VA'S FISCAL YEAR 2007 BUDGET REQUEST FOR THE COMPENSATION AND PENSION PROGRAMS OF THE VETERANS BENEFITS ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

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VA's Fiscal Year 2007 Budget Request for the Compensation and Pension Programs of the Veterans Benefits Administration

Thursday, February 16, 2006

U.S. House of Representatives,
Subcommittee on Disability Assistance and Memorial Affairs,
Committee on Veterans' Affairs,
Washington, D.C.

The Subcommittee met, pursuant to call, at 2:00 p.m., in Room 340, Cannon House Office Building, Hon. Jeff Miller [Chairman of the Committee] presiding.

Present: Representatives Jeff Miller, Tom Udall.

Mr. Miller. This hearing will come to order. Good afternoon, everybody. Thank you so much for being here on -- this is Thursday, isn't it -- Thursday afternoon.

Last week, we heard testimony from Secretary Nicholson on the VA-wide budget request for fiscal year 2007, and today we are meeting to review the request for the compensation, pension, and burial programs. VA estimates it will provide nearly $35 billion in compensation, pension, and burial benefits to almost 3 million veterans and survivors in fiscal year 2006. The number of veterans filing claims for compensation and pension has grown by more than 36 percent from 578,773 in fiscal year 2000, to over 788,000 in fiscal year 2005. This increase can be attributed to a variety of factors, including the global war on terrorism, improved outreach activities, and the general aging of the veteran population.

The Veterans Benefits Administration projects it will receive more than 910,000 claims in 2006; over 98,000 of them the result of the six-state targeted outreach program that was mandated in the Military Quality of Life and Veterans Affairs Appropriation Act of 2006.

Of particular concern to me is how VBA is going to handle this influx of claims. Under Admiral Cooper's command, timeliness and accuracy of claims has indeed improved. In fiscal year 2005, it took on average 167 days to process a claim, and the VBA's accuracy rate was 84 percent. While these numbers represent an improvement over

fiscal year 2002 numbers, the year the Admiral was confirmed, they represent a slight decline over fiscal year 2004, and we are always looking to improve them further.

One way to improve claims processing is through additional full-time employees, or FTEs. While more FTE will help, it is not a cure-all. And furthermore, it takes time to train those new employees, so the full benefit of additional FTE will not be realized at least for a couple of years.

Our Subcommittee will continue to review the adjudication process in an attempt to identify and eliminate inefficiencies. President Bush is requesting $38 billion in mandatory funding to provide service-connected compensation, dependency and indemnity compensation, pension and burial benefits. This represents an increase of $3 billion, or nine percent, over fiscal year 2006. And in addition, the President requests $924 million in budget authority discretionary funding to cover the VBA's operating costs items like salary, infrastructure, and contract medical examinations.

I am pleased that the President's budget includes additional funding for 176 FTE within VBA, but I am disheartened to know that the bulk of the FTEs will be assigned to vocational rehabilitation and education claims. There's actually a decrease, I think, in direct compensation FTEs of 149. The Committee is assessing the methodologies used to insure this request is a sufficient one.

[The opening statement of Chairman Miller appears on p. 16]

MR. MILLER. Before I turn to Mr. Udall, who is sitting in for the Ranking Member, Ms. Berkley, I'd like to let everyone know that unfortunately we don't have a whole lot of time today. The full Committee is meeting at 3:00 to further discuss the President's budget request.

Mr. Udall?

MR. UDALL. Thank you, Chairman Miller.

Thank you for holding this hearing today, and I welcome Admiral Cooper and his staff at the VBA, and Mr. Lawrence of the Disabled American Veterans organization. I am hopeful this hearing will help us come to a clearer understanding regarding the fiscal year 2007 Veterans' Affairs budget, and some of the concerns being expressed by members of this Committee.

One particular area of concern, as it has been every year, is ensuring the timeliness and accuracy of claims processing. Admiral Cooper, you were before the Subcommittee not four months ago when we discussed the necessity to prepare a fiscal year 2007 VA budget that would address claims processing needs.

In reading the budget request now being submitted to Congress for fiscal year 2007, there is an expected increase in original claims, an expected increase in appeals, an expected increase in overall work-

load, particularly from those men and women returning from the battlefields of Afghanistan and Iraq. Yet this request includes a decrease in FTEs working on compensation claims. There would be 149 fewer FTEs at a time when the workloads in this area are only intensifying. I would echo Mr. Lawrence in saying that this request is perplexing, and I hope today's hearing will allow for further discussion.

The need to lower the number of backlog claims must be addressed, and it must be addressed now. Thank you again for those witnesses that are testifying. With 180,000 veterans in my district, these are issues of great importance to me, and I hope we can properly address each of these concerns. Thank you, Mr. Chairman.

