016, and it was over a year that we were on a stop-work order. During that time frame, we were anticipating that the system would be built out and we would be testing with those vendors. That stop-work order hindered our ability to work with these vendors to test adequately and get the system on track on time. So, there were some delays for that reason.

We have ramped up, worked with those vendors, who have been great partners to us, and we are in place now, going forward, to be able to use that system effectively.

Mr. ROE. So you think you can monitor what you need --

Ms. MURPHY. Yes, we can.

Mr. ROE. -- to monitor going forward? Okay.

Ms. MURPHY. Yes, sir.

Mr. ROE. And I heard also that you feel like, by the end of the year, you will have the staff and the IT. So as Ms. Esty said, 6 months from now, we have this hearing again, we are not going to hear the same thing again. Am I -- I want that on record, we are correct in hearing that?

Ms. DEVLIN. That is correct.

Mr. ROE. Okay. I yield back.

Mr. BOST. Mr. Lamb, you are recognized for 5 minutes.

Mr. LAMB. Thank you, Mr. Chairman.

This is a question, I think, for anyone from the VA. In Pittsburgh, Pennsylvania, near where I am from, our VBA is a primary site for processing claims from overseas. And I was just hoping you could fill me in a little bit on how monitoring and overseeing the contractors for contracts that do overseas claims might be different, or any of the specific issues you have seen there.

Ms. GLENN. We do work very closely with the vendor who has the overseas contract, and as far as the monitoring goes, they are still held to quality and timeliness standards, which are written into the contract. We also receive feedback from our VSO partners and from the Pittsburgh regional office, as well as anybody else who comes to VA and has a problem.

As far as I know, our overseas operations have been in place, and, in fact, we added six more additional sites in fiscal year 2019.

Ms. MURPHY. And, Congressman, if I could add, it just so happens, about 10 years ago, I was director of the Pittsburgh regional office, and I know firsthand the struggles that we had at that time in getting exams done overseas. We would work with VHA, embassies, State Department, to try to get some solution for exams overseas and it was very difficult.

Last year, we did about 7,000, almost 8,000 exams, through the contract for overseas veterans, and this year, it has been about 14,000. So it really is a solution we have never had before.

Mr. LAMB. So the -- you are saying that the use of contractors recently has made that easier for the overseas --

Ms. MURPHY. Absolutely.

Mr. LAMB. Okay.

Ms. MURPHY. The timeliness has improved. We are not struggling and looking for alternative solutions, like next-best solutions. We are actually being examined by people who know how to do these exams.

Mr. LAMB. Do you -- and this is -- Ms. Curda, too, you can answer this. I don't know who would know, but have you noticed, is there any -- is the performance of the contractors doing overseas examinations any better or worse when it comes to quality and timeliness? Was that something you all looked at?

Ms. CURDA. In terms of timeliness at the time of our review, there were similar issues as the other domestic districts. On the quality -- I am sorry -- quality part of it -- yeah, they had slightly higher scores.

Mr. LAMB. Okay. Now, when it comes to having VA doctors do the exams, you know, in a community like ours, we are lucky to have two VA hospitals that are in pretty close proximity to a lot of people. So that would be kind of the best option. Would you agree that the VA doctors, because of their skills, their training, their experience, and also just their awareness of veteran culture and personality and the experience, would you agree that they tend to be a better option than the contractors themselves?

Ms. MURPHY. I think with 8,000 examiners on the contract side, and with several hundred or a thousand on the VHA side, that is difficult to answer, just as a generality. I know that VHA is very committed in its mission, and our vendors are committed in their mission as well. We use the same training materials, as Mary said earlier. We do consult with VHA regularly to help with our exams. So there is a good partnership there.

Mr. LAMB. As far as making sure that the contractors have the same kind of cultural awareness as the VA doctors, are they VA doctors that are providing the training, or have you contracted out the training as well?

Ms. GLENN. One of the pieces that is different for the -- the vendor training as opposed to VHA training is, we provide and we have the vendors familiarize all of their subcontractors with VA culture, with our benefits. They go through a whole training program about VA benefits and the importance of serving veterans and how we are all committed to making sure that veterans get accurate and timely examinations in order for their claims to be processed.

Mr. LAMB. Okay. But my question is, who is training the person who does the exam? Is it a VA doctor? Or is a contractor doing the training of another contractor?

Ms. GLENN. The contractor is doing a training with another contractor, usually, using VA materials.

Mr. LAMB. Okay, thank you.

Mr. Chairman, I yield back.

Ms. MURPHY. And if I could add, very specifically, we expanded our contract in the last year so that vendors could help do medical opinions for Camp Lejeune contaminated water cases. We specifically had the VHA folks come with us and train the examiners for those vendors.

Mr. BOST. The gentleman yields back. Thank you.

Mr. Coffman?

Mr. COFFMAN. Thank you, Mr. Chairman.

And I think, Ms. Murphy, you said that there were plans in place with an effective date for the implementation of these contracts. But you also said that -- that you all knew prior to that implemen-

tation date that the IT system wasn't ready. Then why did you all go forward with this?

Ms. MURPHY. So that was a little before my time. I am not up to speed on all of the decisions and the analysis that happened ahead of time. I can only speak to what Mary and I observed when we took our positions, and going forward. We made sure that every twist and turn that hit us, with the protests, with the systems, with the staffing, that we addressed that and moved forward.

Mr. COFFMAN. Ms. Curda, could you answer that? I mean, why did they move forward when the IT system wasn't ready?

Ms. CURDA. I don't have an explanation because, you know, we got our information from Beth. She wasn't there, so we don't know prior to that.

Mr. COFFMAN. Can anybody answer that question?

Ms. MURPHY. I think, to the best of my knowledge, it was the fact that there was a plan in place, that they would synchronize their release of the original contract with the system. And then because of the protests and the stop-work orders, we couldn't engage with the contractors for building that out and testing, it delayed things by about a year.

And then once the protests and appeal period were over, we are into June 2017. Then we had the ramp-up of 90 days for the new vendors. It was the beginning of fiscal year 2018 before we were up and ready to start measuring.

