

VOCATIONAL REHABILITATION EMPLOYMENT CONTRACTS FOR VETERAN COUNSELING

HEARING BEFORE THE SUBCOMMITTEE ON ECONOMIC OPPORTUNITY OF THE COMMITTEE ON VETERANS' AFFAIRS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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VOCATIONAL REHABILITATION EMPLOYMENT CONTRACTS FOR VETERAN COUNSELING

THURSDAY, JULY 30, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:43 p.m., in Room 340, Cannon House Office Building, Hon. Stephanie Herseth Sandlin [Chairman of the Subcommittee] presiding.

Present: Representatives Herseth Sandlin, Perriello, Adler, Kirkpatrick, Teague, Boozman, Moran, and Bilirakis.

OPENING STATEMENT OF CHAIRWOMAN HERSETH SANDLIN

Ms. HERSETH SANDLIN. Good afternoon, ladies and gentlemen. The Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, hearing on Vocational Rehabilitation and Employment Contracts for Veteran Counseling will come to order.

In late June of this year, Committee Members were notified by Heritage of America (HOA) expressing concern over the U.S. Department of Veterans Affairs' (VA's) Vocational Rehabilitation and Employment (VR&E) National Acquisition Strategy (NAS) for counseling services. In their letters to Congressman Harry Mitchell and Committee Ranking Member Steve Buyer, Heritage of America raised concerns that include varied referral, evaluation, reporting, and invoicing from regional office (RO) to regional office that make it difficult for contractors to implement the VA's National Acquisition Strategy; and need to improve timeliness of payment for services rendered and calculation of payments.

We have been informed by Subcommittee staff that the Department of Veterans Affairs did not use its option to renew any of the eight contracts in its National Acquisition Strategy. Instead, the VA decided to use an interim strategy that will end later this year, at which point the VA plans to implement a new National Acquisition Strategy.

This Subcommittee seeks to obtain feedback from prime contractors and stakeholders regarding areas of concern and their recommendations to improve VA's National Acquisition Strategy for counseling services. Furthermore we seek to understand the reasons that led to the VA not using its 1-year contract renewal option and highlight lessons learned from the previous national strategy. We want to ensure that the Administration is aware of all concerns

to prevent the same pitfalls that have been experienced by recent contractors.

I look forward to hearing from all of our witnesses here today as we seek to ensure our Nation's injured veterans are provided timely services to achieve their employment goals.

I now recognize the Ranking Member of this Subcommittee, Mr. Boozman, for his opening remarks.

[The prepared statement of Chairwoman Herseth Sandlin appears on p. 34.]

OPENING STATEMENT OF HON. JOHN BOOZMAN

Mr. BOOZMAN. Thank you, Madam Chair.

My agenda for this hearing is to determine that VA is properly administering the Vocational Rehabilitation and Employment Contract Counseling Program. The only measure I used to make that determination is whether the program is meeting the counseling needs of veterans. I want to make it clear that I have no stake in who VA selects to deliver services to veterans. Whether VA elects to award one contract or 50, VA must execute their side of the contract properly. They must hold their vendors accountable and we must do the same for VA.

I am sure you are aware of the concerns expressed by some of the contractors regarding VA's administration of the recently terminated National Acquisition Strategy contracts issued last July. I am also sure you have heard VA's side of the story. For me, I believe that there have been ample mistakes by both sides.

So where do we go from here? I understand that VA intends to award multiple short-term contracts via 19 subregions and will not extend the terminated contracts for a similar amount of time.

It is reasonable to ask whether extending current contracts or issuing two sets of new contracts within 6 months is the better way to go. It is also reasonable to ask whether VA's—the same contracting staff that had difficulty managing 8 contracts can manage 50-plus contracts.

Assuming for the moment that the contracts you assessed them on are reasonably accurate regarding things like inconsistent adherence to the terms of the contract by local VA officials, where does our duty lie? VA has not presented evidence other than anecdotal statements to staff that one or more contractors performed inadequately.

Madam Chair, having reviewed the testimony, I cannot determine who is right. Maybe both sides are right. The contractors make the allegations and VA denies them and contends poor performance by some of the vendors.

Therefore, I believe, there should be a complete review of the contract by U.S. Government Accountability Office (GAO) or the Inspector General (IG) since we are not staffed to conduct such an extensive investigation.

In the meantime, I believe the eight prime contractors should continue under short contract extension until the new national contract is awarded.

VA's short-term strategy that spreads contract management back out to 57 regional offices for a 6-month period of performance with all the incumbent problems doesn't seem to make a lot of sense.

Regardless, we have oversight of the bigger issues, whether VA has learned any lessons from the failure of the NAS contract and what they are doing to prevent a repetition.

What are the lessons learned? Will there be sufficient training for both VA staff and vendors? If inconsistency and administration rises, how will they enforce standardized administration? Does VR&E have the right people in the right places? Does VA have a sound acquisition strategy? How will contractors be evaluated on their performance? And finally, how shall we evaluate VA on its performance in the execution of the next contract counseling program?

Madam Chair, over the years, the Veterans' Affairs Committee has not devoted a lot of time reviewing VA acquisition programs. Unlike the U.S. Department of Defense (DoD), VA does not develop big systems outside of information technology, but they do spend \$15 billion of our citizens' taxes and I believe it is incumbent on us to oversee that spending to ensure veterans get value for these dollars, whether it is a program administered by VR&E, Education or any other arm of VA.

In the end, except through legislation, we cannot force VA to change its short-term strategy, but the Committee can learn from this unfortunate situation. And as I said earlier, I look forward to a detailed study of this particular process. Hopefully, VA will, too.

In the meantime, I guess the lesson for the Business Committee is that when you do business with VA or any Government agency, make sure all of the contractual issues are resolved, including, in this case, how the Government views your assumptions, how administrative procedures will be handled and how to resolve conflicts before it is too late.

And with that, I yield back.

[The prepared statement of Congressman Boozman appears on p. 34.]

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

I would like to welcome all of our panels testifying before the Subcommittee today, and I want to remind all of our panelists that your complete written statements have been made part of the hearing record, so I want you to limit your remarks to 5 minutes.

We are going to have a series of votes and a classified briefing later on this afternoon. We are going to do our best to keep everyone to their 5 minutes so that we have plenty time of questions. We will submit questions in writing if we run out of time today.

Joining us on our first panel, if they could come up as I am introducing them, Mr. Patrick Chorpenning, President and Chief Executive Officer of Heritage of America, and Mr. Anthony Tarkowski, President of Sygnetics, Incorporated.

Gentlemen, welcome to the Subcommittee. We appreciate, Mr. Chorpenning, that you have traveled here from Arizona to be with us today and, Mr. Tarkowski, I know that you flew in from Michigan for this important hearing. Thank you, both, for being here.

Mr. Chorpenning, we will start with you. You are recognized for 5 minutes.

STATEMENTS OF PATRICK F. CHORPENNING, PRESIDENT AND CHIEF EXECUTIVE OFFICER, HERITAGE OF AMERICA, LLC, GLENDALE, AZ; AND ANTHONY TARKOWSKI, PRESIDENT/CHIEF EXECUTIVE OFFICER, SYGNETICS, INC., ROCHESTER HILLS, MI

STATEMENT OF PATRICK F. CHORPENNING

Mr. CHORPENNING. Madam Chairman, Ranking Member Boozman, and Members of the Subcommittee, on behalf of Heritage of America, initially, I would like to just express our appreciation for you holding this hearing today.

I also want to recognize Chairman Filner, as well as Ranking Member Buyer and other Members who have written to the VA about the situation faced by the prime contractors under the National Acquisition Strategy contract for VR&E.

Heritage of America is one of eight of the contractors under the National Acquisition Strategy. We are a service-disabled, veteran-owned small business which was awarded a contract to provide services in 44 States, the remainder of the entire Western Hemisphere, along with the Pacific rim countries, including the countries of Australia and New Zealand.

The problems you hear about today can be traced directly back to an absence of leadership and direction given to the regional officers and the VR&E officials from the VA Central Office. The NAS contract has worked relatively well in many parts of the country as listed in my written testimony.

In those locations, regional managers have seemingly taken to heart the processes and the procedures laid out in the NAS agreement and sincerely worked with the prime contractors to resolve problems, provide quality service to our veterans, while managing through the typical learning curve involved with any new business relationship.

In those parts of the country where the NAS approach has not worked well, it is because local officials clearly did not like the idea from the start, resented their loss of power over the contracting process and local vendors and believed they could ignore the processes and the procedures laid out in the NAS agreement with impunity.

Timeliness obtainment for service is so inconsistent that some ROs we have no delay at all, while in others, delays exceeding 100 days are standard with no explanation of why payments are not made or denied within the 30 days as required by the contract and in law.

For payment tracking purposes, the contract requires the prime contractors to assign a number to each invoice. Unfortunately, the VA did not institute a corresponding information management system to track those invoice numbers within the VA. In fact, Central Office did not even require the ROs to use the same invoice forms.

Heritage of America's aging accounts receivable total has been running approximately \$1.3 million a month over the past 3 to 4 months. As of July the 27th, it has now crept over to \$1.4 million in accounts receivable.

A large and growing portion of these aging invoices are more than 90-days old. This ongoing situation has made it very difficult

for Heritage of America to meet its responsibilities to subcontractors and our counselors on a timely basis.

Toward the end of the contract base year, we had many counselors refusing to accept new case referrals because they had not been paid for work performed months earlier. On multiple occasions, and I underscore "multiple occasions," this has been brought to the attention of the contracting officer, the Director of VR&E and even to the level of the Under Secretary for Benefits, but still today remains a critical problem.

Another ongoing problem pertains to the RO personnel undermining the relationships between Heritage of America and its subcontractors. The NAS agreement stipulates that VA officials are not to communicate with subcontractors regarding contract matters. However, this is a very large problem, especially in those States where implementation of the NAS agreement has not gone well.

Regional officials have even gone so far as to tell the contractors that Heritage of America has been paid in full for cases when they have no way of knowing this to be true or not. It has been suggested to subcontractors that if they have, just have a little more patience, that the base year will conclude and that the ROs will be able to deal directly with the subcontractors as they have in the past.

Madam Chairman, in conclusion, I would just ask that the Subcommittee and all Members of the full Committee strongly urge the VA to extend the NAS prime contracts by 6 months so that the veterans can continue to be served with the least amount of disruption and that contractors in the VA can work out remaining difficulties in a possible fashion if we can.

I put myself at the Subcommittee's disposal for any additional hearings you may decide to have and will provide any additional information you may need or responses for the record to any issues raised by the VA witnesses today.

HOA also welcomes a thorough GAO investigation to begin as soon as possible for this particular contract year with the performance evaluations on both sides of the equation, both as far as the prime contractors are concerned, as well as the VA.

I also hope the Subcommittee would accept statements for the record from any of the prime contractors that were not able to appear here today.

Madam Chairwoman, on behalf of Heritage of America, I thank each and every one of you for your understanding, consideration and I would be happy to answer any questions from you.

[The prepared statement of Mr. Chorpenning appears on p. 35.]

Ms. HERSETH SANDLIN. Thank you. Thank you for your testimony.

Mr. Tarkowski, you are now recognized for 5 minutes.

STATEMENT OF ANTHONY TARKOWSKI

Mr. TARKOWSKI. Thank you, Madam Chairwoman, Ranking Member, Mr. Boozman, and the other Representatives.

I represent Sygnetics, Incorporated, which is a service-disabled, veteran-owned small business. My business enjoys assisting people and this contract is one I was extremely proud of. We were per-

forming services in 19 States under the Department of Veterans Affairs National Acquisition Strategy Vocational Rehabilitation and Employment contract.

The Department of Veterans Affairs had litigation brought against it by Houck, Limited. After the outcome was decided in that case, VA simply made a decision to not provide the option years to the current eight contractors. The VA chose to not execute the option years, which penalizes all the businesses that have spent a great deal of time and effort winning and performing successfully under this current contract.

While performing under the current contract, we have had to overcome many obstacles that the VA constructed that were not part of the original solicitation. This caused considerable financial outlays that without the continuance of this contract will cause severe financial harm.

Sygnetics has worked through many of these hurdles during the first physical year of the contract while providing exceptional service to veterans.

Now, that we are able to further increase our service to veterans and see a return on the investment, the VA seems satisfied to disrupt the entire process. The VA administration of this contract has been particularly unconscionable as applied to the companies that won this award, since most of them are small business and many are service-disabled, veteran-owned businesses, which the VA should be helping succeed on behalf of veterans, rather than subjecting them to bureaucratic roadblocks.

Some of the small businesses would have liked to have testified to this contract today, but my understanding is that there was undue hardship and financial hardship.

We have been informed on a number of occasions by our counselors that the VR&E officers' intention was to make this contract fail. Here are some of the problems encountered.

After award, we requested a debriefing and were told we would receive one. We have never been given that debrief.

Although the background investigation process, vetting, was mentioned in the solicitation, no amount was provided for this process, nor was a time mentioned for how long this would take. Regional offices had little or no direction in the background investigation process, so we developed a seven-step process to get counselors approved.

Startup costs were huge with equipment, scanning, printing, office spaces, et cetera, running well over \$300,000 for us on top of labor issues.

Timeliness of payments for services have been great in some areas and some areas are refusing to pay us at all.

Calculations of payments on quoted pricing are not being honored and causing invoices to be returned due to misunderstanding by the VR&E officers.

Travel, again, in our proposal we made very clear assumptions as to what would be required for travel reimbursement if VA were to accept our bid. Travel reimbursement has been resolutely denied by VA.

There have been several areas causing slippage and timeliness on files being processed. Reports have been returned for correc-

tions, which have been quality assured by two former VR&E officers. Responses from many VR&E offices have been very limited. Several of the offices would not provide time for training to us or overcome challenges that arose.

Qualifications necessary for our counseling staff were different from office to office. The vetting process slowed us significantly due to length of approval.

Some of the VR&E officers did not provide contact information and they stated that the veteran did not sign release forms for information and, therefore, VA could not release information to us, so we were held accountable for those files not being timely.

Reporting has been stipulated differently by the offices. There are over 40 formats of these reports in our company alone.

The most important issue in all of this is the veteran. Sygnetics, Incorporated has been providing value-added services by supplying self assessment of Traumatic Brain Injury on files only to be instructed to remove the data from the report and re-date our invoices because the VR&E counselor did not want to see that information on a report. It is hard to believe that VA was not interested in Traumatic Brain Injury information.

If communication lines were open between the Contracting Officer's Technical Representative (COTR), the contracting officer and the suppliers, as well as the VR&E officers and reports were provided to Congress on a 6-month basis in the future, I believe it would serve the veteran community well.

This contract could be modified to correct the difficulties, as many of them have already been corrected by Sygnetics, and allow these small businesses to retain what they have already fought to achieve. There simply is no reason to rebid at a great cost to small business as well as the Government when, in fact, this contract could serve veterans, VA and the small businesses with just a few modifications.

Time is of the essence since these services have already been halted for veterans. We are requesting that this Committee, prior to departing for recess, suggest to VA that they extend this contract for 6 months to make certain that these Congressionally-mandated services are provided to veterans with only a 1-week break in service.

Madam Chairwoman, we would be more than happy to provide answers to any questions the VA raises during its testimony. We will remain here to provide that information if asked.

I would like to thank you, Madam Chairwoman and the Ranking Member, Mr. Boozman, and the other representatives for taking the time to have this hearing.

[The prepared statement of Mr. Tarkowski appears on p. 50.]

Ms. HERSETH SANDLIN. Thank you, Mr. Tarkowski.

I would like to start with a question for both of you. How early did these problems begin?

Mr. CHORPENNING. Madam Chairwoman, in regard to Heritage of America, the problems basically began almost immediately. We informed the Director of VR&E at the conference we had after the contract was issued in August of last year, before—I mean in—

Ms. HERSETH SANDLIN. Was that the 5-day workshop?

Mr. CHORPENNING. The 5-day workshop, as to how long it was going to take to get individual counselors through the security process that the VA had put into place in Little Rock, Arkansas, and we told them it would take anywhere from 2 months or more, based on the experience that we have had in the past.

We were told that we didn't know what we were talking about, and what it would take is basically 1 week, okay, was the comment that was made by the Director of VR&E. In reality on an average, it took over 2 months.

As a result of that, even though the contract went into effect on July 21st of 2008, the VA did bridge contracts with the existing contractors that they had prior to the contract being issued, and those bridge contracts in many cases carried all the way through to the end of December because we had to get the counselors through that process.

Even after—

Ms. HERSETH SANDLIN. If I may interrupt just 1 second.

Mr. CHORPENNING. Yes, ma'am.

Ms. HERSETH SANDLIN. At the 5-day—I was going to ask you if you had brought your concerns and the many problems you have articulated to the attention of leadership in the Washington, DC, office of the VA. But what you're telling me is that at the 5-day workshop you informed the Director of VR&E of an anticipated problem?

Mr. CHORPENNING. Yes, ma'am. And it started at that point. You know, Mr. Tarkowski, as well as Mr. Kiley with HOA, raised those issues at that conference and we were told that we didn't know what we were talking about.

As a result of that, we really, even though that contract initially started the 21st of July, we didn't get our first case assigned to us from the VA until some time in mid-November. We didn't start getting cases assigned to us in any numbers, in the sense of being able to really operate our business plan, until the middle to the latter part of December.

So Heritage of America, for all practical purposes, has had probably 5, maybe 5½ months of business with an initial investment of little over \$2 million, and I think what the VA is doing is very, very disingenuous in the way that they are presenting what has happened because we have asked over and over and over again to have questions answered. Never heard a single word from them.

We turned in weekly reports that would go unread, the e-mails that we were asked to provide, no questions, response, nothing.

Ms. HERSETH SANDLIN. Mr. Chorpenning, do you have documentation? Did you submit anything in writing or by e-mail? Do you have anything that you can provide this Subcommittee as it relates to your communication?

Mr. CHORPENNING. Yes, ma'am. I literally have boxes of e-mails that were sent to the contracting officer that had been sent to the Director.

Ms. HERSETH SANDLIN. Director at the regional office or Director of VR&E?

Mr. CHORPENNING. No, Director of VR&E. I'm sorry.

Also, e-mails and communications that have been sent to the Under Secretary for Benefits as far as Patrick Dunn is concerned,

and asking, requesting for a period of months to have a meeting with the Under Secretary dealing with these issues in the sense that Heritage of America had about 80 percent of the contract.

Months would go by and no response. Phone calls, no response. I have all of that documentation. I finally sent a letter in reference to the accounts receivable issue to see if somebody could start paying, you know, for the services that were provided. And I got the response back 2½ months later, okay, on a letter that was sent on the 15th of May, back some time just within the past couple of weeks. And what they did is went through what I gave them in May and said, well, these have been paid. Well, you know, it's 2 months old at that point in time and our accounts receivable still continues to run to \$1.3 million.

The other thing that is frightening that we have raised with the VA over and over again is our finance, our information, okay, with our subcontractors. They have shared that information with our subcontractors and now they expect us to go out and put in bids and compete with them when everybody knows what our pricing structure is.

I mean, it is absolutely—it is some of the most, some of the most disgusting business practices I think anybody could possibly witness. I mean, no leadership whatsoever, zero leadership.

Ms. HERSETH SANDLIN. My time has ended. I am going to come back with further questions. But before I turn it over to the Ranking Member, do you have anything you would like to add, Mr. Tarkowski?

Mr. TARKOWSKI. Well, we have essentially the same problems with approval of counselors. We absolutely got our first billed file in November and, as a matter of fact, you know, we did get some files during the year, but our first file was in November. The VR&E counselors were told not to discuss anything with us until the meeting that they had in August, which was the beginning of the entire program, essentially, after they went through their review of what was supposed to be presented.

And we certainly went to that meeting. My program managers all attended, et cetera. Everybody was there. And, you know, we were told that the VR&E counselors weren't to talk with us, that the approval process would be very, very quick, which it was not. It took us at least 2 months to get people approved, and in some cases more time, a few cases as we progressed started to get better. And we shaped it up. We actually changed the program a little bit and set up six or seven steps depending on the region to allow the counselors to be approved much quicker and it started working much better for us after that point, but it did take time to resolve those issues in order to make that all work.

So, you know, all in all, we had the same kind of invoicing issues. We have over \$400,000 currently that's over 30 days past due. I have sent AR sheets over and I had some discussion with Ms. Fanning today and, you know, she said they are going through those sheets and we are trying to resolve those issues.

So there are a number of issues that have come up, though, and we have tried to resolve a lot of those, and I have told, you know, my people, you know, I am more than willing to sit down and resolve these issues, let us work through them, let us figure out a

way to make this work for everybody, for VA, for the veterans, and everybody. But, you know, instead, they just didn't do the option year, which just doesn't seem fair, with all the money we have spent.

We have spent all of this—went out and got an office in San Diego because that was our biggest area that we were handling and we went out and tried to develop a lot of rapport with people and make sure that we were satisfying every need. Even when we weren't paid travel, we gave all the money to counselors so that they could go up into the areas that were close to the Canadian border, from the Dakotas, et cetera, only to have those reports rejected after the VR&E officers reviewed them. Our VR&E officers that are retired reviewed those reports.

Those reports were still rejected. Our invoices were rejected, and we were made to re-date our invoicing and made to redo the reports, which is just absolutely ridiculous. And so it pushed off our money and my banking relationships are strained.

Ms. HERSETH SANDLIN. Thank you, Mr. Tarkowski.

Mr. Boozman.

Mr. BOOZMAN. Thank you very much, Madam Chair.

In the interest of time, I want to ask you two or three things all at the same time and then you can think about it while I am asking them. And then I would really just like, again, if we can have a brief comment, then we cover a lot of ground.

But, first of all, despite VA's legal restrictions on executing the option year, in your opinion does VA have the legal authority to issue a short-term extension to some or all NAS contractors? Okay. So think about that.

Now, I would like to learn a little bit about the training that you received. I would like for you to describe the training that you and your staff received as part of the National Acquisition Strategy contract. And then, also, did you receive copies of the Acquisition Strategy Contract Manual, and did you find it helpful?

And then, lastly, and I think that you touched on it just a few minutes ago. I would really like to know at the time you bid on the Strategy Contract, how many counselors did you employ and in how many States were they located? In other words, as you geared up, how did this affect you in gearing up and how has it affected you going forward?

Mr. TARKOWSKI. All I could tell you, as far as counselors, we are well over 100 individual independent counselors, small businesses if you will, that we have employed, that we have gotten verification back and they are actually doing files for us currently. I am trying to figure out, you know, the other question.

Mr. BOOZMAN. And how about—so you added 100 or—

Mr. TARKOWSKI. We brought on over 100 independent businesses as counselors. The majority of them are out in California because of the workload out in California. But we do have independent small businesses working for us all over the United States in our 19 States and we are satisfying the need that way.

Mr. BOOZMAN. How about the short-term extension?

Mr. TARKOWSKI. I'm sorry?

Mr. BOOZMAN. The first question I asked about the short-term extension of the contract?

Mr. TARKOWSKI. Right. My legal counsel has informed me that as far as he is concerned, this contract certainly can be extended for 6 months.

Mr. BOOZMAN. Do you agree?

Mr. CHORPENNING. Yes, sir, I agree. Our legal counsel here in the Washington area, basically, has just recently dealt with that issue and concurs.

Mr. BOOZMAN. And the training you received early on?

Mr. CHORPENNING. I am sorry, sir?

Mr. BOOZMAN. The training that you received early on?

Mr. CHORPENNING. Training? The week that we had in—the thing is, the training we received in Baltimore was very good. The problem is, the VA, at the end of the 5 days decided they weren't going to implement any of them.

Mr. BOOZMAN. Okay.

Mr. CHORPENNING. And just let—let me just—just for a second, sir, if I may. I mean, it was set up in such a way that all the VA officials, VR&E officials, were kept in one room and all the contractors were kept in the other room for the entire 5 days and we were not allowed to even get together and discuss anything until the morning of the last day. That is an absolute fact.

The other thing is, we do have a copy of the book that was handed out. The workbook basically said that any form that you need, you in fact use it out of this book. We have gotten to a point that we were up to using, I think, somewhere around 11 different types of invoices just to bill the VA. We got it down to two.

Tony mentioned the fact that they had 40-some different reports that they had to do, different forms. We have over 50. And then as far as employees are concerned, part of that contract basically says that if it is a set aside area, you have to put office space in those areas, and at the same time by the end of the first year, 51 percent of your employees should be—or 51 percent of the counselors in those areas we need to tell them the process we are using to hire at least 51 percent.

Right now we have in excess of full time employees and sub-contractors in excess of 600 counselors.

Mr. BOOZMAN. Six hundred additional?

Mr. CHORPENNING. Yes, sir.

Mr. BOOZMAN. Okay. Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

Just a few additional questions, and then I am going to have a number of questions that I will submit in writing. Again, we have gotten your written testimony, your statements, your responses to my first question. I want to try to delve down here just a little further with you.

Mr. Chorpenning, you state that regional office staff requested that cases be in batches of 20 or less, correct?

Mr. CHORPENNING. Madam Chairwoman, it would depend. I mean, there was no consistency throughout the VA on anything.

Ms. HERSETH SANDLIN. But at times were regional office staff requested that cases be batched in 20 or less?

Mr. CHORPENNING. That is correct. Yes, ma'am.

Ms. HERSETH SANDLIN. Do you think that's because the VA lacked proper, adequate staff at the regional office level? What do you think the reason for that was?

Mr. CHORPENNING. Madam Chairwoman, I have no idea. I can tell you in all honestly, I cannot follow any of the rational reasoning over the past year of any business practice that any of the regional offices had where things would constantly change. There was no consistency throughout the entire area.

Other than in those areas where virtually no VR&E services, and especially Chapter 36 services were ever located, in those States, as I pointed out in my written testimony, you know, we had great success.

Where we had our biggest problems, and this is the reason I strongly, strongly encourage a GAO study, but the areas where we had our biggest problems are the exact same areas that the Inspector General and the GAO has pointed out to the VA in the last study that encouraged them to go to a national Acquisitions Strategy, they are still the exact same States and the VA has taken no steps whatsoever to stop it.

And unfortunately, out of the 44 States that we have, we have most of those States.

Ms. HERSETH SANDLIN. Okay. Mr. Chorpenning, do you have a copy of the letter from the Vocational Rehabilitation counselors in the Northwest which evidently predicted that Heritage of America was going to fail even before it began to provide contract services or counseling services?

Mr. CHORPENNING. I am sorry, ma'am. I didn't—

Ms. HERSETH SANDLIN. Is there a letter, is there some sort of documentation to the charge that there were VR&E counselors in the Northwest that predicted HOA's failure before you even began to offer services?

Mr. CHORPENNING. Madam Chairwoman, we do have that documentation and it was, in fact, a VA employee, that it was. And it is one of those original States, okay, and that letter was sent to their professional association as far as the American Counseling Association, and in the process it was shared with us and it is from that area of Washington and Oregon which was one of the very first, one of the very first States.

In the letter where we were paying for initial assessments, anywhere from \$55 to \$75 an hour, she actually refers to it as Walmart wages.

Ms. HERSETH SANDLIN. If you could provide us a copy of the letter—

Mr. CHORPENNING. Yes, ma'am. I certainly can.

Ms. HERSETH SANDLIN. And if you could also provide us names of regional office staff who refused to provide instruction to contractor personnel on criteria for initial evaluations?

Mr. CHORPENNING. Yes, ma'am. I certainly can do that as well. [Mr. Chorpenning subsequently provided the information, which is included at the end of the post-hearing questions and responses for the record, which appear on p. 73.]

Ms. HERSETH SANDLIN. Mr. Tarkowski, I know in response to my earlier question, you did communicate the concerns that you were

having to either contracting officers or regional office personnel. Did you—

Mr. TARKOWSKI. Well, what happened, originally, my program managers went back to the VR&E officers and had quite a discussion, including my Chief Operating Officer, and tried to resolve most of the problems. And then what they did was they turned around and went back to the contracting officer and the COTR, et cetera, and left phone messages and tried sending a couple of e-mails and that with no return calls, so it was very difficult to communicate. It seemed like anytime after about January it made it very, very difficult.

In the very beginning of the contract, we did receive a couple of e-mails, but you know, it was related to a couple of issues, but it wasn't pertinent to this information now.

But what happened was after about January is when, in fact, there was no contact any further. It was like they had already made up their mind that they weren't going to do the option anyway and it would just go away.

Ms. HERSETH SANDLIN. Okay. How often, Mr. Tarkowski? Do you have it documented where a Vocational Rehabilitation, a VR&E employee, gave a case to one of your counselors and did that violate the contract?

Mr. TARKOWSKI. I'm not certain that that occurred. I would really have to check with my program manager to find out if that happened from my end. I believe it was Pat that had that happen where they actually gave files directly to a counselor.

Ms. HERSETH SANDLIN. Okay. I will go back and review the written testimony we received today, but I think that may have been included.

Mr. TARKOWSKI. Yeah. And I believe that in the beginning that there was what we will call an incident where that occurred. But I went back to my program manager and told them that I wanted it straightened out and that, and then after we went back and addressed the issue, then it did not seem to happen anymore.

So you know, I think it was only one or two times right in the very beginning, and then after that, it was straightened out as I said.

Ms. HERSETH SANDLIN. Okay. A final question for both of you, and again I will have others that I will submit to you in writing. As Mr. Boozman stated in his opening statement, and as you have reiterated in your verbal testimony, there are a lot of problems here that remain. So I am wondering, and I don't mean to sound skeptical, how this is going to unfold over the next 6 months. Can you explain why you are seeking to extend this contract when there seems that there are so many problems associated with it?

Mr. CHORPENNING. Madam Chairwoman, I was medically retired from the United States Marine Corps in 1970. I am a product of VR&E when it was Vocational Rehabilitation and Education. I had the privilege to serve on Secretary Principi's task force when we redid VR&E as he referred to it as the crown jewel. And the only reason that the VA really exists is to take care of those veterans that have been severely wounded and hurt, all right.

I have had the privilege to be the Director of the Arizona Department of Veterans' Services for a period of 9 years, taking care of

over 450,000, almost 500,000 veterans as the advocate for them before the State of Arizona.

These veterans need an advocate.

Ms. HERSETH SANDLIN. No, I understand. I understand.

Mr. CHORPENNING. And we are the advocate. We don't have to protect what goes on in the bureaucracy.