[The opening statement of Mr. Udall appears on p. 17]

MR. MILLER. I thank you very much, Mr. Udall. Our first witness is Admiral Daniel Cooper, the Under Secretary for Benefits, and I understand you have a busy schedule as well. We thank you for being here. Accompanying the Admiral today is Mr. Jack McCoy, Associate Deputy Under Secretary for Policy and Program Management; Mr. Michael Walcoff, Associate Deputy Under Secretary for Field Operations; Ms. Renée Szybala, Director of the Compensation and Pension Service; and Mr. James Bohmbach, Director of the Office of Resources Management.

Admiral Cooper, please proceed.

STATEMENT OF DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION; ACCOMPANIED BY JACK MCCOY, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION; MICHAEL WALCOFF, ASSOCIATE DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS, VETERANS BENEFITS ADMINISTRATION; RENÉE SZYBALA, DIRECTOR OF THE COMPENSATION AND PENSION SERVICE, VETERANS BENEFITS ADMINISTRATION; AND JAMES BOHMBACH, DIRECTOR OF THE OFFICE OF RESOURCES MANAGEMENT, VETERANS BENEFITS ADMINISTRATION

ADMIRAL COOPER. Thank you, Mr. Chairman. Mr. Chairman and Mr. Udall, I respectfully request that my written statement be entered in the record.

MR. MILLER. Check and see if your mic is on, Admiral. I am sorry. Or you might pull it a little closer if you can. Looks like it is on, we just might need to get it a little closer.

ADMIRAL COOPER. Can you hear me now?

MR. MILLER. Yes, sir.

ADMIRAL COOPER. I respectfully request that my written statement be made a part of the record.

MR. MILLER. Without objection.

ADMIRAL COOPER. It is my pleasure to be here today to discuss the Department of Veterans' Affairs request for the C&P programs. The Veterans' Benefits Administration is responsible for administrating a wide range of benefits and services for veterans, their families, and their survivors. But at the heart of our mission are the disability compensation and pension programs. We specifically provide benefits and services to over 3.5 million disabled veterans and other beneficiaries. Since fiscal year 2000, VBA is experiencing an unyielding increase in workload in claims receipts, claims complexity, and more direct contact with increasing numbers of service members and veterans. Disability claims from veterans, those returning from war as well as those from earlier periods, increased by, as you say, 36 percent from 2000 to 2005.

VBA remains absolutely committed to delivering benefits and services to eligible claimants in a timely, accurate, and compassionate manner. To that end, we are requesting $1.24 billion in discretionary funds for the C&P program. The requested FTE is essential to provide the level of service expected by our nation for those who have sacrificed so much in the defense of our freedom.

With a workforce that is sufficiently supported and correctly balanced, VBA can successfully meet the needs of our veterans while ensuring proper stewardship of taxpayer funds. We are requesting 7863 direct C&P FTE in fiscal year 2007. This level will allow VBA to focus on the improvements in the quality and timeliness of claims processing, and also reduce the inventory of pending claims. It will also allow for better management of the C&P program's other major work. The other major work includes appeals account maintenance, activities for beneficiaries already receiving benefits, outreach, telephone and personal interview activity, and guardianship responsibilities. These additional workloads also increase as disabled veterans and the number of beneficiaries on our rolls increase.

We are committed to improving our outreach efforts. We will continue the Seamless Transition program for service members who are medically separated or retired due to a traumatic injury. In this program, we work closely with each individual, active-duty personnel, at the start of the military medical evaluation board process, which then leads to discharge. We will also continue briefing the separating and retiring service members about VA benefits and services through their military organizations. These services include formal transition assistance programs, co-sponsored by DOD and Labor.

Outreach efforts are also targeted to meet the increasing needs of National Guard and Reservists. Last year we held 8200 briefings. Separating military personnel also receive enhanced benefits through

our Benefits Delivery at Discharge program. We have people at 140 discharge sites around the country. Each of these endeavors reaches veterans in ways which encourage larger numbers of claims, but each is good for the veteran concerned.

I would like to discuss for a minute the mandated special outreach. Section 228 of the Military Quality of Life and Veterans' Affairs Appropriations Act of 2006 stated that the Department of Veterans' Affairs shall conduct an information campaign in states with an average annual disability compensation payment of a less of an $7,300 per year. This was the number, or the states according to the report issued by the Department of Veterans' Affairs IG last year, as you recall.

This direction is meant to inform all veterans receiving disability compensation in the six specific states by direct mail, or to tell them by direct mail of the history of below-average disability compensation payments to veterans in those states, and to provide all veterans in those states, through broadcast and print advertising, with the historical information and instructions for submitting new claims. The states meeting that specific criterion are Connecticut, Illinois, Indiana, Michigan, Ohio, and New Jersey.

Based on our experience with prior targeted outreach efforts, we expect, as you mentioned, 98,000 additional claims this year. No additional resources were allocated in that particular amendment to address those additional claims. The number of veterans filing initial disability compensation claims and claims for deserved additional benefits has increased every year since fiscal year 2000. The claims from returning Afghanistan and Iraq war veterans, as well as from veterans of earlier periods of service, have increased by about 200,000 each year since 2000, and it is expected that these increases will continue.

