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January 5, 2016

Chairmen, Ranking Members, Members of the US House and Senate Committees of Veterans Affairs and the Secretary, Department of Veterans Affairs

Dear Committee Members and VA Secretary:

AFGE Local 520, the exclusive representative of the bargaining unit of VARO Columbia, SC, wants to address the VBA claims processing from a historical perspective.

The truth is now revealed about the claims backlog of disability compensation claims and the goals (zero backlog claims by 2015 and a 98% accuracy rate) that was set in 2009 by former VA Secretary Shinseki. Again, the VA has not been able to keep its promise to the Veterans of America. However, this is not a surprise.

The Clinton, Bush, and now the Obama administrations all have promised to fix the claims process, but have failed.

Under Clinton, the VBA was headed by Joseph "Joe" Thompson, a career VA employee and Air Force Vietnam veteran who joined VA in 1975 as a claims examiner at the New York VA Regional Office. He brought in Business Processing Reengineering (BPR) - a concept of case management and merging of the adjudication and Veterans assistance divisions and the creation of the Veterans Service Representative position which required an employee to be a jack of all trades. His concept lasted from 1999 to 2001.

Then the Bush 43 Administration hired Navy Admiral Daniel Cooper to head the VBA. He brought in the Claims Processing Improvement (CPI) - a concept of specialization of the process and consolidation of the workload (National Call Centers, Fiduciary Hubs, Appeals Management Center and Pension Maintenance Centers) to free up claims processors to work on disability claims. It lasted from 2002 to 2009 and USB Cooper lasted until 2008.

In 2001, after completing a lengthy study into the Veterans Benefits Compensation Program, he was nominated by President Bush and confirmed by the Senate in 2002 to become Undersecretary for Benefits (USB) at the Department of Veterans Affairs in Washington. <http://blogs.technet.com>

Then the Obama administration brought in Air Force General Allison Hickey in 2011 and the concept of Transformation – People, Process, and Technology was birthed. The core of the transformation was digitation of records and the Veterans Benefits Management System (VBMS) and a host of 40+ initiatives and a Powerpoint presentation with no actual plan.

The GAO testified before the Senate VA Committee and said, ““We have noted that VA’s ongoing efforts should be driven by a robust, comprehensive plan; however when we reviewed VBA’s plan documents, we found that they fell short of established criteria for sound planning. Specifically, VBA provided us with several documents, including a PowerPoint presentation and a matrix that provided a high-level overview of over 40 initiatives, but, at the time of our review, could not provide us with a robust plan that tied together the group of initiatives, their inter-relationships, and subsequent impact on claims and appeals processing times.” *GAO-13-453T, Mar 13, 2013*

Actually, Transformation is a hybrid of the BPR and the CPI with a high concentration on automation at its core. The transformation continues, but the architect lasted until 2015.

Now, another election cycle is upon us. Therefore, the current administration and its political appointees are “placeholder” for a year. These words are appropriate for what is about to happen in 2016 - “Those that fail to learn from history, are doomed to repeat it.” - Winston Churchill

Excerpts from the article, *VA: Claims backlog is better, but is never going away. Military Times, December 29, 2015*, show that instead of conducting an analysis of why the goals were not met and working to fix it, the VA leadership is now in “spin” mode.

- “But for years, White House and VA leaders have publicly targeted 2015 as the year they would eliminate the backlog, comprised of first-time claims pending for more than four months.
- And that goal may never be reached.
- In a statement this week, VA officials said some claims will always require more than 125 days to process, “for a number of complex reasons.” Those include shifting schedules for medical exams, additional entitlement issues, and discovery of new evidence during processing that can bolster a veteran’s case.
- “VA’s legal duty to assist veterans in fully developing their claims is an obligation we take seriously and will not rush,” the statement said. “VA employees are dedicated to getting veterans the benefits they have earned as quickly and accurately as possible.”
- Veterans Benefits Administration officials have estimated that about 10 percent of new claims coming into the system may fall into those categories. With the current inventory, that translates into a rolling list of about 40,000 **backlogged claims.**
- The department has cleared more than 530,000 overdue claims from its caseload in about 2.5 years, thanks to a series of process updates, computer upgrades and years of mandatory overtime for claims workers.