Ms. HERSETH SANDLIN. I understand. Look, I am not advocating one thing or the other. I haven't predetermined anything. What I am trying to figure out in practice—

Mr. CHORPENNING. We can do it. We can do it, and if you look at—

Ms. HERSETH SANDLIN. You can do it even though you are having all these problems with the VA? You think those are going to be resolved in a way that doesn't deny services to veterans?

Mr. CHORPENNING. We have worked through most of them. Yes, ma'am. We have worked through most of them, and if you look at my written testimony and you look at the recommendations, there are 11 points that are made in there how we can streamline this if we can get the VA to work with us. That is the issue, to get the VA to work with us, and if that happens, Tony, myself, the other six primes, are more than happy to work together.

We have had the opportunity to talk with them, and as Tony pointed out, they couldn't be here today in many cases for various reasons. We are convinced we can make this program work because we are the disabled veterans.

Stop and look at the leadership of VR&E and ask yourself how many of them are even veterans, let alone disabled veterans. You know, and so we are the group that is going to make it work if it is going to work. I mean that seriously.

Ms. HERSETH SANDLIN. I understand what you are saying. I understand that we are going to get the testimony of the VA here in a couple of panels. I am not going to speak for Mr. Boozman, but you know, I have a lot of questions for them, too, in terms of an interim, their interim plan might work.

Mr. CHORPENNING. Yes, ma'am.

Ms. HERSETH SANDLIN. But I am a little wary and I know that there has been a lot information exchanged making a push for extending this contract and I am not going to prejudge that. I haven't made a determination as to whether I think that is the right way to go yet. That is why we are having this hearing.

I appreciate your response, but I think and what you are saying is, here are your recommendations and it is going to have to be up to someone to ensure that if this gets extended. Parties are really going to come together and work through these problems because the well has been poisoned here, it appears to me, versus a different strategy that I know that the VA is proposing in the interim, before adopting a new National Acquisition Strategy.

Mr. Tarkowski, do you have anything to add? Then we have to move on to the second panel. Mr. Boozman's ready.

Mr. TARKOWSKI. Absolutely, Madam Chairwoman.

I really believe that an extension of the contract would be appropriate for us for a number of reasons. Our biggest reason, of course, is that we have put so much cash outlay into equipment and everything and because the contract started late.

With that happening, it has really impacted us financially. If, in fact, that contract is extended, we have pretty much overcome many of the challenges. There still are a couple of areas where we need help, but we need communication and that is what, with the extension, what has to happen is a directive has to be given that there will be communication because if there is communication with Central Office and we can get somebody to sit down with these VR&E officers and say, look, you will train these people on what you want and you will work with them, then it will work.

But it is only a couple of small pocket areas that are causing those difficulties for us. Most of our areas are very satisfied and, as a matter of fact, have increased our number of files every month because we are doing such a good job for them.

So I very much feel that we can certainly excel at this contract and offer extra services to veterans that had not been offered in the past. You know, the self assessment of the Traumatic Brain Injury alone is phenomenal. Why wouldn't they want that on their reports? Why were we forced to take it off the reports?

Those kind of issues need to be discussed and it needs to be discussed in Central Office, and somebody needs to come up with formats for the reports that are going to be consistent across the whole Nation, not just here is one little format of a report from my office and want it this way or I won't accept it. Even that would be better than not telling us what you want because that is what is happening in a couple of these offices.

Travel should be picked up and things like that, but with these issues handled, with the communication opened up, that is the biggest difficulty. There is no communication.

Ms. HERSETH SANDLIN. Okay.

Mr. CHORPENNING. Madam Chairwoman, just to add to what Tony said—

Ms. HERSETH SANDLIN. Very briefly.

Mr. CHORPENNING [continuing]. And I concur—very briefly. Okay. We have actually had cases returned because of punctuation mistakes, honest to God, and I can make those available.

Ms. HERSETH SANDLIN. I know that was raised in the testimony, and that is something that we are going to pursue here in the other panel.

I thank you both, again, for your trouble, for the important questions you have raised, and your very thoughtful responses to our questions here today.

Thank you. I thank you for your commitment to our Nation's veterans.

Thank you. Thank very much. Thank you, Members of the Committee.

Mr. TARKOWSKI. Thank you, Madam Chairwoman. Thank you, everyone.

Ms. HERSETH SANDLIN. I would now like to invite our second panel. Joining us on the second panel today is Mr. Richard Daley, Associate Legislation Director of the Paralyzed Veterans of America (PVA), and Mr. Joe Wynn, Treasurer, Executive Committee for VET-Force.

Welcome back to the Subcommittee, gentlemen.

Mr. Daley, we will go ahead and begin with your testimony. You are recognized for 5 minutes.

STATEMENTS OF RICHARD DALEY, ASSOCIATE LEGISLATION DIRECTOR, PARALYZED VETERANS OF AMERICA; AND JOE WYNN, TREASURER, VETERANS ENTREPRENEURSHIP TASK FORCE (VET-FORCE), PRESIDENT, VETERANS ENTERPRISE TRAINING AND SERVICES GROUP (VETS GROUP), AND LEGISLATIVE LIAISON, NATIONAL ASSOCIATION FOR BLACK VETERANS

STATEMENT OF RICHARD DALEY

Mr. DALEY. Chairwoman Herseth Sandlin, Ranking Member Boozman, and Members of the Subcommittee, PVA would like to thank you for the opportunity to testify today concerning vocational rehabilitation and counseling services for veterans. Vocational Rehabilitation and Employment Program, VR&E, provides service-connected veterans with the necessary services to assist them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and obtain and maintain suitable employment.

This continued flow of new veterans into the VR&E program will certainly place a strain on this system that has already received some unfavorable criticism in recent years for its performance.

Due to the fact that VR&E is limited in resources and staff, the VA has contracted out with private and State entities to provide VR&E services. This process of contracting to alleviate some of the burden from the VR&E regional offices did not produce the results that the VA anticipated.

Without having all of the facts involved, or in this case any of the facts, pertaining to both parties' performance with regard to fulfilling their obligations of the contract, it would be unrealistic for PVA to make credible recommendations pertaining to improving those contracts.

Whether the veterans have received all of the counseling and services that they should receive or they have not received because of performance is really not our concern. Our concern is, does the veteran have a job when they get out of the process?

When considering the future contracts, perhaps the VA could develop a pilot program in their VR&E program. The VA would reward the contractor for making changes in the veterans' lives, not processing the veteran through another Government program.

The Social Security Administration has had pretty good success with their Ticket to Work program. This program rewards an agency that performs vocational rehabilitation and finds the consumer employment if they stay employed.

Placing a disabled veteran in a career is the goal behind PVA's new Vocational Rehabilitation and Employment program. Two years ago we started the first one in Richmond, Virginia, at the VA hospital. We have expanded. We have one now in Minneapolis, Minnesota, and San Antonio, Texas. Soon we will be opening the fourth location in Long Beach, California. PVA's goal is to have 22 of these, one in all 22 spinal cord units that the VA has.

PVA's VR&E program has recently applied for and qualified for employer network status. Being approved as an employer network allows PVA to participate in Social Security Administration's Ticket to Work program. Social Security Administration will reimburse PVA up to \$4,000 annually for each veteran that is employed and stays employed. The \$4,000 will help defray some of the costs of our program.

PVA is an organization of veterans who are catastrophically disabled by spinal cord injury or disease. Our members rely on the services provided by the VR&E program.

We support the Subcommittee's efforts to work with the VA and to improve the program.

Chairwoman Herseth Sandlin, Ranking Member Boozman, that concludes my testimony. I will be happy to answer any questions.

[The prepared statement of Mr. Daley appears on p. 55.]

Ms. HERSETH SANDLIN. Thank you very much, Mr. Daley.

Mr. Wynn, welcome. You are recognized for 5 minutes.

STATEMENT OF JOE WYNN

Mr. WYNN. Thank you, and good afternoon, Chairwoman and Ranking Member Boozman, other Members of the Subcommittee.

Today, I come before you as a representative of the Veterans' Entrepreneurship Task Force composed of over 200 organizations and affiliates representing thousands of veterans, a high percentage of which are small businesses.

As a Vietnam air veteran myself, President of Veterans Enterprise Training and Services Group and working with the National Association for Black Veterans, I have come to appreciate this Committee's steadfast support of veterans and the number of pieces of legislation that have passed in recent years.

I have also come recently before this Committee, as you might very well remember, with regard to some of the issues he had with the Center for Veterans' Enterprises' policies that they have chosen to adopt that may hinder the number of small businesses who will be able to participate in VA contracting in the future.

But now, here we are today talking about another example of what we believe is VA's poor judgment in making management decisions that not only affects service-disabled veteran business owners, but also affects hundreds of our service-disabled veterans.

I am sure you have received information detailing how the VR&E program works, so I won't go into that. But I would like to mention that in 2006 and 2007, while serving as a Commissioner on the Congressional Veterans' Disability Benefits Commission, I had the opportunity to review and discuss several GAO reports, VA reports, detailing recommendations and criticisms regarding the VR&E program.

Some of those that came out in the report that we submitted was that GAO generally agreed that VR&E had not been a VA priority in returning disabled veterans to the workforce. VR&E also had a limited capacity to manage its growing workload and VR&E needed to be redesigned for the modern employment environment.

Additionally, the Commission also agreed that VR&E needed to improve its process of defining, tracking and reporting on partici-

pants, while we found also that it was confusing and inconclusive in its current state.

Our research also indicated that while the number of participants in VR&E program increased in recent years, the number of individuals rehabilitated remained constant.

This now National Service contract, the NAS contract that VA has chosen to adopt, we still don't understand why it would be canceled in such a short time frame. I do know a little bit more about it today than I knew before. We have received a number of complaints, though, from the contractors involved, much of which you have heard from the witnesses before me.

But by virtue of the fact that the VA has chosen to cancel the entire contract or not extend it at this time leads many of us to believe that the VA implemented a national strategy that was flawed from the start. Since the VA has not reportedly requested corrective measures from the contractors involved and has reportedly stated that it intends to reissue the contract later, it simply appears that the strategy was not well thought out in the beginning.

This action by the VA will have an adverse effect on the veterans it is intended to serve. Hundreds of service-connected disabled veterans in need of vocational rehabilitation and employment will experience additional delays in receiving the services that they so desperately need to successfully transition back into their communities, and those communities that they have fought so hard to protect. For some, this delay could also be life threatening.

Madam Chairwoman and Members of this Committee, I strongly urge you to compel the VA to reconsider their action to terminate this national contract for at least 6 months or until such time as their procedures can be improved or other capable and qualified service-disabled veteran small businesses can be hired. Thank you, and I appreciate the opportunity to come before you.

[The prepared statement of Mr. Wynn appears on p. 57.]

Ms. HERSETH SANDLIN. Thank you, Mr. Wynn.

I am going to recognize Mr. Boozman to start us off with questions.

Mr. BOOZMAN. I am really going to yield my time to you, Madam Chair in the interest of time. We don't have a lot—we have just had a series of votes that have been called.

But as always, I want to thank Mr. Daley and Mr. Wynn for taking the time and coming over and, you know, adding to the information that we have been presented. I appreciate your testimony.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

Well, I think, Mr. Wynn, it is clear what you think should happen next from the end of your testimony there.

Mr. WYNN. Yes, ma'am.

Ms. HERSETH SANDLIN. Mr. Daley, what is your opinion of the VA's National Acquisition Strategy and what do you think are the best next steps?

Mr. DALEY. That is a very good question. As Mr. Wynn said, he's fairly new to the issue, but he did have the privilege of sitting in for 2 years on the Veterans' Disability Benefits Commission that discussed in depth many of these issues. He has more knowledge on this than I have, so let us just do what is best for the veteran.

I want to make sure that they don't go through a Government program, but they get a job at the end.

In my written testimony, I pointed out that in the 110th Congress, Ranking Member Boozman introduce H.R. 3889, which required a 20-year study. Wouldn't it be great if we could look back 10 years from now and see what happened to those veterans, especially the young veterans that went through a VR&E program? Are they still employed or are they not employed? Why aren't they employed? Is it because of health reasons or because of a lack of other accommodations? But that bill didn't go anywhere, so maybe some you could reintroduce that bill.

Ms. HERSETH SANDLIN. Now, I did want to follow up with one other area. In your testimony, your written testimony, you state that the items contracted out are areas in which VR&E counselors have been trained to perform and have years of experience. In your opinion, or is it the position of PVA that the Department of Veterans Affairs should be performing these functions instead of contracting it out?

Mr. DALEY. Yes, in my opinion, and I spoke with other veterans, and some disabled veterans that have been through the program. They said that some of that work that the VA professionals can do the best was contracted out and the VA professionals got stuck shuffling papers for 20 hours a week. That's the problem, I think, too much paperwork.

Ms. HERSETH SANDLIN. I think that goes to my next question and then we will have to leave for votes. We will probably resume the hearing with the third panel and we may have some other questions for you, Mr. Wynn, in writing.

Again, in your testimony you write that, quote, "The process of contracting out to alleviate some of the burden from the VR&E regional office didn't produce the results that the VA anticipated." In your opinion, again, what were the results and why was VA unable to get the results they anticipated?

Mr. DALEY. The results were a lot of problems; that is why we are sitting here today—did the veteran get the job back to that point—and I don't think so. I also say in the testimony, in our program we have 356 severely injured veterans, and of that, we have placed 56 in career positions in 2 years.

Ms. HERSETH SANDLIN. Let me delve down just one level more here. From the testimony of the first panel, and we will hear from the VA, does the PVA have a position in terms of what results we got out of this thing? If it was the lack of leadership out of Central Offices related to directing the regional offices and the contracting officers, or was it the ability of the prime contractors to deliver services at a national level or a combination of both?

Mr. DALEY. At this time, I can't take a position on that because I have heard 5 minutes or 10 minutes of testimony and I will hear another 5 minutes of testimony. I cannot decide who is right in this process, which affects veterans.

Ms. HERSETH SANDLIN. Have you heard about this problem prior to us calling a hearing?

Mr. DALEY. Not really.

Ms. HERSETH SANDLIN. Although PVA did disagree with contracting officers?

Mr. DALEY. No. We recognized the need for contracting out in the past. In testimony within the last year, it said, we know that they have to contract out.

Ms. HERSETH SANDLIN. Okay. It just didn't alleviate the workload that—

Mr. DALEY. Yes.

Mr. WYNN. Madam Chair, could I make just a quick comment and maybe—

Ms. HERSETH SANDLIN. Yeah, and then I think we have to—

Mr. WYNN [continuing]. Just quickly, I would just like to say, though, that to have eight contractors selected for a national contract and then all of the sudden to terminate or not extend their contract into the option years, if it was due to fault or non-performance by the contractors, it still shows that the VA has a very flawed process of selecting contractors because why would you select eight contractors in less than a few months if they are not performing. So—

Ms. HERSETH SANDLIN. Okay. Point well taken.

One last question before we have to go. Mr. Wynn, is VET-Force advocating to give contracts to specific vendors or that VA make the best decision possible in the interest of the veterans that were served by the contract, regardless of who the vendor will be?

Mr. WYNN. Right. We obviously support veteran small business, particularly, service-disabled veteran small business, so we support the use of them. We think that it is okay to contract its service out, but it does need to be managed more effectively.

Ms. HERSETH SANDLIN. Okay. We will recess. It will be about a half an hour and we will resume with our third panel.

[Recess.]

Ms. HERSETH SANDLIN. Okay. Well, again, I want to thank our second panel for the insight that that they offered on the VR&E contracting issues and we look forward to following up on some of their suggestions from their testimony. I would now like to invite the third panel to the witness table.

Joining us is Ms. Ruth Fanning, Director of Vocational Rehabilitation and Employment Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs. Ms. Fanning is accompanied by Mr. C. Ford Heard, Executive Director, Center for Acquisition Innovation, Office of Acquisition and Logistics, U.S. Department of Veterans Affairs; and Mr. Philip Kauffman, Attorney, Office of Special Counsel, U.S. Department of Veterans Affairs.

Thank you for being here. Ms. Fanning, you are now recognized.

STATEMENTS OF RUTH A. FANNING, DIRECTOR, VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY C. FORD HEARD, EXECUTIVE DIRECTOR, CENTER FOR ACQUISITION INNOVATION, OFFICE OF ACQUISITION AND LOGISTICS, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND PHILIP S. KAUFFMAN, DEPUTY ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF RUTH A. FANNING

Ms. FANNING. Madam Chairwoman, Ranking Member Boozman, Members of the Subcommittee, thank you for inviting me to appear before you today to discuss VA's Voc Rehab and Employment program.

With me today is Mr. Ford Heard, Executive Director, Center for Acquisition Innovation, Office of Acquisition, Logistics and Construction; and Mr. Phil Kauffman, Deputy Assistant General Counsel.

My testimony will provide an overview of the VR&E program and the services we provide, a review of contract services used to support our mission, issues of concern pertaining to the VR&E National Acquisition Strategy contracts and prime contractor performance, and VA's ongoing work to streamline and improve contracting requirements and oversight.

The VR&E program has professional counseling and employment staff of over 1,100 throughout the country. They are located in 57 regional offices and over 100 out-based offices. They are there to provide for the needs of veterans with disabilities to help them achieve their rehabilitation goals.

While our VA staff are the primary providers of services to veterans in the VR&E program, VA has adopted a National Acquisitions Strategy. It was adopted to award and manage contracts at the national level. These contracts are in place to complement and supplement the services that we provide.

The contracts are primarily used in areas where we have staffing shortages, geographic challenges or we need specialized services for veterans. We want to ensure that veterans don't have to travel long distances, that they are able to access services in a timely and quality manner.

All the contracts under the NAS were awarded to small businesses and service-disabled, veteran-owned small businesses that had or asserted that they could develop a local presence throughout the subareas for which they were awarded.

Post-award, a week-long kick-off meeting was conducted which included extensive training for the new prime contractors, as well as for our own VA staff. This training included 2 days of combined sessions with VA staff and contractors and it also included break-out sessions designed to thoroughly review our in-depth, in-the-weeds, processes with the contractors. In turn, the break-out sessions for VR&E staff were designed to go through the entire contract to ensure appropriate and consistent administration of the contract.

The last day of the session included a break out specifically to let prime contractors and the VA staff from around the country they would be supporting get together and talk about next steps. So it was an extensive and an unprecedented training that we provided in order to kick off this new contract appropriately.

Post-award, local offices have continued to work with prime contractors to provide additional training. They invited them in, had training sessions and they have also worked with them ongoing to provide performance feedback.

Also, throughout the post-award period, VR&E Service management and contracting staff continued routine calls with VR&E officers and field contract specialists. These were done weekly for the first several months of the contract, and then at least biweekly up until the current time. We had a call this week.

We have also established a contract administration board. This includes Voc Rehab, the Office of Acquisitions and Logistics staff, including the contracting officer, and General Counsel staff. This meeting is used, and again it meets routinely at least once every 2 weeks, to elevate contract concerns to the contracting officer to allow her to work proactively with the contractors.

The current NAS contracts, unfortunately, have not met the needs of VR&E service in assisting us to provide timely and quality services to veterans. Half of the prime contractors have not met contract performance standards. In particular, prime contractors with contracts in multiple jurisdictions around the country have not consistently provided adequate staffing coverage, timely services, or the quality of services that are expected.

VA has attempted, and continues to attempt, to resolve issues with vendors, but as the base contract year progressed, we became increasingly concerned about some contractors' failure to meet timeliness and performance standards and the corresponding impact on services to veterans.

We did not exercise options to extend the NAS contracts and we are in the process of developing new contracts. We expect those to be awarded by December of this year.

Since the National Acquisition Strategy was developed, VA's focus has been on continually leveraging lessons learned to find ways to simplify and strengthen oversight in administration and contracts.

As we move forward into the temporary local contracts and the new national contracts, our primary concern will be in getting contractors on board who can meet timeliness and quality standards to ensure that veterans receive those services that they need.

Obviously, as we go forward our main strategy will be to use our own professional staff to the maximum extent possible to provide those services, but as needed we will continue to use contracting as one of our primary strategies.

Madam Chairwoman, that concludes my comments. I would be happy to take any questions from you or other Members of the Committee, as would other Members of the panel with me.

[The prepared statement of Ms. Fanning appears on p. 64.]

Ms. HERSETH SANDLIN. Thank you, Ms. Fanning.

First, can you explain the varied forms that are used from regional office to regional office? One example that we are aware of

is Georgia's Authorization for Services in the counseling services and that is different from any form used out of the regional office in Oklahoma.

Ms. FANNING. I believe you are referring to referral forms for services under the contract, and our M28 Manual mandates that we use a 1985 form or its equivalent. I have recently reviewed a sample of referral forms used by regional offices, and our review showed that all of the required aspects from the 1985 were on the office's local forms.

The forms did vary. They looked different, but they were primarily designed to incorporate all the services under the contract onto one form, so that rather than writing each service on the form, it could be checked and I think it was actually done to improve clarity.

Now, having said that, I can tell you that it is a complaint that I have heard in terms of using varied referral forms. And even though our manual allows that, as we go forward with new local contracts and new national contracts, we have already provided a standardized referral form that will be mandated for our regional offices.

Ms. HERSETH SANDLIN. You say "the manual provides it." What manual are you referring to, again?

Ms. FANNING. The M28. It is our operating manual for Voc Rehab And Employment.

Ms. HERSETH SANDLIN. When was the National Acquisition Strategy adopted? Not until last year, right?

Ms. FANNING. The National Acquisition Strategy actually started several years ago. This is the second NAS contract that has been in place.

Ms. HERSETH SANDLIN. Did you ever have complaints about varied forms previously?

Ms. FANNING. Not that I am aware of, but I wasn't in Central Office at that time, as you know.

Ms. HERSETH SANDLIN. Do you know how long Georgia and Oklahoma have been using these respective forms?

Ms. FANNING. Well, the 1985 form has been used throughout my career with VA. That is not a new form. It is a standardized form.

The local referral forms that were developed to simulate the 1985 would have been developed for this current NAS contract because the NAS contract had its own service packages, its own pricing. So the forms were developed in order to meet the need of the current contract.

Ms. HERSETH SANDLIN. As you prepare to implement the new NAS? Has there been any evaluations as to whether or not there should be uniformity of the forms?

Ms. FANNING. There already is. A standardized form has been developed. It is already in both of our contracts and it will be mandatory for all offices to use it.

Ms. HERSETH SANDLIN. In your testimony you state that "as necessary," VR&E officers and contract specialists were able to provide, or were available to provide guidance and resolve issues. According to one of the prime contractors, when they sought help from the contract specialists, they didn't provide any assistance or guidance. Were you ever made aware of these concerns?

Ms. FANNING. No, I was not until just recently in preparing to come here. I had a conversation with Mr. Tarkowski early in the week. He referred to that. And he discussed that with me and I immediately went to my staff and asked them to provide me with any e-mails that they have received so that I could see what action they have taken, if they have forwarded those on to the contracting officer for action, what kind of feedback they have provided to his company.

It concerns me anytime that communication breaks down. I was very grateful that he brought that issue to my attention.

Ms. HERSETH SANDLIN. Do you acknowledge that there has been a breakdown in communication, or does that remain to be seen based on your request for information from your staff?

Ms. FANNING. That remains to be seen. I haven't received all of the information. Two individuals were pointed out and only one of them has provided information to me. From review of his e-mails, I didn't see any problem, but I want to fully evaluate the situation.

In addition, I would be happy to receive any e-mails or communication attempts that weren't responded to so that I could research those further.

Ms. HERSETH SANDLIN. This may be an area that Mr. Boozman is interested in pursuing. He and I have been visiting some of our questions to the prior panels and from concerns expressed in opening statements.

What assurances can you give the Subcommittee that no veteran is going to go without services until the new National Strategy is implemented?

Ms. FANNING. Well, as I mentioned earlier, we have almost 1,100 staff around the country. They are fully equipped and trained to provide services. That is our primary strategy. Now, we have—

Ms. HERSETH SANDLIN. Let me interject. I thought the purpose of the National Acquisition Strategy was to relieve some of the workload of your 1,100 specialists?

Ms. FANNING. The purpose of it is to supplement and complement our services where needed.

Ms. HERSETH SANDLIN. So you have no concerns that the folks who you currently have on board, in addition to what they are doing today, will be able to provide those services to our veterans?

Ms. FANNING. I am concerned and I had a little more to say, so I apologize that I wasn't clear from the very moment I began. In addition to our staff, who are very competent and able to provide services, our caseload is lower now than it has been throughout my entire career.

We will continue to use some contracting services. That's necessary for a couple of reasons. First of all, if we do have a staffing shortage, an employee is promoted and moves on to a new job, we don't want to have a gap, especially in a rural area. It is very important that we are able to contract for services.

All of our offices have access to a contracting officer. We have 23 of them around the country and that is a major enhancement that we made in our program over the last few years.

Our VR&E officers, also, all have basic warrants, and they can also procure services on an as-needed basis. So today if there is a service need, even without a contract in place, we can go out and

meet that need. We don't have to wait for a national contract to be awarded.

The reason we have national contracts in place is not that that is the only vehicle that we have to procure services. National contracting is in place because we want to have a structured, consistent approach. We don't want to have 57 offices doing business in 57 different ways.

And back, you know, when I was rehabilitation counselor, back in the old days, we had local contracts in place. There was actually a task force put together on which I served that looked at how contracting could be strengthened. The National Acquisition Strategy came out of that task force.

The purpose of that task force was to look at how could we come together nationally and not have 57 offices, first of all, taking time away from serving veterans to develop contracts, but second, not being experts in the field and perhaps having gaps in the way contracting is administered. For that reason, national contracts were developed.

Now, because we are looking now at doing some local contracts as a bridge, that concern remains. To address that, we have developed a standardized acquisition package. The statement of work is mandatory. The technical evaluation criteria are outlined and are mandatory. The report forms have been standardized, and that is a change and a lesson learned from the last contract, that reports need to be clearly defined.

Even though it is a performance-based contract, and in a performance-based contract typically you say to the person you are contracting with, this is what I need and they come back to you with a product and they have some flexibility.

We did provide training based on the M28 and very structured training in terms of what we expected for each package.

But some of the concerns that I have heard expressed about one office requiring a report format that is different from the State next door concerns me. So we have developed a template for each report that we will expect.

So as we move into these local bridge contracts, there will be a great deal of structure in place, and in addition, we formed a governance board. The governance plan is in final concurrence now. As soon as my boss signs off on it, I will be happy to share it with you.

That governance plan partners Voc Rehab with the Office of General Counsel, with the Office of Acquisition and Logistics and with VBA's head of contracting activity. That board will oversee every aspect of these local contracts from solicitation to award, to implementation, until the new national contracts are in place.

Ms. HERSETH SANDLIN. Mr. Boozman.

Mr. BOOZMAN. I think, to follow up on that question, what happens to the local guy that doesn't do what he is supposed to do, that doesn't implement? That seems to have been the problem?

Ms. FANNING. If a local officer, a VR&E officer or contracting officer doesn't appropriately follow the guidance, then when we learn of it, we take corrective action.

Mr. BOOZMAN. Have we ever taken corrective action?

Ms. FANNING. I beg your pardon?

Mr. BOOZMAN. Like last year, did we ever take corrective action?

Ms. FANNING. There was one incident mentioned earlier when an employee sent a letter that was inappropriate, and yes, we investigated that. In fact, that individual did that as a private citizen from their own home e-mail, but that was still addressed with that individual.

Mr. BOOZMAN. Right. If you had problems with some of the contractors not performing, why would you terminate the contract for all eight?

Ms. FANNING. Well, partly it is a legal issue, and if I could, I would like to defer to Phil Kauffman to talk about that issue of why we did not exercise options.

Mr. BOOZMAN. Well, you might also comment, then, why when you are here in April, that VA didn't, you know, and that you filed documents in the U.S. Court, Federal claims, stating that VA would not exercise the first option year, why didn't you mention it in April when you were here?

Ms. FANNING. Sir, I would need to go back and look at dates to know if those events, you know, how they fell before each other or after each other. I apologize that I can't address that question at this time.

[The VA subsequently provided the following information:]

The Order of the United States Court of Federal Claims was entered April 24, 2009, in *Veterans Vocational Service v. United States*, No. 08-589-C, approximately 1 month after the April 2, 2009 HVAC hearing.

Mr. BOOZMAN. Yes, sir. I am sorry.

Mr. KAUFFMAN. The decision of the settlement in the Claims Court matter was based on the issues raised in the bid protest, so that was part of the—in the settlement of that case, the corrective action was the determination to agree not to exercise options on any of the contracts. So that was in conjunction with the Department and the Justice Department as to how we would resolve the matters in that Claims Court bid protest.

Mr. BOOZMAN. Okay. Well, the Chairlady is the lawyer here, so maybe she understands, but again I don't understand why, you know, if some of them are doing the job, why you get rid of all of them.

But the other thing is is that the reason that we went to this system, or you guys went to this system was that GAO, had some real concerns about shoddy contract management, and I think at one time the counseling program contracted with over 240 vendors.

It seems like with this short term, that we are going back in that direction, and yet if we are having trouble dealing with eight, I guess, how can we deal with all of those?

The other thing is, is that if we look at the GAO report of April 23rd, 2007, they list five things, keys challenges remaining to improving VA's management of VR&E Service contract. Specifically found, regional offices are not fully applying VA's contracting guidance, current training does not adequately prepare contracting officers to manage contracts.

It seems like the thing that the contractors are complaining about are the things that are listed in the GAO report. So can you comment in that regard?

Ms. FANNING. Certainly. Your first question is, if we can't manage eight, I think you said—

Mr. BOOZMAN. Yes, ma'am, how can we do it.

Ms. FANNING [continuing]. How are we going to manage more. And I think part of the issue is not the number of contracts, but having the right contracts, including the right contract vehicle in place.

Mr. BOOZMAN. But you are the ones that determined that in the first place, though.

Ms. FANNING. Absolutely. You are right. We did.

Mr. BOOZMAN. I mean, you did the contracts.

Ms. FANNING. I didn't personally, but VA did develop these contracts.

Mr. BOOZMAN. I understand.

Ms. FANNING. There was, in response to the GAO study and other studies, a move to attempt to lessen the number of total contracts that we had in order to—in an attempt to lessen the administrative burden. I think one thing that we learned from that venture is that eight may not be the right number.