The most important factors leading to these high levels of claims are the operations in Iraq and Afghanistan, the increased number of beneficiaries on the rolls with resulting additional claims for increased benefits as they get older, and improved and expanded outreach activities.

The increase in claims receipts is not the only change affecting our processing requirement. The greater number of disabilities that veterans now claim on each one, the increasing complexities of the disabilities being claimed, and extensive changes in laws requiring a more thorough process, pose the major challenges to claims workload.

In my mind, the best thing that we can do is to have a robust training program. This is key to our long-term improvement, the improvement that we need in both quality and consistency of our decisions. Training enables VBA to be flexible and responsive to changing workload volume. VBA is engaged in an ongoing effort to improve its

training systems, to standardize IT for new employees, and to raise the skill levels of existing staff. We have deployed new training tools and centralized training programs. New hires receive comprehensive training and a consistent foundation in claims processing principles through a national, centralized training program.

Local training is provided using standardized curricula. Improved computer-based training tools have been developed. We have developed a skills certification instrument for assessing the knowledge level of our veterans service representatives. We have plans to do the same with our rating VSRs and eventually with our decision review officers, field examiners, and pension maintenance centers. Skill certification will enable VBA to identify systemic knowledge deficits through the testing process.

In summary, Mr. Chairman, although VBA has made and will continue to make important improvements in processing, IT applications, accountability, training, and outreach, we have been unable to keep up with the myriad factors complicating claims processing. In my opinion, with the increases in personnel we received in 2006, and that we are bringing on board now and are training, and the promise of retaining a relatively high level for the foreseeable future, we stand a good chance of turning the corner on delivering this very important benefit. One lesson I've learned, however, is that the rules in this complicated endeavor are always subject to change.

Mr. Chairman, that concludes my testimony. I greatly appreciate the chance to be here, and look forward to answering your questions.

[The statement of Daniel Cooper appears on p. 21]

MR. MILLER. Thank you very much, Admiral. One thing that I am interested in is the six-state targeted outreach language that was in the appropriations bill. I am interested in knowing if you were afforded an opportunity to comment on the expected impacts on claims processing?

ADMIRAL COOPER. I was afforded the opportunity on two occasions to talk to a couple of staffers. And at that time, the first question was, "What do you think of this?" and I told them. Frankly, I told them it was terrible public policy to go out and focus on merely six states, because all states have certain problems.

And the second thing I told them was -- and remember, this all came out of the discussion of PTSD and the IG's investigation of disparity among the states. One thing I told them was we had not found major errors in the claims that we had looked at and, therefore, I did not think it was a good idea. However, I was not asked for a vote.

At one time, I was further asked, if we knew the number of FTE that we were getting in 2006 and how would we allocate those, if in fact that amendment came to fruition. We told them and they didn't

like the answer. What we showed is that we would have to allocate, if we were going to try to keep some control in those six states, most of these people into those six states.

Those are the two questions I was asked, and neither of them proved to be germane.

MR. MILLER. I know you have the flexibility to move staff around, and that you're in the process of strengthening the training programs for your ratings staff, but I am not quite sure, however, how you expect to reduce the backlog that currently exists with fewer employees, in conjunction with the retirements, turnovers, and the time it takes to train new hires. Can you give us a comfort level on that?

ADMIRAL COOPER. You may recall that in 2003 we really pushed on pending claims. We pushed the number down to 253,000 pending claims. Now, I will tell you that at that same time, appeals and remands went up, and I then decided we need to do things across the board. However, for the next two years, the number of people that we had available to do the work went down. The number of claims went up.

As a result, in 2006 I asked for an increase of 731 additional people, because at that time, and this was toward the end of '05, my level of FTE in the C&P arena was going down, and across all VBA, was going down to 12,200.

I pointed out to them that I needed at least 731 additional FTE, and that is what I got in the budget, 12,931 FTE.

Now, I am trying to build up to that. I think, as of a couple days ago, we were at about 12,750. We have allocated staffing numbers out to get us up to the 12,900 allowed, and we have to then do the training, as you mentioned, and that will take some time.

As we were focusing on this budget -- and remember, we start the budget 18 months ahead of time. And so taking the information I knew at that time, we looked at staffig needs. The second point I would like to make is, the total number of people we have in C&P and burial, I look at that total number of people. And what you see is that in claims processing we were going to decrease 148, but in pension, we were going to increase by a number of 86. So, I do play around with those numbers, but if I can get to 911, 12,911, then I feel I have a good chance to train people to do the job properly.

The third thing I would say to you is, we have not yet started the six state rollout. I have everything ready to go, but right now we are operating under a letter from Senator Craig that asks that we refrain from starting until further notified. So right now, everybody I have is working on the claims we have aboard.

MR. MILLER. Mr. Udall?