Mr. COFFMAN. It still makes no sense. It still absolutely makes no sense. When you didn't have the systems -- the adequate systems in place, that brought us to this situation today, that you still moved forward. And nobody can answer, really, give an adequate answer as to why.

Ms. MURPHY. Well, I think it is important to remember that VHA did not have the internal capacity to do these exams in a timely manner. We are here to serve veterans in a timely and quality way, and these contracts have been in place for 20 years. We had experience with this, and we were working through the ramp-up the best we could. There were a lot of lessons learned during that ramp-up period of this new contract. And the protests are behind us, the systems are in place, the staffing is in place. We are well-poised to do this appropriately going forward.

Mr. COFFMAN. Well, you haven't done it appropriately yet.

I yield back.

Mr. BOST. Thank you.

Ms. Radewagen?

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I have a question for Ms. Devlin.

As you know, VA has been using contract exams since 1998. Now, I realize that you only came on board in 2016, but do you have any idea why VA waited until 2016 to establish a contract exam office?

Ms. DEVLIN. Thank you. I actually have been in the VA for 23 years, but in my current position since May of this year. I cannot answer to the decisions going back multiple years. What I can tell you, though, is that it was only, I believe, in 2017, that we received the authority to conduct contract exams in all regional offices. Up until then, it was merely a pilot program.

And I also want to kind of put some context around the IT system. When developing an IT system that is going to be used with contractors, of any type, we would build, with our IT folks, the preliminary product, but the key ingredient is enabling the contract vendor, through their IT systems, to connect to ours. The only way to fully, sort of, complete the system is to have contract vendors in place who help us test. And so that was the delay that was described by Ms. Murphy as to why we didn't have the systems in place. We had the preliminary IT development complete, but the inability to interact with our vendors to do the testing did not enable us to finish that last step.

Mrs. RADEWAGEN. So when EMS was deployed, it was not fully interoperable with the contractors' IT systems?

Ms. DEVLIN. That is correct.

Mrs. RADEWAGEN. How many claims were affected by this issue? Ms. Devlin?

Ms. DEVLIN. As I understand it, no claims were affected directly. Any exams that did not go to the contract vendor correctly were pulled back and manually reassigned to another contract vendor. The system was basically getting exam requests stuck when we first deployed, and we were manually unsticking those exam requests so that the veteran did not suffer, because the exam would still be completed, and they would get their rating decision completed.

Mrs. RADEWAGEN. So what short- and long-term steps are you taking to ensure that exams are not getting stuck in EMS? You may have partially answered it already, but -- Ms. Devlin?

Ms. DEVLIN. We have made multiple fixes to the system with our IT partners. In fact, all of the fixes to the system that have been completed to date have tested well, and we have been able to point forward, assure that no other exams will be stuck. Those problems have been fixed. We still have a few exams in the system that we are manually rerouting, but point forward, the system is now fixed.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

I yield back.

Mr. BOST. Thank you.

We are going to go a second round of questioning, because there are some things I feel like we really need to get to, that need to be on record, and vitally important to this issue. And so I want to tell the Members that if they have other questions, that they will get that the other time.

Let me go back, when we were talking about the audit and what could be done. And Mr. Christy, this is specifically to you. What resources is realistically available to the VA and if the VA finds that, as a result of the audit, the Department was overcharged, given that those at the MSLA invoices have already been paid, what are the options to draw back on that overpayment if they are there?

Mr. CHRISTY. Right. And so with these audits, the fact pattern will kind of -- really kind of tell a story, and with our legal counsel we will look at that. It is kind of a -- a tough situation to give you exact details without actually having the facts, so that we can work through that with our legal counsel.

As we talked about yesterday, as the reports are now starting to come in and we start looking at that data, I think there will be

challenges on the government side for the work that was already paid for in the previous submittals, but there are remedies there that we could explore. But we are still trying to adjudicate that data.

Mr. BOST. And that is the problem when we are all asking the questions and why we are -- and I know it happened before you were there, I understand that. But there is three things -- two things, really, that are vitally important. One is, three, the timeliness and the quality of the exam. But also, we have a fiduciary duty, and that fiduciary duty, it falls, falls, falls on you. And that is, that if all of a sudden we continue to let a train run down the track without the ability to implement the drawbacks and/or audit of those people who are private contractors providing a service, and now we are, all of a sudden, coming back later, and the legal problem we are going to have to try to get back the money that the taxpayers gave, and gave probably in a situation where the people weren't doing their job correctly.

Mr. CHRISTY. This will be a challenge. The good news, as I have mentioned, as was mentioned this morning, new awards are literally taking place this morning. The new EMS system and the hiring and the oversight, myself and Mary had very strong conversations the last few days about the new contracts being awarded this morning, and the oversight of that. And to the six-month leap forward when we come back here and present the data that went on record here earlier, we all believe we are in a really good spot going forward. I can't pull back what happened, and there will be challenges from the data that we get, if it is not favorable --

Mr. BOST. And the problem we all have, as Members of Congress, is the fact that we go back and talk to our constituents, and then we have to answer to them, for where our levels of bureaucracy have failed, where they should have never been put in the position where they were going to fail in the first place, when they told us they could do it.

My hope is, Ms. Devlin, when we come back, that in 6 months, your statement is correct, and that this will be operating correctly. With that, I am going to yield to Ranking Member Ms. Esty for 5 more minutes.

Ms. ESTY. Thank you very much. So two things I want to actually start where my friend, Chairman Bost, ended. I want clarity on what is different now. Number 1, we have got a better oversight system in place with the exam management system, right, with EMS, we have got that in place. But I want clarity, and I think that sounds like you, Mr. Christy. Is the language different in the new contracts that specifically provides for authority and/or for authority for either claw back or withholding until we guarantee? Is the language different than it was in previous contracts?

Mr. CHRISTY. So the procurement vehicles that are in place today, and being awarded today, are very similar in nature. There are some nuances maybe on percentages for the incentives and decentives. A lot of this is going to come back to the programmatic of making sure that we have the proper oversight that was not at its best in the previous versions of these contracts. And so, I am going to ask help from the program when we talk about the guarantees on EMS.