We need to ensure through our contract award process that any vendor who proposes to provide services to the VA is, in fact, able to deliver what they say that they can.

Now, I fully believe that every vendor who proposed, thought they could do that but, in fact, we had vendors that were located in only one jurisdiction expand to cover multiple jurisdictions. We saw that they struggled to get staff on board and to develop subcontracting relationships.

We had delays in being able to refer cases because in many jurisdictions they simply didn't have adequate staff in place that we could refer to.

So I think, really, the issue is making sure that during our award process, and this is something that I have ensured, that our current, our new solicitation very strongly outlines the requirements for VA, that not only are the staffing in place, but the professional locations are in place, that there is a presence in the communities where we need the services so that we can know that when the contracts are awarded, we can move forward and refer and get the services that we need. That's the entire purpose of the contract.

If I could address the second part of your question, GAO made three recommendations. The first was that we conduct a management review to assess how our regional offices are implementing contracting guidance and take actions to make improvements. We have done a number of things in response to, not only to that recommendation, but I can say that some of the actions have been implemented prior, requiring that any local contract that is entered into, field offices must come in and request a waiver.

Use of the NAS contract has been mandatory. We do not allow local field offices to decide that they will go around that contract. They have to use the vehicle that has been nationally endorsed and developed.

Quality assurance site visits have been strengthened in order to go out and look at the contracting activity in addition to other VR&E activities.

Our officers in the field have been required to go through 40 hours of COTR training and an additional 40 hours of contracting officer training. They won't usually be in a position of awarding any kind of contracts. The reason that they became contracting officers warranted to that basic level is to provide that basic training of the Federal Acquisition Regulations. They need to be cognizant of contracting regulations in order to provide appropriate services and oversight of these contracts.

We have put 23 warranted contracting officers out in the field around the country. These are the same warranted officers that work for the Office of Acquisition and Logistics. They are warranted by Mr. Heard's shop. In the 1102 series, they are very highly trained individuals, and they provide oversight. They provide assistance directly with the contractors out in the field, as well as oversight and assistance to our VR&E staff. They play a very important role and that is a very structured managerial approach to contracting.

The GAO also recommended that we require regional offices to report on the efficacy of contracting training. We have done that throughout this process. And in our recent conference in Philadelphia we did an additional formal training review. The purpose of that is to ensure that the training we have targeted through the 1-week training we did prior to kick-off and implementation, to the ongoing weekly and biweekly calls to the one-on-one consultation that is provided by the contract staff that we now have in VR&E service, that that is effective, that we are touching the correct points, and we will use the feedback that we got from our staff to further our training to address the issues where they felt uncomfortable or where they needed additional training.

It is an evolving process. We want this to be very effective. It is something that we have been working on at the VR&E Service for years, and we will continue to work on even if we think we have it right. This go around, I think there is always room for improvement and that is what we will be looking for.

In each aspect we will look for lessons learned and how can we do it better either next time and or how can we implement immediate improvement.

Mr. BOOZMAN. Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

Ms. Fanning, you said, in response to one of Mr. Boozman's questions that you are convinced that the contractors in their mind believe they could provide these services, and maybe this is a question for Mr. Heard. I don't know who—hopefully someone will be able to answer this question, but the issue isn't whether or not they thought they could. The issue is whether or not, before giving them the contract, there was an assessment that they could fill the contract requirements.

Prior to awarding these contracts under the NAS, did the VA assess whether or not these businesses had the capabilities and resources to provide the services required?

Ms. FANNING. Yes. And it is a two-part process, and so I will ask Mr. Heard to also comment. There were formal technical reviews conducted of every proposal. This was done via a very structured process under the contracting officer's oversight.

We brought in almost 20 field managers, not field staff but senior field folks to come in and review these contract proposals from a technical aspect. There were separate teams that looked at past performance information that was provided by the contractors. And remember, we are evaluating what the contractors have provided in their proposals, their outline of how they will meet the requirements, how they are structured as a company to do so, and looking at the past performance recommendations that they have provided, as well as utilizing any experience that we have with these companies. In addition, that process is also overseen by the contracting officer.

The third evaluation is the price evaluation. That was the sole purview of the contracting officer. VR&E Service didn't play a role in that evaluation and I will turn it over to you to comment on any of those issues.

Mr. HEARD. Sure. The awards were best value awards, so we are looking at a combination of the technical expertise, experience and price. So as Ms. Fanning was talking about, we did look at, heavily at credentials that weighed into their capability. We were also looking at, from a strategic standpoint, that the NAS would really look at building upon partnerships.

This is a national effort. A number of contractors that are out there, some who are bidding on this job, would not necessarily win contract awards. So the intent was for them to build partnerships with potential prime contractors as well.

So when we were looking at this structure, the idea was to get individuals, contractors who had the skill sets that were going to provide the best services to VA and our veterans.

Ms. HERSETH SANDLIN. Ms. Fanning, where in your opinion was the breakdown? I mean, how do you respond? I know you had mentioned that there were problems with prime contractors struggling to develop subcontract relationships, recruit appropriate staff.

For one example, how do you respond to the testimony of the first panel that they raised at the workshop their concern about the process for getting counselors approved through, I think, the security assessment? So they claim they anticipated that it was going to be 2 months or so and were somewhat dismissed, it sounds like, in expressing that concern.

Help us understand from your vantage point, if their capabilities were assessed, what happened with the breakdown? Are you satisfied that all of your staff out in the local and regional offices were committed to fully implementing the NAS?

Ms. FANNING. First, regarding the training, we had a formal session at the training that was pre—before any referral was made, about the security requirements and the background checks. We brought experts in from those areas to review step by step what was required and provided step-by-step guidance.

I have to say that I was surprised to hear the comments earlier because those conversations, in my recollection, did not happen. If there was a concern with the background checks being expedited, I wasn't aware of it until some concerns were raised later when the background checks actually started being requested.

At that time I personally called the Security Information Center in Little Rock and I learned that they put staff on overtime

throughout the weekend in order to avoid any backlog. And in fact, they never experienced a backlog. All those security checks that were submitted were timely processed.

So I am surprised by that, but what it points out to me is that we need to, as we go further, ensure that that guidance is crystal clear. If there is any confusion about it, we need to make sure that it is crystal clear. It is to our benefit as well as to any contractor who works with us. We don't want a delay. We wanted these contracts in place because we needed them.

So for contractors having difficulty recruiting staff or getting sub-contract relationships in place or getting a security clearance that is needed in order to start working with veterans, and I think you know that obviously is needed because of the importance of protecting private information, that is something that we wanted to make clear. That is why we brought experts in to provide that training. We will make doubly sure that, as we go forward, it is even more clear.

Now, in terms of our field offices wanting the contractors to succeed, of course they did. This is a tool for them, and for our field offices to be able to use contracts as good tools, they want to be able to refer cases and have them correctly done in accordance with the contract and returned in a timely manner.

Unfortunately, our field offices have been very frustrated throughout the last year. The contractors performance has affected service to veterans. It has created a huge administrative burden for the field offices. Their attention has been focused more on the contracting problems and resolving those, really, than it should have been.

Their focus needs to be on veterans, ensuring that veterans are getting good services, not attempting to get contractors to return reports that are months and months overdue.

Ms. HERSETH SANDLIN. So you have no concerns with regard to the contention in the testimony in the first panel that there were some in the local offices or regional offices that were concerned about the control they were losing with the implementation of NAS?

Ms. FANNING. I am concerned any time that I hear that a field office is not appropriately working with anyone. We researched the, I believe it was two offices, that that was raised as an issue. We did not find that that was an issue. In one office I can say that they had been meeting with some of the contractors weekly for 5-hour meetings, 7-hour meetings, going over all of the past due work and trying to work proactively with them to get the work back in.

I think our offices have extensive documentation on the outreach that they have done and the work that they have done to try to make these contracts a success. In fact, Madam Chair, these field offices didn't have control before the current NAS. This current NAS contract was preceded by another national contract. That contract was mandatory as well.

The current NAS, attempts were made to strengthen it, to make it a better vehicle, but it wasn't the first National Acquisition Strategy, and the offices didn't have the ability to freely procure as they wanted.

Now, when I came into VR&E Service almost 2 years ago now, one of the things that I have implemented is the requirement that a waiver be formally requested if the local office wants to do any kind of local procurement. I felt it was necessary to formalize that requirement to ensure that because we have this National Strategy, that it is being utilized, that there aren't any gaps so that a local office could go out and contract on their own.

Ms. HERSETH SANDLIN. Okay.

Mr. BOOZMAN, did you have any further questions?

Mr. BOOZMAN. I guess I am a little confused. In your testimony you mentioned on page 6 about the improvements that were made or, I guess in the—the studies include the Secretary's 2004 VR&E Task Force, 2005 VA Inspector General's State of Contract, 2007 GAO State of Contract, and you list a number of things that have been done or are in the process of being done. What time frame is that? When have all of these been—when did you find that things were kind of in a mess because in doing all of that, that indicates things are kind of in a mess? Do you understand what I am saying?

Ms. FANNING. I understand what you are saying, yes, sir. I believe so.

Mr. BOOZMAN. You are saying you instituted all of these things that you found needed to be instituted. When did you, when did that task force decide that this needed to be done?

Ms. FANNING. Back when I actually was on the contracting task force, I know that there was just a concern that this was a burden on field offices to develop local expertise, to develop their own statement of work and award local contracts.

The purpose of the task force was to relieve that burden from the field offices.

Mr. BOOZMAN. Right.

Ms. FANNING. And then as that task force's work evolved, ultimately the Director of VR&E Service at that time determined that really what he wanted to put in place was a national Acquisition Strategy and not just have a national statement of work that could be used by local offices, but have a national contract that is awarded from a national perspective and implemented at the local level and monitored at the local level.

Mr. BOOZMAN. So these twelve things that somebody decided needed to be done, were those done as a result of, like, last April or this April?

Ms. FANNING. No, sir. These have been done as a result of the task force that was put in a place a few years ago, recommendations from that 2005 IG study, the 2007 GAO study, ongoing program evaluation that has been done, and frankly, evaluation of the current NAS contract and issues that have arisen from it and what we need to do as we go forward into our new contracts.

So a lot of work has been done over the last 2 or 3 years to strengthen the contracting program. Adding the Contract Specialists, for example, that initiative was started by Ms. Caden. And when I came into VR&E Service, we added additional contract specialists throughout the country.

So it has been an ongoing process. Our goal is always to continually look at what we are doing, how can we do it better, where are the gaps and how can we address them.

Mr. BOOZMAN. Okay. Thank you very much.
Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman.

Ms. Fanning, just two final questions. First, why was the Committee not immediately informed about the VA's Settlement Agreement not to exercise any of its renewal options?

Ms. FANNING. Well, I don't have a response for that. I didn't—I will take the blame for not knowing that I should have advised you and apologize to the Committee for that.

Ms. HERSETH SANDLIN. Finally, in your opinion was the contract failure a VA problem or a vendor problem?

Ms. FANNING. I think that if performance was acceptable, we could make this contract work. I do think that we have a stronger contract going forward.

There were basic issues about the contract that I think were problematic. The per-case definition seemed to be something that some of the vendors, not all, struggled with—what does per-case mean, how long is that period. And even though that was clarified prior to proposals being submitted, it clearly continued to be an issue.

I think making the solicitation very strong in terms of proposals demonstrating clearly that staff are in place, that the vendors have the capability to provide services throughout the jurisdiction they are bidding on is very important. I think that was a gap of the last contract. Had we had a way of really evaluating, based on the vendors being required to provide more robust information, I think we could have avoided some issues.

So I would have to say that there are some issues with the contract that I think we are fixing as we go forward that created some of the problems that we are having. There were also just widespread problems with performance and timeliness and quality that in my role as the Director of VR&E, that is my biggest concern.

We are here to serve veterans. It would be easier for us if we could have extended or picked up options, than going through an extensive process to award new contracts. But if veterans aren't being well served, I have to take action to correct that, and that is what I am working to do.

Ms. HERSETH SANDLIN. Well, I thank you for your testimony and your responses to our questions. I do think that there is a lot of work to be done here and gathering some more information from everyone that we heard from today. I want to thank the staff for the work that they have already done and will continue to do working with Mr. Boozman and myself and the rest of the Members of the Subcommittee.

I do think that it is, I would hope that in light of some of the testimony you heard earlier or some of the concerns regardless of when they were first raised, that you will look into those. I mean, if there are issues of timeliness to delve into, you know, is that just because of performance issues by the vendors or are certain people in your offices making it more difficult for them to perform in a timely manner?

As you work to get at the heart of that we will continue to be looking into this issue and looking forward to working with you

and the folks on your team and the other folks we heard from today.

I thank all of our witnesses today on the panels for taking the time to be with us on pretty short notice. We value your insights and your expertise and your interest and perspective on the topic that we valued today.

The hearing now stands adjourned.

[Whereupon, at 5:09 p.m. the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity

In late June 2009, Committee Members were notified by Heritage of America expressing concern over the Department of Veterans Affairs' Vocational Rehabilitation and Employment National Acquisition Strategy for counseling services. In their letters to Representative Harry Mitchell and Committee Ranking Member Steve Buyer, Heritage of America raised concerns that include:

- varied referral, evaluation, reporting, and invoicing from regional office to regional office that make it difficult for contractors to implement the VA's National Acquisition Strategy; and
- need to improve timeliness of payment for services rendered and calculation of payments.

We have been informed by Subcommittee staff that the Department of Veterans Affairs did not use its option to renew any of the eight contracts in its National Acquisition Strategy. Instead, the VA decided to use an interim strategy that will end later this year, at which point the VA plans to implement a new National Acquisition Strategy.

This Subcommittee seeks to obtain feedback from prime contractors and stakeholders regarding areas of concern and their recommendations to improve VA's National Acquisition Strategy for counseling services. Furthermore we seek to understand the reasons that led to the VA not using its 1-year contract renewal option and highlight lessons learned from the previous national strategy. We want to ensure that the Administration is aware of all concerns to prevent the same pitfalls that have been experienced by recent contractors.

I look forward to hearing from all of our witnesses here today as we seek to ensure our Nation's injured veterans are provided timely services to achieve their employment goals.

Prepared Statement of Hon. John Boozman, Ranking Republican Member, Subcommittee on Economic Opportunity

Good afternoon everyone.

Madam Chair, my agenda for this hearing is to determine that VA is properly administering the vocational rehabilitation and employment contract counseling program. The only measure I use to make that determination is whether the program is meeting the counseling needs of veterans.

I want to make it clear that I have no stake in who VA selects to deliver services to veterans. Whether VA elects to award 1 contract or 50, VA must execute their side of the contract properly. They must hold their vendors accountable and we must do the same to VA.

I'm sure you are aware of the concerns expressed by some contractors regarding VA's administration of the recently terminated National Acquisition Strategy contracts issued last July. I am also sure you have heard VA's side of the story. For me, I believe there have been ample mistakes by both sides.

So where do we go from here? I understand VA intends to award multiple short-term contracts via 19 sub-regions and will not extend the terminated contracts for a similar amount of time. It is reasonable to ask whether extending current contractors or issuing two sets of new contracts within 6 months is the better way to go. It is also reasonable to ask whether VA's the same contracting staff that had difficulty managing eight contracts can manage 50 plus contracts.

Assuming for the moment that the contractors' testimony is reasonably accurate regarding things like inconsistent adherence to the terms of the contract by local

VA officials, where does our duty lie? VA has not presented evidence, other than anecdotal statements to staff, that one or more contractors performed inadequately.

Madam Chair, having reviewed the testimony, I cannot determine who is right. Maybe both sides are right. The contractors make allegations and VA denies them and contends poor performance by some of the vendors. Therefore, I believe there should be a complete review of this contract by GAO or the Inspector General since we are not staffed to conduct such an extensive investigation. In the meantime, I believe the eight prime contractors should continue under a short contract extension until the new national contract is awarded. VA's short term strategy that spreads contract management back out to 57 Regional Offices for a 6 month period of performance with all the incumbent problems makes no sense to me.

Regardless, since we have oversight of the VA, the bigger issue is whether VA has learned any lessons from the failure of the NAS contract and what are they doing to prevent a repetition? What are the lessons learned? Will there be sufficient training for both VA staff and vendors? If inconsistency in administration arises, how will they enforce standardized administration? Does VR&E have the right people in the right places? Does VA have a sound acquisition strategy? How will contractors be evaluated on their performance? And finally, how should we evaluate VA on its performance in the execution of the next contract counseling program?

Madam Chair, over the years, the Veterans' Affairs Committee has not devoted a lot of its time reviewing VA acquisition programs. Unlike DoD, VA does not develop big systems outside of IT. But they do spend \$15 billion of our citizens' taxes and I believe it is incumbent on us to oversee that spending to ensure veterans get value for those dollars, whether it is a program administered by VR&E, Education, or any other arm of VA.

In the end, except through legislation, we cannot force VA to change its short term strategy. But the Committee can learn from this unfortunate situation and as I said earlier, I look forward to a detailed study of this particular process. Hopefully, VA will too. In the meantime, I guess the lesson for the business community is that when you do business with VA or any Government agency, make sure all of the contractual issues are resolved including, in this case, how the Government views your assumptions, how administrative procedures will be handled, and how to resolve conflicts before it is too late.

I yield back.

**Prepared Statement of Patrick F. Chorpenning, President and Chief
Executive Officer, Heritage of America, LLC, Glendale, AZ**

Executive Summary

Heritage of America (HOA) is one of 8 prime contractors providing vocational rehabilitation and counseling services to disabled veterans under the VA's National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract. HOA has the largest territory under this contract, serving veterans in 44 States, the Western Hemisphere and Pacific Rim countries. HOA invested over \$2 million in this contract and has served over 16,000 veterans under this agreement.

While this contract has operated well in many parts of the country there are a significant number of states where local VA practices running counter to the letter and spirit of the NAS agreement have resulted in it not working well at all. HOA considers this to be a function of varying degrees of commitment to the NAS among RO and VR&E officials that have been allowed to flourish due to the complete lack of leadership and management experience demonstrated at VA Central office.

Start up problems—contract award was delayed multiple times in 2007 and 2008 but contractors were not allowed to update pricing in their original bids. New security clearance procedures for counselors took inordinate amounts of time delaying case referrals for month, in some RO's cases were not referred to counselors until December or even January, 5 months after contract award.

Inconsistent business practices among regions have included: means of case referrals; initial evaluation information requirements; invoice forms, formats and submission procedures; lines of communication with ROs; and timeliness of payments for services.

Delays in payments for services by the VA has resulted in severe cash flow shortages for HOA, which in turn is unable to pay its subcontractor counselors on a timely basis. Prime contractors were required to use a new invoicing system and HOA instituted a state-of-the-art information management system with which to track work flow and invoices. The VA did not establish any NAS tracking system matching the prime contractors' ability to track invoice numbers.

It appears to HOA that services may have been delayed or denied to severely disabled veterans through VA mismanagement of this contract. Veterans were not served in a timely fashion during contract start up. As cash flow problems became more critical and counselors waited for payments for months at a time, cases had to be refused by HOA. Due to long delays in the ROs in approving HOA's report, veterans' services were delayed.

VA inexplicably has declined to extend prime contracts by the 6 months held out in papers filed in Federal Court. However, no cohesive plan appears to be in place to continue services to veterans and HOA respectfully requests that Members of the Subcommittee urge VA in the strongest possible terms to extend the NAS prime contracts for 6 months to allow for more continuity in services to veterans and better contract administration.

Madam Chairwoman, Ranking Member Boozman and Members of the Subcommittee, thank you for the opportunity to appear before you today, on behalf of Heritage of America, to testify on the Vocational Rehabilitation and Employment Contracts for Veteran Counseling. My submitted statement discusses *where and why this contract has served veterans well in many parts of the country; where it has been extremely difficult to perform on this contract and why in other parts of the country; the lack of direction and leadership from VA Central Office regarding this contract; and recommendations for how to improve these important services for disabled veterans in the future.*

Heritage of America, LLC

A service-disabled veteran owned small business (SDVOSB), Heritage of America, LLC, (HOA) was awarded, on July 21, 2008, one of the eight prime contracts under the National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract. HOA invested \$2 million to create a state-of-the-art management information system, incorporating a number of technical innovations to enhance performance and delivery of VR&E services to veterans. While a small business, HOA is extremely fortunate to be owned and operated by individuals with extensive career experience in the VA and VR&E. Additionally, HOA has hired managers in the field with decades of experience working within VR&E.

Despite VA actions truncating the beginning and termination of the base year of the contract, HOA is proud to have been tasked to provide counseling services to over 15,000 veterans, in 44 States and other countries including, Central and South America, Mexico, Canada, as well as the Pacific Rim including Australia and New Zealand. Playing a part in helping veterans achieve gainful employment has given HOA personnel a tremendous sense of accomplishment. *Unfortunately, VA's actions terminating the base year of this contract and summarily declining to exercise the first year option without any consultation or communication with prime contractors makes the past year's efforts very disheartening.*

National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract

This contract ostensibly is to standardize and streamline the acquisition process for the required VR&E services and to provide timely and high-quality service to servicemembers and veterans. Instead, the NAS has produced delays in the provision of services to veterans owing to the VA's disjointed and incremental process of implementing the NAS.

Where NAS worked well and why

The areas of the country where HOA has had the most success include those in which Regional Office (RO) staff has been cooperative and reasonable in their dealings with veterans and the contractor. Implementation of the NAS agreement at the local level required contractor, RO and VR&E officials to adopt different practices and procedures than had been the norm in previous contract arrangements, entered into and administered by ROs. *Where local VA officials professionally endeavored to abide by the new processes described in the NAS agreement and sincerely worked with contractor personnel to resolve problems and disagreements, services to veterans got off to a good start once referrals to counselors began to be made.*

The areas where such a cooperative atmosphere has existed include Hawaii, Samoa, Guam, California, Arizona, Colorado, Montana, Nevada, Oklahoma, Minnesota, Wisconsin, Illinois, Arkansas, Alabama, Georgia, Florida, Michigan, Indiana, Maryland, Delaware, Virginia and West Virginia, New York, and the New England states. For the most part, the Rules from the Baltimore Post-Award Conference and the contract itself were followed in detail in these states. There was not too much

divergence from the norm. The most significant procedural disparity among these States was in one where they have a unique demand for the prime contractor to deal directly with each of some 22 Vocational Rehabilitation Counselors (VRCs) in locations throughout the state, rather than dealing directly with the single VA Quality Assurance Manager, as stipulated in the agreement.

Despite starting out on a good or even great footing in the above areas, *severe cash flow problems owing to VA's lack of timely payment for services rendered, have strained relationships across the board.* Without timely payment from the VA, Heritage of America has had to delay payments to subcontractors and counselors for months at a time. (This overarching problem will be described in more detail below) While HOA has made every effort to pay its counselors as soon as HOA received payment from the VA, in too many cases payments from the VA have been so delinquent that counselors stopped accepting referrals from ROs, since the counselor had not been paid for work that had been performed months earlier.

Where NAS implementation continues to be problematic

Unfortunately, *in many areas regional officials have disregarded the NAS agreement provisions, insisting that procedures revert back to previous local practices rather than working to implement the new strategy cooperatively.* These areas include Washington, Oregon, Idaho, New Mexico, Wyoming, Texas, North and South Dakota, Nebraska, Iowa, Louisiana, Ohio, Mississippi, New Jersey, Pennsylvania, and Puerto Rico. *All problems with regional officials have been exacerbated by the total absence of VACO leadership, virtual refusal to communicate with primes on any regular basis, and incompetence of the contracting officer.* The National Acquisition Strategy is that in name only. Standardized business practices and procedures were not imposed on the ROs by VA Central Office (VACO) officials. *There are still many VAs, represented by many ROs, that are being "managed" by regional directors, who have little interest in the "national" VR&E strategy.* This reality became a confounding trap in time and money for prime contractors trying their best to abide by the NAS agreement and expecting ROs to do the same.

Contract start up problems

NAS contract award was delayed multiple times during 2007 and 2008 but *prime contractors were not given a chance to update the prices bid* from those entered in their original proposals.

Heritage began contract performance with weekly status submissions, as requested by the contracting officer and national contracting officer technical representatives (COTRs). Each submission commented on progress and problems but receipt of these were acknowledged only once and never responded to substantively. *Having noticed that some of these electronic submissions were even not opened by VA officials for weeks, HOA stopped sending them after about 4 months and never heard another comment about them from the officials who had requested them in the first place.*

New procedures for VA approval of counselors took months rather than a few days as touted by VA officials, notwithstanding being put on notice by prime contractors, experienced with the process, that a long time is required to complete the security initialization training and vetting demanded by contract add-ons.

Therefore, *individual veteran case referrals to counselors were thusly delayed for months* but then dumped upon counselors in large batches by ROs.

Counselors were then held to a 30 day timeliness criteria applied across the board for the first time. The RO staff in several locations, however, felt quite free to ask HOA not to return completed cases to them in batches as large as 20 or 30, even though they had been assigned to us in batches of 50 to 300 per week.

Locally subjective criteria for approving initial evaluations made it very difficult to know what was required in the way of information and length or complexity of reports. While the NAS agreement stipulates that local ROs are to provide instruction to contractor personnel on such matter, many have refused to do so.

Local attitudes in many areas were very predisposed against allowing the new national strategy contract to work and in some cases went so far as actively undermining or preventing performance by prime contractors. The NAS disrupted local RO regimes and the old ways of doing things, which had been criticized in prior IG, GAO and Secretary level Task Force Reports. Many RO officials simply resent losing power over VR&E contracting practices to the national strategy and prime contractors.

Owing to 4 months delay in start up of this contract, the base year did not provide us with a full 12 months of work. Case work was first issued under this contract beginning in November 2008, following a "start date" of July 21, 2008. In one State it was even worse, as the VR&E Officer did not begin referring cases to us until January 2009, giving us less than a 5-month chance to show him how HOA could

improve on the first 300 cases he assigned in a 10-day period of January. In this State the "Base Year" was only 5 months long, and only 8 months long in the remainder of the 44 States in which HOA opened operations, spending about \$2 million in startup costs. There was also an inordinate amount of delay in approving our counselors to accept case work.

HOA had some start up problems of its own. Bringing to bear hundreds of new employees, subcontractors and counselors on complex tasks relatively quickly was not easy and not without some performance difficulties. In certain cases individuals performed so poorly that termination of employment under the contract was the appropriate action. Unfortunately, this is to be expected for a small number of cases but can be dealt with given proper management and leadership. HOA wonders how many of VA's employees have been terminated for their poor performance under this contract?

Specific problem examples

Hundreds of cases were assigned to HOA virtually at once in Oregon, Washington and Ohio, months after the beginning of the contract, because VR&E officials in these and other states did not approve counselors in a timely manner. In Ohio no cases were assigned to HOA until nearly the end of January, almost 6 months after contract start up, even though HOA had approved counselors ready to provide services to veterans. Apparently the VR&E officer in Ohio simply did not wish to recognize those counselors as having been approved, and evidently VACO had instructed the VR&E officers not to provide the prime contractors with the names of their best contract counselors from prior arrangements until it was too late to any favorable impact on prime contractor operations.

This manipulation by VACO was the result of what HOA believes to be the VR&E Service's intention to see that the NAS contract fail. A letter from the VRC in the Northwest predicted HOA was going to fail even before it began to provide services and it was written before any of HOA's counselors had been submitted for approval. Would that person ever have been inclined to approve any of HOA's reports? Probably not, nor has that person done so.

In another part of the Northwest it was even worse. The VR&E officers deliberately held up reports for months and then disapproved them with often flimsy critiques, such as declaring the report not to be approved when voc/ed exploration work appearing in attachments to the report were not referred to in the main body, and a typo appeared in one of them! And they have refused to accept 93 of HOA's reports because these reports were sent to the Quality Assurance Manager, (QAM), per instructions received at the Baltimore Post-Award Conference to deal only with the QAMs regarding referrals and acceptances and other contract matters.

In a Midwest State, where HOA has experienced the worst possible management of the NAS, no cases were assigned to HOA until nearly the end of January, almost 6 months after contract start up. Counselors had been approved but the VR&E Officer simply did not wish to recognize them as such until January. Additionally, the VR&E Officer prevented the QAM from moving forward with 22 of HOA's counselors who had been approved in November and, on that basis, refused to give HOA any cases until the end of January, at which time the VR&E Officer dumped over 300 of them on HOA all at once.

Inconsistent business practices and procedures among Regional Offices

Inconsistent business practices between the regions prevented HOA from effectively serving veterans in the way they deserved and in some veterans being constructively denied congressionally mandated benefits when certain ROs refused to refer veterans for counseling by VA personnel because the services provided by HOA were declared to be inadequate.

Lack of VACO leadership allowed these inconsistencies to flourish and probably emboldened the most problematic ROs to ignore provisions of the national strategy that prime contractors were trying to follow.

Inconsistent Means of Case Referral

The way cases are referred to contractors by each Regional Office (RO) varies greatly. Some ROs demand that HOA counselors attend the initial orientation the VA gives to veterans and pick up case files then (Chicago, Pittsburgh, Roanoke, several others to a lesser degree depending on location within the state). There are other ROs insisting that their Vocational Rehabilitation Counselors (VRC) assign HOA the cases and do the billing (Saint Petersburg). There are others that require us to deal only with the VR&E Officer in charge at each location (Cleveland and Seattle). There are a few others that follow the contract and have the Contract Specialist/Quality Assurance Manager (QAM) assign HOA the cases and submit invoices to financing for payment.

Some ROs want physical pickup of files, some FedEx files, others are willing to email them using secure Public Key Infrastructure and still others are willing to fax them via HOA's secure Venali toll-free fax number. Faxing is preferred, as it saves the VA time, material costs, and labor costs in not having to put "dummy" files together, and it permits HOA to maintain the level of security required while permitting automation of file data entry.

Inconsistent Initial Evaluation Information Requirements

Inconsistency among the ROs in what they require in the way of initial evaluation information and length/complexity of reports is a major issue because in some areas VA officials use this as a means of not approving reports and therefore not paying HOA for months. This "procedure" constructively denies services to veterans during the months that RO staff takes to inform HOA as to the inadequacies they believe they have identified in reports. They usually state that "There is insufficient information on which to base a plan" when there often is sufficient information but the VRC or the VR&E officer or some other VA staffer does not like how the report was written and does not call the veteran in to provide services until after the report is redone. It often takes as long as three or 4 months for the ROs to inform HOA that reports are not adequate, thus delaying provision of services to veterans for that amount of time.