MR. UDALL. Thank you, Chairman Miller. The VA's testimony is similar to the testimony at the full hearing. The Administration has proposed a decrease of 149 FTE who directly handle compensation

claims in 2007, despite an expectation that the number of veterans seeking benefits will continue to rise. For a number of years VBA has indicated that a backlog of 250,000 pending claims is an acceptable current inventory, although we refer to the backlog as a total number of pending rating claims.

In any system, there will be a number of claims which the staff can be expected to handle in a reasonable amount of time. That number has historically been reported as 250,000. As of February 11th, 2005, there were 368,900 rating claims pending. The number at the close of 2006 is currently projected to be 417,852. And at the end of 2007, 396,834. This level of pending rating claims is unacceptably high. Additional staff will be needed to improve services to veterans. How many staff would be needed to reduce the pending claims to 250,000 by the end of fiscal year 2007?

ADMIRAL COOPER. I cannot answer that question, primarily because I don't know when we will finally be told to do the on site outreach. With what I have right now, we can start bringing the claims backlog down. I think the chances of getting to 250,000, with all the other work and we do with the people we have right now, I don't think we can get there by that time. We have projected certain numbers, and in my written statement, I think on page two, there is a table that shows both what I see as the effect if we have to suddenly start the outreach, and what I think we can achieve if we do not, given the levels that we have.

MR. UDALL. The year-end inventory is still high though, right?

ADMIRAL COOPER. Yes, sir. You are correct.

MR. UDALL. Yes, okay.

ADMIRAL COOPER. If I could state one thing, I --

MR. UDALL. Please.

ADMIRAL COOPER. I don't mean to interrupt but, in trying to keep up with things across-the-board and do this broad range of things the we have to do, as I mentioned, when I first came aboard I focused specifically and had the whole group focus on getting pending claims down. But these other things bobbed up, as Ms. McCarthy will tell you -- and Ms. McCarthy knows more about most of my stuff than I do sometimes, I am afraid. But the fact is that, in working across the board, we have done a pretty good job on appeals and remands. Remands are the decisions that come back from the Board of Veterans' Appeals. Three years ago there were 30,000. Today there are about 20,000. We have also reduced the time to process appeals and remands.

So we are making some progress. As you say, however, the incoming workload has come in faster than we can handle, and I have had reduced people over the last couple of years. I feel that I have finally been given the people that, once I get them aboard and trained, should allow us to make good approach.

Further I would say to you, as we have made changes in leadership in the various regional offices, and then tried to get a degree of uniformity across all those regional offices, I think today we have more uniformity than certainly they have seen in a good while, and I believe I have very good people now in each of my regional offices.

So I think that together that we will eventually get on top of this. Obviously, if there's a large influx -- and our projected 98,000 is a very large influx -- then I just have to do the best I can with what we have.

MR. UDALL. And Admiral, to be clear here, there's no way that you can estimate on the basis of how the numbers of staff people that process claims, what it would take to tackle that 98,000, or to get it down to 250,000? Just giving me a rough estimate of -- I know that you are making all these changes, but based on your history, you should be able to make an educated guesstimate, I would think.

ADMIRAL COOPER. What I would do is tell you that the 98,000, that increases us by one eighth of the total number. So, if I were to give you a rough estimate, which obviously I can't do officially, I would say that about one eighth increase, that would be a very hard one to absorb. But I would say to you, as the Chairman mentioned, it is the training that takes a long time. So, even if today suddenly all these people appeared, I would be inundated because of the need to train them and get them up to speed.

MR. UDALL. Sure, sure. No, I understand that.

You don't have the lights on, so I don't know when I am supposed to quit.

MR. MILLER. You keep right on going.

MR. UDALL. I just keep right on going? I might be here forever.

MR. MILLER. You've got five more minutes.

MR. UDALL. Okay.

Admiral, are the VBA's first-quarter receipts for fiscal year 2006 on track with the three percent increase projected in the Administration's --

ADMIRAL COOPER. No, they are not. They are about 15 percent above 2004, but they are about three percent below 2005.

MR. UDALL. Okay. As I believe you know, I am very concerned about the difficulties experienced by veterans who are seeking service-connected compensation for Post-Traumatic Stress Disorder, PTSD.

ADMIRAL COOPER. Yes, sir.

MR. UDALL. According to experts in the field, service members exposed to multiple combat traumas are at risk for more severe PTSD than veterans exposed to a single incident. In your testimony, you discussed the difficulty in documenting, quote, "the event causing the stress disorder," end quote. Are service members who are subjected to the constant threat of IEDs and suicide bombers while serving in Iraq; for example, in convoys and transport activities, required to

document one specific event to support their claim for PTSD?

ADMIRAL COOPER. I would say to you that it is a much more complicated process than that, and if they are exposed to IED or whatever they are exposed to, that is in the unit records. And we then go to the records to try to find what it is that might have caused it. The nexus between the event or the several events and PTSD has to be drawn by the medical examiner. The Veteran,usually, will designate the event, or the series of events that is the stressor and then they are sent for a medical exam. We are working very closely because the Secretary, as you recall, is very interested in helping these people better acclimate to civilian life, and to be cured and not carry the problem of PTSD. And so we are working together with VHA to try to do everything better.