- **“While complete elimination of the backlog may not be achievable under our current processing systems and procedures, we know there is still more that we can do,” they said in their statement.”** (Emphasis added)

First, let’s clarify what the backlog is comprised of now. These are not first-time claims pending more than four months. According to the Monday Morning Workload Report dated December 28, 2015, the backlog is comprised of the following end products, totals, percentages and description:

| C&P RB >125 | 12/28/2015 | 12/28/2015 | Description |
|-------------------------------|-------------------|-------------------|--|
| 010 | 12,019 | 29.9% | Initial entitlement for service-connected disability (=>8) |
| 110 | 19,746 | 24.5% | Initial entitlement for service-connected disability (<=7) |
| 180 | 438 | 5.1% | Initial entitlement - Veteran's Pension |
| 140 | 1,384 | 17.2% | Initial claims from surviving spouses, children or parents |
| 120 | 346 | 4.4% | Increased entitlement and/or reconsideration for Pension |
| 020 | 38,562 | 19.2% | Increased evaluation and/or additional claimed conditions |
| 310 | 1,512 | 10.1% | Future examination for disabilities |
| 320 | 335 | 41.6% | Increased entitlement due to hospitalization or surgery |
| 681 | 2 | 11.8% | Reopened or new Agent Orange claims prior to 8/30/10 |
| 405 | 1 | 25.0% | Reopened or new Agent Orange claims After 9/01/10 |
| 409 | 3 | 75.0% | AO claims where an interim decision was provided |
| TOT RB >125 | 74,348 | | |

What is not included in the above totals, but should be are the mostly premature decisions captured and hidden under End Product 930.

| C&P RB >125 | 12/28/2015 | 12/28/2015 | Description |
|---------------------------|-------------------|-------------------|-------------------------------------|
| 930 | 11,887 | 51.5% | Review, including quality assurance |

For those who have not followed the history of transformation and its architects’ assumptions and miscalculations, we offer these words.

“... In the first quarter of fiscal year 2012, VBA formulated a Transformation Plan to improve the delivery of benefits to veterans and their dependents and survivors. In the first phase of this plan, VBA’s transformational people, processes, and technology initiatives are designed to achieve VA’s priority goals of processing all disability claims within 125 days and increasing rating quality to 98 percent by the end of 2015. Upon achieving those goals, the plan calls for VBA to allocate resources to maintain high-quality service for compensation claims while redirecting resources to the **second phase of the transformation, which will address the needs of VBA’s other benefit**

programs (appeals, veterans and survivors pension, dependency and indemnity compensation, burial benefits, vocational rehabilitation, education, and fiduciary)...." (emphasis added) *Federal Register* /Vol. 78, No. 229 /Wednesday, November 27, 2013 / Proposed Rules 71043.

For the record, phase one was not met and phase two cannot be a reality because resources must continue to be expended on phase one and there are no resources to move them to phase two. So now what is the answer more money, staff, and Congressional oversight as outlined in excerpts from the article, *VA gets more money, oversight in 2016*, *Federal News Radio*, December 28, 2015.

- “According to the spending bill, \$2.7 billion — \$173 million more than fiscal 2015 — was set aside for the Veterans Benefits Administration, with an emphasis on reducing the backlog of disability claims. In a November fact sheet provided by the White House, the backlog of disability claims that are older than 125 days currently stands at roughly 76,000 claims, an 88 percent drop from the March 2013 peak of 611,000 claims.
- The money in part will fund nearly 800 more staff members to handle the backlog and appeals.
- Within the spending bill is language directing the VA Secretary to submit a quarterly report to both appropriations committees that includes:
 - The average time to complete a disability compensation claim
 - The number of claims pending more than 125 days, disaggregated by initial and supplemental claims
 - Error rates
 - Any corrective action taken within the quarter to address poor performance
 - Training programs undertaken
 - The number and results of Quality Review Team audits
- Also of note, following a VA Office of Inspector General report that found senior officials using their authority for personal and financial gain, a notification must be made to the appropriations committees if a waiver is issued for funding to be used for the Home Marketing Incentive Program within VA.”