In some cases the inadequacies are not even based on content but rather on punctuation within the report or the fact, as in Seattle, that the report did not state "See attachments for vocational and educational exploration results" when the results were very briefly summarized in the report body, but the details were presented in appendixes. This phenomenon is particularly evident in Washington, Oregon, Texas, Ohio, Florida, Pennsylvania, Colorado, and the Dakotas. To complicate matters, some ROs want short reports, some want longer ones. Some do not tell HOA what they want, but expect HOA to figure it out after reports are rejected.

The divergence in what the contract requires and what the VR&E Officers demand is particularly notable in Ohio. The VR&E Officer in Cleveland insists that HOA provide what he calls a "Psycho-Social-Rehab-Employment Plan", as part of initial evaluation. This is not even remotely referred to in the contract and, to make things worse, he has refused to provide the mandated training required by the contract and VA regulations so HOA can determine what it is he truly wants as to content and forms to be used.

Inconsistent Requirements for Reporting and Invoicing Forms

The ROs do not all want the same VA forms. Some ROs want complete employment surveys and labor market research as part of the Initial Evaluation despite their not being required or desired in the contract. Some ROs have even gone to the extent of not approving reports on the basis that it does not include HOA's own form entitled "Vocational Planner," which is not a VA form. HOA had used it in the past and some ROs wanted it to be continued, though it was not part of HOA's bid for the current procurement.

As for invoicing, HOA has attempted to accommodate an enormous divergence of invoicing requirements from around the country, though the contract is very specific as to what is required. HOA even went to the extent of pre-printing invoices with stamps the ROs need to place on invoices so the VA disbursing unit in Austin, TX will have the funding obligation numbers and other information they need to pay. HOA has corrected this five times now and it is still not what some ROs want.

Inconsistent Lines of Communication with the ROs

This was discussed briefly in paragraph 1, above. The contract states that HOA counselors are to establish partnerships with the VA VRCs, but not involve themselves in contracting matters. Furthermore, the contract specifies that only the QAMs will make case referrals and approve invoices for payment. This is not the way it works in most ROs. In Seattle and Cleveland, for example, the VR&E Officers have reserved these rights and obligations to themselves. Other ROs, as explained above in the case of Florida, have the VRCs do all such work. In other areas, some of these duties are assumed by technicians who have no education or experience in such activities.

Inconsistent Timeliness of Payment for Services

Timeliness of payment for services is so inconsistent that in some ROs no delay occurs, while in others, delays exceeding 100 days are standard with no explanation of why payment is not being made or denied within 30 days, as required by the contract and in law.

There are numerous possibilities for this inconsistency: In many ROs there is no single person responsible for tracking payments, or there is a single POC who is

not replaced when he or she goes on leave, or the report is not approved (and payment therefore is delayed) for any of the issues as explained above. Other possibilities include chances that reports and invoices are approved and forwarded by the local RO in a timely manner but “there is a problem in Finance,” or the VRC has given a case directly to one of HOA’s counselors (in violation of the contract) and HOA did not know that a case had been assigned and therefore could not bill it even though the work had been satisfactorily completed, or in some cases there has been deliberate withholding of payment to ensure that the NAS contract fails along with the prime contractors.

Invoicing and aging accounts receivable

Total current (as of July 27, 2009) accounts receivable for HOA is over \$1.4 million, broken down as follows:

0–30 days:	\$ 693,025.63
31–60 days:	286,601.01
61–90 days:	135,359.00
Over 90 days:	298,079.31
Total:	\$1,432,021.16

On multiple occasions, this has been brought to the attention of the contracting officer, the Director of VR&E, as well as the Under Secretary for Benefits. Evidently, VACO is incapable of calculating accounts receivable using any national acquisition strategy invoice tracking system, as contemplated in the national contract and signed by the 8 prime contractors. In fact, VACO turned down HOA’s offer to provide it with the proprietary, state-of-the-art system HOA established, at considerable expense, specifically for this purpose.

In February 2005, the VA Inspector General published a report concerning overpricing in Washington, DC and other areas, which had been tolerated for years. The recommendation to the VR&E Service then was to seek contractors who would be more reasonable in their pricing while still delivering acceptable services. HOA attempted to meet that requirement, but has been rebuffed at every turn.

The critical nature of cash flow to small business is seemingly lost on VA officials both in Central Office and at the local level. This is particularly discouraging to HOA, which is a service-disabled veteran owned small business under the impression (apparently mistaken impression) that the VA considered it important, as provided in law, that it should help foster and support businesses owned and operated by service-disabled veterans.

As stated above, the inconsistency in timeliness of payment for services has placed extreme financial distress upon HOA and in many cases made it impossible for HOA to provide timely payment to its counselors. As a direct result of deficient payment to HOA by the VA, many of HOA’s counselors have declined to continue accepting case referrals from ROs or quit employment with HOA altogether. Such denial of services to veterans is regrettable but absolutely should have been avoidable, if only VA administered and implemented the NAS competently.

The following paragraphs outline the inconsistent nature of VA direction on invoicing procedures.

Contract language from solicitation page (un-numbered) section B.1.4.states: “Government Invoice Address: All invoices from the contractor shall be mailed to the following address: Department of Veterans Affairs, FMS–VA–2(101)/Certified Invoices, Financial Services Center, PO Box 149971, Austin, TX 78714–8971.” This has never been done because the prime contractors were given instruction at the Baltimore Post-Award Conference and subsequently by individual ROs to submit invoices entirely differently.

Also, from un-numbered page section C.2 52.212–4(g) Invoice Contract Terms and Conditions-Commercial Items (FEB 2007): (1) “The Contractor shall submit an original and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices.” No address other than the one above is designated in the contract.

However, more specific instructions are provided on pages 189–190 of the VR&E Post Award Workshop Book: “A proper invoice shall be submitted to the VR&E Officer at each division and include the following: Date; Invoice Number; Contractor Name; IDIQ Contract Number; Task Order Number; Purchase Order Number (the number from VA’s internal funding document); Case Number; Last four digits of the veterans SSN; Period of Performance; Service(s) provided to include Sub-Contract Line Item Number (SCLIN) number; Cost of services; Any travel and/or per diem costs and receipts (if appropriate) shall be included on a separate line item; Name, title and phone number of person to be notified in the event of a defective invoice.

The VR&E Office will approve the invoice and forward it for payment; or The VR&E Officer will disapprove any invoice and return it to the Industry Partner within 7 calendar days.” Prime contractors were informed that the Post Award Workshop Book is their “bible” for guidance on issues surrounding the NAS and all the forms and procedures contractors would need were included in the Workshop Book. Nothing could have been further from the truth.

Unfortunately, not all ROs follow these instructions. Many do not assign Purchase Order Numbers or Task Order Numbers, using instead the veteran’s name to track invoices. Others do not use the veteran’s name for tracking purposes, instead use the proper numbers but leave off the HOA invoice number, which does not permit HOA to track the invoice. Still other ROs do not use the proper obligation number which causes ALAC (Austin Disbursement) to return the invoice to the issuing RO Finance Office for revision. None of the ROs ever return a disapproved invoice within the 7-day period as required above and by FAR 32.904 (Prompt Payment). Some ROs have wanted HOA to pre-print funding obligation stamps on our invoices, others want them left off or modified in some way, thus providing more opportunity for misrouting, misfiling, lack of tracking consistency and rejection by the Austin disbursement center.

One of the reasons for inconsistencies is the fact that the VA has changed its numbering system in mid-stream and the RO Finance Offices are not all plugged into the new Internet Payment Procedure (IPP) System. The IPP officials refuse to help HOA track invoices, saying that it is HOA’s problem and needs to be taken up with the Contracting Officer and the local ROs.

Case Management Pricing Ambiguity

Inexplicably, the VA has taken a position on interpretation of a pricing provision that assumes all eight prime contractors knowingly entered bids that would force them to lose money on case management services. VACO insists that billing for case management services should be for the “life of the case” which can be for as long as up to 63 months in one case, instead of the more reasonable 12 month period as bid by HOA.

One of the prime contractors appealed VA’s interpretation for calculating these payments to the U.S. Civilian Board of Contract Appeals. The Board denied the VA’s motion for summary relief, stating in part that . . . **“Given several requests to clarify its position through its solicitation, VA provided equivocal responses. When asked to describe the ways in which this solicitation differed from previous contractual instruments covering similar services, VA refused to provide any answer at all . . . It is not surprising, in light of the agency’s opaque approach to the matter at issue during the solicitation process, that the parties have entered into a contract with different understandings of an important term . . .”**

In many other respects, as itemized throughout this statement, Heritage of America believes VA’s administration and implementation of this so-called “national acquisition strategy” has been no better than its performance during the solicitation stages, as described above by the two judge panel of the Contract Appeals Board.

Additionally, VACO officials seemingly have been less than forthcoming with the House Committee on Veterans’ Affairs about information regarding the nature and degree of the difficulties they perceived with the NAS contract. HOA notes that the Director of VR&E testified before this Subcommittee on April 2, of this year and mentioned nothing of the fact that VA officials had, just days earlier, filed documents in the U.S. Court of Federal Claims stating that VA was not going to exercise the first year option on the NAS contract. If the VA had decided implementation of the NAS was so flawed that it warranted such drastic action, why wouldn’t the VR&E Director even mention it during her appearance before the Subcommittee.

Additional discrepancies in VA calculation of prices under the NAS agreement

The calculation of payments disbursed to contractors does not comply with assumptions in contractor bids, as required by the RFP. There are three major areas of concern:

1. On page 51 of the RFP (Sol. No. VA–101–07–RP-0306) it states very clearly that, “The Offeror shall document in its proposal any assumptions.” Even though we complied by proposing a comprehensive list of assumptions as the basis for our bid, and even though the Contracting Officer accepted our bid, our assumptions have been completely ignored.

This is most evident in the divergence between what was the understanding of all eight prime contractors as to how services for Case Management would be billed and how the VR&E Service payments would be made. HOA’s position

was made very clear in a letter to the Contracting Officer (attached). HOA is not asking that VA modify the contract, only that they comply with it.

2. *Travel.* Again, HOA's proposal made very clear assumptions as to what would be required for travel reimbursement if the VA were to accept the bid. Travel reimbursement has been resolutely denied by the VA. HOA's question to the VR&E Service has been "How do you expect us to get to Guam or Korea or Okinawa to perform case work there?" HOA has qualified counselors, willing to travel but the VA will not pay for travel from CONUS to OCONUS and HOA bid reasonable travel rates.

They apparently expected HOA to have included these types of travel costs in the FFP bid, which HOA made very clear in its proposal assumptions were not included, and that if the VA wanted HOA counselors to go to remote areas, VA would have to pay for travel. None of the eight prime contractors is being reimbursed for travel, though the original QAM in Florida (who has since been replaced) indicated that office would be willing to pay for such in Florida if the travel was pre-approved.

3. *Add-Ons for Security.* The VA has required a number of add-ons to the contract which were not clearly defined in the RFP. Security issues, computer replacements, and the like were ill-defined and certainly not considered as part of the HOA bid or in the bids of any of the other prime contractors. The VA has demanded HOA comply with all of the new rules and regulations they have promulgated owing to their own security lapses but has not provided HOA with any resources for meeting their demands.

RO's undermining HOA relationships and reputation with subcontractors

Instructions at Baltimore Post-Award conference stipulated that VA officials are not to communicate with subcontractors regarding contract matters but deal only with prime contractors. However, VA contact with HOA subcontractors and counselors is on going and extensive. In some cases VA officials are inaccurately stating that HOA has been paid in full and holding back moneys from subcontractors and counselors. Even more damaging, are statements by VA officials telling subcontractors to just hang in there until HOA can be dumped and VA can contract with HOA's subcontractors directly, thus cutting out the prime contractor, probably at higher price. Now HOA subcontractors are writing letters to Congressmen complaining about HOA and contemplating class action lawsuits. Again, HOA considers all this to be part of VACO incompetence and regional office malfeasance.

Recommendations for improving contract next time

There are a number of technical innovations that Heritage of America (HOA) has developed during our current VR&E NAS contract VA101(049A3)V-0329 to enhance performance and delivery of VR&E services to veterans. Unfortunately, owing to the VA's decision to not exercise Option Year 1 of any of the current prime contractors and because the first 4 months of the contract were taken up with fulfillment of contract add-ons and security requirements, HOA has not been given enough time to implement its innovations sufficiently to allow the VA an adequate opportunity for review. These technical innovations include the following: I-Sight Management Information System, Venali Secure Fax System, Central Processing Center, Central Call Center, Paperless Communication, Wonderlic Protocol Correlation, OASYS and CareerScope, Discrete Services, Process Flow, Travel Considerations, and Case Management Fees. Each is discussed below, illustrating the considerable resources and capabilities HOA has brought to bear on NAS contract performance.

1. I-Sight Management Information System

HOA officials have been told by former VACO officers, who helped in developing "CWINRS", the information management system for VR&E, that HOA's management information system is better than CWINRS. It is certainly more secure and available, operating as it does in a 128-bit SSL environment that emulates bank-level security with servers in a vault in Phoenix, AZ where they are unlikely to succumb to weather and climate issues and unlikely to be subject to traffic overload and other issues that are experienced by the CWINRS servers on a regular basis.

HOA has informally offered access to this system several times to the VR&E Service as well as to the Information Service Officer people in VACO and RO people in numerous states. VA's accepting this HOA offer would enable VRCs to instantly view the status of the cases they have assigned to HOA.

Accepting HOA's offer would also enable uniform tracking of cases throughout all ROs nationwide instead of continuing with the current VA "system" wherein some ROs track cases by veteran name, some track by a number they assign to each case, some track by a redacted "half-sheet" that represents the VA Form 28-1985 authorization, and some track by no recognizable means at all from our perspective be-

cause the VRCs hand cases directly to sub-contract counselors and HOA has no way of knowing that a case has even been assigned.

2. *Venali Secure Fax System*

Assignment of cases via HOA's toll-free Venali secure fax system has been working well. It needs to be implemented in all ROs, however, especially in those that demand HOA counselors appear at VA orientations to receive case assignments only to be told there are no veterans who showed up that day, and in those ROs that demand their VRCs assign cases directly to HOA sub-contract counselors. Such disregard on the part of some ROs for the welfare of their "Industry Partner" Prime Contractors creates dysfunction in case assigning to say the least.

Using HOA's Venali secure fax system to assign and authorize cases also saves the VA time and money. Staff at ROs that use HOA's Venali fax system no longer need to spend time and money making up "Dummy Field Folders," no longer need to spend time and money filling up FedEx boxes and paying for shipping hard copies to us, no longer need to spend time and money on keeping extra files around that take up space and resources. If ROs were permitted to accept faxed reports and invoices from HOA, additional time and money savings would be realized by the VA.

Better yet, a completely paperless communication between HOA and the VA would realize other savings in addition to time and money—original documents and VA Form 28–1985 authorizations would remain in the custody of the VA at all times, RO staff dealing with paper documents could be freed up for other duties, and VRCs would be able to spend more valuable face-to-face time with veterans instead of attempting to perform administrative duties for which they are unlikely to be well-suited anyway. A process describing this paperless communication is described below.

3. *Central Processing Center (CPC)*

HOA's CPC has been operating well now for about 2 months, but there are older cases that were not processed properly by former HOA staff and managers in our regional organization. These personnel have been terminated in order to restructure HOA operations, eliminating use of a regional concept and regional managers. It will take some time for these older cases, some of which were not referred to HOA in accordance with the NAS contract, to be resolved in the new system. HOA would need an extension of about 6 months on the NAS contract to make sure all old cases are resolved properly.

All case referrals are now being directed solely to the CPC where they are scanned into iSight and assigned to counselors. In addition, the new Call Center will be contacting the veteran and making the first appointment within 7 days and also contacting the VRC who assigned the case within that same 7-day period. This will ensure that timelines are met in accordance with the NAS contract. There are benchmarks built into iSight and the CPC process to make sure that appointment-making, testing, counseling, report writing, invoicing, and other services are provided in a timely manner.

Several ROs, particularly in Subareas 17 and 4 (Washington State and Ohio), are struggling with this situation. Many RO officials tell us that they have seen improvement during the past 2 months that the CPC has been operating. Those older cases are the ones giving HOA the greatest concern.

The CPC, while attempting to resolve these issues, must also keep up with current operations. HOA has hired additional staff in the CPC to make this happen and anticipates that these additions, in conjunction with HOA's new Call Center and Process Flow, will resolve many of the issues that have been identified during the current NAS contract.

4. *Central Call Center (CCC)*

The CCC has opened in an office next to HOA's CPC and is currently being staffed. When completed the staff will be making all of the calls for all NAS contract activities. This will include, within the first 7 days following receipt of case authorization, speaking with the veteran and the VRC who assigned the case, and making an appointment with the veteran to begin work on the case. Then, Call Center personnel under guidance from the Quality Assurance Manager, will follow up at regular intervals with the HOA counselor assigned to the case as testing, further appointment-making, counseling, report writing, and invoicing benchmarks are reached. The CPC will be responsible for entering all communications in iSight where they will be available for use by all participants and stakeholders.

The QA Manager will sit in the CCC making sure that iSight and other quality control mechanisms are functioning as they should. Please see the Process Flow discussion and chart below.

5. *Paperless Communication*

The discussion above gives an indication of how paperless communication might work and a detailed description is made below under Process Flow.

The 2004 report of the VR&E Task Force recommended that paperless communication be established by the VR&E Service and this was re-emphasized in the IG report of February 2005. To date, there has been little accomplished toward reaching this goal.

It is hoped that the VR&E Service will take what HOA describes to heart and gives HOA the chance to prove that what has been designed into HOA's capability is the best way to serve our veterans.

6. *Wonderlic Protocol Correlation*

The Wonderlic Corp. has agreed to design for HOA an automated composite of results from the four test protocols of theirs that we are currently using, correlating these results in a narrative report that presents interrelationships among the tested aptitudes, interests, and abilities as well as work values. This composite report will be available as an attachment to HOA's Initial Assessment reports and results will be summarized in the main body of the report. The composite report was to have been ready from Wonderlic by the end of September, but has been put on hold owing to non-renewal of Option Year 1. Development could be re-instituted upon contract extension of 6 months.

It can readily be seen that such a composite would be of enormous advantage in helping the VRCs use test results in plan development. Counselors would be instructed in HOA reporting as to what areas to emphasize, giving the VRCs an additional understanding of the veteran's aptitudes, interests, abilities, and work values.

HOA is currently employing secure fax-back test results from Wonderlic. Any of HOA's counselors from anywhere can fax test results toll-free over a secure fax line to Wonderlic where the tests are scored and faxed back by secure Venali fax to the CPC. These test results are then entered in iSight by CPC staff and are available immediately for use by HOA counselors, and by the VRCs should the VA agree to let them have access to our Management Information System.

This system also creates an additional layer of security because test results never leave a secure environment and are not available in paper form until inclusion in the final report should it be decided that final reports will continue to be required in hard copy.

7. *Occupational Aptitude System (OASYS) and CareerScope*

OASYS and CareerScope are not HOA innovations, but HOA designed a potential use for them that should be attractive to the VA and motivated both companies responsible for developing them to produce a combined usage for HOA.

The Wounded Warrior Program, as well as Chapter 36 Educational Vocational Counseling, requires immediate response to needs of the military service as well as needs of the veteran. To do so, HOA needs to be able to get on military bases and have access to computers with Internet hookups. These are usually found in libraries, non-appropriated fund facilities, and family service centers among other potential locations. With such access, which HOA is currently negotiating with appropriate DoD agencies, HOA will be able to immediately respond to needs of wounded warriors and those transitioning out of military service.

Results from OASYS and CareerScope are immediately available at completion online. They can be printed out by the military servicemember and be available for a counseling session by HOA counselor the same day.

Outside of this potential use, which HOA has been recommending to specific ROs for months, HOA has begun using OASYS to develop its Transferable Skills Analysis and vocational and educational exploration on local, state, and national levels, all of which can be accomplished using the continually updated data bases now available within OASYS. HOA has found this usage to be successful, but again have not had sufficient time to prove to the various ROs what can be accomplished with it.

A contract extension of 6 months on our current NAS contract would provide time to prove the value of OASYS in helping produce collaborative vocational and educational exploration results that can be used, in conjunction with testing results and the veteran's experience and educational and medical history, to provide the VR&E counselor with sufficient information about the veteran to determine feasibility for achieving a vocational goal, entry into suitable employment, or achieving maximum independence in the community based on a written rehabilitation plan.

8. *Discrete Services*

HOA has developed a nationwide system for delivering Discrete Services and has, in accordance with instructions received during the Baltimore Post-Award Conference, been proposing it for months to VACO and all of the QAMs and VR&E Officers in the 44 states in which HOA currently operates. HOA is capable of continuing to deliver Independent Living assessments, job coaching, life skills coaching, job site analysis, and assistive technology, as well as the other Discrete Services described in the attachment entitled Discrete Services under the guidance of HOA's National Discrete Services Director.

9. *Process Flow*

An attached flowing chart shows HOA processing of case work from assignment through billing.

To summarize, our process begins when the QAM or COTR at the local RO faxes a VA Form 28-1985 case authorization and referral documents as appropriate to a toll-free secure Venali fax number at our CPC. The fax is received and entered into iSight. That same day, or the business morning thereafter if the case is received late in the day or before a holiday, a CCC person will be assigned the case to establish initial contact with the veteran and the VRC assigning the case.

A first appointment is made with the veteran and the case is assigned in iSight to a counselor as appropriate. Testing and an initial interview or other activities depending on the type of case authorized are completed by the counselor with the veteran. Forms are filled out, and the veteran is given an appointment for the second meeting as well as homework to complete goal-setting and vocational and educational exploration. The counselor faxes completed test protocols to Wonderlic, they are scored, and faxed back to the CPC the same day. The CPC Team enters the results in iSight and the counselor can have immediate access to the results.

The counselor goes over the results as well as the vocational and educational exploration homework with the veteran at the second meeting. If there has not been sufficient progress made on the part of the veteran, a third meeting may be necessary. When all is at hand, including test results and school transcripts and exploration outcomes, the counselor and the veteran agree on a vocational and educational (if appropriate) goal. The counselor staffs the case with the assigning VRC and writes a report.

The report is faxed to the CPC along with the counselor's bill if he or she is an independent subcontractor, the CPC gathers everything together including the invoice to the VA, and transmits or FedEx's the completed report and invoice to the appropriate QAM or COTR. Any iteration required is handled in the same expeditious manner.

10. *Travel Considerations*

Heritage of America has qualified, cleared counselors who are willing to travel to outlying locations, including OCONUS locations, but the VA simply cannot continue to take the attitude that, in effect, HOA personnel must swim to Korea or Guam or Samoa to get the job done. Because the VA has insisted that only U.S. citizens can be qualified as counselors in foreign locations, HOA must be permitted to use counselors who are willing to travel.

In HOA's NAS contract proposal dated September 6, 2007, HOA proposed the following for travel:

"Travel to outlying areas, beyond 100 miles from an established HOA service location, will incur a travel reimbursement fee as bid in Price Schedule Attachment D-1, below. No travel will be reserved or confirmed prior to approval of the COR at the respective VR&E office. Overseas pay at 20 percent differential as appropriate would be assumed as a reasonable incentive for counselors tasked with travel to NAS Foreign Area Designations.

The firm-fixed-price bid for each Contract Line Identification Number and SubCLIN is an all-inclusive price based on fair and reasonable professional and non-professional wage scales throughout CONUS and OCONUS. The prices include wages, travel up to 100 miles, tests and supplies, office operations, insurance, G&A, contingency fees, overhead, and profit, but not travel beyond 100 miles one way from the HOA office location nearest the veteran.

The HOA formula for travel reimbursement was bid as follows:

- For those veterans living beyond a 100-mile radius from an HOA office location, it is assumed that the VA will provide a travel voucher for the veteran unless he or she is homebound. In the case of homebound or IL assignments, HOA counselors will travel to the veteran on a pre-approved basis by privately owned vehicle where practical for up to 500 miles one way.

- Travel by commercial airline will be pre-approved by the local VR&E Officer as appropriate. Travel over 500 miles one way within Subareas 23, 24, 25, and 26 is bid to include airfare, per diem, and hazardous duty and/or overseas differential as appropriate, at Government rates in effect at the time of travel and as approved by the VR&E Officer.”

11. *Case Management Fees*

No one is capable of providing Case Management services for the fees that VACO is insisting are permitted under the current NAS contract, that is for the “life of the case,” which apparently can be considered to be as long as 63 months by the VA since HOA has had at least one referral for that length of time. Dividing 63 months by the Firm Fixed Price bid per case results in about \$10 per month—less than minimum wage for the several hours to include travel expenses counselors put into a Level II or Level III Case Management assignment per month. HOA has written a letter (attached) to the current NAS contracting officer outlining the legal deficiencies in the current VACO interpretation of how Case Management fees should be paid, but to date, HOA has not received a reply.

How to bill Case Management services was not adequately defined in the prior 2002 NAS contract either and needs to be addressed in an equitable manner by the new contracting officer in the contemplated re-bid of the current NAS contract.

HOA has the capability of providing Case Management services if the upcoming RFP will require that FFP bids per case are to be proposed on a monthly basis, that cases are to be assigned for a specified number of months within a 12-month base year or option year period, and that fees will be paid by the VA monthly.

Recommendations for improving VR&E structure and bureaucracy:

VA should create (alternatively Congress should legislate) a new Under Secretary position, titled Under Secretary for VR&E, who would have his or her own mandate for providing VR&E services separate from direction and funding and policy decisions dictated by the current Veterans Benefits Administration organizational structure. Veterans eligible for VR&E have already been adjudicated for compensation and pension purposes and should not have their separate VR&E benefits constrained by C&P criteria.

Currently, Chapter 36 Educational/Vocational counseling is generally being disregarded by VA personnel in 90 percent of the ROs. The reason for this is that Chapter 36 is excluded from performance criteria and it is therefore not used in the VA’s work performance evaluation or in potential calculation of bonuses. This disregard of Chapter 36 counseling by most of the ROs in our Nation is constructive denial of a congressionally mandated benefit to more than 300,000 servicemembers separating from the armed forces annually.

Because of the complexity of Independent Living (IL) evaluations, case management processes, and interaction between the veteran, the counselors, and the vendors providing supportive services, IL should be its own Service Group and not be relegated to inferior status under Discrete Services. In addition, IL is Track 5 of the VR&E process and is an important component of service to disabled veterans.

Conclusion

Apparently, the VA expected the NAS prime contractors—all small businesses, several of them service-disabled veteran owned small businesses (SDVOSB), to run their businesses as the VA runs its business, but without providing the resources to pay for massive inefficiency or intending to support success.

Madam Chairwoman, thank you allowing Heritage of America to express its views. I hope you will seriously consider having additional hearings on these important matters.

Given the Subcommittee’s awareness of the situation the VA has put its eight NAS prime contractors in, some of which are service-disabled veteran owned small businesses, I hope you will urge VA, in the strongest terms, to extend the NAS contracts by 6 months to allow for better continuity of service to veterans and improved treatment of the small businesses that believed this contract was an opportunity to serve veterans better than in the past.

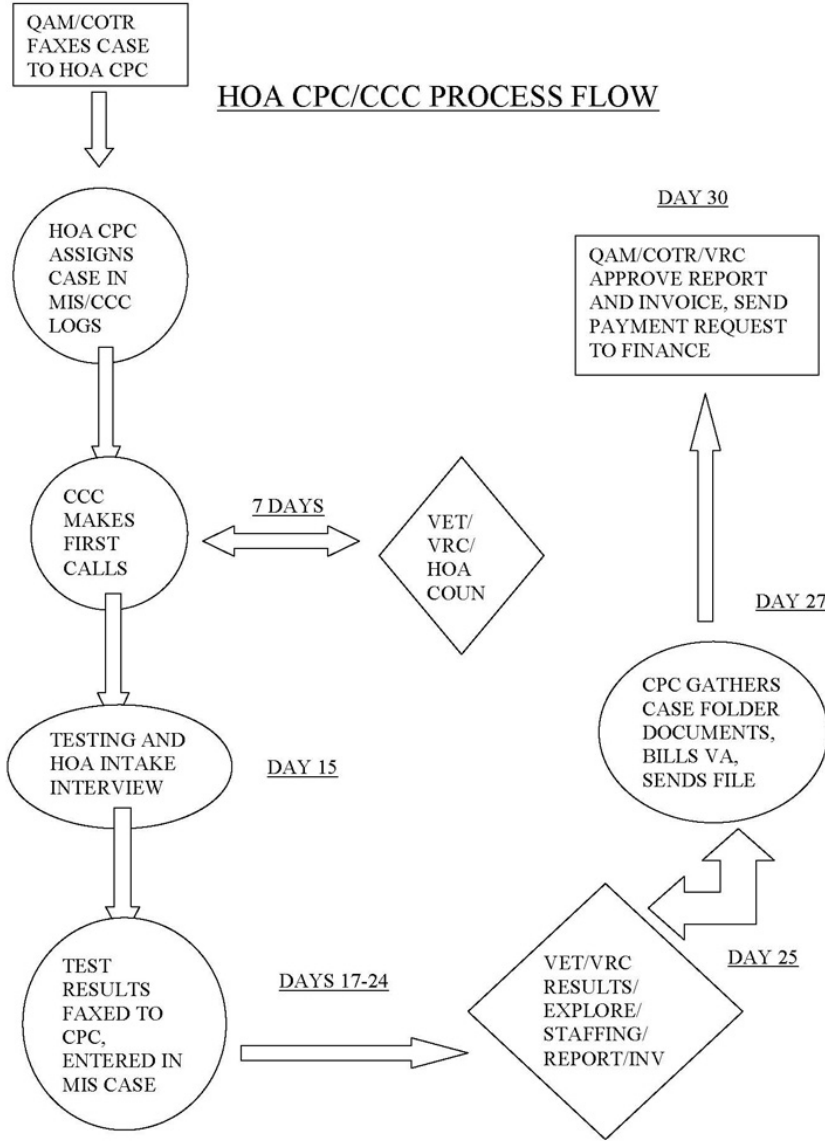
Additionally, I hope the Subcommittee will have the Government Accountability Office do a thorough investigation of the administration and implementation of the NAS contract to determine the successes and failures which have occurred over the past year, so that if VA goes forward with another national acquisition strategy it won’t again be fatally flawed from the start.