MR. UDALL. In a lot of cases, the medical exams aren't accepted, not accepted in terms of determining the stressor; is that the case?

ADMIRAL COOPER. I can't talk about the past. I can tell you we are working closely now, and I would expect, yes, the medical exam will give us the nexus. And I think we are making changes. We are looking very closely, as you know, both VHA and the President's commission, have tasked the Institute of Medicine to do two different studies on PTSD, to try to help us better understand, and thereby have better medical examinations. And do it in such a way that we can tell if somebody is pulling our leg, or if in fact they have, really, PTSD, and in fact there is a nexus between their condition and some event that caused it.

MR. UDALL. Now, I want to go back to the poor-performing offices. And I know you have been dealing with those by having no new staff, and I am concerned about those reports of no new staff, and those offices having no realistic hope of improving their performance, based on VBA's resource allocation formula. What actions can VBA take to improve the performance of low-performing offices? Could the VA send in a strike team to help deal with the pending backlog, or take other actions to give these offices a fresh start? What is your approach going to be there?

ADMIRAL COOPER. We have several things that we do in order to try to help offices. My goal is to help offices, but -- one of the main things we did when I was in charge of a study before I got this job, was to try to figure out what we could do better. And one of the things we noted is poor offices have a large pending backlog, because they weren't doing things properly, or they didn't have good leadership. So we determined that we were not merely going to allow poor offices to continue doing poor jobs and probably not have good training.

So we decided we would allocate differently. We have a very specific allocation that is done looking at what we expect them to receive the next year, what their quality is, what their timeliness is, and a couple other factors, to determine where we send new people.

Now, for as those offices that are backlogged, we also have them work specifically on preparing claims for adjudication, and then brokering them out to other regional offices. So we try to help them get on their feet by better developing the claim.

We also have a group from headquarters that I send out to one third of my regional offices every year, and they are there for about a week, doing both training and inspection, to see what they can do better. We have all of our regional offices organized into four areas, and we have very well-trained area directors, very sharp area directors who have lots of experience, and they go to every one of their offices at least once a year, and work with them.

Then I go to the training program that we are putting in, the training program that started last year, and we are enforcing it across the board with everybody having certain requirements; specifically, 80 hours of training a year.

Another area of intrest is IT. We are improving IT with something called VETSNET, which I am sure you all have heard about. VETSNET is extremely important. Three years ago we put in a component called MAP-D. Two years ago, we put in a component called RBA 2000, and I dictated -- modestly speaking -- that each one of those be enforced across the board, and everybody use them, and that will eventually help us tremendously, if you compare today with 10 years ago.

And so we are trying to do all these things to improve, as well as get on top of this major problem that we have.

MR. UDALL. Thank you very much. Thank you, Admiral.

MR. MILLER. Thank you, Admiral, and we may have some more questions we would like for you to take for the record. We will send them to you, since we are a little bit pinched for time, and we will move on.

ADMIRAL COOPER. Thank you very much.

MR. MILLER. Thank you, sir.

Our next witness, while they are clearing the table, is Mr. Brian Lawrence. He is the Assistant National Legislative Director for the DAV, and they are the organization responsible for the benefits portion of the Independent Budget. Mr. Lawrence, thank you for being with us today, and as you know, we have a backstop; we have a full committee meeting at 3:00. So if you would, please proceed.

STATEMENT OF BRIAN LAWRENCE, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

MR. LAWRENCE. Thank you, Mr. Chairman. I am pleased to appear before you on behalf of the 1.2 million members of the DAV to present the IB recommendations regarding the Veterans' Benefits Administration.

We view adequate staffing levels for the VBA business lines as one of the most important issues for consideration in this component of the VA budget, so I will first address recommended numbers, full-time employees -- or FTEs, and time permitting I will include some IB recommendations regarding the benefit programs.

The level of funding sought in the president's '07 budget would increase operating expenses by nearly $114 million, approximately an 11 percent increase over last year's level. We are greatly encouraged that the administration has proposed a substantial increase in resources for VBA. The need for such an increase has become critical, and we deeply appreciate the president's bearing on this issue. With the proposed budget, VBA staffing would be increased in '07 by 173 FTE. C&P service would be authorized 9445 FTE, which is a total increase of 14. However, the number of FTE under the subcategory, "Direct Compensation," would be reduced by 149. The net gain of FTE would be as a result of increases in other VBA activities. This recommendation is somewhat perplexing since one of the Administration's stated goals is to decrease the number of backlog compensation claims.

Additionally, ongoing hostilities in Iraq and Afghanistan, along with an aging veteran population, will almost certainly increase the number of claims for compensation. In the five-year period from the end of 2000 to the end of 2005, the volume of disability claims increased 36 percent, or an average of 7.2 percent annually. VA projects that the number of disability claims will increase three percent during '06, and two percent in '07. But even with those modest projections for increased work, the number of direct program FTE should be increased. Especially since VA estimates that above the projected increases in regular claims work, it will receive an additional 98,000 claims from its outreach to veterans in six states with the lowest average competition payments, as mandated by last year's legislation.