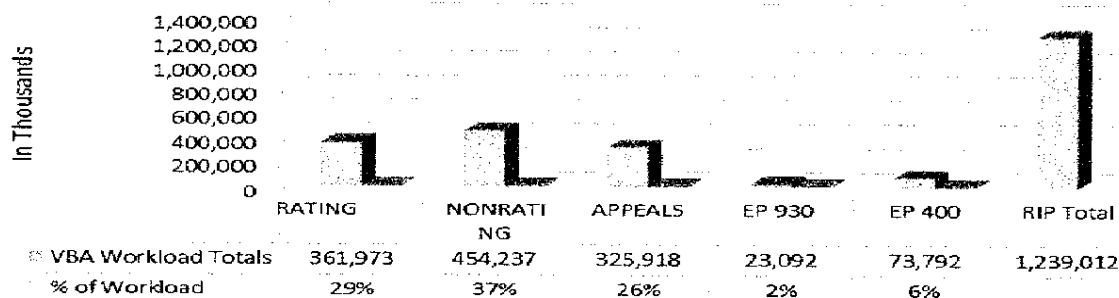
The information in the above article sounds good, but it fails because it is the same “cornflakes” in a different box. Here are a just a few thoughts to consider:

- If VBA says it takes two years for claims decision makers to be fully trained, the hiring of new staff and the length of the hiring process will limit any new staffing from making a difference in 2016.
- An increase in claims decision makers to work appeals at the local level must come from the experienced pool of decision makers (Rating Veterans Service Representatives) already in the staff inventory who are processing disability claims now. The appeals inventory is currently out of control. How many decision makers are needed to tackle this problem and what effect moving or promoting them to handle appeals will have on the disability claims inventory and/or the budget?

- The IG already reported that VBMS has cost 1.3 billion dollars as of January 2015 with no idea of how much more is needed and the recent GAO report only adds more concerns.
 - VA remained partially effective in managing VBMS development to help meet claims processing accuracy and backlog elimination goals. However, since September 2009, total estimated VBMS costs increased significantly from about \$579.2 million to approximately \$1.3 billion in January 2015. The increases were due to inadequate cost control, unplanned changes in system and business requirements, and inefficient contracting practices. As a result, VA could not ensure an effective return on its investment and total actual VBMS system development costs remained unknown. *VAOIG-13-00690-455, Follow-up Review of the Veterans Benefits Management System, September 14, 2015*
 - “.... The VBMS program reported receiving funding of about \$1 billion from fiscal years 2009 to 2015, at which time system completion was originally planned. Although development of the system is expected to continue beyond 2015, the incremental approach VA is using to develop and implement VBMS has not yet produced a plan that identifies when the system will be completed and can be expected to fully support disability and pension claims processing and appeals. Thus, it will be difficult for VA to hold its managers accountable for meeting its time frame and for demonstrating progress.” *GAO 15-582, September 1, 2015* (Emphasis added)
- The Congress has difficulty with getting information from VA now, how does this mandate change that? More importantly, what will Congress do with the information and how will changes be made if the information is negative? Furthermore, half of the information required by legislation can already be obtained and has been available on a weekly basis in the Monday Morning Workload Report.
- How can poor performance be measured when VBA’s performance standards for claims processors has been in review for over a year?
- VBA high leverage stations have eliminated training for claims processors in an effort to reduce the backlog.
- Quality Review Teams audits equate to the VBA fox watching the chicken coop.

In the meantime, appeals continue to increase and now represents 26% of the VBA workload while the compensation disability claims represent 29% and the nonrating claims which are on nobody’s radar represent 37%.

VBA Compensation Workload MMWR AS OF: 12-28-15



Excerpts from the article, *VA: Claims backlog is better, but is never going away. Military Times, December 29, 2015*, shows VBA's stance on appeals.

- “Outside critics also have expressed concern that the effort to clear the delayed first-time claims has led to an increase in the backlog of appeals on claims, where cases routinely languish for three years or more.
- The appeals caseload has risen by about 75,000 since spring 2013, to just over 325,000 pending cases today.
- But VA officials insist the percentage of total claims that wind up in appeals has remained steady in recent years, and the recent rise is connected to the greater number of claims being filed by veterans, not problems with processing first-time cases.
- Department leaders have promised to address the appeals problems in coming years, while also remaining focused on the first-time claims delays.” (Emphasis added)

According to Wikipedia, “The phrase, “**all politics is local**” is a common phrase in U.S. politics. The former Speaker of the U.S. House Tip O'Neill is most closely associated with this phrase, which encapsulates the principle that a politician's success is directly tied to the person's ability to understand and influence the issues of their constituents. Politicians must appeal to the simple, mundane and everyday concerns of those who elect them into office.”