VR&E should be the primary purpose for VA’s existence. Nothing should have priority over helping severely disabled veterans regain a place in the nation’s workforce or achieve the highest degree of independence possible. Sadly, VR&E has been broken for decades. Fixing it will take a sustained focus and strong desire to see real

changes made. I'm now, more than ever, totally convinced the VA cannot and will not accomplish the necessary reforms on its own. If the VA Committees of the House and Senate don't take up the mission to fix VR&E once and for all, it will not happen and veterans desperately needing employment services will be stuck in the ongoing quagmire that is VR&E Services.

Heritage of America will remain committed to the vision of a system that is not fragmented and dysfunctional, but cohesive from region to region, where veterans can receive valid evaluations and efficacious services, irrespective of their geographic location. Such a cohesive approach, however, is not possible with the old outdated model that features fiefdoms controlled by bureaucrats who have forgotten who we should be serving.

Madam Chairwoman, this concludes my testimony. I would, of course, be pleased to answer questions from you or other Members of the Subcommittee.



Use and Disclosure of Data

This proposal contains data that shall not be disclosed outside the Government or be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal and award and perform a contract. Permission to use any of the data contained herein other than by the Government must be obtained in writing. Data subject to this restriction appear throughout this document, which contains proprietary, copyrighted, protected information under the meaning of FAR Parts 15 and 16. © 2009



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Belinda M. Thomas-Wright
 Contracting Officer
 Department of Veterans Affairs

Re: Contract VA101(049A3)-V-0329
 Vocational Rehabilitation and Employment

Dear Ms. Thomas-Wright:

I am writing to clear up an apparent misunderstanding about the terms and conditions of the above-referenced contract. We have exchanged some communications about this, and I would like to lay out our position in more detail.

Some recent task order assignments under Service Group B have been for periods longer than 12 months. Indeed, one task order was for as long as 63 months, which exceeds the entire contract period. In addition, when they issue such task orders, Regional Offices then divide the Service Group B price by the entire period ordered, e.g., 42 months, and assume that they are liable for only that amount (e.g., 1/42) per month.

It has been the consistent position of Heritage of America, LLC, that the "unit" for pricing purposes in Service Group B is a single case for a period not to exceed 12 months. This is the only interpretation of the contract that is consistent with the pricing tables drafted by the Government, included in the solicitation, and required for the contract. There are five sets of such tables, one for the base year, and one each for the four one-year optional periods. Each is structured identically, with Sub-CLINs for Levels I, II, and III, and divided by geographic location. These clearly imply that prices apply to each service level for the period covered by the table, i.e., one year.

This interpretation is also consistent with the provisions of the contract dealing with appropriated funds. The contract contains FAR 52.232-18, Availability of Funds (ARP 1984) and FAR 52.232-19, Availability of Funds for the Next Fiscal Year (APR 1984). Thus, it is funded with annual appropriations. Therefore, the contracting officer cannot give the contractor a valid order that extends beyond twelve months. FAR 32.703-3(b) provides as follows:

(b) The head of an executive agency, except NASA, may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised,

or order placed does not exceed one year (10 U.S.C. 2410a and 41 U.S.C. 2531). . . . [Emphasis added].

An order that purports to exceed this one-year period would therefore violate the Anti-Deficiency Act, 31 U.S.C. §§ 665 & 712(a).

The interpretation of these Regional Offices is unreasonable. To take for example Level II services, these Regional Offices interpret the contract to permit them to select a period of performance that would last from 4 to 60 months (or even beyond), at their sole election, and the contractor would be obliged to perform at the same unit price. Obviously, no contractor could estimate a reasonable price for these services given this wide disparity in the period of performance. Moreover, if the Regional Offices truly believed that they could select any period of performance for Service Group B, at the given unit prices, they would pay the entire unit price when the order was issued, instead of dividing it by the number of months in the performance period. No contract clause permits them to make partial payments. Therefore, this interpretation of the contract is unreasonable. The reasonable interpretation of Heritage of America, that the prices in each annual table apply to the services performed for the next 12 months, should control.

Accordingly, Heritage of America requests that you instruct the Regional Offices that orders placed under Service Group B are for a maximum of 12 months' duration. Heritage of America will only accept orders that do not exceed this period, and we construe all previously placed orders to be effective for 12 months. If VA wishes to continue them thereafter, it can do so by exercising the next contract option, and ordering a continuation of service.

Thank you for your attention to this matter.

Very Respectfully,



Patrick F. Chorpenning – President and CEO
Heritage of America, LLC.

Prepared Statement of Anthony Tarkowski, President/Chief Executive Officer, Sygnetics, Inc., Rochester Hills, MI

My company is one of the prime contractors for the Department of Veterans Affairs National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract. We were notified by the DVA that the option years on this contract would not be executed. This action was not due to deficiencies on our part in providing service to disabled veterans. There were awards made to Service Disabled Veteran Owned Small Businesses (SDVOSB), which we were one. The DVA erroneously made an award to a company that was not a SDVOSB. Therefore the DVA instead of removing that company from the contract they decided to punish all the other companies by not continuing the contract.

While providing services under this contract we have had to overcome many obstacles that the DVA constructed that were not part of their original solicitation. This caused considerable financial outlays that without the continuance of the con-

tract will cause us severe financial harm. We have been able to work through these hurdles during the first year of the contract while providing exceptional service to veterans. Now that we are able to further increase our service to veterans and see a return on our investment the DVA seems satisfied to disrupt the entire process.

The DVA administration of this contract has been particularly unconscionable as applied to the companies that won this award, since they are small businesses and many are service-disabled veteran owned small business, which the VA should be helping succeed on behalf of veterans rather than subjecting to bureaucratic road-blocks.

We have been informed on a number of occasions by Regional Vocational Rehabilitation & Employment Officers that it was not their intention to make this contract successful. In fact they planned to do what ever they could to ensure failure.

Some of the problems we encountered were:

- a. Reports returned for corrections. Our QA staff included two former VA VRE officers. We had to reiterate reports multiple times even after reviewed by former VA employees.
- b. Limited consistency between VA regional offices.
- c. Reporting content—what is acceptable at one office or counselor is not acceptable at another office and or by another counselor.
- d. Contact with VRE counselors was a challenge at best. In some offices the response was quick and informative. Other offices limited response.
- e. Regional offices had little if any direction on background security process. We developed a timeline—26 steps to have one counselor approved.
- f. Qualifications of staff—one regional office would accept the counselors' background (resume) another office in close proximity would reject the counselor.
- g. Reporting—some offices accepted encrypted email others only wanted reports sent via a traceable mail delivery system.
- h. Attempts to communicate with the contracting officer and COR have been ignored.

Time is of the essence, as VA has already not exercised the first option year of this contract and has no plan in place to furnish these services to veterans after the end of the base year. Please take appropriate action to force VA to exercise the option year or at least extend the current contract for 6 months and to pay the invoicing at the rates quoted in the awards to each company in a timely manner. Please make sure the VA is required to fix these problems, rather than allowing the VA to simply escape the situation it has created.

My company is one of the prime contractors for the Department of Veterans Affairs National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract. We were notified by the DVA that the option years on this contract would not be executed. This action was not due to deficiencies on our part in providing service to disabled veterans. There were awards made to Service Disabled Veteran Owned Small Businesses (SDVOSB), which we were one. The DVA erroneously made an award to a company that was not a SDVOSB. Therefore the DVA instead of removing that company from the contract decided to punish all the other companies by not continuing the contract.

While providing services under this contract we have had to overcome many obstacles that the DVA constructed that were not part of their original solicitation. This caused considerable financial outlays that without the continuance of the contract will cause us severe financial harm. We have been able to work through these hurdles during the first year of the contract while providing exceptional service to veterans. Now that we are able to further increase our service to veterans and see a return on our investment the DVA seems satisfied to disrupt the entire process.

The DVA administration of this contract has been particularly unconscionable as applied to the companies that won this award, since they are small businesses and many are service-disabled veteran owned small business, which the VA should be helping succeed on behalf of veterans rather than subjecting to bureaucratic road-blocks.

As one of the prime contractors providing vocational and education counseling to severely disabled veterans under the VA's National Acquisition Strategy (NAS) Vocational Rehabilitation and Employment (VR&E) Contract, I'm respectfully requesting that you immediately investigate nationwide difficulties with administration of this contract. In many cases these problems are so severe that veterans are denied the services they deserve. As both the VA Inspector General and the Government

Accountability Office have previously reviewed VA practices in this area, I'd also request that you consider involving them in a new review.

Specifically, the problems being experienced by contractors under this "so-called" National Acquisition Strategy include:

- The way cases are referred to contractors by Regional Offices varies greatly.
- The start up costs of this contract were huge and due to the fact that the contract was started late, the 6 month extension that can be provided within the constraints of the contract would help mitigate huge losses that will be experienced by small business.
- By not extending this contract that VA has cut off the services to veterans they so richly deserve.
- Timeliness of payment for services is so inconsistent that in some regions no delay occurs, while in others, delays exceeding 100 days are standard with no explanation of why payment is not being made or denied within 30 days, as required by the contract and in law. The interest being paid by small business on the loans necessary to continue service to VA far exceeds anything the VA will pay, and is forcing huge strains on the lines of credit for these small businesses.
- Calculations of payments disbursed to contractors does not comply with assumptions in contractor bids, as required by the RFP. In many cases the VA is simply refusing to pay invoices causing large receivables to accumulate.

One of the prime contractors appealed to the U.S. Civilian Board of Contract Appeals regarding the VA's calculation for certain payments under the contract. The Board recently denied the VA's motion for summary relief, stating in part that . . . **"Given several requests to clarify its position through its solicitation, VA provided equivocal responses. When asked to describe the ways in which this solicitation differed from previous contractual instruments covering similar services, VA refused to provide any answer at all . . . It is not surprising, in light of the agency's opaque approach to the matter at issue during the solicitation process, that the parties have entered into a contract with different understandings of an important term . . ."**

In several other respects, as listed above, VA's administration of this contract has not been any better than its performance during the solicitation phase. This is particularly unconscionable as applied to the companies that won this award, since they are small businesses and many are service-disabled veteran owned small businesses, which the VA should be helping succeed on behalf of veterans rather than subjecting to bureaucratic roadblocks.

Many Department of Veterans Affairs offices, either by omission or commission, have undermined the efforts of the eight prime contractors awarded the Vocational Rehabilitation and Employment (VR&E) Service's so-called "National Acquisition Strategy" contract, preventing these contractors from effectively serving our Nation's veterans. The VA has, in this process, constructively denied congressionally-mandated benefits to our veterans by actions taken and not taken.

The most severely undermining actions include the following, which will be detailed in turn:

- The way cases are referred to contractors by Regional Offices varies greatly.
- What Regional Offices require in the way of initial evaluation information is not consistent and at least one Regional Office refuses to provide information or training on how to correct report submissions.
- Requirements for forms to be used in reporting and invoicing are not standardized.
- The process for contractor lines of communication with Regional Offices differs from one part of the country to another.
- Timeliness of payment for services is so inconsistent that in some ROs no delay occurs, while in others, delays exceeding 100 days are standard with no explanation of why payment is not being made or denied within 30 days, as required by the contract and in law.
- Calculation of payments disbursed to contractors does not comply with assumptions in contractor bids, as required by the RFP.
- Delay in approving our counselors to work on the contract.
- Pre-disposed attitude on the part of local Regional Office employees that the NAS contract was not going to work, that they were not going to let it work.

1. Inconsistent Means of Case Referral

The way cases are referred to contractors by each Regional Office (RO) varies greatly. Some VR&E Officers require we attend the initial orientation the VA gives to veterans and pick up case files. Others who insist that their Vocational Rehabili-

tation Counselors (VRC) assign us the cases. There are others who require us to deal only with the VR&E Officer in charge at each location. A few others who follow the contract and have the Contract Specialist/ Quality Assurance Manager (QAM) assign us the cases, approve the reports, and submit our invoices to financing for payment.

Some VR&E Officers want physical pickup of files, some Fedex files to us, others are willing to email them using our secure PKI facility, and still others are willing to fax them to us via our secure toll-free fax number.

2. Inconsistent Initial Evaluation Information Requirements

Inconsistency among the VR&E Officers in what they require in the way of initial evaluation information and length/complexity of reports is a major issue because in some areas VA officials use this as a means of not approving our reports and therefore not paying us for months. This “procedure” constructively denies services to veterans during the months that VR&E staff takes to inform us as to the inadequacies they believe they have identified in our reports. They usually state that “There is insufficient information on which to base a plan” when there often is sufficient information but the VRC or the VR&E officer or some other VA staffer does not like how the report was written (or has some other agenda) and will not/does not call the veteran in to provide services until after the report is redone. It often takes as long as 3 or 4 months for the VR&E Officer to inform us that reports are not adequate, thus delaying provision of services to veterans for that amount of time.

In some cases the inadequacies are not even based on content but rather on punctuation within the report or the fact, that the report did not state “See attachments for vocational and educational exploration results” when the results were very briefly summarized in the report body, but the details were presented in appendixes. This phenomenon is particularly evident in Colorado, and the Dakotas. To complicate matters, some VR&E Officers want short reports, some want longer ones. Some do not tell us what they want, but expect us to figure it out for ourselves after they reject our reports.

3. Inconsistent Requirements for Reporting and Invoicing Forms

The VR&E Officers do not all want the same VA forms. Some VR&E Officers want complete employment surveys and labor market research as part of the Initial Evaluation—not required or desired in the contract. Some have even gone to the extent of not approving our reports on the basis that we have not completed and included our own form entitled “Vocational Planner,” which is not a VA form.

As for invoicing, we have attempted to accommodate an enormous divergence of invoicing requirements from around the country, though the contract is very specific as to what is required. We even went to the extent of pre-printing our invoices with stamps the VR&E Officers need to place on invoices so the VA disbursing unit in Austin, TX will have the funding obligation numbers and other information they need to pay. We have corrected this five times now and it is still not what some VR&E Officers want.

4. Inconsistent Lines of Communication with the VR&E Officers

This was discussed briefly in paragraph 1, above. The contract states that our counselors are to establish partnerships with the VA VRCs, but not involve themselves in contracting matters. Furthermore, the contract specifies that only the QAMs will make case referrals, accept reports and invoices for approval, and approve invoices for payment. This is not the way it works in some Regional Offices.

5. Timeliness of Payment for Services

Timeliness of payment for services is so inconsistent that in some Regional Offices no delay occurs, while in others, delays exceeding 100 days are standard with no explanation of why payment is not being made or denied within 30 days, as required by the contract and in law.

There are numerous possibilities for this inconsistency: In many Regional Offices there is no single person responsible for tracking payments, or there is a single POC who is not replaced when he or she goes on leave, or the report is not approved (and payment therefore is delayed) for any of the issues as explained above, or reports and invoices are approved and forwarded by the local Regional Office in a timely manner but “there is a problem in Finance,” or the VRC has given a case directly to one of our counselors (in violation of the contract) and we did not know that a case had been assigned and therefore could not bill it even though the work had been satisfactorily completed, or there has been deliberate withholding of payment to ensure that the NAS contract (and our company) fails.

6. Calculation of Payment for Services

Calculation of payments disbursed to contractors does not comply with assumptions in contractor bids, as required by the RFP. There are three major areas of concern:

- a. On page 51 of the RFP (Sol. No. VA-101-07-RP-0306) it states very clearly that

“The Offeror shall document in its proposal any assumptions.” Even though we complied by proposing a comprehensive list of assumptions as the basis for our bid, and even though the Contracting Officer accepted our bid, our assumptions have been completely ignored.

This is most evident in the divergence between what was the understanding of all eight prime contractors as to how services for CM cases would be billed and how the VR&E Service payments would be made. Our position was made very clear in a letter from us to the Contracting Officer. We are not asking that they modify the contract, only that they comply with it.
- b. Travel. Again, in our proposal we made very clear assumptions as to what would be required for travel reimbursement if the VA were to accept our bid. Travel reimbursement has been resolutely denied by the VA. We have qualified counselors who are willing to travel to remote locations to accommodate veterans but the VA will not pay for it. They apparently expected us to have included these types of travel costs in our FFP bid, which we made very clear in our proposal assumptions we were not including, that if the VA wanted us to go to remote areas, they would have to pay for travel. None of the eight prime contractors is being reimbursed for travel.
- c. Add-Ons for Security. The VA has required a number of add-ons to the contract which were not clearly defined in the RFP. Security issues, computer replacements, and the like were ill-defined and certainly not considered as part of our bid or in the bids of any of the other prime contractors. The VA has demanded we comply with all of the new rules and regulations they have promulgated owing to their own security lapses but has not provided us with any resources for meeting their demands.

7. Delay in Contract Start Up

Owing to 3 months' delay in start up of this contract, the base year did not provide us with a full 12 months of work. Case work was first issued under this contract beginning in November and December 2008, following a “start date” of July 21, 2008. In fact the local VR&E Officers were ordered not to have any conversation with the contractors until August of 2008. We were hearing rumors that the VA decided in March 2009 not to execute the option year on this contract. This really gave us less than 6 months to show the DVA how we were continually improving our service to veterans. Our “Base Year” was only at the maximum 8 months long, in most of our 19 States in which we have opened operations, spending about \$1 million in startup costs. There was also an inordinate amount of delay in approving our counselors to accept case work.

8. Pre-Disposed Negative Attitude at Many of the ROs

There has been a great deal of negative attitude by VRCs and local VR&E Officers toward the NAS contract. One VR&E Officer stated to one of our subcontractors that he would only refer cases to us to satisfy the contract minimum, regardless of the impact on Veterans. Several VRCs and VR&E officials have been telling our subcontractors for several months that the contract would be canceled and re-bid, so they should not hire on with us but wait until the new RFP came out. They seem to have made sure this would happen.

Summary

Apparently, the VA expected the prime contractors—all small businesses, several of them service-disabled veteran-owned small businesses (SDVOSB)—to run their businesses as the VA runs its business, but without providing the resources or the intent to ensure success.

In February 2005, the VA Inspector General published a report concerning overpricing in Washington, Ohio, and DC., which had been paid for years. The recommendation to the VR&E Service then was to seek contractors who would be more reasonable in their pricing while still delivering acceptable services. We attempted to meet that requirement, but have been rebuffed at every turn, not the least of which is the VA's current gambit of delaying payments to us so severely that we are now not able to pay our subcontractors. These subcontractors are now refusing to take on additional case work, exacerbating the difficult situation the VA has cre-

ated for our service-disabled veteran-owned small business. A backlog in overdue payments for our company alone of over \$400,000 has existed for months.

Contract extension alternatives were available that would have allowed VA officials time to work out problems with the prime contractors while maintaining better continuity of service to veterans. We made numerous attempts to address these options with the Contracting Officer and the Contracting Officer's representative; however they would not respond to our written communication or return our telephone calls.

Time is of the essence, as VA has already not exercised the first option year of this contract and has no plan in place to furnish these services to veterans after the end of the base year on July 20, 2009. Please take appropriate action to force VA to extend the current contract for 6 months and to pay the invoicing at the rates quoted in the awards to each company in a timely manner. Please make sure the VA is required to fix these problems, rather than allowing the VA to simply escape the situation it has created.

**Prepared Statement of Richard Daley, Associate Legislation Director,
Paralyzed Veterans of America**

Chairwoman Herseth Sandlin, Ranking Member Boozman, and Members of the Subcommittee, PVA would like to thank you for the opportunity to testify today concerning vocational rehabilitation and counseling services for veterans. The Global War on Terror has produced a large number of men and women that have served the country and have returned to civilian life. Thousands of these new veterans will have physical and mental needs that will require years or a lifetime of care.

Many of these new disabled veterans along with the existing veterans with disabilities will seek help from the Department of Veterans Affairs' Vocational Rehabilitation & Employment Program (VR&E). VR&E provides service-connected veterans with the necessary services to assist them to achieve maximum independence in daily living and to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. This continued flow of new veterans into the VR&E program will place a strain on this system that has received unfavorable criticism in recent years for their performance in reaching its goal of helping veterans.

In the 110th Congress this Subcommittee's Ranking Minority Member, John Boozman (R-AR) introduced H.R. 3889, a bill that would require the VA to conduct a 20 year study of veterans that enter the Vocational Rehabilitation and Employment (VR&E) program. PVA along with other veterans' service organizations supported this bill since there is currently little data on how the VR&E program improves the lives of our more seriously injured veterans. The VA has information on how long a veteran spends in a program, the cost related to participating in a program and when, or if a veteran successfully completes a program. The VA is not required to collect information on the earnings of the veteran, the promotions achieved during their career, and other long term employment data. This information would be essential to determine the effectiveness of the VR&E program and perhaps weaknesses that exist within this program.

Due to the fact that VR&E is limited in resources and staff, in an effort to better serve all eligible veterans, the VA contracted with private and state entities to provide VR&E services. Much of the workload contracted out was facilitated and monitored by the VA's regional offices. The primary responsibilities of the contracts were to perform testing and assessment phases of the vocational rehabilitation process. This is one area that the VA's VR&E counselors have been trained to perform, and have years of experience. This initiative of removing an element of the one-on-one work with the disabled veteran did not relieve the VA counselors of the heavy paper work and administrative duties that they are required to perform. This process of contracting to alleviate some of the burden from the VR&E regional offices did not produce the results that the VA anticipated.

In February 2005 the VA Inspector General made a recommendation that the current contracts for VR&E services be renegotiated to better reflect market rates for services because the VA was at risk of paying excessive prices for services purchased through national contracts. The report also noted that the VA should strengthen regional office oversight and management of contracts.

A recent GAO report (GAO-07 568R, April 23, 2007) states that the VA has achieved some progress in implementing contract-related recommendations of the VA Inspector General. This report also stated that key challenges remain for improving VA's management of VR&E service contracts. Among the significant challenges that remained at that time were:

- Regional offices are not fully applying VA's contracting guidance.
- Current training does not adequately prepare contracting officers to manage contracts.
- Regional offices report delays in communicating with VA headquarters on contracting questions.
- VA's management of VR&E contracting is limited by inadequate reporting capabilities.

Current legislation introduced in the 111th Congress would improve access to the VR&E program. Senate bill S. 514, the "Veterans Rehabilitation and Training Improvement Act of 2009," will increase the amount of subsistence allowed for veterans enrolled in the VR&E program. On the House side, H.R. 1821, the "Equity for Injured Veterans Act of 2009," also pays a monthly subsistence to enrolled veterans. This will attract some disabled veterans that should be using the VR&E program, but otherwise would choose to enroll in the Post-9/11 GI Bill for the increased living allowances that program provides. When faced with the decision of selecting the recommended path for one's future career, or selecting the option that will help provide basic living necessities for the veteran and their family, many veterans chose the basic living option. This legislation will correct that inequity.

Senate bill S. 514 would also remove the enrollment cap of 2600 veterans per year for the VR&E, Independent Living Program (IL). This meaningless cap, established during peacetime, may be prohibiting veterans from receiving the treatment they need. The VA VR&E program would never deny services to the severely injured veteran, but, place that veteran in another program until they could accommodate the veteran in the IL program.

With the influx of veterans into the VR&E program, the VA will continue contracting VR&E services. Instead of contracting out a portion of the vocational rehabilitation process, such as testing, perhaps they should contract out a segment of that consumer population. The Social Security Administration (SSA) has found success with its Ticket to Work (TTW) program. This program rewards the agency that performs the vocational rehabilitation when the consumer is successfully employed, and remains employed.

Without having all of the facts involved, or, in this case, any of the facts pertaining to both parties performance with regard to fulfilling their obligations as defined in individual contracts to perform a needed service for America's veterans, it would be unrealistic for PVA to make credible recommendations pertaining to improving those contracts.

When considering future contracts, perhaps the VA could develop a demonstration project in their VR&E program. The VA would reward the contractor for making changes in the veterans' lives, not for processing veterans through another government program.

PVA has recognized some basic facts that are important in the preparation of a disabled veteran for employment. We know that smaller caseloads are absolutely essential. The counselor must know and understand the veteran they are trying to help. They must be able to explain to the employer that veteran's needs for certain accommodations that will enable the veteran to perform the necessary work.

A veteran can advise a veteran, in most cases, with better results than a non-veteran. A veteran will have a common bond with another veteran that a non-veteran can never have. The fact that a counselor has served three, four, or 10 years in the military, two decades ago, is not an achievement that goes on the top of one's resume. But it can indicate that person has a unique perspective to understand and be sensitive to the needs of that disabled veteran that was not achieved in a college classroom.

The goal of the VR&E process is to prepare the disabled veteran with the skills needed to find and maintain meaningful employment. Perhaps the entities that receive contracts for this role should be paid for performance. Basic funding must be awarded to enable an organization to function on the day-to-day basis. Funds beyond basic functioning would be paid (rewarded) to the contractor in the form of bonuses paid for placing and keeping the veteran in a career position.

Placing a disabled veteran in a career is the goal behind PVA's new vocational rehabilitation employment program. We first spoke of this program with this Subcommittee during the 110th Congress when PVA opened its first program in the Richmond, Virginia VA hospital 2 years ago. PVA has since expanded that program in Minneapolis, Minnesota and San Antonio, Texas VA hospitals. Soon we will open a fourth location in Long Beach, California. PVA's goal is to some day have twenty-two employment counselors, one in each VA spinal cord unit. This expansion of the program will depend on obtaining corporate sponsorship, or other funding sources for each location.

PVA is providing vocational rehabilitation employment service to the segment of VR consumer population that is severely disabled, those veterans that are paraplegic or quadriplegic. Our success rate for placement of this population far exceeds the average placement rate in the vocational rehabilitation field. The three locations have a combined caseload of 356 veterans. Of that total, 56 have entered the workforce, most in career positions with two veterans earning over \$100,000 per year.

An important fact that contributes to our success is the smaller caseload each counselor maintains. This allows the counselor to better understand each disabled veteran, their needs, and their abilities, as they develop a one-on-one relationship with the veteran while discussing plans for their future.

PVA's counselors, each having years of VR experience, use their knowledge to explore all available resources to help the veteran. These resources start at the Federal level with each VR office being in the VA hospital. Working in that environment, our counselors build a relationship with the medical staff and start the disabled veteran thinking about their future early in the rehabilitation process.

The PVA counselors also learn and access any State program that is available. There may be State grant funds available to purchase items needed for accessibility or possible employment opportunities within the State government with a preference for disabled workers or disabled veterans who want to return to the workforce.

Local governments, non profit organizations, and corporations in the community all are aware of the employment needs of disabled veterans. In the Richmond, Virginia PVA Voc Rehab office a non-service connected paralyzed veteran completed employment training and was ready for that first job he would execute from his wheelchair. The employer was waiting for the veteran to start at the work location, but, transportation was a problem. The veteran did not own a vehicle, and public transportation was not available. The counselor arranged for the veteran to receive a van, with hand controls, free of charge from a corporate sponsor that was willing to help the veteran return to work.

PVA's VR&E program has recently applied for and qualified as an approved Employer Network (EN). Being an approved EN allows PVA to participate in the Social Security Administrations' (SSA) Ticket to Work (TTW) program. SSA will reimburse PVA up to \$4,000 annually for each veteran that succeeds in returning to the workforce and earns an income that is above the Substantially Gainfully Employed benchmark, which is approximately \$650 per month. This \$4,000 per year will help defray some of the cost involved with operating this program.

This PVA program is one example of how non-profits can use various resources to provide support to disabled veterans. If the VA made similar funding programs available to nonprofits, perhaps those organizations that currently work with these special populations, Traumatic Brain Injury, Post-traumatic stress disorder, or visually impaired, could use their expertise to help veterans.

PVA is an organization of veterans who are catastrophically disabled by spinal cord injury or disease. Our members rely on the services provided by the VR&E program. We support the Subcommittee's effort as it works with the VA to improve this program. Chairwoman Herseth Sandlin, Ranking Member Boozman that concludes my testimony, I would be happy to answer any questions you may have.

**Prepared Statement of Joe Wynn, Treasurer, Veterans
Entrepreneurship Task Force (VET-Force), President, Veterans Enterprise
Training and Services Group (VETS Group), and Legislative Liaison,
National Association for Black Veterans**

Due to the growing demand of VR&E services beyond VA's current capacity, the VA implemented a national program called the National Acquisition Strategy (NAS) for Vocational Rehabilitation and Employment (VR&E) Services. Perhaps this strategy is an attempt by the VA to respond to findings and recommendations made in recent years to improve the VR& E program by GAO, the VA Task Force, the President's Commission on the Care of America's Wounded Warriors, and the Veterans Disability Benefits Commission.

The VA's objective for NAS is to use Contractor assistance to both supplement and complement the services provided to veterans and servicemembers under Title 38 USC Chapter 31 and individuals under Chapters 18, 35 and 36, Title 38 United States Code, by VA's regional Vocational Rehabilitation and Employment Service (VR&E) offices within VBA.

Under this National Acquisition Strategy (NAS), the VA issued a contract in July 2008 (#VA-101-07-RP-0306-00 1rfp) to use Contractor assistance to supplement

and complement vocational rehabilitation and employment services in the following service groups:

- Service Group A: Initial Assessment/Evaluation
- Service Group B: Case Management/Rehabilitative Services
- Service Group C: Employment Services
- Service Group D: Educational and Vocational Counseling
- Service Group E: Discrete Services

Services to be provided under this requirement included educational and vocational counseling and a major rehabilitation track for those Veterans whose primary rehabilitative objectives include: (1) training and/or employment services resulting in suitable employment which is compatible with the individual's aptitudes, abilities, and interests; or (2) achievement of independence in daily living.

But for reasons still yet to be known, the VA has announced that its NAS contract was canceled as of July 20, 2009. This cancellation takes place at the 1-year mark since its official start date; but actually occurs in less than 1-year since the operational phases of the contract were delayed. Now the eight prime contractors selected to perform the services are out of work and have incurred significant losses of time, money, capital, and other resources.

Since the VA has not requested corrective measures of the contractors involved, and has reportedly stated that it intends to reissue the NAS contract later, it appears that the strategy was not well thought out before being implemented.

This action by the VA will have an adverse impact on the veterans it is intended to serve. Hundreds of service-connected disabled veterans in need of vocational rehabilitation and employment will experience additional delays in receiving the services that they so desperately need to successfully transition back into the communities that they fought so hard to protect. For some, this delay could be life threatening.

INTRO:

Good Afternoon, Chairwoman Herseth Sandlin, Ranking Member Boozman, other Members of this Subcommittee, fellow veterans, and guests.

Let me thank you for your prompt response for convening this hearing to review the issues related to VA's National Acquisition Strategy (NAS) to provide vocational rehabilitation and employment counseling services for all qualified service-connected disabled veterans.

Today I come before you as a representative of the Veterans Entrepreneurship Task Force (VET-Force), which is composed of over 200 organizations and affiliates representing thousands of veterans throughout the United States; a high percentage of which, are small businesses; who have made it their mission to monitor the implementation of the programs, agencies, and organizations referenced under the law and to present a strong unified veterans' voice for virtually all of the major veterans groups, as well as, veteran entrepreneurs; and to advocate for opportunities for veterans, particularly disabled veterans, seeking assistance to succeed in small business and self-employment.

And as a Vietnam-era Veteran of the U.S. Air Force, President of the Veterans Enterprise Training and Services Group, and the Legislative Liaison for the National Association for Black Veterans, I spend a great deal of my time advocating for the rights and benefits of veterans. As such, I have come to appreciate the steadfast support that veterans have received from this Subcommittee and the HVAC under the leadership of Congressman Bob Filner, where in the past few years, a number of significant pieces of legislation for veterans have been passed in the areas of health care, mental health, veterans benefits, compensation and VA small business procurement.

Madam Chairwoman, you may recall that I recently came before this Subcommittee to discuss the issues related to the VA's Veteran Small Business Verification Program (see appendix A). At that time I expressed concerns over the VA's nearly 2-year delay in fully implementing the regulations that would prioritize contracting with the VA for service-disabled and veteran business owners. I also expressed concerns regarding the VA's inefficient verification process and its verification policies of veteran business owners that are being utilized by the Center for Veterans Enterprise (CVE).

Under CVE's existing verification procedures and policies, in 9 months only 1300 veteran business owners have been verified out of more than 17,000. Veterans who own more than one company are only allowed to have one company verified and the company will not be verified by CVE if the owner cannot dem-

onstrate that they are in the primary office on a daily basis in order to show that they are participating in the day-to-day operations of the company.

Having attended the 5th Annual National Veterans Small Business Expo in Las Vegas last week, I heard firsthand, that CVE considers its policies to be in good standing and seemingly have no intentions of making any changes unless otherwise directed by a higher authority to do so. **Now, before that matter can be resolved, we are here today to discuss another example of VA's poor judgment in making management decisions that not only affect service-disabled and veteran business owners, but also affect hundreds of service-connected disabled veterans.**

VA's Vocational Rehabilitation and Employment Program

The Department of Veterans Affairs (VA) has authority, pursuant to Title 38 USC Chapters 18, 31, 35 and 36, to provide all services and assistance necessary to enable eligible veterans with service-connected disabilities to obtain and maintain suitable employment and, if not employable, achieve independence in daily living to the maximum extent feasible. In the discharge of this responsibility, each Vocational Rehabilitation and Employment Service Division (VR&E) within the Veterans Benefit Administration (VBA) Regional Office undertakes an initial evaluation of the veteran to determine his or her eligibility and entitlement for these services and assistance; develops, in cooperation with the veteran, an Individualized Written Rehabilitation Plan (IWRP); provides the veteran with employment placement under an Individualized Employment Assistance Plan (IEAP); or if employment is not possible, services to enhance the veteran's independence in daily living under an Individualized Independent Living Plan (IILP).

VR&E Background—VDBC Findings

Over the past several years, criticisms and recommendations were made concerning the VA's less than adequate oversight of contracting, improving uniformity of benefits delivery nationwide, and VA's ability to obtain better pricing from contractors through a national approach. References to this statement can be found in the VA Secretary's report on 'The Vocational Rehabilitation and Employment Program for the 21st Century', completed in March 2004; GAO's report entitled, 'Vocational Rehabilitation: VA Has Opportunities to Improve Services, but Faces Significant Challenges,' completed in April 2005; and in a report presented by the President's Commission on Care of America's Returning Wounded Warriors, completed in July 2007.

In 2006–07, while serving as a Commissioner on the Congressional Veterans Disability Benefits Commission (VDBC), I had the opportunity to review and discuss these and other reports related to the operation of the VR&E Program. In the published report we submitted to Congress in October 2007, Chapter 6 on the Appropriateness of the Benefits, the VA's Vocational Rehabilitation and Employment Program (VR&E) is discussed. In that chapter, we noted that GAO generally agreed that (1) VR&E had not been a VA priority in returning disabled veterans to the workforce; (2) VR&E had a limited capacity to manage its growing workload; and (3) VR&E needed to be redesigned for the modern employment environment.

The Commission also agreed that VR&E needed to improve its process of defining, tracking, and reporting on participants, which we found was confusing and inconclusive in its current state. Our research indicated that while the number of participants in the VR&E program increased in recent years, the number of individuals rehabilitated (as measured by obtaining a job or achieving independent living) had remained constant. As a result of our findings, our recommendation number 6.12—called for the administration of the VR&E program to be enhanced by increased staffing and resources, tracking employment success beyond 60 days, and conducting satisfaction surveys of participants and employers. And our recommendation number 6.13—called for VA to explore incentives that would encourage disabled veterans to complete their rehabilitation plan.

VA's National Acquisition Strategy (NAS)

Due to the growing demand of VR&E services beyond VA's current capacity, the VA implemented a national program called the National Acquisition Strategy (NAS) for Vocational Rehabilitation and Employment (VR&E) Services. Perhaps this strategy is an attempt by the VA to respond to the findings referenced above. The VA's objective for NAS is to use Contractor assistance to both supplement and complement the services provided to veterans and servicemembers under Title 38 USC Chapter 31 and individuals under Chapters 18, 35 and 36, Title 38 United States Code, by VA's regional Vocational Rehabilitation and Employment Service (VR&E) offices within VBA.

Under this National Acquisition Strategy (NAS), the VA issued a contract in July 2008 (#VA-101-07-RP-0306-00 1rfp) to use Contractor assistance to supplement and complement vocational rehabilitation and employment services in the following service groups:

- Service Group A: Initial Assessment/Evaluation
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Services to be provided under this requirement included educational and vocational counseling and a major rehabilitation track for those Veterans whose primary rehabilitative objectives include: (1) training and/or employment services resulting in suitable employment which is compatible with the individual's aptitudes, abilities, and interests; or (2) achievement of independence in daily living.

NAS Contract Canceled in First Year

For reasons still yet to be known, the VA has announced that its NAS contract was canceled as of July 20, 2009. This cancelation takes place at the 1-year mark since its official start date; but actually occurs in less than 1-year since the operational phases of the contract were delayed. Now the eight prime contractors selected to perform the services are out of work and have incurred significant losses of time, money, capital, and other resources.

It's reported that of the 8 prime contractors, most were small businesses, including 3 that were service-disabled veteran owned small businesses (SDVOSBs) and one was a service-disabled veteran owned business that is now considered to be large. Having interviewed representatives from 3 of the SDVOSBs, I have collected a list of complaints regarding VA's inefficiency in managing this NAS contract. Such complaints included but not limited to: (1) VA contracting officers being non-responsive to contractor's operational concerns of inconsistency of VA reporting requirements across States and regions; (2) delays in receiving payments; (3) background investigation procedures paid for by contractors is unfairly administered; and (4) complicated procedures.

By virtue of the fact that VA has chosen to cancel the entire contract is such a short period of time leads many to believe that the VA implemented a national strategy that was flawed from the start. Since the VA has not reportedly requested corrective measures of the contractors involved, and has reportedly stated that it intends to reissue the contract later, it appears that the strategy was not well thought out before being implemented.

This action by the VA will have an adverse impact on the veterans it is intended to serve. Hundreds of service-connected disabled veterans in need of vocational rehabilitation and employment will experience additional delays in receiving the services that they so desperately need to successfully transition back into the communities that they fought so hard to protect. For some, this delay could be life threatening.

This action by the VA will also contradict the VA's policy created by **Public Law (PL) 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, Title V, Sections 502 and 503** that authorized a unique "Veterans First" approach to VA contracting. This approach was to change the priorities for contracting preferences within the Department of Veterans Affairs (VA), by placing Service-Disabled Veteran Owned Small Businesses (SDVOSBs) and Veteran Owned Small Businesses (VOSBs) first and second, respectively, in satisfying VA's acquisition requirements.

Recommendations:

Madam Chairwoman and Members of this Subcommittee, I strongly urge you to compel the VA to reconsider their action to cancel the above referenced contract until such time as their procedures can be improved or other capable and qualified SDVOSBs can be hired.

I further urge you to consider appointing a non-partisan Task Force to review the issues, goals, and accomplishments related to the above referenced VA NAS contract for VR&E program services.

This concludes my statement.

Appendix A

Overcoming Barriers to Federal Contracting for Veteran Business Owners

If veterans and service-disabled veteran owned businesses are to succeed in the public sector agencies will have to stop making excuses for why they can't make the 3 percent mandatory minimum SDVOSB contracting requirement. Veterans also will have to overcome a number of impediments: (1) The pervasive ignorance of the law and resistance to change across all agencies; (2) No enforcement of Large Prime subcontracting plans; (3) Inaccurate agency data, miscoding, and double counting; (4) The perception that the procurement pie for small businesses is shrinking or limited to 23 percent; and (5) **The over use of Contract Bundling.**

Agencies and veteran small business assistance providers must assist in identifying and registering the capabilities of veteran business owners where required, demand that all Large Prime contractors comply with their subcontracting plans, create situations that foster the development of relationships between agency procurement officers and veteran business owners, and improve the process of identifying and matching veteran businesses with procurement opportunities.

VA's 'Veteran's First' Approach to VA Contracting

Public Law (PL) 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. While this legislation provided a number of benefits for veterans; what's of particular importance for the purposes of this hearing today, is that **Title V, Sections 502 and 503** of this legislation, authorized a unique "Veterans First" approach to VA contracting. This approach would change the priorities for contracting preferences within the Department of Veterans Affairs (VA), by placing Service-Disabled Veteran Owned Small Businesses (SDVOSBs) and Veteran Owned Small Businesses (VOSBs) first and second, respectively, in satisfying VA's acquisition requirements.

In so doing, it required that certain conditions must be met. All SDVOSBs and VOSBs, must register in the VA's Vendor Information Pages (VIP), aka **Veterans Small Business Database**, available at www.VetBiz.gov, and be 'VERIFIED' by the VA's Center for Veterans Enterprise (CVE), to be eligible for award of a contract exclusively within the Department of Veterans Affairs.

It further directed the VA, for SDVOSBs and VOSBs, to: (1) Establish Contracting Goals & Review Mechanisms; (2) Allow Non-competitive, Sole Source, & Restricted Competition; (3) Permit Survivorship for 10 yrs, if the deceased veteran business owner was 100 percent disabled; (4) Produce Annual Progress Reports; and (5) Conduct a 3-Year Study.

For more than 2 years, veteran business owners have been anxiously awaiting the publishing of the governing regulations needed to carry out Title V of PL 109-461; but for some reason, VA's Acquisition Officials, their General Counsel, and/or the Office of Management and Budget still have not come to an agreement on a start date. But on May 19, 2008, the VA issued an interim final rule (38 CFR Part 74) to immediately implement procedures to assure that a business concern is 'VERIFIED' in their Veterans Business Database as a SDVOSB or VOSB.

Since the VA has been developing and populating its Veterans Small Business Database for several years, the interim final rule required the VA to complete the examination of all 13,380 businesses that were already registered, by June 19, 2008; then all new registrants would follow.

However, at the March 10, 2009 meeting of the Veterans Entrepreneurship Task Force (VET-Force), a representative for CVE reported that there have only been 868 businesses verified and 491 in process out of a total of approximately 17,000 registered businesses. It was also reported at the meeting that **CVE is processing only 50 applications per week.** At that rate, it could take 6 or 7 years just to verify the businesses currently registered.

Major Issues Affecting the VA's Veterans Business Verification Process

There are a number of issues that have surfaced regarding the verification process undertaken by CVE to ensure that a business concern is a SDVOSB or VOSB; here are just a few:

I. Verification of Veterans Status, Ownership & Control. CVE is either understaffed or lack a sufficient number of staff persons qualified to conduct the veteran business verification procedures as defined by 38 CFR Part 74. It's CVE's task to collect the necessary documents from veteran business owners who have registered in the Veterans Small Business Database.

Veterans Status. The documents needed are to verify that the business owner is a veteran who was discharged under conditions other than dishonorable or is

a service disabled veteran who possesses either a disability rating letter issued by DoD or the VA.

Ownership, Control & Management. Additional documents are needed to establish if the veteran(s) or service disabled veteran(s), or in the case of a veteran with a permanent or severe disability, the spouse or permanent caregiver of such veteran, meet the majority ownership requirement, and that they have Control of the company and participate in the Day-to-Day operations.

Verifying Ownership. Verifying the status of the veteran seems to be the easiest part; particularly since the VA already maintains or has access to the records of veteran and service disabled veterans. **Verifying Ownership is somewhat more challenging** because CVE must verify if the Ownership is direct and unconditional. It must verify if the type of Ownership is that of a Partnership, Limited Liability Co., or a Corp.; and if stock is involved, it must verify the stock options' effect on the Ownership. There's also the matter of determining Ownership interests when an owner resides in any of the community property States or territories of the United States.

Verifying Control. According to 38 CFR 74.4, **Control is not the same as Ownership, even though both may reside in the same person.** Control means management of the Day-to-Day operations and long-term decision-making authority. CVE must verify that the service disabled veteran or veteran business owner has both. But where this gets more involved, is when control is sometimes contingent on who has the expertise or licenses to run the operation. An owner who is a computer engineer may not be the best Chief Executive Officer. But according to CVE's verification requirements, the owner must hold the highest officer position in the company.

Then there is also the somewhat conflicting view that owners need not work in the company full-time but must show sustained and significant time invested in the business. But there is also the requirement that one or more veteran or service disabled veterans who manage the company must devote full-time to the business during normal working hours. And even though the veteran owner has an unexercised right to cause a change in the management quickly or easily, use of a non-veteran manager may disqualify the company as being veteran owned.

In addition, all of these control issues have to be verified in the context of the type of company—Partnership, Limited Liability Co., or Corp.. And it must be determined to what extent do non-veterans have the power to influence or control the company—either directly or indirectly via critical financial or bonding support, Board actions, etc.

II. Verification of Only One Co. per Owner. A number of veterans have questioned CVE's position to verify only one company per veteran business owner. This ruling is not clearly listed in 38 CFR Part 74. All throughout the Nation, there are people who own more than one company. When CVE representatives were asked about this issue at the March 10, 2009 meeting of the VET-Force, which CVE hosted at the VA Small Business Office; they reported that **verifying only one company per owner would prevent the VA from potential harm that could be caused by a veteran or service disabled veteran business under performing or defaulting on a contract.**

It was further reported that more stringent verification requirements were implemented by CVE following a recent GAO report that exposed flaws in the verification process previously being utilized by the SBA to verify HUBzone business owners. Thus CVE reportedly does not want to increase the chances of error by allowing one owner to have multiple companies.

III. Misperception of CVE's 'VERIFIED' status. Many if not all Federal agency contracting personnel believe that SDVOSBs and VOSBs must or soon will have to first be registered in the VA's Veteran Small Business Database and produce a document stamped with a 'VERIFIED' seal of approval by CVE in order to be recognized as a genuine SDVOSB or VOSB. And it's not hard to determine how this misperception came about.

For several years now, CVE, other organizations, including the VET-Force, have been encouraging veteran business owners to register in the Veterans Small Business Database and for Federal agencies and Large Primes to use the Veterans Small Business Database as the 'Authoritative Place' to locate capable and qualified veteran business owners. However, this was before the actual verification standards and procedures had begun.

According to Public Law 108-183, the Veterans Federal Procurement Program, a veteran is only required to SELF-CERTIFY as a SDVOSB, in order to do business under this small business preference group. There is no formal certification by SBA or any other entity required. However, under Public Law 109-461, in order to do business with the VA, a veteran or service disabled veteran owned

business must successfully complete VA's verification process and register in the same database that's open for use by all Federal agencies, Large Primes, and the public.

While these issues listed above may be considered to be the major ones creating controversy about the VA's Veterans Verification Process, there may be others considered to be equally as important.

Recommendations to Address the Major Issues.

1. For now, separate the verification process into two phases. **Phase One: Verify Veteran Status Only** for all registrants in the database. Continue Self-Certification of Ownership as allowed under Public Laws 106-50 and PL 108-183 while verifying—whether the business owner is a veteran or service disabled veteran. CVE should complete Phase One for all veterans currently registered in the database and for all newly registered veterans. However, this will still require an expedited process so as not to cause a veteran to have to wait as long as 6 years for their status to be verified. Once the status has been verified, it does not have to be re-verified each year. The status will seldom, if ever, change.

Phase Two: Verify Ownership and Control. Review of documents for ownership starting with SDVOBs and then VOSBs seeking to perform contracts with the VA. Later, other registrants in the database can be reviewed for Ownership, since PL 109-461 only pertains to contracting with the VA.

It should be noted however, that verification of Control should only be to the extent necessary to support the Ownership and to ensure that the company is not being used as a 'Rent-A-Vet' or a pass through company.

2. Allow the verification of more than one company owned by the same veteran(s). Entrepreneurship should not be stifled for the sake of convenience. Each company should be evaluated and verified on its own merit. Any agency will always have the right to determine the select criteria to satisfy contract requirements.
3. Immediately direct the SBA and the VA to conduct promotional campaigns to inform all Federal agencies, including all military departments, Large Primes, and the public about the VA's Verification Process being exclusively for contracting with the VA. However, Congress should consider extending the provisions of sections PL 109-461 to all Federal agencies and the DoD military departments; and authorize sufficient resources to perform the verification process efficiently and timely.

Appendix 2

VET-FORCE MISSION STATEMENT

The Veterans Entrepreneurship Task Force (VET-Force), organized in 1998, to advocate for the development and passage of Public Law 106-50, the Veterans Entrepreneurship and Small Business Development Act 1999, wherein Congress realized that the United States must provide additional assistance to veterans, particularly service disabled veterans, with forming and expanding their own small businesses, and thereby enabling them to "realize the American dream that they fought so hard to protect."

The VET-Force, which is composed of over 200 organizations and affiliates representing thousands of veterans throughout the United States; a high percentage of which, are small businesses; has made it their mission to monitor the implementation of the programs, agencies, and organizations referenced under the law and to present a strong unified veterans' voice for virtually all of the major veterans groups, as well as, veteran entrepreneurs; and to advocate for opportunities for veterans, particularly disabled veterans, seeking assistance to succeed in small business and self-employment.

Though PL 106-50 did much to establish the infrastructure and goals for Federal and prime contracting for veterans and service disabled veterans, evidence shows that the agencies did little to get contracts to veterans; and with no accountability required, government agencies, and especially their prime contractors, failed to ever meet the minimum 3 percent goals for service disabled veteran business owners.

Thus the VET-Force continues to advocate for additional legislation, as in October 2003, when Congress and Members of the Administration passed legislation that was signed into law by the President. Under that Public Law, 108-183, a Veterans Procurement Program for Service Disabled Veteran Business Owners was created. Contracting officers were authorized more "tools to work with" to achieve the man-

datory minimum 3 percent requirements of the law. Now procurement officials can restrict or sole source contracts exclusively for Service Disabled Veteran Owned Businesses (SDVOBs). Though the veterans' community has had a great deal of optimism surrounding this piece of legislation, there is still a lack of urgency within many of the agencies to implement the program.

Therefore, the VET-Force will continue its vigilant oversight of legislation and continue its advocacy of ideas in the areas of acquisition, planning, marketing, and outreach to ensure that veterans and service disabled veterans receive the full benefits of this program as promised to them by Congress, and that the language of the law is implemented "expeditiously and transparently," now as opposed to later!

For additional info about the Task Force and the Veterans Procurement Program and other initiatives Go to: www.VET-Force.org, www.VVA.org or www.ASDV.org.

Note: VET-Force meets monthly in the Nations Capitol to discuss the issues pertinent to the success of Veteran Business Owners. For more information contact Joe Wynn at JoeWynn@VetsGroup.org.

**Prepared Statement of Ruth A. Fanning, Director,
Vocational Rehabilitation and Employment Service, Veterans Benefits
Administration, U.S. Department of Veterans Affairs**

Madam Chairwoman and Members of the Subcommittee, thank you for inviting me to appear before you today to discuss VA's Vocational Rehabilitation and Employment (VR&E) program. My testimony will provide an overview of the VR&E Program and the services we provide, a review of contract services used to support our mission, issues of concern pertaining to VR&E National Acquisition Strategy (NAS) contracts and prime contractor performance, and VA's plans to streamline and improve contracting requirements and oversight. In addition, I will discuss how VR&E is meeting, and will continue to meet, the needs of veterans with disabilities to achieve their employment and independent living goals.

Overview of VR&E

VR&E provides career and independent living services to Veterans and Servicemembers through two programs, Coming Home to Work (CHTW) and VetSuccess. Approximately 1,100 employees in 57 regional offices and over 100 out-based offices provide services to Servicemembers and Veterans with disabilities resulting from their military service, as well as to certain family members. Servicemembers and Veterans are assisted in obtaining and maintaining suitable careers and living as independently as possible in their homes and communities.

Through the VR&E Coming Home to Work program, VA provides interested Servicemembers and Veterans career and adjustment counseling during their transition from active duty and throughout their enrollment in VA sponsored education programs. VR&E's VetSuccess program assists Veterans to prepare for and enter careers, and live as independently as possible at home and in their communities. Counseling and employment staffs assist Veterans to plan for their future careers, receive necessary training or education, and successfully compete for careers. For those Veterans whose disabilities are too severe to make employment feasible, VR&E provides a wide range of independent living services, including volunteer work placement, assistance using public transportation, life skills coaching, counseling, and other services.

VR&E services are tailored to meet each individual Veteran's needs and are provided within five general "tracks" or types of services. These tracks include re-employment with a previous employer; rapid access to employment through job-readiness preparation and incidental training; self-employment, for those who wish to own their own businesses; employment through long-term services that include formal training and education programs leading to suitable employment; and services to maximize independence in daily living, for veterans who are currently unable to work or participate in other programs of vocational rehabilitation.

Overview of VR&E National Acquisition Strategy

Background

VA adopted the NAS to award contracts at the national level to complement and supplement services provided by VA and ensure that veterans have access to the same quality and types of VR&E services across all regional offices. The NAS contracts were developed using a sub-area approach to reduce the total number of contracts awarded and correspondingly reduce the administrative burden to oversee contractors.

Training was provided during the solicitation phase to assist small businesses to partner together and/or to develop subcontracting relationships. All contracts were awarded to small businesses and service-disabled veteran-owned small businesses. Large companies were unsuccessful in competing for awards. NAS contracts were awarded to eight prime contractors in regional sub-areas who had, or asserted that they could develop, a local presence throughout the sub-area(s).

NAS contracts were awarded on July 21, 2008. A 1-week pre-performance training session was held in August 2008 in Baltimore, MD. The training session was attended by VR&E Central Office staff; regional office staff, including contract specialists and VR&E officers who serve as contracting officer technical representatives (COTRs); the procuring contracting officer (PCO/OA&L); and principals from the eight prime contractors. Training covered implementation and administration of the entire contract for all parties.

Throughout the post-award period, VR&E Service management and contracting staff regularly held calls with VR&E officers and field contract specialists to provide ongoing training and ensure consistency of contract implementation and administration. A contract administration board comprised of VR&E Service, Office of Acquisitions and Logistics (OA&L) staff, and General Counsel staff also met routinely post-award to provide a mechanism for VR&E to elevate contract concerns and obtain advice and guidance in the administration phase of the contract. At the local level, VR&E officers and contract specialists worked closely with prime contractors to implement contracts and monitor performance. As necessary, officials from OA&L and VR&E Service worked directly with prime contractors to provide guidance and resolve issues.

Current Status of NAS Contracts

Services delivered by approximately half of the prime contractors have not met contract performance standards. Prime contractors with contracts in multiple jurisdictions around the country have struggled to develop subcontract relationships, to successfully recruit appropriate staff, and to deliver timely and high quality services to Veterans throughout areas for which contracts were awarded.

During the base year of the contract, VA experienced significant contractor performance issues, specifically in the areas of quality and timeliness of counseling and case management, compliance with contract terms, appropriate invoicing, and contractor refusal of referrals. In one instance, a vendor did not comply with the contract terms and conditions, despite direction provided by the Contracting Officer (CO). VA attempted to resolve issues with vendors, but as the contract year progressed, we became increasingly concerned about some contractors' failure to meet timeliness and performance standards and the corresponding impact on services to Veterans.

In accordance with a settlement agreement entered into between the Department of Justice and an unsuccessful offeror who filed a protest before the U.S. Court of Federal Claims, VA agreed not to exercise the four option years remaining on the contract after expiration of the base year. Instead of exercising the options, VA agreed to revisit its requirements and acquisition strategy and solicit new contracts in the fall of 2009. The Court dismissed the protest without prejudice on April 24, 2009, in *Veterans Vocational Services v. United States*, No. 08-589C, based on the protester's representation in its motion to dismiss based on VA's intent to solicit new contracts. Work on cases that have already been awarded by task order under the current NAS contract will continue through the end of the performance period identified in those task orders.

VR&E Service Contracting Improvements

VR&E Service has utilized feedback from field staff and from various studies to improve support, administration, and oversight of contracting activities. Studies include the Secretary's 2004 VR&E Task Force, the 2005 VA Inspector General study of contracting, and the 2007 GAO study of contracting.

Improvements made include the addition of contract specialist staff in the VA Central VR&E office, who serve as a resource at both the national and local level; new VBA contract specialist positions throughout the country to provide contracting support in the field offices; national training for VR&E contract staff prior to contract implementation; standardization of contract procedures; evaluation of contract training for VR&E staff; strengthening of contract oversight reviews, including site visit and management review protocols; enhancement of information systems used to track contract expenditures; requirement for VR&E staff administering contracts during performance period to be warranted and trained as COTRs, and to complete training for the proper completion of task orders; and increased collaboration with

the Office of General Counsel and the Office of Acquisitions and Logistics during all phases of the solicitation, award, and implementation process.

A draft governance structure has been developed for future contracts to further strengthen oversight of contracting activities. This structure focuses on a continual improvement model, designed to identify and address gaps in training, implementation, oversight, communication, and administration. In order to maximize selection of vendors that understand and can readily respond to VA's service needs, a thorough analysis has been conducted of the current NAS contract to ensure that the upcoming solicitation clearly outlines VA's requirements. The solicitation for the new VR&E contracts is being developed to ensure administrative items such as referrals, invoicing, and reporting are clearly defined and to ensure clear requirements and performance expectations are outlined in order to obtain timely and quality services. Also, under the revised national contracting strategy, delegations of authority in contract administration will flow from the PCO to the administrative contracting officers and COTRs to ensure maximum compliance with regulatory and contracting requirements.

Future VR&E Contracting Services

In order to support VR&E's continued contracting needs for services that supplement and complement rehabilitation counseling, case management, and employment assistance provided by VR&E counselors, VA is developing a new national solicitation for service contracts. These contracts are designed to ensure that new contractors are capable and staffed to provide timely and professional services for Veterans throughout awarded jurisdictions.

The solicitation for the new national contracts is anticipated to be released during the last quarter of 2009, with awards expected during the first quarter of fiscal year 2010. In the interim, VR&E offices will procure services locally as needed. Local contract performance period(s) will be linked to the forthcoming national replacement contract and will, therefore, be for short duration that allows sufficient lead-time for an orderly transfer. Local procurements will be awarded based on standardized requirements and processes to ensure consistency of contract awards and implementation. Working in collaboration with the Office of General Counsel, and OA&L, VR&E Service is developing a governance plan to ensure both local and new national contracts are consistently and effectively implemented and monitored.

Conclusion

VR&E has taken action to significantly improve the administrative oversight and implementation of contract services. We significantly strengthened oversight by adding acquisition professionals throughout the country; focused on continual training both at the beginning of the contract and throughout the administration cycle; provided contracting and COTR training to all VR&E managers; and strengthened policy and guidelines. We will continue to focus on effective governance of contracts to ensure consistency of contract administration.

The current NAS contracts were developed in an effort to decrease the administrative burden of managing a large number of national contracts. Implementation of this strategy has demonstrated that a larger number of qualified service providers across the Nation are required to ensure timely delivery of quality services to Veterans. As we move forward with the interim contracts and new national contracts, VA's contracting strategy will continue to encourage maximum participation by Veteran-owned businesses. Above all, our contracting strategy will emphasize selection and management of vendors who can provide timely and high quality services to Veterans participating in the VR&E program.

Madam Chairwoman, this concludes my statement. I would be pleased to answer questions from you or any of the other Members of the Subcommittee.

Statement of John Wilson, Associate National Legislative Director, Disabled American Veterans

Madam Chairwoman, Ranking Member and Members of the Committee:

On behalf of the 1.2 million members of the Disabled American Veterans (DAV), I am honored to present this testimony to address the Department of Veterans Affairs, Veterans Benefits Administration, Vocational Rehabilitation and Employment (VR&E) contracts for veteran counseling. In accordance with our congressional charter, the DAV's mission is to "advance the interests, and work for the betterment of all wounded, injured, and disabled American veterans." We are therefore pleased to discuss VR&E contracts insofar as they fall within that scope.

DAV and our *Independent Budget* co-authors and endorsers have presented this Congress with our perspective regarding the VR&E. Specifically, success in the transition of disabled veterans to meaningful employment relies heavily upon VA's ability to provide vocational rehabilitation and employment services in a timely and effective manner.

Unfortunately, the demands and expectations being placed on the VR&E are exceeding the organization's current capacity to effectively deliver a full continuum of comprehensive programs. The Service continues to experience a shortage of staff nationwide, and as consequence, has little option but to purchase program services on a contractual basis.

To increase emphasis on employment, the VR&E has begun an initiative titled "Coming Home to Work" as an early outreach effort to provide VR&E services to eligible servicemembers pending medical separation from active duty at military treatment facilities. This and other new services will require additional staff to maintain efforts nationwide. We must stress the point again, that VA must increase VR&E staffing levels to meet the increasing demand our Nation's veterans have for services.