I know, from my perspective in the procurement world, we have the CORs that all have been appointed, properly trained, the right level of talent and skill set, and the follow-on people that support those CORs are in place from a procurement, contracting perspective. Those are ready to go, signed. Before the awards were even made, that was all in place. I will default a little bit back to EMS and the staffing levels to the VBA here.

Ms. ESTY. All right, so then what I am hearing is, this was not an issue of not having authority on the contracts. This was an issue of not having the data, or not having the data in a timely fashion that put you in a position to have enforcement.

So what we want to know is, will you now have the data? Will you now be getting it in a timely fashion so that you can guarantee that that oversight is happening sufficiently rapidly that you can put a stop to payments if it turns out people are failing -- grotesquely failing on timeliness, or failing on quality? Is that -- what I am hearing is, you are saying, yes, but I want that on the record, that you are saying, yes, you believe you will now have the data to make timely determinations to activate the clauses that were already there in the contracts which you chose not to activate, because it was so far late in time, is what I am hearing, and you needed that money to get them to pay somebody else to do the work they didn't do? Is that correct?

Ms. DEVLIN. I will answer for that. So, yes, ma'am, to your question about are we equipped now to perform the oversight that we need to perform, we are. We have the exam management system, which is functional and ready to provide us all the data we need. We are now also staffed. We have our last two people reporting soon, to get the full 17 staff in the office, so that we can conduct quality reviews in a timely manner, and get them turned into the acquisition professionals, so that if action is necessary with our contractors, they can take those actions accordingly.

The other thing I just wanted to, again, reiterate for the record, is that our quality reviews and the feedback that we have been giving to our contractors does not reflect any egregious issues that we haven't been able to -- any small issues that we have been able to deal with, as Mary Glenn indicated, we have been able to deal with on the spot. But we do have all the -- everything in place with this new contract, to start fresh with all the data that we need and all the oversight capabilities. And if I have missed anything, Ms. Murphy will add.

Ms. MURPHY. I do want to add that the quality review piece that we have talked about is part of a larger staff of 84, who are dedicated to this mission. Among our comp service staff, who are all very talented, these are some of the hardest working folks, and the highly manual reporting and redirecting of work and monitoring that was caused by our nonperforming vendor last year, in four of our five districts in the U.S., was very challenging. It was unexpectedly taking more bandwidth to manage this from the staff we had than we anticipated.

Ms. ESTY. All right, well, thank you. It is important to get that on the record so we all have the same understanding of what the challenges were and the same assurance going forward.

The last thing I want to flag, which I mentioned in my opening, was about the travel reimbursements, and so that people understand there is a different travel reimbursement system that is used for contract exams. And I think it is important -- four of the five of you were at the table with me yesterday in my office. I think it is very important that you put in place a system to verify that when contractors receive reimbursement for the VA, for having paid travel reimbursements, we need to guarantee they have actually sent those travel reimbursements to the veterans. And, anecdotally, we are hearing they are not always getting that.

So that is -- again, that is part of that feedback, to make sure they are not getting paid for something they haven't actually done. So we look forward to hearing that down the road, what system you have in place to track that. Thank you.

Mr. BOST. It is my understanding, Mr. Coffman, you don't have any more questions.

Ms. Radewagen, you are recognized.

Mrs. RADEWAGEN. I thank you, Mr. Chairman.

Ms. Devlin, I want to come back to you. You didn't really answer my question, and that is -- let me just rephrase it -- how many cases got stuck in EMS?

Ms. DEVLIN. I don't have that exact number off the top of my head, but I will ask if Ms. Glenn has that exact number.

Ms. GLENN. Yes, ma'am. We had about 45,000 cases get stuck in EMS at some point. We are now down to half a day's work in the EMS, and we are manually working those every day. And we expect to have that cleaned up by the next version of EMS that goes forward in December.

Ms. MURPHY. And, ma'am, if I could add, the period of time was around March, April, until around July, August, so there was that time period, and these cases -- these exam requests, as they tried to move forward to the vendor, and the reports coming back, they would hang up at different junctures; some for a day, some for several days, several weeks. And as Mary mentioned, we had patches and fixes that helped move those forward in batches. We are also doing it manually, and we are down to just a handful now.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back.

Mr. BOST. With that, thank you to the witnesses for participating in the hearing, and with that, I will also yield to the Ranking Member for any closing statement that she might have.

Ms. ESTY. Again, I want to thank the Chairman for convening this hearing today. I want to thank GAO for their work in allowing us to do our sworn duty to be oversight, both as responsibility to the taxpayers, and to the veterans who deserve to have a timely, appropriate, and careful, quality treatment. So, again, I want to thank you for appearing today and our shared commitment to continue to do better.

And, again, whatever those metrics are -- and metrics are important -- this shouldn't be the ceiling for what we are doing for our veterans. It needs to be the floor. And we need to be continuously improving what we are doing, finding ways to do it faster, cheaper, better, on behalf of veterans. So please understand, if what we are doing in terms of metrics, or something else, is impeding our effort to get closer to the kind of care that our veterans deserve, we need

to hear from you. Don't wait for us to ask. Assume that is a constant request -- what can we be doing smarter, better, more efficiently for taxpayers, and serving our veterans better. And you are better positioned to know that, as our partners at the VSO are.

So let's not lock in the technology, the practices of past; let's continue to look for better ways to do that. And with that, again, I want to thank my friend, the Chairman, and thank all of you for joining us here today.

Mr. BOST. So I want to thank everyone for being here, both the witnesses and the Members, and as earlier had been said, the complete, written statements of today's witnesses will be entered into the hearing records. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material.

I also ask unanimous consent that the statement for the record submitted by the Veterans of Foreign Wars of the United States be included in the record. Hearing no objection, so ordered. This hearing is now adjourned.

[Whereupon, at 11:32 a.m., the Subcommittee was adjourned.]



