

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051

<http://oversight.house.gov>

January 24, 2017

The Honorable Robert D. Snyder  
Acting Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, D.C. 20420

Dear Mr. Snyder:

The Committee is conducting contract oversight to ensure agencies are effectively using acquisition strategies to achieve policy goals, such as reducing processing time for disability compensation claims. The Department of Veterans Affairs has long struggled to process disability compensation claims in a timely manner.<sup>1</sup> As part of its oversight effort, the Committee seeks information about the Department's acquisition strategy to ensure efficient management of resources and the Department's efforts to facilitate timely Medical Disability Examinations (MDE) services. The MDE results are a critical piece of evidence used in processing veterans' Compensation and Pension (C&P) benefit claims because the MDE informs decision-makers about the extent of the veterans' disability and benefits eligibility.

The Veterans Benefits Administration (VBA) administers the C&P benefits program. Typically, veterans initiate a C&P claim by filing at their VA Regional Office (VARO). The VARO then collects a veteran's records and sends the veteran to a MDE service provider. An agency or agency-contracted provider conducts and documents the MDE. The quality, accuracy, and timeliness of the MDE is critical to the C&P benefit claim process. Thus, the acquisition strategy must ensure MDE provider quality and capacity is sufficient to cover broad geographic areas and meet the increasing demand for MDEs.<sup>2</sup>

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<sup>1</sup> Gov't Accountability Office, GAO-13-89, Veterans Disability Benefits: Timely Processing Remains a Daunting Challenge (2012) (noting the average disability claims processing time in 2011 was 157 days).

<sup>2</sup> According to the VBA, "the demand for medical disability examinations has increased, largely due to an increase in the complexity of disability claims, an increase in the number of disabilities which Veterans claim, and changes in the eligibility requirements for disability benefits." *Legislative Hearing before the H. Comm. on Veterans' Affairs, Subcomm. on Disability Assistance and Memorial Affairs* (June 24, 2015) (Statement of Acting Deputy Under Secretary for Disability Assistance, Veterans Benefits Administration).

Contractors' role as MDE providers has expanded over time. This trend began with a pilot program first authorized in the Veterans Benefit Improvements Act of 1996.<sup>3</sup> The pilot program, authorized in section 504 of the Act, aimed to improve the MDE process by authorizing the Department to contract for MDE services from non-VA providers.<sup>4</sup> The Department established this pilot program and began contracting for these services in 1998. Initially, the program allowed for the Department to contract with non-VA medical sources for not more than 10 regional offices. The program increased to 15 regional offices in fiscal year 2016, and for fiscal year 2017, the Department may contract for "such regional offices of the Department as the Secretary considers appropriate."<sup>5</sup>

The VA's use of contractor MDE providers is a way to rationalize allocation of limited VA resources. The contractor MDE providers present an opportunity to leverage private sector efficiencies. Indeed, one contractor reported that contractor MDE providers have been instrumental in achieving timeliness goals for MDEs.<sup>6</sup> The success in reducing the MDE backlog must continue, especially given other timeliness challenges the VA has faced in recent years.<sup>7</sup> Consequently, the Committee expects the Department to maximize efficiencies and allocation of resources, particularly by using contractor capacity to facilitate timely processing of these claims.

The Department has expanded the scope of MDE contracting activities. Most recently, in September 2015, the Department released solicitation number VA119A-15-R-0150 for contractor provider MDE services. The scope of work in the solicitation included a significant number of VAROs, covering all seven VBA districts.<sup>8</sup> This is consistent with the statutory authority to expand the MDE contractor pilot program in fiscal year 2017. The solicitation provided for a fixed price incentive Indefinite Delivery, Indefinite Quantity contract for commercial services with a base period of one year plus four one year options.

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<sup>3</sup> In the private sector, and indeed at other federal agencies, independent medical examinations (which are the commercial equivalent to MDEs) typically are referred to an independent third party medical provider for evaluation. *VBA and VHA Interactions: Ordering and Conducting Medical Examinations: Hearing before the H. Comm. on Veterans' Affairs*, 113<sup>th</sup> Cong. (June 25, 2014) (statement of George C. Turek, CEO Veterans Evaluation Services).

<sup>4</sup> Pub. L. No. 104-275 (1996) (codified at 38 U.S.C. § 5101 note).

<sup>5</sup> *Id.*

<sup>6</sup> Further, the Veterans Backlog Working Group stated: "Extending [the contractor MDE provider] pilot program ensures that disability exams continue to be completed in a timely manner, especially in locations where the VA may have higher demand for care and lack the facilities or resources to provide these exams quickly. Furthermore, expanding the program authority to additional VAROs will allow more claims processors to benefit from this expedited examination process." The Veterans Claims Backlog Working Group, 2015 Report at 5 (2015), *available at* <https://www.casey.senate.gov/download/2015-va-backlog-report>.

<sup>7</sup> Donovan Slack, *VA Bosses in 7 States Falsified Vets' Wait Times for Care*, USA Today, Apr. 7, 2016.

<sup>8</sup> Solicitation Number VA119A-15-R-0150 (Sept. 25, 2015) at 9 (describing the scope of the work), *available at* [https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=6a564f8a6c77c1171ec56af66e646708&\\_cvi=0](https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=6a564f8a6c77c1171ec56af66e646708&_cvi=0).

The Committee seeks to understand more about the contracting effort to expand this pilot program and the impact on reducing the MDE backlog. Specifically, the Committee seeks to ensure the Department is effectively leveraging private sector resources to conduct MDEs given the increasing MDE demand across the country and the need to ensure timely processing of disability claims. To that end, please provide the following information as soon as possible, but not later than February 7, 2017:

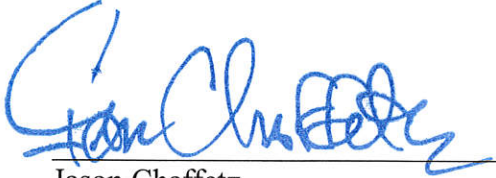
1. All documents and communications referring to or relating to the contract file for solicitation number VA119A-15-R-0150, including acquisition strategy, evaluation reports, contracting officer award decision(s).
2. All documents and communications referring to or relating to the Department's market research on MDE providers, including their network capacity, corporate relationships, and quality of services in preparation for solicitation number VA119A-15-R-0150.
3. All documents and communications referring to or relating to the planning for and award of bridge contract(s) pending resolution of GAO protests related to solicitation number VA119A-15-R-0150.
4. All documents and communications referring to or relating to planning for the transition or ramp up period for new awardees following finalization of awards made under solicitation number VA119A-15-R-0150.
5. All documents and communications documenting the contracting officer's award decisions in March 2016 and subsequent award decisions in September 2016 that resulted in no award or a significant reduction in awards to incumbent contractors: QTC, VetFed, and Veterans Evaluation Services.
6. All documents referring or relating to evaluations or assessments of the performance of incumbent MDE contractors, including but not limited to, success in reducing backlogs, processing times, cost comparisons, and veteran satisfaction.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

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Please contact Julie Dunne of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

A handwritten signature in blue ink, appearing to read "Jason Chaffetz", written over a horizontal line.

Jason Chaffetz  
Chairman

Sincerely,

A handwritten signature in blue ink, appearing to read "Will Hurd", written over a horizontal line.

Will Hurd  
Chairman  
Subcommittee on Information Technology

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable David J. Shulkin, Under Secretary for Health  
U.S. Department of Veterans Affairs

## **Responding to Committee Document Requests**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,  
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,  
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,  
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.



19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.