Absent unique geographical barriers, disabled veterans apply for services from the VR&E and frequently vent disappointment when services are subsequently contracted to third parties, which, in some cases, subcontract the services again to a fourth party. It is a shame that the second largest Federal agency in America can't adequately staff the VR&E Service with Certified Rehabilitation Counselors to ensure the post service rehabilitation of those who become disabled while in service to our country.

The DAV currently has two legislative resolutions (Resolution Nos. 223 and 245) that solidify our belief that if contracting is deemed necessary by the VR&E service, then service-disabled veteran-owned business should be given priority as set forth by law (P.L. 109-461) and consistent with VA Information Letter 049-07-08, dated June 19, 2007:

38 U.S.C. §8128. Small business concerns owned and controlled by veterans: contracting priority. (a) *Contracting Priority.*—In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference.

The VR&E utilizes contractors to supplement and complement the services to veterans participating in the various programs. A National Acquisition Strategy (NAS) was instituted in order to standardize and streamline the acquisition procedures used by VR&E staff to obtain contractors who provide these services to veterans.

VR&E established the NAS, effective October 1, 2002, to develop a more cost-effective approach to providing services to disabled veterans participating in rehabilitation programs. The NAS has undergone several changes based on staffing, experience and quality assurance oversight by the Office of the Inspector General (OIG). The changes that were necessary are noted in the report referenced below:

Extract from, Evaluation of VBA Vocational Rehabilitation and Employment Contracts (OIG Report No. 04-01271-74). We identified significant vulnerabilities upon evaluating the pre-award and award phases of VA's contracting process. Consequently, VA is at risk of paying excessive prices on all of the 241 VR&E contracts. To illustrate:

- *There was no evidence that VA conducted price reasonableness determinations to ensure the best prices had been obtained.*
- *Key clauses and references designed to protect the interest of the government were not included in contract specifications and the Statement of Work (SOW). In addition, information contained in the contract specifications and SOW was vague and subject to multiple interpretations.*
- *VA did not adequately document contract award actions and decisions.*
- *Technical evaluations and assessments were incomplete.*

The NAS includes a national acquisition contract. As stated in *M28-1: Vocational Rehabilitation and Counseling Procedures Under 38 U.S.C. Chapter 31: Part II, Chapter 3, section A*. The NAS contract was designed to (1) increase consistency among regional offices, and (2) allow for local customization of contracting to accommodate specific regional needs within each regional office's jurisdiction. In addition, the overall limit of NAS contracts is much higher than one approved by regional office personnel. NAS contracts standardize services and prices over many States,

allow negotiation of a fixed price, and eliminate local negotiations for the same services at different prices.

The VA's problem with managing contracts in general is not new, as seen in another report from the OIG.

Extract from, Audit of VA Electronic Contract Management System (OIG Report No. 08-00921-181 of July 30, 2009). The Office of Inspector General (OIG) performed an audit to evaluate the effectiveness of the Electronic Contract Management System (eCMS), which was designed to improve VA's contract management. The audit objective was to determine if information in eCMS enables VA to use the system as a comprehensive management tool to improve the procurement process and the effectiveness of the system for oversight of VA procurements.

The audit revealed that eCMS is not used effectively and procurement information in eCMS is incomplete. VA cannot achieve the expected benefits of eCMS, including the ability to integrate and standardize procurement processes, reduce workload, and improve communications without complete information. In addition, because procurement information in eCMS is incomplete, reports generated by the system cannot be relied upon when making procurement management decisions. VA expends about \$10 billion annually on supplies and services. Until management enforces compliance for the mandatory use of the system, VA cannot benefit from the full capabilities of the system including the ability to integrate and standardize procurement processes, reduce workload, and improve communications.

Integrating eCMS with IFCAP or FMS would provide VA with improved acquisition efficiency, reporting, and control over spending. This will help ensure increased management visibility and transparency needed to manage acquisitions nationwide and make good procurement decisions.

In closing, I wish to reaffirm DAV's positions:

- (1) VA must increase VR&E staffing levels to meet the increasing demand our Nation's veterans have for services.
- (2) Service-disabled veteran-owned businesses should be given priority as set forth by law (P.L. 109-461), and consistent with VA Information Letter 049-07-08, dated June 19, 2007.
- (3) An effective NAS must provide for:
 - (a) Clear lines of authority and oversight;
 - (b) Standards of accountability;
 - (c) Detailed guidance regarding the scope of contracts and the SOW;
 - (d) Contracting officers of technical responsibility maintaining open and well documented communication with vendors to provide timely resolution of concern;
 - (e) Prompt payments so as not to interfere with services being rendered; and
- (4) Oversight and quality assurance must be mandatory to ensure veterans are well served.

Madam Chairwoman, this concludes DAV's testimony. We appreciate the opportunity to have provided our views on this important issue. I will be pleased to respond to any questions that you or other Members of the Committee may have.

MATERIAL SUBMITTED FOR THE RECORD

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
July 31, 2009

Mr. Patrick F. Chorpenning
President and Chief Executive Officer
Heritage of America, LLC
17505 North 79th Ave, Suite 102
Glendale, AZ 85308

Dear Mr. Chorpenning:

I would like to request your response to the enclosed questions for the record and deliverable I am submitting in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on "*Vocational Rehabilitation and Employment Contracts for Veteran Counseling*" on July 30, 2009. Please answer the enclosed hearing questions by no later than Friday, September 11, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

JL/ot

Heritage of America, LLC.
Glendale, AZ
September 9, 2009

The Honorable Stephanie Herseth Sandlin
Chairwoman
Subcommittee on Economic Opportunity
Committee on Veterans' Affairs
U.S. House of Representatives
335 Cannon House Office Building
Washington, DC 20515

Dear Chairwoman Herseth Sandlin:

On behalf of everyone connected with Heritage of America (HOA) and the veterans we are privileged to serve, I want thank you for holding the July 30th hearing on VR&E contracts for veteran counseling. Despite a very challenging afternoon schedule, interrupted by several floor votes, you managed to conduct a very useful hearing, highlighting many of the problems surrounding implementation of this contract.

While the enclosed pages answer the Subcommittee's questions for the record, it occurs to me there are so many issues that need to be thoroughly reviewed in regard to VA's implementation of this contracts, as well as contractor performance, that the Subcommittee might need additional resources. I would respectfully suggest and hope you will seriously consider having the Government Accountability Office conduct an investigation into all the issues presented during the Subcommittee's hear-

ing. HOA would welcome such an investigation and I personally guarantee our full cooperation.

Sincerely,

Patrick F. Chorpenning
President and Chief Executive Officer

Question 1: What should the VA have done to correct the problems in the States you listed as problematic?

Response: The Under Secretary for Benefits and the Director of VR&E should have insisted on frequent and regular communications between Central Office, contractors and VA regional managers to identify problems early on. Unfortunately, the total absence of such communications exacerbated all the problems that arose. Unbelievably, the Under Secretary for Benefits refused to meet with the Chief Executive Officer of the largest NAS prime contractor, providing services to veterans in 44 States and much of the rest of the world.

The Director of VR&E should have mandated that all regional managers and personnel abide by and implement the provisions of the NAS contract, as signed by the VA, as well as all other applicable provisions of law and Federal acquisition regulations. Central Office personnel at the highest levels don't seem to have understood that VA's signing the NAS contract transformed NAS goals from policy objectives to legally binding obligations of the VA.

Abiding by those NAS contract provisions within all regions and subareas would have provided for uniform processes across regional offices nationally, as applied to:

- a. the way cases were referred to contractors by Regional offices;
- b. requirements for initial evaluation information;
- c. Regional Office training obligations to contractors;
- d. standardization of format for forms used for reporting and invoicing;
- e. delineation of lines of communication between contractors and Regional Office and VR&E personnel;
- f. VA payment for services complying with legal timeliness requirements;
- g. approval of contractor counselors to provide services; and
- h. VA establishing an IT system to track cases and invoices;

When the VA's interpretation of contract pricing under Case Management did not prevail in the case of Houck Limited vs. the Department of Veterans Affairs, before the Civilian Board of Contract Appeals, the VA should have stopped imposing its pricing interpretation for such cases on the remaining seven prime contractors.

Additionally, the Director of VR&E should have taken disciplinary action against personnel refusing to abide by the provisions and policies of the NAS contract. Employment should have been terminated for those VA employees actively working to undermine performance of the NAS contract. Heritage of America (HOA) terminated the employment of a number of its personnel, whose performance was inadequate. VA should have done the same.

Basically, the NAS failed because VA Central Office could not get all its own local and regional offices to cooperate. Many in these offices resented losing power and control over the contracts for counseling services. Some of them actively subverted the program and hindered performance.

Additionally, while HOA established a very sophisticated information management system, capable of tracking work flow, invoices and VA payments for services performed, the VA failed to set up a corresponding tracking system.

One of the primary motivations for undermining the NAS would seem to be the fear of many in the bureaucracy that non-governmental third party entities would be able to track VA performance and timeliness of service to disabled veterans better than the VA itself. With control over these contracts back at the local level and little oversight from Central Office, local officials would not be under such potentially critical, objective scrutiny.

The above listed items only scratch the surface of the ways in which the conduct of VA employees in certain regions delayed, impeded or disrupted HOA's contract performance, interfered with HOA's subcontractor relationships, or ultimately caused HOA to incur increased costs of performance on the NAS contract.

Heritage of America truly appreciates the Subcommittee's time and interest in this matter but believes the best way to achieve a thorough and impartial inquiry into the NAS Contract for VR&E services debacle is through a formal GAO investigation.

Such an investigation might be able to determine if VA leadership sincerely tried to implement a national acquisition strategy or simply gave it lip service while actually intending to demonstrate that such a strategy would not work, in order to justify going back to local/regional control over these contracts. While the contract called for a national process implementation, VACO actions would indicate the VA never intended to honor that commitment to its prime contractors, as those officials did nothing to ensure consistency between regions in processes or procedures. These problems were pointed out to VACO officials early on in the contract in weekly reports from HOA that never received any response.

Question 2: Who are these regional directors who you claim that have little interest in the national VR&E strategy?

Response: Unfortunately, in many areas regional officials have disregarded the NAS agreement provisions, insisting that procedures revert back to previous local practices rather than working to implement the new strategy cooperatively. These areas include Washington, Oregon, Idaho, New Mexico, Wyoming, Texas, North and South Dakota, Nebraska, Iowa, Louisiana, Ohio, Mississippi, New Jersey, Pennsylvania, and Puerto Rico. All problems with regional officials have been exacerbated by the total absence of VACO leadership, virtual refusal to communicate with primes on any regular basis, and incompetence of the contracting officer. The National Acquisition Strategy is that in name only. Standardized business practices and procedures were not imposed on the ROs by VA Central Office (VACO) officials. There are still many VAs, represented by many ROs, that are being “managed” by regional directors, who have little interest in the “national” VR&E strategy. This reality became a confounding trap in time and money for prime contractors trying their best to abide by the NAS agreement and expecting ROs to do the same.

Due to the behavior of local officials in certain regions throughout the short life of this contact, it can be assumed that in all of the Subareas where Heritage of America (HOA) experienced the most problems, the Regional Directors enabled the destructive attitudes and processes put forth by the VR&E Officers who worked for them. These locations included Subarea 4 (Ohio, Indiana, and Michigan), Subarea 17 (Washington and Oregon), Subarea 10 (Texas), Subarea 12 (North and South Dakota), and Subarea 6 (Florida and Puerto Rico).

For example, Carol Filman was the Regional Director in Seattle. In the presence of an HOA manager and former VR&E employees, she stated that she did not approve of the NAS Contract and had less than good things to say about HOA’s operation.

Heritage of America believes a thorough investigation by the government Accountability Office would provide more evidence of disinterest in the NAS strategy on the part of local VA officials.

Question 3: What did the security procedures entail and how long should they have taken to be approved by the VA?

Response: The background procedure entails:

- a. Getting entered into the background system by the VA. Heritage of America (HOA) asked to be allowed to enter these for the VA to save time but it was denied.
- b. Completing the Declaration of Federal Employment (OF306) and Questionnaire for Non Sensitive Positions (SF85). A copy of each is attached to these answers.
- c. Getting fingerprinted at a local Law Enforcement center.
- d. Sending the original paperwork to HOA to be screened prior to sending to Little Rock.
- e. Sending all copies stapled together to Little Rock. (In the beginning HOA paper clipped all paperwork together but Little Rock would send it back stating pages were missing. Once we started stapling it, the problem was alleviated)

This process should have taken about one work week. The biggest issue in Little Rock was the backlog of paperwork. The staff there stated many times that they were weeks or up to a month behind. There is also an academy or training facility at their location and they pulled the trainees in to assist and screen the paperwork and enter it in the system. Unfortunately, many times the paperwork and data entry were incorrect and HOA would have to contact Little Rock by phone or in writing to correct the errors.

The other delays in approvals for the counselors included getting them entered into the Learning Management System (LMS) training system to complete their online classes. The VA had an unknown procedure to do this which was faulty in many areas and the VA never entered the counselors. HOA had to resort to the Employee

Education System (EES) training Web site to complete the online training. The EES site allowed the counselor to create their own user name and password to complete the training, but many ROs insisted we use the LMS because that “would help them track the training.”

In the startup phase of performance, HOA set up a *trained* “Rapid Response Team” to travel to any location to provide services, while permanent personnel were being put in place. HOA had to spend time and money and effort getting that team trained and retrained for each RO location—not anybody’s idea of a national training program. Unfortunately, only the LMS supervisor at each location could track the training (the Quality Assurance Manager, who was the one that needed the information, could not do so) and the LMS supervisor could only track his or her own location—not nationwide as should have been established by the VA.

Question 4: Can you give us the names of regional office staff who refused to provide instruction to contractor personnel on criteria for initial evaluation?

Response: James Jacobs, Assistant VR&E Officer in Cleveland, refused to provide training even though in Ohio they required something they characterized as a “Psychological/Vocational/Social/Rehabilitation” Assessment instead of the contracted-for Initial Assessment. Though Heritage of America (HOA) tried to obtain information concerning their special requirements via telephone, email, and personal visits by two of its middle managers to his location, (and at one point it looked like they were going to tell HOA what they wanted in the way of this special assessment that was clearly not part of the contract), at the last minute Mr. Jacobs, upon instruction from his supervisor, Mr. Kolin Van Winkle (VR&E Officer in Ohio), canceled the training and subsequently canceled all HOA case referrals in Ohio.

Question 5: Who in the VA Central Office “instructed the VR&E officers not to provide the prime contractors with the names of their best contract counselors from prior arrangements until it was too late to [have] any favorable impact on the prime contractor operations”?

Response: Ms. Ruth Fanning, Director, VR&E; her assistant Marguerita Cocker; the Contracting Officers, Rosa Asencio and Belinda Thomas-Wright; and the Contracting Officers Technical Representatives, Carolyn Thomas and Emmanuel McKeever, maintained dysfunctional, resistant attitudes toward Heritage of America (HOA) throughout the procurement, preventing optimal performance.

HOA’s initial approach to this NAS program was to set up HOA regional offices managed by former VR&E Officers, who we thought would be able to interact with their former colleagues in a productive, cooperative way, enabling quick and efficient recruitment and retention of the best counselors in each area. On July 21, 2008, the same day HOA was awarded the contract, HOA tasked its regional managers with contacting VR&E Officers in each of the 44 states where HOA was awarded a contract to begin this process. By 9:00 the next morning, HOA’s managers were being told by VR&E Officers that VACO had instructed them not to talk with HOA until further notice and under no circumstances was HOA to be given names of the counselors preferred by those VR&E Officers. This was changed later, and HOA was able to obtain some such name lists, but by that time it was too late to have any favorable impact on operations.

Question 6: Who is the VR&E officer in Cleveland who refused to provide the mandated training required by the contract and VA regulations?

Response: Mr. Kolin Van Winkle. See response to question number 4, above.

The contract was clear in how and when the VR&E offices were to provide training. Most of them complied sooner or later, but Mr. Van Winkle, refused to do so as explained above in number 4.

Deliverable:

- 1) **Can you provide us with a copy of the letter from the Vocational Rehabilitation Counselor in the Northwest which predicted Heritage of America was going to fail even before it began to provide services?**

Mr. David Kaplan, Chief Professional Officer at the American Counseling Association, received this email from ACA member, and Medford, Oregon VRC, Janice Stevens on August 14, 2008, while contract awardees were still attending the post-award conference in Baltimore. Ms. Stevens could not possibly have any legitimate knowledge at that point as to how HOA was going to perform or even how much we were going to pay our counselors because VACO had not yet promulgated our pricing to the ROs:

2009-07-08 14:05

>> 18664686571

P 1/1

David Kaplan

From: David Kaplan
Sent: Thursday, August 14, 2008 10:24 PM
To: David Kaplan
Subject: FW: HOA

----- Original Message -----

From: "Janice Stevens" <jmanchester73@hotmail.com>
Date: 8/14/08 9:32 pm
To: "David Kaplan" <DKaplan@counsel.rq.org>
Subj: HOA
David,

I work for the VA, a VRC.

I am appalled that ACA supports HOA and is helping to dismantle a system that has served the veterans in my area with stellar service and equally stellar results. HOA promises to pay CRCs walmart wages for a substandard service.

As a person who lives by very high standards and principles it is all I can do to keep from withdrawing my membership from aca at this very moment: yes I got one of those emails from hoa, endorsed by YOU. Rather than shred a system that works perfectly well and provides veterans more than adequate care, you would do better to focus attention on the part of VA that is wholly lacking: counseling services.

You obviously have not been in the field with our veterans, and you have no idea what you have done and are doing!

HOW DARE YOU!

Janice M. Stevens MS, CRC

Committee on Veterans' Affairs
 Subcommittee on Economic Opportunity
July 31, 2009

Mr. Anthony Tarkowski
 President/Chief Executive Officer
 Sygnetics, Inc.
 2514 S. Rochester Road
 Rochester Hills, MI 48307-3817

Dear Mr. Tarkowski:

I would like to request your response to the enclosed questions for the record I am submitting in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on "*Vocational Rehabilitation and Employment Contracts for Veteran Counseling*" on July 30, 2009. Please answer the enclosed hearing questions by no later than Friday, September 11, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

JL/ot

Sygnetics Incorporated
 Rochester Hills, MI
September 9, 2009

Chairwoman Stephanie Herseth Sandlin
 U.S. House of Representatives
 Committee on Veterans' Affairs
 One Hundred Eleventh Congress
 335 Cannon House Office Building
 Washington, DC 20515

Dear Chairwoman Sandlin:

I am submitting the answers to the hearing questions that were submitted to me on July 31, 2009 from the House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on Subcommittee on Economic Opportunity "*Vocational Rehabilitation and Employment Contracts for Veteran Counseling*".

I have provided as detailed answers as possible to assist the Committee in understanding the impact this contract will have on the well-being of Sygnetics, Inc. and it's many sub-contractors. I have made certain to provide both the questions and the answers in single spaced form as requested.

Should there be any additional information you might need please do not hesitate to contact me via email, or by phone. My email address is Tony.Tarkowski@sygnetics.com and my phones are (248) 844-1900 ext 1220 or cell at (248) 709-4100.

I sincerely hope this helps bring a quick resolution to the difficulties that have been caused by VA and now are impacting my business negatively due to my testimony in July. I appreciate the attention Congress has directed to this matter.

Sincerely,

Tony Tarkowski
President / Chief Executive Officer

Deliverable from the House Committee on Veterans' Affairs
 Subcommittee on Economic Opportunity
 Hearing on *Vocational Rehabilitation and
 Employment Contracts for Veteran Counseling*
 July 30, 2009

Questions for the Record:

Question 1: One of the concerns you mentioned in your testimony was that the startup cost of the contract was "huge due to the fact that the contract started late." Did the VA ever mention the potential high cost of the startup of the contract?

Response: The VA did not mention there were going to be high start up costs. Although we knew there were start up costs involved the fact that we did not get our first file until October when the contract actually started in July did not allow sufficient time to obtain enough work to support the outlay. We also signed a lease late because we did not know what areas were being awarded until July and then couldn't get Counselors approved so there was a delay in opening the office. Since no direct numbers of files were provided in the proposal it was impossible to project where we would be awarded and what would be necessary to start and operate in any certain area. We were led to believe that if we did a good job, this contract was a 5 year contract and therefore in order to keep costs down, signed a multi year lease to handle the volume in San Diego. We also bought new Accounting software and new I.T. equipment, desks, phone system, etc. We even wrote a case management system to provide the best in service.

Question 2: After attending the 5 day workshop for the awarded contract, did any of the Regional Offices provide any follow-up training?

Response: There was only minimal training provided by the Regional office in Los Angeles and Oakland. These sessions provided training on security and contract issues. The Oakland office did briefly discuss the report requirements for their office only. Most of the offices continually failed to respond to our requests for assistance. This was one of the most important issues when it came to learning what was required on the reports.

Question 3: In your written testimony you state that VA created additional obstacles for you. What additional obstacles did VA create that were not part of the contract?

Response: By not allowing us to be trained, and not utilizing a standard form for invoices, as well as many of the VR&E Officers not working as a team, we could not ascertain what was desired in many cases and therefore could not complete reports on a timely basis. There were so many different invoices that were requested and forms for reports by each individual office that it caused significant delays in getting the reports and invoicing in on a timely basis. Each office had its own way of doing business and we had to adjust to each.

Question 4: How has VA's administration of this contract been unconscionable?

Response: I believe that it is unconscionable because no reasonable person would expect VA to not communicate, not train, not have standard documents that must be used by all offices, not pay invoices on time, reject reports based on punctuation, not care about Traumatic Brain Injury and request it be removed from reports, not understand that when a person lives several hundred miles away travel should be paid to the Counselor. The most unconscionable conduct was from the VA central office. They instructed the Regional offices not to communicate with the contractors and consistently ignored our requests for meetings and dialog with the contracting officer and COTR. Our detailed rates, and several other companies rates, were released to the competitors by VA and are causing unfair competition. The VA is holding the fact that we cooperated with your Committee against us. It has already been used against us in California. We have been told that our chances of winning a new national contract will be slim due to our testimony. To take away our livelihood because we told the truth is by far the most unconscionable event yet.

Question 5: Can you give examples of when veterans were denied services?

Response: Anytime a file is not accepted once turned in for a disabled veteran that file cannot be processed for claims. We have had many files rejected after being QA'D by two retired VR&E Officers and veteran Counselors that have worked with VA for years. It is difficult to believe that these people don't know what is expected

on a report. In the meantime the veteran waits for services he deserves and potentially gets rejected for TBI since we were instructed to remove it from reports.

Question 6: You state that, "Many Department of Veterans Affairs offices, either by omission or commission, have undermined the efforts of the eight prime contractors ..." that were providing services. Who were these individuals and what were the omissions and commissions?

Response: The VR&E officers in Missouri, North Dakota, South Dakota, Maine, Washington and Alabama made statements from time to time that they only wanted to work with local contractors. They provided incomplete cases, no contact information for veterans and refused to approve cases that were properly completed.

Question 7: Who specifically had a predisposed attitude not make the contract work and who specifically was not going to let it work?

Response: See answer to question 6. With no communication from the Contracting Officer, or Director there was no direction on how to resolve these issues and it continues on today even though Congress has had testimony given and seems to have shown great interest in making a national contract work, the Contracting Officer will not assist in getting invoicing issues resolved. This is especially true with level II case management.

Question 8: How big was your small business before the contract, and how much did it grow after the contract?

Response: When Sygnetics turned in the proposal we were at an annual 3 year average of \$5,767,468 and our current 3 year average is \$10,296,843. Part of this growth was due to a large contract we had for 1 year only primarily in 2006 with the Army under our HR Solutions contract. Our contract for VA Vocational Rehabilitation brought in over \$2,800,000 this past year with a large portion of this being in 2009 sales. We added 7 people in San Diego, 1 in Oakland CA, 6 in Michigan, a sub-contract office in VA with 6 people and hundreds of sub-contract companies all over the United States to handle the volume of files that were provided after award. Much of this growth happened in November through December 2008 and January 2009.

Question 9: How often did a Vocational Rehabilitation Counselor give a case to one of your counselors and how did that violate the contract?

Response: All cases were to be given directly to our company for assignment to counselors. On approximately 10 to 12 occasions files were provided directly to a counselor.

Question 10: To your knowledge how often was there a deliberate withholding of payment to ensure that the National Acquisition Strategy and your company failed?

Response: Anytime a VR&E Officer returns files on a continual basis and will not work with us to train on how they want the reports done, or conveyed why it was returned it seems deliberate that they do not want us to succeed. There also were instances where we were not provided the 1985 (authorization for services) on a timely basis and therefore were delayed on our invoicing and payment. This delay is partly responsible for my bank increasing my interest level on loans by 1.25 percent.

Question 11: If security issues were "ill defined" is this something that a prudent contractor doing due diligence should have requested clarity on?

Response: When it was mentioned at the 5 day workshop that it would take several months to get counselors approved, all the contract companies were told that was not true and that approval would happen within days. That was proven wrong when we attempted to get approval through. The process was not defined as to length and all that was needed to finish this process. This delay in processing information caused a group of files to be lost in California as an example because we did not have counselors approved to work the files that were given to us prior to those personnel leaving for home. Cost was not mentioned in the solicitation for the "vetting" (security) process. This cost was passed on to us and we had to pay whatever they dictated.

Question 12: Who directed local VR&E officers not to have any conversations with contractors until August 2008 and what impact did it have on your company?

Response: Ruth Fanning and since we couldn't have discussions we could not have any idea of what they expected to be done. This caused great delays in getting the necessary forms in place for the reports, and invoicing.

Question 13: Why should the VA be concerned about any business start-up costs? Don't most enterprises consider it a cost of doing business with a Federal agency?

Response: Although it is correct to assume a business knows the start up cost, it was very difficult to project since there were no actual numbers of files that would be provided in each area. The other difficulty is that if you were provided a full year to amortize cost it would work. We were only provided at best 9 months with a very slow ramp up since there were other contracts still in place with local contractors.

We also were not told what the fee would be for getting counselors approved and how much work it would be from our end. On top of this, instead of accepting reports in electronic form to save trees and mail service costs they insisted on having FedEx services for tracking numbers. Even after using these services, we still have one office in particular that says they did not receive files when we can prove they received the envelope and we sent a backup email.

Additionally to try and overcome the resistance of some of the VR&E offices we expended considerable funds to establish a local presence in their area. After our testimony we have been treated differently across the board and not been awarded contracts. This means the start up cost including our office rent etc are all to be paid from other revenues putting a large strain on a small business that has performed well and even provided value added services with TBI self assessment. Counselors that we have paid for the vetting of, are now being picked up by the competition with no cost involved for them.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
July 31, 2009

Mr. Richard Daley
Associate Legislative Director
Paralyzed Veterans of America
801 18th Street, NW
Washington, DC 20006

Dear Mr. Daley:

I would like to request your response to the enclosed questions for the record and deliverable I am submitting in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on "*Vocational Rehabilitation and Employment Contracts for Veteran Counseling*" on July 30, 2009. Please answer the enclosed hearing questions by no later than Friday, September 11, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

JL/ot

Paralyzed Veterans of America
Washington, DC.
September 10, 2009

Honorable Stephanie Herseth Sandlin
Chairwoman
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
335 Cannon House Office Building
Washington, DC 20515

Dear Chairwoman Herseth Sandlin:

On behalf of Paralyzed Veterans of America (PVA), I would like to thank you again for the opportunity to testify before the House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity on July 30, 2009.

Following the hearing, you submitted additional questions with regards to the issue of "Vocational Rehabilitation and Employment Contracts for Veteran Counseling." The attached document provides PVA's response to your further inquiry about our testimony.

PVA looks forward to working with you in the future to ensure that the VR&E program continues to provide the best serve for our veterans. Thank you again.

Sincerely,

Richard Daley
Associate Legislation Director

Questions for the record

Question 1: You cite the GAO report 07568R, dated April 2007. In your estimation do you think that the same challenges remain today as noted in that GAO report?

Response: Since that GAO report (April 23, 2007) the VA has taken aggressive measures with respect to providing VR&E services through contractors. Each Regional Office has added to their staff contract specialists. This individual has the knowledge and authorization to facilitate contracts for the Federal Government which could include contract amounts of several million dollars. In the past the personnel performing this role did not have this background or authorization.

The VA has provided specific annual VR&E contract training and contract training to Regional Office staff. The VA has also made modifications to their case management system "Corporate WINRS" that will provide additional controls and reporting capabilities for contract management.

Question 2: Should the Department of Veterans Affairs continue to contract out for counseling services?

Response: The Department of Veterans Affairs will continue to contract out for counseling services in some situations. We do recognize the importance of contract services to the function of VR&E. Due to the fact that VR&E is limited in resources and staff, it is often forced to contract vocational rehabilitation services to private and State entities. Contracting for services is necessary when the veteran requiring VR&E services is living in a geographic area where VR&E has no representation. Contracting for services with a local provider would be in the best interest for the veteran.

However, we have a concern that we maintain when dealing with contract services of any kind. PVA believes that contract services are often more expensive than services provided directly by the VA. We also do not think that contractors necessarily have the best interest of the veteran in mind. We urge Congress to make available adequate resources so that VR&E services can be provided by the VA directly to all veterans seeking help.

Question 3: You state in your testimony that the Department of Veterans Affairs should develop a demonstration project where a contractor is rewarded for making changes in the life of the veteran. How would this work and how much would a contractor be compensated?

Response: The VR&E program currently works with veterans as they prepare for employment and their transition to the workplace. The statement of “changes in the veteran’s life” refers to continued employment over many years with advances in a veteran’s career along with increases in income. In the current program, after the veteran completes a period of 60 days of employment, or, achieves their VR&E goals, they are declared rehabilitated and VA’s role is complete.

When a veteran returns to work after sustaining a disabling medical condition, or in the case of PVA members, a severely disabling condition, there is a likelihood that the stringent and uncompromising demands of full time employment could soon, or eventually, conflict with the veteran’s emotional and/or physical well-being. In these situations the veteran would simply drop out of the workforce, convinced that they could no longer hold a job.

