

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
JOHN HOEVEN, NORTH DAKOTA
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI
THOMAS R. CARPER, DELAWARE
JON TESTER, MONTANA
HEIDI HEITKAMP, NORTH DAKOTA
GARY C. PETERS, MICHIGAN
MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

July 25, 2017

The Honorable David J. Shulkin
Secretary
U.S. Department of Veterans Affairs
810 Vermont Ave., N.W.
Washington, D.C. 20420

Dear Mr. Secretary:

I am writing regarding a recent report from the Department of Veterans Affairs (VA) Office of Construction and Facilities Management (CFM) regarding construction issues at the Jefferson Barracks Division of the VA St. Louis Health Care System (Jefferson Barracks).¹ CFM convened an Independent Review Team in response to a request for investigation by the VA Office of Inspector General (OIG) after the OIG received a whistleblower complaint through the OIG Hotline. The CFM report substantiates allegations of serious construction deficiencies by the contractor, Walsh-Alberici.

On April 20, 2017, my staff contacted the VA OIG regarding reports of serious construction issues at Jefferson Barracks. Jefferson Barracks is a multi-phase major construction project to, among other things, construct a new clinic building and medical rehabilitation facility on the campus. At my request, the VA OIG reviewed its Hotline complaints and confirmed that the OIG received a whistleblower complaint in January 2017. The VA OIG also informed my staff that, in response to the whistleblower complaint, they assigned a referral for information to the Executive Director of CFM on April 14, 2017.

On April 26, 2017, the Medical Center Director for the VA St. Louis Health Care System, Keith Repko, appeared before the Committee to testify about his leadership of the VA St. Louis Health Care System, including the Jefferson Barracks Campus. During this hearing, I asked him directly about my concerns regarding the quality of the ongoing construction at Jefferson Barracks noting my staff's contact with the VA OIG about the matter.² Following the hearing, I sent a letter to the VA OIG on May 5, 2017, requesting an update on the status of its review of the Jefferson Barracks construction, as well as a briefing on the VA OIG's ongoing efforts to conduct oversight. The VA OIG responded on June 18, 2017, that it would be

¹ Department of Veterans Affairs, Documentation of Findings: Office of Construction & Facilities Management Independent Review per Office of Inspector General Hotline Case Referral No. 2017-030250HL-1038 (June 29, 2017).

² Senate Committee on Homeland Security and Governmental Affairs, Testimony of Keith Repko, Medical Center Director, VA St. Louis Health Care System, *Hearing on Duplication, Waste, and Fraud in Federal Programs*, 115th Cong. (Apr. 26, 2017).

dedicating an Office of Audits and Evaluations (OAE) to focus solely on construction and contracting issues, and that CFM would be taking the lead on investigating the Jefferson Barracks matter.

On July 18, 2017, the VA OIG sent me a report from CFM documenting its findings in response to the VA OIG Hotline whistleblower complaint. CFM's Independent Review Team (IRT) conducted a review of nine allegations from the OIG referral. The IRT's review found that all nine allegations were either partially or completely substantiated. Descriptions of the nine allegations and the IRT's determinations are listed below.³

The following allegations were substantiated:

1. Walsh-Alberici failed to follow the contract requirements and VA has not utilized all of the contractual tools available to recoup taxpayer funds;
2. Two full-time personnel who were listed as a part of the VA's contract with Walsh-Alberici were not present on the project, leading to a credit of \$124,488 for the government;
3. The Project Superintendent was not able to be on site until 5 months after the project started, even though the contract required otherwise;
4. Documents submitted to the VA were signed by the Quality Control Manager attesting that he reviewed contract materials even though Quality Control Manager was on an international vacation on the dates of signature;
5. A construction entrance/washout was not built to construction standards; and,
6. Incomplete testing and inspection was conducted by the Quality Control Manager for various aspects of the construction project.

The following allegations were partially substantiated:

7. Walsh-Alberici did not follow contract requirements to prevent water damage, leaving the facility at risk for mold and rust issues;
8. The contractor failed to submit critical planning documents in a timely manner, violating the terms of the contract; and,
9. An unauthorized worker installed a retaining wall on the property that impacted a nearby elementary school.