It appears VA contemplates and accepts an increase in the claims backlog during these two years, despite the fact that it projects in increase in production.

In the IB, we have recommended a substantially higher staffing level that we believe reflects a more realistic assessment of what VA needs to deliver benefits in a timely manner. The IB recommends that the '06 staffing of 9431 FTE for C&P be increased to 10,820, and

I would invite your attention to the IB in my written statement, for the basis of that recommendation.

Similarly, we have recommended staffing levels for the educational program and vocational rehabilitation and employment program, that we think are necessary to get the job done in an acceptable manner. Though the administration's budget seeks increases for these programs, the IB recommendations are slightly higher. We recommend an increase of 149 for educational service, compared with the Administration's request of 46. And we recommend an increase of 250 FTE vocational rehabilitation, compared with the administration's requested increase of 130.

In addition to ensuring that VBA has the resources necessary to accomplish its mission, Congress must also make adjustments to the programs from time to time, to address increases in the cost of living, and other needed improvements. The IB makes a number of such recommendations, and we invite the committee's attention to that section in the IB.

Mr. Chairman, that concludes my statement. I thank you for this opportunity, and I will be happy to answer any questions you may have.

[The statement of Brian Lawrence appears on p. 32]

MR. MILLER. I thank you very much. You mentioned an increase in FTE of some 1,375 more than the President's request. You asked us to refer to the Independent Budget for the methodology. Can you just give us an encapsulated version of how those numbers were derived?

MR. LAWRENCE. The exact wording in the IB is based on accepted percentages from previous years. They just look back to the previous two or three years, and project those percentages onto the upcoming year.

MR. MILLER. Is there anything that VBA can do to address the claims backlog that doesn't require funding, new funding, or is that the only solution that you see?

MR. LAWRENCE. No, sir. Part of the problem is just to adjudicate claims properly the first time. And you know, the backlog is created because claims are appealed and they are sent to the Board of Veterans' Appeals, and then they are remanded back to the regional office. So they end up reworking claims when that shouldn't be necessary. The original rating decision should be adequate, and remands for minor issues such as improper exams would alleviate a lot of backlog.

And for those type of problems, we recommend increased training, or proper training for adjudicators. We recognize right now that VA has a large turnover in employees that are senior adjudicators that are taking a wealth of knowledge with them, and they are being replaced by people that need training, and that it is a very complex

system, and it takes a while for these new employees to ramp up to operate at that level.

MR. MILLER. Is it your testimony that the vast majority of the incorrect adjudications are a result of improperly trained staff?

MR. LAWRENCE. I am not in a position to say the vast majority, but I would say --

MR. MILLER. You have an idea of a percentage? Your testimony is more geared toward VBA incorrectly deciding claims, and I am interested on what basis is that, or is there a vast majority of claims that are submitted that are not fully developed, that do in fact need more information?

MR. LAWRENCE. A lot of them have inadequate exams; they are not ready to be rated. They get to the Board of Veterans' Appeals, and information has been left out. The problem stems a lot from the desire to show production at the regional office level. They are more concerned about producing numbers, rather than property adjudicating claims and getting it done right the first time.

MR. MILLER. But I am trying to figure, you just said a lot of them are not ready to be adjudicated.

MR. LAWRENCE. Right.

MR. MILLER. What makes them ready? Who makes them ready?

MR. LAWRENCE. Thorough exams, for one thing.

MR. MILLER. And where does that responsibility lie?

MR. LAWRENCE. Well, it lies probably both with VBA and VHA. The VBA needs to clarify when a rating is sent for an examination, exactly the information that they seek to be able to do the rating.

MR. MILLER. I am trying to get at, because I am not a veteran and I don't know the process as a veteran would from personal experience, but I understand that there are forms that are filled out, require backup information that is submitted to VBA. And you are saying today that because of production numbers, the VA feels a need to move those through, and possibly some of them are remanded or kicked back.

I am trying to find out where the disconnect is. I understand that there is a staff turnover and some training issues at VBA, and some things that really need to take place -- and nobody is denying that -- through attrition. But we also heard testimony either yesterday or the day before -- maybe yesterday -- the same thing is happening in the VSOs. And a lot of those folks that are helping the veterans fill out their paperwork, I am trying to figure out what percentage is improperly filled out, incomplete, or what percentage is absolutely complete, and VBA just misses it. Do you have a clue?

MR. LAWRENCE. I don't have that number available.

MR. MILLER. Okay. Mr. Udall?

MR. UDALL. Thank you, Mr. Chairman. As, Mr. Lawrence, you said in your testimony, the Independent Budget recommends a staffing

level of 10,820 for the compensation and pension service. How many additional FTE recommended by the Independent Budget are for direct compensation work?