# A P P E N D I X

## Prepared Statement of Elizabeth Curda

### VA DISABILITY EXAMS

#### Improved Oversight of Contracted Examiners Needed

Chairman Bost, Ranking Member Esty, and Members of the Subcommittee:

I am pleased to be here today to discuss the Veterans Benefits Administration's (VBA) oversight of disability medical exam contractors.<sup>1</sup> As you know, VBA relies on medical evidence to help determine a veteran's eligibility for disability compensation. To obtain such evidence, VBA staff may request that the veteran undergo a disability medical exam through the Veterans Health Administration (VHA) or contracted examiners. Over the past several years, VBA has used contractors to conduct an increasing number of these disability medical exams. From fiscal year 2012 through 2017, the number of these exams completed by VBA contractors more than tripled. According to the Department of Veterans Affairs (VA), it has increased its reliance on contractors to help avoid delays in the disability claims process related to completion of these exams.

In 2016, VBA awarded 12 exam contracts to five private firms, which cover disability medical exams conducted both in the United States and overseas. These contracts are worth up to \$6.8 billion and can last up to 5 years. VA reported that in fiscal year 2017 the agency spent \$765 million on disability medical exams conducted by these VBA contractors. VBA contracted examiners completed about 1 million disability medical exams from January 1, 2017 to April 2018, which is about half of these type of exams during this time.

VBA's exam contracts outline quality and timeliness targets that are used to assess contractor performance and may also be used to determine financial incentives, among other things. VBA established an exam program office in 2016 to manage and oversee contractors, monitor their performance, and ensure that they meet contract requirements. VBA also has an office dedicated to completing quality reviews of contractors' exam reports, which the exam program office uses to assess contractor performance against quality targets outlined in the contracts. According to agency officials, in part, because VBA wanted to update performance measures for its contractors, VA re-solicited contracts in May 2018 for exams conducted in the United States.

My remarks today are based on our October 2018 report on VBA's oversight of disability medical exam contractors.<sup>2</sup> This testimony addresses: (1) what is known about the quality and timeliness of VBA contracted exams; (2) the extent to which VBA monitors contractors' performance to ensure that they provide high quality and timely exams; and (3) how VBA ensures that its contractors provide qualified and well-trained examiners. I will highlight several key actions we recommended in our October 2018 report that VA can take to better oversee its contracted examiners.

For our report, we reviewed and analyzed VBA data on the quality and timeliness of exam reports completed from January 2017 to February 2018. We also reviewed relevant federal laws, regulations, selected provisions of selected contract documents, and VA guidance. We interviewed VA, VHA, and VBA officials; each of the five contractors; a private firm that performs audits of VBA contracted examiners' licenses; and three national veterans service organizations. More detailed information on our scope and methodology is available in our issued report. We conducted the work on which this statement is based 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 evi-

<sup>1</sup>In this statement, we refer to examinations as exams.

<sup>2</sup>GAO, VA DISABILITY EXAMS: Improved Performance Analysis and Training Oversight Needed for Contracted Exams, GAO 19 13 (Washington D.C., Oct. 12, 2018).

dence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **VBA Has Limited Information on Contractor Quality and Timeliness**

VBA has limited information on whether contractors who conduct disability medical exams are meeting the agency's quality and timeliness targets. For example, as of late-June 2018, VBA was behind in completing quality reviews for exams that were completed in the second half of 2017. For those reviews that VBA did complete, the agency reported that almost all contractors missed VBA's quality target of 92 percent in the first half of calendar year 2017, with scores ranging from 62–92 percent.<sup>3</sup> VBA officials said the primary reason for the delays in completing quality reviews and related quarterly performance reports was a lack of quality review staff; however, VBA recently hired more staff to address these delays.

VBA officials also acknowledged that they did not have accurate information on whether contractors were completing veterans' exams in a timely manner as outlined in the contracts. VBA measures timeliness as the number of days between the date the contractor accepts an exam request and the date the contractor initially sends the completed exam report to VBA.<sup>4</sup> The exam management system VBA used until spring 2018 did not always retain the initial exam completion date, specifically when VBA sent an initial exam report back to a contractor for clarification or correction. In such cases, VBA's system maintained only the most recent date an exam report was sent back to VBA. In such a situation, according to agency officials, VBA would not always be able to accurately assess a contractor's timeliness as outlined in the contracts. Further, if VBA were to use the data to assess timeliness against the contracts' targets, it could lead to a contractor's timeliness score being inaccurately calculated-appearing to take longer for initial exam completion. In spring 2018, VBA implemented a new system designed to capture all of this information, but officials stated that the agency was still working to resolve unexpected technical issues with the new system.

While VBA's data does not allow it to reliably assess contractor performance against the timeliness targets in the contracts, the data can be used in other ways. For example, we analyzed data for exams completed between February 2017 and January 2018 to get a general sense of how long it took contractors to complete exams (across all contractors rather than for individual contractors)-including any time to correct or clarify exam reports.<sup>5</sup> To put our analysis into context, we calculated the percentage of exams that were completed within VBA's timeliness targets of 20 days for most exams completed in the United States and 30 days for overseas exams or exams requested through special programs.<sup>6</sup> Our analysis showed that just over half of the exams completed were done within these general targets; however, some exams took twice as long to complete.<sup>7</sup>

### **VBA Identified Some Contractor Issues, but Lacked Adequate Oversight of Contractors' Performance**

VBA identified some contractor performance problems, such as contractor delays in completing specific exams, challenges meeting the demand for exams, and providing timely exam reports. Nonetheless, the incomplete quality and timeliness information that I already mentioned highlight VBA's inability to adequately oversee contracted examiners and also contribute to other challenges managing the con-

<sup>3</sup>According to VBA documents, for each quality score, VBA estimated the percentage of exam reports with no errors with a margin of error of up to 5 percentage points at the 95 percent confidence level.

<sup>4</sup>The contracts signed in 2016 included differing information regarding the start date of the timeliness measure. One provision of those contracts referred to the start date as the date VBA submits the exam request to the contractor. VBA later clarified that it uses the date the contractor accepts the exam request as the start date and that it revised its timeliness measure accordingly in contract modifications signed in December 2017 and January 2018.

<sup>5</sup>According to the contracts, contractors are not expected to complete all exams within the timeliness target, but rather they should meet the timeliness target on average in a given quarter. As such, the results of our analysis should not be interpreted as reflecting contractor compliance with timeliness targets under the contracts.

<sup>6</sup>Special programs include programs for servicemembers, such as Benefits Delivery at Discharge and Integrated Disability Evaluation System. VBA officials stated that exams for special programs may take longer because veterans who are transitioning from military service may not be readily available for exams. Similarly, they said it may take longer to schedule exams with veterans living overseas.

<sup>7</sup>For disability medical exams conducted in the United States, 306,479 out of 575,739 exams were completed within 20 days while 12 percent took more than 40 days to complete. For disability medical exams conducted overseas or for special programs, 39,132 out of 70,266 exams were completed within 30 days.

tracts. For example, we reported that, according to VBA officials, VBA had not completed all quarterly performance reports, which are key components to effectively assessing contractor performance against VBA quality and timeliness targets outlined in the contracts. These delays also affected VBA's ability to allocate exam requests across contractors and administer potential financial incentives across contractors. More specifically, the contracts state that VBA can use performance data to help determine how to allocate exams within specified areas in the United States that have two contractors. However, VBA could not do this because complete performance data were unavailable. Rather, VBA officials told us that they allocated exams based on contractor workload.<sup>8</sup> Further, the contracts outline how VBA can use performance data to administer financial incentives linked to performance targets. However, because of its delays in completing quality reviews and the lack of reliable data on contractor timeliness, VA had not yet administered these incentives at the time of our review.

VBA officials also acknowledged that they were unable to track exams that needed corrections or clarifications, which is needed to determine if VBA should reduce payment to a contractor. The current version of the contracts require that contractors correct these exams within a certain number of days and bill VBA for these exams at half price. However, we found that VBA did not know if contractors met either of these requirements due to the lack of complete and reliable information on these exams.

VBA's new exam management system, implemented in spring 2018, was designed to capture information that allows VBA to track whether contractors are properly discounting their invoices for corrected or clarified exams, and should also provide accurate data on exam timeliness. However, because not all contractors had complete functionality with the new system, VBA officials said the agency still did not have complete data. While officials said they are addressing these issues, VBA has not documented how it will ensure the data in the new system are accurate or how it will use the data to track the timeliness and billing of corrected or clarified exam reports. VBA's lack of accurate information is inconsistent with standards for internal control for the federal government regarding the use of quality information to achieve key objectives.<sup>9</sup> Creating plans to verify that exam data are accurate can help VBA ensure it pays contractors the correct amount for corrected or clarified exams, and accurately measures contractor timeliness.

VBA has also not conducted comprehensive analyses of performance data that would allow it to identify and address higher-level trends and program-wide challenges across contractors, geographic regions, exam types, or other relevant factors. Agency officials told us they had no plans to conduct such analyses. Federal internal control standards state that management should establish and operate monitoring activities and evaluate the results of those activities.<sup>10</sup> Without plans to conduct comprehensive performance analyses, VBA is limited in its ability to determine if the contract exam program is achieving its quality and timeliness goals in a cost effective manner.

To address these issues, we recommended that VBA develop and implement a plan for using data from the new exam management system to oversee contractors. We also recommended that VBA regularly monitor and assess aggregate performance data and trends over time to identify higher-level trends and program-wide challenges. VA agreed with these recommendations.

#### **VBA Uses An Auditor to Verify Contracted Examiner Licenses, but Does Not Verify Training Completion or Collect Information on Effectiveness**

VBA uses a third-party auditor to verify that all active contracted examiners have a current, valid, and unrestricted medical license in the state where they examined a veteran. However, VBA relies on contractors to verify that their examiners complete required VA training, and agency and contractor officials told us that VBA does not review contractors' self-reported training reports for accuracy or request supporting documentation, such as training certificates, from contractors. The contractors, rather than VBA, access the contractor training systems to verify that examiners have completed the required training before they are approved to conduct exams. VBA officials said that they plan to enhance monitoring of examiner training

<sup>8</sup>For exams performed in the United States, two contractors share the workload within specific VBA geographic areas. As stated in the contracts, VBA can determine how to allocate some exams between the two contractors based on each contractor's performance, and its capacity to conduct exams.

<sup>9</sup>GAO, Standards for Internal Control in the Federal Government, GAO 14 704G (Washington, D.C.: Sept. 10, 2014), principle 13.

<sup>10</sup>GAO 14 704G, principle 16.

by spot checking training records and by developing a new system that will allow the agency to certify that examiners have completed required training. However, at the time of our review, VBA had not provided details or documentation on these planned checks or this system. Without plans to verify that training has been completed, VBA risks using contracted examiners who are unaware of the agency's process for conducting exams and reporting the results, which could lead to poor-quality exams that need to be redone and delays for veterans.

VBA also does not collect information from contractors or examiners to help determine if required training effectively prepares examiners to conduct high quality exams and complete exam reports. Given that VBA plans to award new contracts soon, the number of contracted examiners who are new to VA processes may increase. Thus, collecting and assessing regular feedback on training from contractors and examiners could help VBA determine if training effectively prepares examiners or if additional training courses are needed across contractors or for specific exam types.

To help ensure that examiners are completing training and that the training is effective, we recommended that VBA document and implement a plan and processes to verify that contracted examiners have completed required training, as well as collect information from contractors or examiners on training and use this information to assess training and make improvements as needed. VA agreed with our recommendations.

Chairman Bost, Ranking Member Esty, and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you or other members of the subcommittee may have at this time.

#### **GAO Contact and Staff Acknowledgments**

For questions about this statement, please contact Elizabeth Curda, Director, Education Workforce, and Income Security at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition to the contact above, Nyree Ryder Tee (Assistant Director); Teresa Heger (Analyst-in-Charge); Sherwin Chapman; Alex Galuten; Justin Gordinas; and Greg Whitney made key contributions to this testimony. Other staff who made key contributions to the report cited in the testimony are identified in the source product.

*This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.*

#### **GAO's Mission**

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

#### **Obtaining Copies of GAO Reports and Testimony**

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<https://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e mail you a list of newly posted products, go to <https://www.gao.gov> and select "E-mail Updates."