CFM has issued a number of corrective actions to address these findings. For example, in the case of the finding that the construction site was improperly exposed to water, CFM has

³ Department of Veterans Affairs, *Documentation of Findings: Office of Construction & Facilities Management Independent Review per Office of Inspector General Hotline Case Referral No. 2017-030250HL-1038* (June 29, 2017).

stated that testing will take place to determine the extent of potential damage by rust and mold and if damaged materials are found, Walsh-Alberici will be responsible for the cost of testing and repairs.⁴ CFM has also stated that in the case of lost taxpayer dollars due to contract violations, future payments to Walsh-Alberici may be withheld until the debt is paid.⁵ Additionally, in the case of improperly submitted documents, such as the instance where the supervisor was on vacation, future CFM contracts will require a fee for rejected document submissions⁶ While these are all steps in the right direction, there needs to be further assurance that the VA will hold contractors, and Walsh-Alberici specifically, accountable.

In recent years, the Government Accountability Office (GAO) has highlighted the challenges the VA has faced in managing its major construction projects – finding that the VA must do a better job of defining roles and responsibilities for the multiple offices and officials involved in managing these projects.⁷ On April 26, 2017, GAO Comptroller General Eugene Dodaro testified before the Committee regarding contract and construction oversight at the VA, noting that at the VA “there is really not good coordination.”⁸ Mr. Dodaro added that “VA, generally speaking, is a very decentralized organization with very little oversight and accountability from the centralized organizations of VA.”⁹ I am concerned that it took a whistleblower to bring this information to the VA, as some of these problems should have been known if proper oversight was in place. This case is a prime example of the indispensable role that whistleblowers often play in exposing fraud, waste, and abuse in the government.

I request that you provide additional information, so that I can better understand how VA is addressing the ITR’s findings. Please provide the following information on or before August 15, 2017:

⁴ Department of Veterans Affairs, *Documentation of Findings: Office of Construction & Facilities Management Independent Review per Office of Inspector General Hotline Case Referral No. 2017-030250HL-1038* (June 29, 2017).

⁵ Department of Veterans Affairs, *Documentation of Findings: Office of Construction & Facilities Management Independent Review per Office of Inspector General Hotline Case Referral No. 2017-030250HL-1038* (June 29, 2017).

⁶ Department of Veterans Affairs, *Documentation of Findings: Office of Construction & Facilities Management Independent Review per Office of Inspector General Hotline Case Referral No. 2017-030250HL-1038* (June 29, 2017).

⁷ Government Accountability Office, *VA Construction: Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical Facility Projects* (GAO-13-302) (Apr. 2013).

⁸ Senate Committee on Homeland Security and Governmental Affairs, Testimony of Comptroller General, U.S. Government Accountability Officer, Eugene Dodaro, *Hearing on Duplication, Waste, and Fraud in Federal Programs*, 105th Cong. (Apr. 26, 2017).

⁹ Senate Committee on Homeland Security and Governmental Affairs, Testimony of Comptroller General, U.S. Government Accountability Officer, Eugene Dodaro, *Hearing on Duplication, Waste, and Fraud in Federal Programs*, 105th Cong. (Apr. 26, 2017).

1. Please provide in detail, information on how CFM will oversee Walsh-Alberici's remediation of the problems identified in the report and when that remediation is expected to be complete.
2. At what point will the VA determine if credits are owed to the VA due to Walsh-Alberici's misuse of contract funds?
3. If credits are owed to the VA, how will you recoup the money from Walsh-Alberici?
4. In addition to the initiation of the fee for previously rejected submittals, what steps will CFM take to ensure that contractors are held accountable for violating contract terms?
5. What steps has VA taken to document Walsh-Alberici's contract performance issues?

In addition to providing responses to the above questions, I request that relevant officials from the VA brief my staff regarding VA's response to this matter. I request that the VA provide this briefing on or before August 15, 2017.

Thank you for your attention to this matter. Please have your staff contact Hannah Berner with my Committee staff at (202) 224-5065 with any questions. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman