



CONGRESSIONAL TESTIMONY

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

HEARING ON

**"EXAMINING VA'S CHALLENGES WITH ENSURING QUALITY CONTRACTED DISABILITY
COMPENSATION EXAMINATIONS?"**

SEPTEMBER 18, 2024

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee:

The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's hearing titled "Examining VA's Challenges with Ensuring Quality Contracted Disability Compensation Examinations." AFGE represents more than 750,000 federal and District of Columbia government employees, 304,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include front-line providers at the Veterans Health Administration (VHA) who conduct VA disability exams, including Compensation and Pension (C&P) exams, as well as the VBA claims processors who help determine a veteran's benefits. AFGE appreciates the opportunity to provide our views at today's hearing that will review the VA's oversight of disability exams conducted by private contractors.

Background:

AFGE has commented to this committee many times over the past seven years, most recently at a July 23, 2023, DAMA Subcommittee hearing titled "VA Disability Exams: Are Veterans Receiving Quality Services?" There is no need to belabor the troubled history of C&P exam outsourcing over the past three decades. Suffice it to say that disability exams, including C&P exams, used to be performed almost exclusively by VA clinicians. The migration of C&P exams from the VA to private contractors has far exceeded what Congress intended when it authorized the VA to use private contractors in a limited manner to supplement its inhouse capacity. Today, approximately 90% of all disability exams are performed by VA contractors. The cost of this privatization of has been staggering totaling billions of dollars and contributing to the current VBA Budget shortfall.

AFGE has closely monitored the effect of the VA's reliance on contractors on the C&P exam program. Based on the growing evidence of deficiencies in contracted C&P exams and feedback from VA employees whom AFGE represents, it is AFGE's judgement that veterans requiring C&P exams – as well as taxpayers– would be far better served if these exams were conducted in-house by VA professionals rather than by unaccountable private contractors.

Failure of Accountability

At a time when the House Veterans Affairs Committee has been examining accountability at the VA, the committee must direct that focus on more accountability and oversight of private C&P contractors and their substandard performance.

Numerous studies by GAO and the VA Office of Inspector General in the past few years show that the track record of private contractors performing C&P exams, the VA's oversight of contractors, and the savings promised to taxpayers have fallen far short of expectations. Outsourcing has resulted in problems of cost, quality, overbilling, lack of subject matter expertise, and inadequate training of those conducting the exams. Congress must recognize and correct these serious problems, not double-down on a privatization model that has failed veterans.

These studies show that the vast and rapid expansion of privatization has not been accompanied by a corresponding increase in VA oversight of private contractors. For example, the department has been slow to adopt clinical quality measurement for, and evaluation of, contractor exams. The VA has also consistently lacked sufficient information on contractors' performance regarding the quality and timeliness for exams. To the extent the VA has been able

to rate performance, most contractors' quality scores have fallen below VBA's target score. These funds spent on contractors could better be used for insourcing the exam program.

Additionally, in an OIG report published on May 8, 2024, titled "Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams" the OIG stated it "identified one or more ADA and OSHA deficiencies at 114 of the 135 exam facilities the review team visited nationwide."¹ The failure of these contractors to meet even basic cleanliness and accessibility standards further underscores the need to insource these exams.

Recommendations:

AFGE recommends that VA's own highly trained, credentialed, experienced, and accountable employees should perform C&P exams, with very few exceptions, and should be the VA's exclusive provider for specialty exams. The continued failures of C&P contractors make the elimination of in-house C&P capacity around the country all the more troubling. AFGE welcomes the opportunity to work with the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs to build on the progress made in the last Congress and craft new legislation to restore VA's internal C&P exam capacity and narrow the VA Secretary's unrestricted authority to contract out these exams. In the near term, AFGE urges immediate action to stop the elimination of C&P examiner positions around the nation and urges the VA to only provide internal C&P exams for mental health and specialty claims to better assist veterans when immediate or emergency treatment is needed.

¹ VA OIG Report "Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams" 23-01059-72, May 8, 2024, at ii.

Furthermore, beyond insourcing these exams back to the VA, AFGE also recommends several commonsense improvements to help the veterans who receive these exams and the VBA claims processors who determine a veteran's benefits. First, as a result of the high number of veterans who utilize the services of congressionally chartered Veteran Service Organizations, AFGE strongly urges that if a veteran is utilizing a VSO to support their claims and that registration is reflected in a veteran's file, the VSO should simultaneously receive notifications of upcoming disability exams with the veteran to help ensure the veterans attendance. This alone will help with the speed of claims process and save the VA funds.

Second, if a veteran will require multiple exams for their claims, only one of the contractors should handle the entirety of the veteran's contract exams. In the past several months, one of AFGE's own National Vice Presidents was assigned to two different contract exams, by two different contractors, in two different cities at the same time. This required the rescheduling of one of these exams and delayed a determination of benefits. Had one contractor managed all of these exams, scheduling conflicts would have been avoided.

Third, as AFGE has previously stated to this subcommittee, VBA has its own unique and complex vocabulary for processing claims. Even if a contract examiner is a qualified clinician, it does not necessarily ensure, even with a thorough exam, that the examiner can effectively communicate findings to the VBA on the forms required. This may result in VBA ordering another exam. Ensuring that all examiners understand the paperwork and what factors a claims processor needs to reach a determination would greatly help the claims process.

AFGE appreciates the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs holding this important hearing, and we look forward to working with the Committee to find ways to improve C&P exams for all veterans.