#### **Order by Phone**

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

#### **Connect with GAO**

Connect with GAO on Facebook, Flickr, Twitter, and YouTube.  
 Subscribe to our RSS Feeds or E-mail Updates. Listen to our Podcasts.  
 Visit GAO on the web at <https://www.gao.gov>.

**To Report Fraud, Waste, and Abuse in Federal Programs**

Contact: Website: <https://www.gao.gov/fraudnet/fraudnet.htm>  
 Automated answering system: (800) 424-5454 or (202) 512-7700

**Congressional Relations**

Orice Williams Brown, Managing Director, [WilliamsO@gao.gov](mailto:WilliamsO@gao.gov), (202) 512-4400,  
 U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington,  
 DC 20548

**Public Affairs**

Chuck Young, Managing Director, [youngc1@gao.gov](mailto:youngc1@gao.gov), (202) 512-4800  
 U.S. Government Accountability Office, 441 G Street NW, Room 7149, Wash-  
 ington, DC 20548

**Strategic Planning and External Liaison**

James-Christian Blockwood, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707,  
 U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington,  
 DC 20548

---

**Prepared Statement of Margarita Devlin**

Good afternoon, Chairman Bost, Ranking Member Esty, and Members of the Committee. We are here today to speak on VBA's Contract Medical Disability Examination (MDE) Program. Accompanying me is Beth Murphy, Executive Director of Compensation Service, Mary Glenn, Deputy Director of the Contract Examination Program Office, and Phillip Christy, Deputy Executive Director, Office of Acquisition, Logistics, and Construction. I will provide an overview of the MDE Program including operational aspects of working with the contract vendors and Veterans Benefits Administration (VBA) oversight of the program.

**Statutory Authority**

When necessary to adjudicate disability compensation or pension (C&P) claims, VBA orders an examination and/or medical opinion. This occurs when there is insufficient medical evidence of record to decide the claim (See 38 United States Code § 5103A). Prior to 1996, VA ordered C&P examinations exclusively through the Veterans Health Administration (VHA). As a result of Public Law (P.L.) 104-275, the Secretary of VA was authorized to contract through VBA using mandatory funds for examinations from non-VA sources. VBA began utilizing contract vendors to complete examinations in 1998, with the authority limited to 10 regional offices (RO) requesting examinations through contract.

P.L. 113-235 authorized the Secretary to expand the use of contract examinations to 12 ROs in Fiscal Year (FY) 2015, 15 ROs in FY 2016, and to as many ROs as the Secretary considered appropriate beginning in FY 2017. The expansion has afforded VBA a greater opportunity to complete a larger volume of examinations with greater flexibility in a more efficient manner. The contracts supplement VHA capacity and has enabled VBA to provide more timely benefits decisions. Additionally, the contract enables VBA to request exams for Veterans and Servicemembers in overseas locations, which was not an option previously provided through any examination.

Through these statutory authorities, all 56 ROs now have the flexibility to request an examination or medical opinion from VHA facilities or designated contract providers closest to where the Veteran lives or receives regular medical treatment. Claims processors at ROs use an online tool enabled by real-time VHA examiner availability data and by examination type to determine whether VHA has the internal capacity to complete an examination request or whether to direct the examination request to a contract vendor.

**Contract Vendors**

As of October 1, 2016, VBA manages all VA contracts with vendors that provide examinations in support of disability claims. VBA currently maintains 10 contracts with 4 primary vendors across the 7 contracting districts. These vendors provide examinations nationally and internationally to both Veterans and certain

transitioning Servicemembers going through the Benefits Delivery at Discharge (BDD) and Integrated Disability Evaluation System (IDES) pre-discharge programs. The current VBA contracting coverage by district is, as follows:

Districts	Areas
1 - North Atlantic	CT, DC, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, VA, VT and WV.
2 - Southeast	AL, FL, GA, KY, SC, and TN.
3 - Midwest	IA, IL, IN, KS, MI, MN, MO, ND, NE, OH, SD and WI.
4 - Continental	AR, CO, LA, OK, TX, MS, MT, UT and WY.
5 - Pacific	AK, AZ, CA, HI, ID, NM, NV, OR, and WA.
6 - National Mission (IDES, BDD)	Providence Disability Rating Activity Site (DRAS), Winston-Salem RAS and CPS, Seattle DRAS, Salt Lake City RAS and San Diego CPS.
7 - International	C&P, BDD, IDES within American Samoa, Australia, Canada, Costa Rica, Germany, Guam, the Inuit Islands, Italy, Japan, Mexico, Northern Mariana Islands, Panama, Puerto Rico, Philippines, South Korea, Spain, Thailand, United Kingdom, and US Virgin Islands.

In FY 2017, vendors completed 623,810 of the total 1.36 million examination requests. In FY 2018, vendors completed 841,852 examination requests of the total 1.44 million examination requests. During this same timeframe, VBA contract vendors exclusively completed 14,448 overseas examination requests compared to 7,873 in FY 2017. The performance standards for completion of an examination request by contract vendors (measured from date of request until return of completed examination report(s)) is currently 20 days nationally and 30 days for pre-discharge and international cases. The total costs over the last two fiscal years for MDE contracts, including ancillary contracts, were approximately \$765 million in FY 2017 and \$896 million in FY 2018.

After the award of VBA's current contract in March 2016, there were multiple protests and appeal of the award, followed by contractual ramp-up periods for the vendors. To ensure seamless service to Veterans during protest periods, VBA relied on a series of bridge contracts. These bridge contracts have enabled VBA to extend existing contracts in a short term and noncompetitive manner to avoid a gap in service. VBA anticipates these bridge contracts will continue through December 2018.

Going forward, VBA is focused on enhancing the MDE Program by rightsizing the Program Office staffing, expanding international coverage, such as the recently-added locations of Bahrain, Belgium, Denmark, Dominican Republic, Netherlands, and Poland, and by awarding a new contract with terms informed by our experience since 2016. Some of the key lessons learned during this period are the need to better balance between rural and urban areas within district lines and the need for expanded capacity and additional skill sets in the MDE Program Office for purposes of training and quality assurance.