MR. LAWRENCE. I would have to get back to you with that number. I don't recall right off.

MR. UDALL. Okay. Could you do that?

MR. LAWRENCE. Absolutely.

[The information requested appears on p. 62]

MR. UDALL. Thank you.

Should the VA reevaluate the criteria needed for persons employed as decision review officers and adjudicators?

MR. LAWRENCE. Could you restate the question, please?

MR. UDALL. Should the VA reevaluate the criteria needed for persons employed as decision review officers and adjudicators?

MR. LAWRENCE. I don't know that a reevaluation of the criteria -- and I am just speaking off-the-cuff, here, and not one part of the IB -- that the initial criteria I am not sure is what the problem is, but just the ramping-up period, and the training to prepare them to begin doing their job is, I know, lacking in some instances.

MR. UDALL. Thank you very much. Thanks, Mr. Chairman.

MR. MILLER. Thank you very much, and we also may have additional questions that we may want to submit to you for the record. Thank you for being with us.

We all know that caring for and compensating the men and women who are injured as a result of their military service is the core mission of the VA. And I realize that some do not like the label of "core constituency," as we heard yesterday, but I believe that is who Abraham Lincoln was referring to during his second inaugural address, when he said that it is the nation's duty to care for him who have bourne the battle, and for his widow, and his orphan, as we heard this morning from the Gold Star wives representative.

I look forward to working with each of you as we carry out this solemn obligation. Without objection, statements will be entered into the record for the Board of Veterans' Appeals, the U.S. Court of Appeals for Veterans Claims, and AMVETS.

[The attachments appear on pgs. 35, 45 and 54]

MR. MILLER. And with nothing further, this hearing is adjourned.

[Whereupon, at 2:51 p.m., the Subcommittee was adjourned.]

APPENDIX

Chairman Jeff Miller

Opening Statement

Hearing on the Veterans Benefits Administration's Fiscal Year 2007 Budget Request

February 16, 2006

Good afternoon. The hearing will come to order.

Last week, we heard testimony from Secretary Nicholson on the VA-wide budget request for fiscal year 2007. Today we meet to review the request for the compensation, pension, and burial programs.

VA estimates it will provide nearly $35 billion in compensation, pension, and burial benefits to almost 3 million veterans and survivors in fiscal year 2006. The number of veterans filing claims for compensation and pension has grown by more than 36 percent – from 578,773 in fiscal year 2000 to over 788,000 in fiscal year 2005. This increase can be attributed to a variety of factors including the Global War on Terrorism, improved outreach activities, and the general aging of the veteran population.

The Veterans Benefits Administration (VBA) projects it will receive more than 910,000 claims in 2006, over 98,000 of them the result of the 6-state targeted outreach program mandated in the Military Quality of Life and Veterans Affairs Appropriations Act, 2006. Of particular concern to me is how VBA will handle this influx of claims. Under Admiral Cooper's command timeliness and accuracy of claims processing has improved. In fiscal year 2005 it took, on average, 167 days to process a claim and VBA's accuracy rate was 84 percent. While these numbers represent an improvement over the fiscal year 2002 numbers – the year the Admiral was confirmed – they represent a slight decline over fiscal year 2004 and we are always looking to improve them further. One way to improve claims processing is through additional full-time employees, or "FTE." While more FTE will help, it is not a cure-all. Furthermore, it takes time to train new employees so the benefits of additional FTE will not be realized for a couple of years. My Subcommittee will continue to review the adjudication process in an attempt to identify and eliminate inefficiencies.

President Bush is requesting $38 billion in mandatory funding to provide service-connected compensation, dependency and indemnity compensation, pension, and burial benefits. This represents an increase of $3 billion – or 9 percent – over fiscal year 2006. In addition, the President requests $924 million in budget authority discretionary funding to cover VBA's operating costs; items like salaries, infrastructure, and contract medical examinations. I am pleased that the President's budget includes additional funding for 176 FTE within VBA, but disheartened to know that the bulk of the FTE will be assigned to vocational rehabilitation and education claims. There's actually a decrease in direct compensation FTE of 149. The Committee is assessing the methodologies used to ensure this request is sufficient.

Before I turn to the Ranking Member, I'd like to let everyone know that unfortunately we don't have much time today; the full Committee is meeting at 3:00 to further discuss the President's budget request.

Mr. Chairman,

Thank you for holding today's hearing, and welcome to Admiral Cooper, his staff at the VBA, and Mr. Lawrence of the Disabled American Veterans organization. I am hopeful this hearing will help us come to a clearer understanding regarding the Fiscal Year 2007 (FY07) Veterans' Affairs budget and some of the concerns being expressed by members of this committee.

One particular area of concern, as it has been every year, is ensuring the timeliness and accuracy of claims processing. Admiral Cooper, you were before this subcommittee not four months ago when we discussed the necessity to prepare an FY07 VA budget that would address claims processing needs. In reading the budget request now being submitted to Congress, for FY07 there is an expected *increase* in original claims, an expected *increase* in appeals, and an expected *increase* in overall workload, particularly from those men and women returning from the battlefields of Afghanistan and Iraq.