Well, the same principle applies to local VBA claims processing and appeals. Here is an example of why each VARO's workload must be reviewed and State Congressional Delegations must be involved to ensure that the Veterans in their state and districts are advocated for.

The US House and Senate VA Committees have no members from South Carolina. The following is a breakdown of the Committees by state, party, and committee.

| State | H-Rep | H-Dem | S-Rep | S-Dem |
|-------|-------|-------|-------|-------|
| AK | | | 1 | |
| AR | | | 1 | |
| AS | 1 | | | |
| CA | | 4 | | |
| CO | 2 | | | |
| CT | | | | 1 |
| FL | 2 | 1 | | |
| GA | | | 1 | |
| HI | | | | 1 |
| IL | 1 | | | |
| IN | 1 | | | |
| KS | 1 | | 1 | |
| MI | 1 | | | |
| MN | | 1 | | |
| NH | | 1 | | |
| LA | 1 | | 1 | |
| MT | | | | 1 |
| NC | | | 1 | |
| NY | 1 | 1 | | |
| NV | | 1 | 1 | |
| OH | 1 | | | 1 |
| PA | 1 | | | |
| SD | | | 1 | |
| TN | 1 | | | |
| TX | | 1 | | |
| VT | | | | 1 |
| WA | | | | 1 |
| WV | | | | 1 |
| TOTAL | 14 | 10 | 8 | 7 |

Unfortunately, the makeup of the VA Congressional committees can be detrimental to Veterans whose state is not represented. The appeals situation in VARO Columbia demonstrates how Veterans in South Carolina suffer when there is no one advocating on their behalf.

AFGE Local 520 prepared an Appeals Issues and Resolution Report for the Director of VARO Columbia with a copy furnished to the Chairmen of the US House and Senate VA Committees and the VA Chain of Command, with a copy of the executive summary sent to the SC Congressional Delegation and the Governor regarding the appeals situation in South Carolina in

early December 2015. By the response received thus far, we must conclude no one cares about their plight.

Here are excerpts from *the report* outlining the direr straits of the Veterans in South Carolina awaiting for their appeals to be processed.

“AFGE Local 520 and VARO Columbia employees have always been and remain committed to serving veterans. However, the number of appeals at VARO Columbia have climbed from 6,306, March 4, 2013 to 12,684, November 30, 2015, as of the VBA’s Monday Morning Workload Report (MMWR), respectively.

As of November 30, 2015, VARO Columbia had **9040** disability claims pending with 78 Rating Veterans Service Representatives and approximately 114 Veterans Service Representatives working them. In comparison, there are 10 DROs and 4 of them with less than 4 months of experience and 19 Veterans Service Representatives and 8 of them with less than 4 months of appeals experience working **12,518** appeals. The ratio of claims (approximately 115 claims per RVSR to 1,043 appeals per DRO with more complexity and **DROs must work overtime on regular claims while RVSRs are begging for claims to work**).

The VBA’s De Novo Program was a VBA 2001 initiative to help reduce the appeals inventory according to the *VAOIG Audit of VA Regional Office’s Appeals Management Processes, May 30, 2012 10-03166-75*. Unfortunately for the Veterans of South Carolina, the VARO 319 De Novo program is in a “Tsunami” with no sign of abatement because of the pending **5002** De Novo reviews, **4966** traditional disagreements, **1790** perfected appeals, **909** BVA and CAVC Remands with over a third with no action taken, and **987** local hearings and only 10 DROs and 4 with less than 4 months experience to process them. Furthermore, nearly half of the employees assigned to the appeals team are inexperienced and untrained in appeals processing.”

Who is advocating for the Veterans of South Carolina? Is this serving Veterans? Lip service regarding appeals can no longer be accepted or the norm especially for the Veterans of SC.

Just as critical and even more egregious is the number of nonrating claims which make up 37% of the VBA workload exceeding both rating claims and appeals, but there is little or no sustainable provisions or ongoing discussions to solve/address this backlog problem.

As a footnote, death claims have increased **23,487** since January 12, 2015 and with an aging (WW II, **847,419**, Korean **1,739,129** and Vietnam Veteran **7,102,129**) population these claims will increase. Statistics obtained from http://www.va.gov/vetdata/Veteran_Population.asp.

Kasier Health News, Morning Brief, May 6, 2015 Summaries of health policy coverage from major news organizations states what is needed and what AFGE Local 520 has been advocating for.

- *“Senators Want Independent VA Review To Determine If Claims Troubles Are Systemic, The Virginian Pilot*
 - A bipartisan group of senators says efforts by the Department of Veterans Affairs to fix delays in handling veterans claims are insufficient and calls for the Government Accountability Office to investigate all 56 regional offices. Meanwhile, California lawmakers push for a new clinic to serve 87,000 veterans.

The Columbia VARO is a prime example of what the VBA has become a hybrid of the three models – BPR, CPI, and Transformation. The VARO houses a National Call Center and a Fiduciary Hub. The VARO has 19 temporary VSR employees working on drill pay claims for the nation; is a high leverage station that has eliminated training and truncated other procedures to concentrate on increasing its disability compensation production; and its appeal workload is completely out of control. Therefore, we will concentrate on evaluating every aspect of the VARO’s claims processing mission to show what problems exist because of the creation of the transformation “jigsaw puzzle” with pieces that do not fit and the ill-advised approach of meeting unrealistic goals at all cost.

When consumers buy a product, but they realize that it cannot do the job as advertised, sales go down and the product is discontinued. However, when VBA employees are given tools that do not work, they must use it with “workarounds” to make it work. It does not matter if the workarounds create more work than the old process. However, the VBA calls this progress. We call it insanity. Moreover, employees are still required to produce the same amount of work with defective tools and processes.

Technology is great when it works, but a nightmare when it does not. How many consumers are returning their I-Phones? Ideas are great, but turning them into smart-phones takes research, development, testing, and execution. Moreover, the consumer experience and sales will be the indicators of success.

Unfortunately, the employees of the VBA have endured over a decade and a half of failed changes and promises and this will continue unless an independent review is conducted of all VAROs and the VBA’s processes and technology that have been heaped upon employees in the past four years. Employees cannot return the tools for a refund or discontinue using them.

This is not a condemnation of the need for change or the incremental progress that has been gained, but an evaluation of the facts and an appeal to examine the pillars of the VBA organization – leadership, process, people system, and workplace culture.

The VBA miscalculated the success of the VBMS and its other initiatives. Instead of hiring more employees, it relied on mandatory overtime to reduce the backlog. Now, it is apparent that the backlog cannot be sustained by all the initiatives and VBMS put in place and human resources cannot currently be shifted to the other workload.


Here is what the recent *GAO Report 15-582, September 1, 2015* reports about VBMS:

“As VA continues its efforts to complete development and implementation of the system, three areas could benefit from increased management attention.

- *Cost estimating:* ...
- *System availability:* ...
- *System defects:* While the program has actively managed system defects, a recent system release included unresolved defects that impacted system performance and users' experiences. **Continuing to deploy releases with large numbers of defects that reduce system functionality could adversely affect users' ability to process disability claims in an efficient manner.** (Emphasis added)

Band-Aids are for minor cuts and bruises. However, serious medical problems require surgery and treatment. The VBA is facing problems with its workloads (rating, nonrating, appeals, death, and others to include work items) and not just the disability claims backlog, but also its leadership, process, and technology. It is clear that more staff is needed, but they must be trained and that takes time. There is also a need for critical analysis of the changes that have been made and leadership accountability because - “Those that fail to learn from history, are doomed to repeat it.” - Winston Churchill

AFGE Local 520 will continue to give the other side of the story to help improve service to all veterans and be a voice for the employees who are called to serve them because no one else will.


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LEAVE NO VETERAN BEHIND

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60 Minutes
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We can't solve problems by using the same kind of thinking we used when we created them.
Albert Einstein