#### **Administration and Oversight**

VBA's administration of the MDE Program employs numerous training, quality assurance and oversight elements to ensure that any issues identified are addressed in a timely manner. Contract examiners receive the same training required for VHA examiners, including privacy training, to ensure all Veteran medical information is protected under the Health Insurance Portability and Accountability Act. The MDE Program Office is currently hiring staff to design and track updated training for the primary vendors and thousands of subcontractors.

Likewise, VBA has expanded the staff that assesses the quality of completed contract examination reports and provides feedback to the vendors. Although quality reviews for FY 2018 have not yet been finalized, VBA anticipates that the new contract terms will enhance our ability to provide timely feedback as we deploy training to the vendors who conduct and document exams and to the VBA claims processors who make exam requests.

VBA uses several ancillary contracts to strengthen the overall performance and integrity of the MDE program. One contract administers customer service surveys on all vendor examinations completed as a feedback mechanism and to provide Vet-

erans an avenue to report concerns about a vendor examination experience. Another contract checks and validates contract examiner medical license credentials, including looking for past disciplinary actions. Finally, an additional contract assists with auditing financial activities on vendor invoices and payments. Through feedback mechanisms afforded by these ancillary contracts, VBA can take immediate action to address contract examination issues, such as if a license has been revoked or if a Veteran reports a concern related to an examination from a contract vendor.

Overall, the MDE Program Office staff monitors contractor performance and compliance, timeliness, quality, financial management, and customer satisfaction related to program directives. The staff coordinates access to all MDE systems and provides training to assist field users with understanding and utilizing the contract examination process. Staff proactively works with the contract vendors to investigate and take appropriate action on any concerns reported about an examination experience.

#### **Examination Management System**

In March 2018, VBA deployed its Examination Management System (EMS). Through integration with the Veterans Benefits Management System (VBMS), EMS streamlines examination scheduling requests and improves tracking and timeliness of examinations. VBMS integration provides bi-directional system communication; automated system updates; responses; handling and improved reporting.

Following the deployment of EMS, several defects impacting the exam request process and in turn, claims processing timeliness were identified. During this time, VBA worked closely within the agency and with contract vendors to address the issues. Updates in software releases have resolved most of the defects, and the remaining system enhancements should be addressed by the end of first quarter in FY 2019.

#### **Conclusion**

In summary, the MDE Program is vital to the delivery of timely and high-quality claims decisions. Utilizing contract vendors for C&P exams provides more flexibility by having vendors use a fluid mix of brick and mortar, and subcontractor footprints to deliver their products. Additionally, these contract exams enable VBA to reach some rural areas and individuals overseas in contrast to the limited options in rural areas and has no option overseas.

VBA appreciates the authority provided by Congress to obtain contract examinations for Veterans and transitioning Servicemembers as a supplement to VHA's capabilities and for the first time to have a viable solution to providing examinations internationally. Continuous oversight and enhancement of the MDE Program remain priorities as well as looking for opportunities to further streamline the examination process.

This concludes my testimony. I would be happy to address any questions from Members of the Committee.

---

### **Statements For The Record**

#### **VETERANS OF FOREIGN WARS OF THE UNITED STATES (VFW)**

##### **STATEMENT OF MICHAEL FIGLIOLI, DEPUTY DIRECTOR NATIONAL VETERANS SERVICE**

Chairman Bost, Ranking Member Esty, and members of the Subcommittee, on behalf of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our comments on the Department of Veterans Affairs' (VA) oversight of contract disability examinations (CDEs).

Over the last 20 years, VA has more frequently contracted with private health care providers as a way to provide sound medical opinions with the intent to quickly and accurately adjudicate veterans' disability benefit claims. This contracted system has proven to be beneficial to both veterans seeking benefits and VA in ensuring veterans can receive timely and correct benefit decisions. The VFW fully supports VA's efforts to provide veterans with contract disability examination options for a variety of reasons. The most significant of which is that we believe, and veterans confirm, that private providers can furnish a largely objective opinion in evaluating a veteran's claimed medical condition.

Moreover, we hear frequent positive comments about contract exams and the outcomes for veterans. Unfortunately, since VA executed its latest contract for dis-

ability examinations in 2016 and extended work to two new vendors, Logistics Health, Inc. (LHI) and MSLA, a Medical Corporation, the VFW has seen new problems emerge which impelled us to join our partners in the veterans service organization community to call for a hearing so that this subcommittee can better assess the situation.

Under the most recent contract, VA instituted new, incredibly rigid timelines for contractors to complete exams and return records to VA. Though the recent Government Accountability Office (GAO) report notes that VA allows 20 days for vendors to conduct routine exams, in reality the vendors tell the VFW that this leaves them a window of only about one business week in which to conduct the exams. This is an unreasonable expectation. These standards in no way reflect the needs of the veteran, nor are they favorable to VA which has a well-documented shortage of examiners at both the full-time employee and contract levels. When we ask VA about these timelines, the usual response is that VA believes veterans want their benefits completed quickly. We concur. However, VA cannot sacrifice accuracy and a positive customer experience for the sake of speed. It does not matter how quickly a veteran receives a rating decision from VA if the decision is wrong.

Since 2016—and amid multiple disputes about the validity of VA's contract; extensions of bridge contracts; termination of one of VA's new vendors; and the solicitation of new bids—the VFW has seen a growing list of problems with VA's contract exam system. This summer, in light of these problems, we asked VA for a report on quality for the current contract examination system. After dragging its feet for more than a month, VA finally replied that they could not share this information unless the VFW filed a Freedom of Information Act request. After reviewing the GAO report, the VFW believes that the leadership of the Mandatory Disability Exam Office did not want to admit that they had not completed a quality review report for any period in 2018. With all of these factors affecting veterans' access to accurate and timely benefits, this hearing comes at a very critical time.

The VFW can summarize the problems we have seen with the current contract exam system as follows:

- Late notification of exams.
- Lack of options for veterans to reschedule exams.
- Lack of availability of adequate examiners with reasonable distance to the veteran.
- No adequate review of a veteran's claim file prior to the exam.
- Inadequate time with provider due to volume and turnaround.