A contractor performing this role for the VA would be required to perform continued follow-up of 6 months, 12 months, and up to a minimum of 24 months. The contractor, the employer and the veteran would be working close together for this extended period. The VR&E counselor, working with the employer, and the veteran could discuss and arrange for needed accommodations in the work place, or modifications in the work schedule. Perhaps the veteran could be retrained to perform another function within the organization. The contractor providing the VR&E counseling in this situation would have a vested interest in the continued employment of the veteran, and a satisfactory outcome with the employer.

The amount the contractor should be paid would depend on the current rate for providing the services, plus a substantial yearly bonus for ensuring the veteran remains employed. This bonus could be paid for 3 or 4 years. Receiving this bonus amount should naturally be projected and accounted for in the contracted entities business plan for the next 4 years, or the agencies projected budget. Therefore, keeping the veteran employed is in their best interest. This would allow the entity to plan their resources based on a multi-year relationship working with the veteran. It would also facilitate the contractor in developing multi-year relationships with the local business community and local government employers.

Question 4: You write in your testimony that a veteran can advise a veteran, in most cases better than a non-veteran. First are there enough counselors who are veterans to fill the needs and can a non-veteran help a veteran?

Response: PVA has known for 60 years that there is no work experience or educational courses that can take the place of having served the Nation in the military service when advising another veteran, or counseling a veteran during their rehabilitation. There is often a shared experience that veterans have that cannot be duplicated in a college class. That bond can be greater when veterans have served in the same military campaign or era. All of PVA’s service officers are veterans, disabled veterans, or veterans with a spinal cord injury. PVA provides the knowledge for a man or woman to become a service officer and work with veterans during their 16 months of paid training. But, the experience of serving in the Nation’s defense cannot be taught. In addition, each of PVA’s thirty-four Chapters have volunteer members that visit the VA hospital regularly to inform newly paralyzed veterans about some options for their future. PVA knows that the newly injured veteran will be more receptive to another veteran who was once in that hospital bed, and now living a productive life.

There may not be enough VA counselors that have served in the military.

There may be many veterans working in civilian counseling positions, but hiring veterans to work with veterans has never been a priority for the VA. Military experience or combat experience means nothing more than the standard five-point preference added to one’s application score. This insignificant five-point preference does not ensure that a qualified veteran will receive an interview for any position applied for in the VA. If these positions were set aside for veterans only, this message would be shared in the educational community and veterans enrolled in social studies could direct their education toward helping veterans. Within a few years, with new counseling positions restricted to veterans and with replacement as current staff re-tires, a majority of VA counselors could be veterans.

Professional staff members that are non-veterans can function well in the VR&E program. Non-veterans currently serve in every capacity of the VA’s VR&E program. Every person hired has the appropriate education and required work experience. Non-veterans are currently working with veterans in counseling positions. This suggestion is to perhaps provide more than qualified help for the veteran. It is also to provide the “best” help for the men and women that have been injured serving this nation.

Question 5: How similar is VA's VR&E program to the Social Security Administration's (SSA) Ticket to Work program that we can draw from their experiences?

Response: Perhaps this is an area that could be explored further. Has the VA's VR&E staff studied the SSA's Ticket to Work (TTW) program? What similarities can they learn from examining this program?

One similarity of the VR&E's program to the Ticket to Work program is that the consumer, whom the program is designed for, has been out of the workplace for an extended period of time. The lack of current work experience for the TTW consumer would create a similar problem as that of the disabled veteran enrolled in the VA's VR&E program. In the TTW program much of the "risk" is with the contractor providing the service. Since the financial reward for service performed is extended out for 5 years, the contractor performing the service has a goal of helping the individual reenter the workplace, and remain in the workplace.

Another way that should be explored is to allow VA to implement a program similar to the TTW program. For example, Paralyzed Veterans of America has our own Vocational Rehabilitation Program for severely disabled veterans. We maintain a contract with the SSA TTW program and are an approved "Employer Network". As a non-profit VSO, we are able to recoup some of our costs of providing employment services to the severely disabled population through the SSA. There is no logical reason that VA could not provide similar reimbursement to a program such as ours that would serve as an adjunct team member in providing customized services to a specific, severely disabled population.

Question 6: In your written testimony you write that regional offices are not fully applying VA's contracting guidance. How are the Regional Offices not applying VA's contracting Guidance?

Response: One of the major complaints that VSOs' have heard from contractors is that payment for services provided has been late. It would be in the Regional Offices best interest to ensure that the contractors providing services to the veterans in their region are paid on time. Neither an existing contractor, nor a contractor expanding into a new geographic area can function without being paid. We do not know if this is the fault of the VA Regional Office, or the VA Central Office, or the contractor. The Regional Office could have played a key role in ensuring the contractors were paid on time. Not paying contractors for performing their work is not the standard procedure for VA contracting.

Question 7: In your written testimony you write that "current training does not adequately prepare contracting officers to manage contracts." What problems have occurred in the past that leads you to make this statement?

Response: In the past, the contracting officers had not received adequate training and certification. This was noted in the GAO report (April 2007), that the contracting officers said VA's training has not prepared them to adequately manage contracts. The lack of training and available training in the past, did not fully prepare the VR&E employee for their role as a contract administrator. The technical, administrative, and legal requirements of the role of a contract administrator require a professionally trained and certified administrator. As I understand, the contracting responsibility was placed on existing members of the VR&E program. Recently the VA has placed this responsibility with a trained Federal Government contract administrator in each Regional Office.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
July 31, 2009

Mr. Joe Wynn
VET-Force
1200 18th St., NW
Suite #LL-100
Washington, DC 20036

Dear Mr. Wynn:

I would like to request your response to the enclosed questions for the record and deliverable I am submitting in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on "Vocational Rehabilitation and Employment Contracts for Veteran Counseling" on July 30, 2009. Please answer the enclosed hearing questions by no later than Friday, September 11, 2009.

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Sincerely,

Stephanie Herseth Sandlin
Chairwoman

JL/ot

**Deliverable from the House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Hearing on *Vocational Rehabilitation and
Employment Contracts for Veteran Counseling*
July 30, 2009**

Questions for the Record:

Question 1: Why would you want Congress to compel VA to extend a contract that according to your testimony had so many problems?

Response: My recommendation for extending the contract was in light of the fact that the problems were primarily due to logistical limitations, inconsistent reporting requirements, and inadequate communications on the part of the VA contracting officers. From the testimonies provided by the witnesses, it did not appear that the VA was dissatisfied with the services being provided to the service disabled veterans. Therefore, the veteran and service disabled veteran contractors should not be penalized for the VA's failure to manage the contract efficiently. Most of the contractors who were awarded contracts had to incur significant costs to prepare for the contract. By extending the contract, the technical issues could be resolved while disabled veterans are still receiving services and the contractors are still receiving payments.

Question 2: How will VA's action to cancel the contract contradict VA's "Veterans First" approach to contracting when no subsequent contract has been awarded and the same contractors can re-compete?

Response: It's not solely VA's action to cancel the contract that contradicts VA's "Veterans First" approach to contracting. It's the action by the VA to cancel the contract within the first year and promote the intent of reissuing the contract and allowing the very same businesses to re-compete. The concept of the "Veterans First" approach incorporates not only the priority of using service disabled veteran and veteran business owners but also because of the care and concern for the well-being and success of those veterans who are now trying to succeed in business after hav-

ing served their country honorably and some having incurred injuries and disabilities while doing so.

It's actually insulting to these veteran business owners for the VA to cancel the contract and then state that they will reissue the same contract on some future uncertain date and allow the same businesses to re-compete after causing them a disservice and an undue hardship. These business owners are also employing other veterans who will no longer have jobs as a result of the VA's termination of the contract.

Question 3: In your written testimony you state that VR&E has "limited capacity to manage its growing workload," but according to the VA the ratio of veterans to counselors is one counselor for 133 veterans. Can you comment on this point?

Response: I do not have the most recent totals for the number of VR&E Counselors. But as I stated in my written testimony, we do know that VA's National Acquisition Strategy was implemented due to the growing demand of VR&E services beyond VA's current capacity. In VR&E's discussion of this topic prior to contract award, it's stated that VA's objective for this national strategy is to use Contractor assistance to both supplement and complement the services provided to veterans and servicemembers receiving services by VA's regional VR&E offices within VBA.

I also pointed out in my testimony that while serving on the Veterans Disability Benefits Commission, research reports revealed that while the number of participants in the VR&E program had increased in recent years, the number of individuals rehabilitated had remained constant. The Commission's research also revealed that VR&E needed to improve its process of defining, tracking, and reporting on participants because their process was found to be confusing and inconclusive in its current state. As a result of the Commission's findings, it was recommended that the VR&E staffing and resources be increased in order to enhance the program.

Question 4: In your written testimony you said that you spoke with representatives of three of the Service Disabled Veteran Owned Small Businesses. In your opinion, did they have the capacity to provide services nationwide?

Response: Probably none of the Service Disabled Veteran Owned Businesses participating in this VR&E NAS contract have the capacity to provide services nationwide. But none of them were required to do so. The purpose of making multiple contract awards for the same services was so that no one company would be tasked with providing services in each State throughout the country. The use of multiple companies to provide the services on a nationwide basis is a good strategy. However, it appears that VA's managing of the multiple contracts is where the problems have occurred.

ADDITIONAL COMMENTS:

The original contracts were awarded in July 2008, but due to delays on the part of the VA, contractors were not allowed to begin processing work for a couple of months later. Then right after the very start of the contract, it was revealed in testimony by Ruth Fanning of VR&E, that the VA had made a Court Settlement Agreement to discontinue the contract after the first year due to a protest filed by another small business. So with termination after the first year as a mandate, it's no wonder that VA managed the contract poorly in the first 12 months. They had no intention of going forward with the contract beyond 1 year. **YET THEY NEVER NOTIFIED THE EXISTING SDVOBs THAT THE CONTRACT WOULD BE WITHDRAWN AT THE END OF THE FIRST YEAR.**

While this hearing mostly revealed testimonies and discussions of why the SDVOB contractors were now dissatisfied with the VA's sudden termination of the contract, how SDVOB contractors were misguided with regard to contract process and procedures, and VR&E's vague notion of why they ended the contract—the hearing should have been questioning why VR&E (VA) was allowed to deceive SDVOBs who they are supposed to consider has their highest priority. **To let these SDVOB contractors spend their own money and resources and employ people to perform services that the VA knew they were not going to use nor pay for—is just down-right wrong and it should be corrected.**

Committee on Veterans' Affairs
 Subcommittee on Economic Opportunity
July 31, 2009

Ms. Ruth Fanning
 Director
 Vocational Rehabilitation and Employment Service
 U.S. Department of Veterans Affairs
 810 Vermont Ave., NW
 Washington, DC 20420

Dear Ms. Fanning:

I would like to request your response to the enclosed questions for the record and deliverable I am submitting in reference to our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity Hearing on "*Vocational Rehabilitation and Employment Contracts for Veteran Counseling*" on July 30, 2009. Please answer the enclosed hearing questions by no later than Friday, September 11, 2009.

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Sincerely,

Stephanie Herseth Sandlin
Chairwoman

JL/ot

Questions for the Record
The Honorable Stephanie Herseth Sandlin, Chairwoman
Subcommittee on Economic Opportunity
House Committee on Veterans' Affairs
July 30, 2009
Vocational Rehabilitation and Employment
Contracts for Veterans Counseling

Question 1: Can you explain how VA determines contractor quality?

Response: The primary method for determining contractor quality in the national acquisition strategy (NAS) contract was to review the completed work to determine if the contractor complied with performance requirements outlined in the NAS performance work statement. The quality assurance surveillance plan (see attached) also outlined expectations for compliance with the performance standards, including timeliness and quality of services and reports. This plan established the process used to evaluate the level of services provided by contractors. In addition, quality was assessed based on Veteran feedback.

Question 2: Do you think that some of the problems from the National Acquisition Strategy contracts were due to the fact that it was awarded to small businesses that went from providing local services to immediately providing services nationwide?

Response: Yes, although research by an integrated project team consisting of Vocational Rehabilitation and Employment (VR&E), Office of Acquisition Logistics and Construction (OALC), and Office of General Counsel (OGC), along with support from the Office of Small and Disadvantaged Business Utilization (OSDBU), indicated that there were adequate service-disabled Veteran owned small businesses and Veteran owned small businesses available to provide the required services. These firms also asserted that they could provide the services nationally. However, the performance of NAS contractors demonstrated that vendors overestimated their ability to expand staffing and locations.

Question 3: In your written testimony, you state the training was provided during the solicitation phase to assist the small businesses. Did any of the small businesses feel that the training was insufficient?

Response: No, the feedback from small business participants attending the pre-solicitation training was positive. In addition, as a follow-up to the pre-solicitation training, firms were able to submit questions for any clarification needed. OSDDBU offered additional guidance to assist firms in setting up joint ventures and team arrangements if needed.

Question 4: You mentioned in your testimony that prime contractors have struggled to: develop subcontract relationships; to recruit appropriate staff; and deliver timely and high quality services. Can you elaborate and provide examples?

Response: Many jurisdictions complained that contractors were refusing referrals or not contacting Veterans referred to them due a lack of subcontract relationships, ineffective subcontractor relationships, or a lack of prime contractor staff. This directly impacted timeliness and quality of services. When VR&E offices inquired, contractors replied they were unable to recruit qualified staff and/or subcontractors. In some jurisdictions the Department of Veterans Affairs (VA) was unable to refer cases for several months after award due to the vendors' inability to perform. In other jurisdictions, vendors flew in staff from other States to provide coverage. Complaints from VR&E offices and Veterans indicated that Veterans were asked to meet with contract staff at non-professional locations such as hotel rooms and fast food restaurants.

As a result of the complaints from Veterans and field offices, VR&E conducted a gap analysis in January 2009. VR&E field offices also completed past performance evaluations of contractors in April and August of 2009. Below are examples of problems identified:

- Untimely services/deliverables or lack of Veteran contact by contractor:
 - The Portland Regional Office (RO) reported 16 Veterans complained about the length of time contractors took to contact them.
 - The Seattle RO reported Veterans complained about timeliness, travel burdens, and that no contact information was provided.
 - The Washington RO received 25 Veterans complaints mostly involving untimely services.
 - The Pittsburgh RO made 146 referrals for case management, and 54 Veterans were not contacted. The contractor told VA that the referrals were overlooked and/or misplaced. Out of all 178 referred cases, VA only received timely reports for 21 cases.
 - The Muskogee RO received untimely reports for 14 of 22 initial assessments and 203 of 215 educational vocational counseling reports.
 - The Seattle RO received one timely report out of 1,072, and 151 cases were returned for which no service was provided.
 - The Buffalo RO only received 74 timely reports out of 219 while an additional 255 reports were still outstanding.
- Unacceptable quality/timeliness:
 - The Portland RO counselors complained about incomplete and poorly performed work. There was an ongoing request for extensions on submitting reports. No reports were received.
 - The St. Petersburg RO referred 928 cases. Only 112 met quality expectations and 696 had to be reworked.
 - The Cleveland RO referred 741 cases. Only five timely reports were received, and 478 did not meet quality expectations. The contractors were not responsive to VR&E contacts to resolve issues.
 - The Salt Lake City RO received two timely reports out of 78 referred cases. Less than half met quality expectations. Contractor held the cases for up to 3 weeks at a time prior to starting work on the cases.
- Lack of qualified staff:
 - No qualified or approved providers available in Delaware, San Juan, Canada, Guam, and American Samoa.
 - The Pittsburgh RO worked with a contractor who was unable to acquire qualified counselors for Veterans in Erie throughout the entire base period.
 - The Buffalo RO reported five out of seven contract staff members were unfamiliar with VR&E services.

- One subcontractor covered the entire State of Utah and Eastern Idaho and was not properly staffed to respond to the referrals made under the contract.

Question 5: You mention in your testimony that prime contractors did not deliver services in a timely fashion. According to some of the contractors, this is because of the varied requirements each regional office had and due to contracting officers requiring information and forms that prime contractors did not know were required. Can you explain what happened?

Response: The NAS contracts were standardized in order to ensure that services provided in each regional office were delivered and administered in a consistent manner. In order to facilitate effective working relationships between new contractors and VR&E staff, and in order to provide consistent training to both contractors and VR&E staff regarding the contract and standardized expectations, a 1-week pre-performance training session was held. All VA contracting officers' technical representatives (COTR), contract specialists, and prime contractors were invited to Baltimore in August 2009 for this training, which included specific training on each service group, deliverables, resources, and performance expectations. All prime contractors sent representatives to the training. Contractors received information on reporting requirements, and a Web site for access to all forms in the contract. In addition, training was provided to explain performance expectations, contract incentives for exceeding performance expectations, rights of the VA for non- or poor-performance, and rights of contractors to bring any issues of concern to the contracting officer (CO) for resolution. The CO attended the training to respond to contractor and VR&E staff questions and provided a "kick-off" session to provide an overview of the roles and responsibilities of the contractors, COTRs and the CO.

Because individual Veterans' needs vary and each rehabilitation plan is tailored to those needs, services differ somewhat from Veteran to Veteran. The performance-based contract provided for contractors to use their expertise in providing individualized services while working collaboratively with the involved VR&E office to ensure consistency with VA regulations and policy and with contract specifications. In providing oversight to field offices through VA's site visit program, quality assurance process, and through routine oversight of field contracting activities, VR&E found that VR&E offices were compliant with contract specifications. In addition, routine calls were held with field offices to address questions and concerns and provide any training or clarification needed to ensure consistent administration of contracts.

Question 6: When were the contractors informed about the settlement not to exercise any of the 1-year renewal options?

Response: Contractors were notified by certified mail and e-mail on June 11, 2009, of VA's decision not to exercise the option to renew the VR&E NAS contract.

Question 7: What areas did the National Acquisition Strategy work well and what areas did the National Acquisition Strategy not work well?

Response: The NAS contract was developed collaboratively by VR&E; OALC; and OGC. The integrated project team leveraged members' expertise to evaluate programmatic needs, market conditions, and methods to gain efficiencies in the contracting process while focusing on developing a strategy that would best serve Veterans. The strategy worked well in the following areas:

- Development of a national performance work statement to include a full scope of VR&E requirements, freeing local offices from the burden of developing local contracts and ensuring a more standardized approach to contracting.
- The national oversight of local contract implementation that allowed for direct interaction between local RO and prime contractor staff in the execution of local services.
- A pre-proposal conference and use of Webinar technology that increased the number of participants.
- Use of contract review and contract administration boards. Both boards provide quality assurance in the pre- and post-award areas helping to resolve concerns in a proactive manner.
- The national training approach provided pre-implementation training to VA and prime contract staff and provided on-going implementation oversight of field offices.
- Use of an integrated project team that enabled all stakeholders to participate in designing the best product while streamlining the acquisition process and eliminating piecemeal reviews.

The integrated project team used the best information available to craft a strategy that would reduce the number of total contracts, target small business, and assist vendors to partner and subcontract. In this process, OSDBU provided training to potential bidders to assist them in developing joint ventures and subcontracting relationships. Despite the market research and training, small companies were not able to successfully expand their businesses. In addition, pricing variances and confusion about pricing by vendors presented challenges. Challenges occurred in the following areas:

- The approach did not leverage the familiarity of small local rehabilitation providers with local labor market and community resources.
- The approach required small vendors to partner or develop subcontracting relationships. Some vendors overestimated their capacity to successfully partner with other companies and were not able to deliver services in accordance with contract requirements.
- Some contractors interpreted unit pricing in accordance with past experience instead of contract specifications, resulting in inappropriate pricing. VA pricing evaluations neither adequately controlled for pricing variation nor evaluated contractors' professional compensation plans.
- Awarding a single contract in multiple jurisdictions resulted in lack of alternate coverage when certain contractors failed to provide timely or quality services.

Question 8: Why was there a delay in assigning cases in some states?

Response: VA was delayed in its ability to order services according to our needs due to inadequately staffed prime contractors. However, once contractors were able to stand up all or part of their operations, VA was not under any obligation to order services except in accordance with VA needs. The NAS contracts were indefinite delivery/indefinite quantity contracts, requiring VA to contract for services only when needed. The only guarantees made regarding when and how many cases would be referred were contract minimums, which could be ordered at any time during the base year. VA ordered at least the quantity of services designated in the schedule as the "minimum." When ordered, the contractor was required to furnish services specified in the schedule up to and including the quantity designated as the "maximum."

Question 9: You state that the VA attempted to resolve issues with vendors. Are you confident all VA employees made a good faith effort to work out the problems?

Response: VA is confident that offices worked diligently to resolve issues related to the NAS contracts and that procedures were in place for contractors to obtain assistance if they perceived an office was not working effectively. Routine weekly or bi-weekly calls took place with VR&E staff around the nation, and numerous calls were made from individual VR&E offices to discuss strategies for working effectively with NAS. If a specific contractor had difficulty working effectively with any VR&E staff member or office, VR&E worked with the involved office to address the issue of concern, and, as necessary, coordinated with the CO to provide assistance to the contractor. In addition, VR&E held weekly contract administration board meetings with the OALC CO and OGC. The purpose of these meetings was to elevate issues of concern to the CO for assistance in working with the contractor to resolve questions or concerns and to obtain legal or contract guidance for field staff working directly with contractors. To strengthen this process for future contracts, VR&E has collaborated with OALC and OGC to develop a governance board that oversees and provides guidance in resolving contract issues throughout the contract life cycle. In addition, OALC has determined that field contract specialists will be delegated some CO responsibilities in order to proactively resolve concerns or performance issues.

Question 10: You recently had eight contractors. How many do you expect to have under the new contract?

Response: VA cannot predict the exact number of contractors. If a vendor has adequate staff, professional office space, an appropriate compensation plan, and professional relationships with subcontractors, then a vendor may be awarded contracts in more than one jurisdiction.

Question 11: You will be using local procurement in the new contract. Why is that the better way to go?

Response: Local procurement will be used for services at the local level during the interim period while the new national contract is being developed and awarded. The local procurement package mirrors the national procurement. Local contracts will allow VA to gain experience with the revised contract. This experience will ensure that new national contracts are clear and adequately meet the needs of local VR&E offices and provide timely and quality services to Veterans. New national contracts will be procured by the national OALC acquisition team and will be administered from the national level by a centralized CO. Based on lessons learned from the NAS contracts, local contract specialists will be provided limited authority to deal with emerging performance issues. In addition, local COTRs will provide subject matter expertise and work with contractors as they provide direct community-based services. To ensure consistency, overall oversight of the contract will continue to be provided nationally by the CO, with technical oversight provided by VR&E. A governance board will be implemented post award to allow VR&E to continue to benefit from the expertise and guidance of OALC and OGC staff to resolve legal and contracting issues in a proactive manner.

Question 12: Can the recent eight contractors compete again for the local contracts?

Response: Yes, all vendors may compete for local contracts. No performance actions were taken prohibiting their competition. All vendor proposals will be evaluated based on technical capability, appropriateness of prices, and past performance.

ATTACHMENT

VOCATIONAL REHABILITATION AND EMPLOYMENT QUALITY ASSURANCE PLAN

I. Purpose. The quality assurance plan (QAP) establishes the principles, procedures, and criteria for quality assurance (QA) of the Vocational Rehabilitation and Employment (VR&E) services administered by VR&E contractors through field station staff.

- a. Quality validation will begin after contractor has performed services under the contract for a 60-day period. The baseline will be updated on a monthly basis.
- b. Rating Issues, Quality Criteria, And Scoring—
- c. Rating issues and quality criteria are contained in the attached QAP (attachment 2). Each criterion contains several factors. VR&E staff reviewers will assign a rating score of *Yes* or *No* for each criterion. A rating of *Yes* on a criterion indicates that all appropriate issues, are, by definition, rated *Yes*. For every unacceptable performance (*No*) in a criterion, the reviewer will provide a narrative comment on the unacceptable performance and the steps the Contractor must take to resolve the problem. The rating scores are based on the following standards:
- d. Rating Score *Yes*. The score of *Yes* means all actions and decisions meet each of the following:
 1. The intent of law;
 2. Established National VR&E policy; and
 3. Generally accepted professional standards recognized by professional rehabilitation counseling licensing boards or authorities.
 4. The requirements of this contract.
- e. Rating Score *No*. A score of *No* means the actions and decisions did not meet all the requirements for a *Yes* score under subparagraph 3.1.b.

II. Contracting Officer's Technical Representative (COTR) Responsibilities

- a. The Veterans Benefits Administration (VBA) will assign a VBA liaison (on the national level) for the overall project. This person will assist the contracting officer (CO) in administering the contract within the limits of their delegation.
- b. The local VR&E officer will submit a list of COTR's for that particular site to the CO, who will officially delegate the COTR writing. The COTR is responsible for contract monitoring, conducting quality assurance reviews, and serves as the primary point of contact for the contractor. He/she reports directly to the CO on issues related to the contract. The COTR or his/her designee is responsible for the certification and payment of invoices from the contractor. Finally, the COTR will perform all other duties specifically defined in this contract.

- c. **Quality Sources.** The COTR may obtain information on the quality of work of the contractor through regular site visits, periodic spot checks, and other sources. COTR's may not rely solely on formal case reviews or interviews with the Veteran. Other readily available sources of information are; reviews of audio or video taped counseling, evaluation sessions, and site visits; congressional correspondence reviews; complaint and compliment mail or other communications from Veterans; and service organizations inquiries or contacts from other VR&E staff. The CO is the only individual authorized to make changes to the contract.

III. Case Selection for Quality Assurance

- a. **Types of Cases.** The Department of Veterans Affairs (VA) will perform quality assurance reviews on cases referred under this contract as part of its ongoing review of quality program. The criteria for the ratings are contained in attachment 2, the Review of Quality Manual (ROQ).
- b. **Sampling Procedures.** Under the VR&E review of quality process, cases are randomly selected each month. Ratings of each case selected for that review will also consider any services provided under this contract. Copies of the review sheets for services provided under this contract will be maintained in the contractor's file.
- c. **Identification of Problem Areas.** If QA reviews reveal a problem area that warrants a more detailed examination, the COTR will initiate a systematic analysis of operations (SAO) appropriate to the issue. SAO requires a close examination and analysis of each program action under review and is a vital element in the VR&E QA system. The SAO is a systematic examination of a process or operation conducted by the; its purpose is to identify problem areas, and take corrective action. This process was designed to assure efficiency and effectiveness in an activity.
- d. **Review Results.** If the contractor does not agree with the casework review, a written request for clarification may be filed with the COTR. If the contractor disagrees with the decision of the COTR the issue will be addressed in accordance with the "Disputes Clause" located in section IV, Item 2(d) (Contract Clauses, Terms & Conditions) of this document.

ATTACHMENT D-IIIa QUALITY ASSURANCE SURVEILLANCE PLAN ASSESSMENT/EVALUATION CHART

Service Group A—Initial Assessment/Evaluation			
Performance Standards	Performance Target	Method Of Surveillance	Incentive
The complete assessment in a written report shall be delivered to the referring VR&E Officer within 30 calendar days after receipt of the referral package by VA as identified in section IV Performance Requirements—Service Group A of the PWS.	The performance target for Initial Assessment/Evaluation is for the contractor to submit complete assessment within 12 days after receipt of referral and no revisions are required	Electronic mail date stamp by the receiving official Counselor review of assessment and file CWINRS	10% of the cost of the complete assessment if the report is received within 12 calendar days after receipt of the referral and no revisions are required

Service Group B—Case Management			
Performance Standards	Performance Target	Method Of Surveillance	Incentive
Within thirty (30) calendar days after receipt of the referral for case management services, the Contractor shall conduct the initial orientation meeting with the individual veteran as identified in Section IV Performance Requirements—Service Group B of the PWS.	The performance target for Case Management is for contractor to conduct the initial orientation meeting with the veteran within 12 days after receipt of referral.	Counselor review of files CWINRS	10% of the cost of the approved service for the fiscal year, if the initial orientation meeting is held with the veteran within 12 calendar days after receipt of the referral
Service Group C—Employment Services			
Performance Standards	Performance Target	Method Of Surveillance	Incentive
Level I & II Employment Services Job placement services are performed to meet the goals of the rehabilitation plan and to conduct placement follow-up services to assist with a smooth transition into the job market, and to ensure that the veteran has the best possible chance for continued employment success consistent with the goals of the rehabilitation plan; and to make recommendations to VR&E for the supplies and services specifically required for the veteran to secure and maintain suitable employment as identified in section IV. Performance Requirements—Service Group C of the PWS	The performance target for employment services is 90% of the referrals are placed into suitable employment for a minimum of 60 days and within 150 days from the date of the referral.	Counselor review of files CWINRS Placements will be monitored after post placement status report is received from contractor and reviewed annually	Additional 10% of the cost of Job Placement Services for each case, over 90% of referrals that are placed in suitable employment for a minimum of 60 days and within 150 calendar days from the date of receipt of the referral

Service Group C—Employment Services—Continued			
Performance Standards	Performance Target	Method Of Surveillance	Incentive
Level III Employment Services—Job placement services are performed to meet the goals of the rehabilitation plan and to conduct placement follow-up services to assist with a smooth transition into the job market, and to ensure that the veteran has the best possible chance for continued employment success consistent with the goals of the rehabilitation plan; and to make recommendations to VR&E for the supplies and services specifically required for the veteran to secure and maintain suitable employment as identified in section IV. Performance Requirements—Service Group C of the PWS	The performance target for employment services is 90% of the referrals are placed in suitable employment for a minimum of 60 days and within 210 days from the date of the referral.	Counselor review of files CWINRS Placements will be monitored after post placement status report is received from contractor and reviewed annually	Additional 10% of the cost of Job Placement Services for each case, over 90% of referrals that are placed in suitable employment for a minimum of 60 days and within 210 calendar days from the date of receipt of the referral
Service Group D—Educational and Vocational Counseling			
Performance Standards	Performance Target	Method Of Surveillance	Incentive
The educational and vocational counseling assessment shall be delivered to the referring VR&E Officer within 30 calendar days after receipt of the educational and vocational counseling referral package by VA as identified in section IV. Performance Requirements—Service Group D of the PWS	The performance target for Educational and Vocational Counseling is for contractor to submit assessment within 12 days after receipt of referral and no revisions are required	Electronic mail date stamp by receiving official Counselor review of files CWINRS	10% of the cost of the educational and vocational counseling services, if the assessment is received within 12 calendar days after receipt of the referral and no revisions are required