#### **Late Notification of Exams**

The VFW has learned from our field staff and locally in the Military District of Washington about dozens of instances where veterans were not notified in a timely manner that VA had scheduled exams. In one example from Georgia, the veteran was contacted by VA's vendor, LHI, on a Thursday afternoon for an exam scheduled on Monday morning. When the veteran tried to reschedule with LHI, he was guilting into rearranging his schedule for the Monday appointment and essentially forced into calling out of work and rearranging other health care appointments out of fear that his benefits would be adversely affected. When the VFW reviewed the veteran's claim file, we noticed that not only had VA sent the exam request to LHI less than a week before the exam was scheduled, VA also failed to include accurate contact information for the veteran, which was readily available in the veteran's records.

Under the old contract, veterans were afforded more time to get their affairs in order to attend contract exams. Even the legacy contractors have complained to the VFW that the new contract makes it harder for veterans to attend exams, resulting in higher no-shows and returned exam requests to VA, either further delaying delivery of earned benefits, or worse, resulting in erroneous denial of benefits.

#### **Lack of Options to Reschedule**

Given the new compressed timeline, we hear from veterans that if they cannot make the appointments assigned to them by the contractor, they are offered only three options: attend your appointment regardless of conflicts; be reported as a no-show and VA will likely deny your benefits; or have the contractor return the appointment request to VA as a cancellation with the hope that VA issues another exam request soon. Each of these options is bad for veterans. Under the old contract, the legacy contractors were reasonably flexible with veterans, ensuring exams could be completed in a matter of weeks. The VFW received very few complaints before 2016, and even collected positive stories about the contract exam experience.



Unfortunately, under the new contract, we have seen negative outcomes for veterans and some potentially concerning business practices when it comes to rescheduling or cancellation requests. The most glaring example of this came from a veteran in Maryland who is assisted by the VFW staff here in Washington, D.C. According to the veteran's claim file, VA ordered a series of exams from LHI on October 17, 2018. On October 18, 2018, the veteran was listed in the Veterans Benefits Management System as a no-show for her exams. This obviously caught our attention and we contacted the veteran to learn what happened. The veteran told us that she was called by LHI on October 18, and asked if she could reschedule. LHI told her she could not, and they would have to return the exam request to VA. Veterans seeking benefits should not have to be concerned about contractor penalties due to their inability to properly notify them or obtain a timely exam.

In spite of this, what concerns the VFW most about this situation is that the veteran was reported as a no-show. Our understanding of the contract is that this means that LHI is still paid for the exam, even though no exam was ever completed. Again, VA's contract exams office has not been transparent with the VFW on contract exam issues, so we have no way to verify this, other than posing it as an assumption to the subcommittee in this forum. Regardless, at the very least it seems that contractors are incentivized to cut corners in an effort to meet VA's unreasonable expectations.

#### **Lack of Availability of Examiners**

Another persistent issue we have heard from offices around the country is that to meet the timeliness goals of the contract, each of the contractors is forced to schedule veterans wherever they can find an available doctor. This leads to unreasonable travel times and unrealistic appointment expectations for veterans.

In Arkansas, one elderly veteran was scheduled for a contract exam in Oklahoma, more than three hours away from his home. In Washington state, another veteran in the Seattle area was scheduled for an exam more than three hours away in Oregon. In Washington, D.C., we have seen veterans sent to Gettysburg, Pa., for exams.

Another glaring example came from California, where a San Francisco-area veteran was scheduled for one exam at 3:30 p.m., more than 20 miles outside of the city, with a second exam scheduled at 4:15 p.m. back in San Francisco, making it logistically impossible for the veteran to attend both.

Fortunately, in each of these cases, the VFW's service officers have caught these unreasonable requests and worked with VA to resolve the issue. However, we must question the structure of a contract that forces a vendor to make these kinds of decisions.

#### **No Adequate Review of Claim File/Inadequate Time with Provider**

The VFW believes the final two issues are linked. We continue to hear concerns about the adequacy of a contract examiner's review of the veteran's claim file and the time that veterans receive with providers. These have been issues that the VFW has raised prior to the 2016 contract, but these problems persist, and we believe they have been exacerbated by the new timeliness requirements of the contract.

When contract providers fill out Disability Benefit Questionnaires (DBQs) for veterans, they must verify whether or not they have fully reviewed the veteran's file. They usually affirm that they have and then go on to render an opinion. However, we have learned that the vendor selects which specific files to share with a provider ahead of the exam, meaning they likely never fully review the file. We have also heard reports that some contract providers solely rely on the claimant's pre-exam worksheet to evaluate the historic record of a condition, rather than the official claim file documents. To the VFW, both scenarios render the exam unacceptable and inadequate.

Next, we have also heard conflicting information from veterans about the time spent with providers and the attention given to their issues. We hear anecdotes that veterans see providers for only a matter of minutes and that certain required measurements or evaluations are never actually conducted, though they are reported as such on the DBQ. We have no way to verify this independently, but the volume of complaints that we hear from our service officers in the field and directly from veterans once again force us to raise this issue with this subcommittee.

The VFW does support and believe in the contract disability examination concept. We have seen it work. In Wisconsin, we continue to see very positive outcomes for veterans, and our service officer even reports that when it comes to accuracy, he believes contract exams more closely match the veteran's reported experience than exams conducted internally by VA. This reinforces the VFW's core belief that unaffiliated third parties are well suited to render objective opinions. However, even

Wisconsin reports that they have seen scheduling problems for veterans they serve. We are very concerned that VA is not adequately tracking quality and customer experience for its contractors, meaning there is no real way for VA to monitor the efficacy of the contract for the veterans they serve. This is why we are left to resort to anecdotes and trends that we see around the country for our clients.

VA has a unique opportunity now as it seeks to enter into a new contract for CDEs. The new contract must factor in veteran experience, measure quality outcomes, and report transparently on these outcomes. Without this, we will continue to see erroneous denials, reported no-shows, and contractors cutting corners to try and meet unrealistic objectives.