Yet, this request includes a *decrease* of FTEEs working on compensation claims. There would be 149 fewer FTEEs at a time when the workloads in this area are only intensifying. I would echo Mr. Lawrence in saying that this request is "perplexing," and I hope today's hearing will allow for further discussion. The need to lower the number of backlogged claims must be addressed, and it must be addressed now.

Thank you again to those witnesses testifying. With 180,000 veterans in my district, these are issues of great importance to me and I hope we can properly address each of these concerns.

Thank you, Mr. Chairman.

STATEMENT OF
THE HONORABLE DANIEL L. COOPER
UNDER SECRETARY FOR BENEFITS
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
HOUSE COMMITTEE ON VETERANS' AFFAIRS

FEBRUARY 16, 2006

Mr. Chairman and members of the subcommittee, it is my pleasure to be here today to discuss the Department of Veterans Affairs (VA) fiscal year (FY) 2007 budget request for the compensation and pension (C&P) programs.

The Veterans Benefits Administration (VBA) is responsible for administering a wide range of benefits and services for veterans, their families, and their survivors. At the heart of our mission are the disability compensation and pension programs. VBA provides benefits and services to over 3.5 million veterans and other beneficiaries currently receiving compensation and pension benefits, as well as to hundreds of thousands more who apply for VA disability and survivor benefits each year. Our goal is to provide these benefits in a responsive, timely, and compassionate manner in recognition of veterans' service to our Nation.

Since 2000, VBA has experienced an unyielding increase in workload – in claims receipts, claims complexity, and more direct contact with increasing numbers of service members and veterans. Disability claims from veterans, those returning from war as well as those from earlier periods, increased by 36 percent from 2000 to 2005. This past year alone VA added more than 250,000 new beneficiaries to the disability compensation rolls. Our pending claims inventory has continued to rise since reaching a low of 253,000 in September 2003.

VBA remains absolutely committed to delivering benefits and services to eligible claimants in a timely, accurate, and compassionate manner. The President's 2007 Budget requests nearly $1.2 billion in discretionary budget authority for VBA – a 10.8 percent increase over FY 2006 and over 60 percent more than the FY 2001 budget in

effect when the President took office. I plan to direct $1.02 billion of the FY 2007 discretionary funds to the C&P program for staffing resources (9,445 full-time employees (FTE)) and associated expenses as well as program and VBA-wide initiatives ($10 million). The requested level of FTE is essential to provide the level of service expected by our Nation for those who have sacrificed so much in defense of our freedom. With a workforce that is sufficiently supported and correctly balanced, VBA can successfully meet the needs of our veterans, while also ensuring stewardship of taxpayer funds.

The table below identifies VBA's workload and FTE projections for FY 2007 based on FY 2005 actuals and FY 2006 projections. A more detailed discussion of the projected workload and FTE requirements follows.

Projected Workload and FTE Requirements	2005	2006 w/Special Outreach	2006 w/o Special Outreach	2007 w/Special Outreach	2007 w/o Special Outreach
VBA Total FTE	12,579	12,931	12,931	13,104	13,104
C&P Direct Labor FTE	7,547	7,911	7,911	7,863	7,863
Projected Increase in Receipts (Over Previous FY)	2%	3% + 12% = 15%	3%	2%	2%
Receipts	788,298	*910,126	811,947	828,186	828,186
Year-end Inventory	346,292	417,852	319,673	396,834	298,655
Output per FTE **	101	106	106	108	108
Production	763,464	838,566	838,566	849,204	849,204
Timeliness (Days)	167	185	165	182	151
Compensation Pending (Days)	122	150	122	141	114

** Projected 2006 receipts include an additional 98,179 claims projected to be received as a result of special outreach required by the conference report accompanying the 2006 Appropriations Act*

*** Note:: All direct FTE (including clerical, public contact, non-rating claim processors, etc.) are used in this calculation.*

2007 FTE Requirement

VBA is requesting 7,863 direct C&P FTE in FY 2007, which includes 151 FTE for burial benefits. The request is based on an assumed 2 percent increase in claims receipts over 2006. This FTE level will allow VBA to focus on improvements in the

quality and timeliness of claims processing, and reduce the inventory of pending claims. Although processing disability claims constitutes our most visible workload activity, management of the C&P workload includes several other major but less visible activities. The C&P program's other major workload consists of appeals, account maintenance activities for beneficiaries already receiving benefits, outreach, telephone and personal interview activity, and guardianship duties. These workloads increase as disability claim receipts and the number of beneficiaries on our rolls increase, resulting in additional resource requirements.

Performance Projections

Based on a staffing level of 7,863 direct FTE, projected performance for 2007 is as follows:

- 849,204 rating decisions (108 ratings per direct FTE)
- Over 2 million award actions of all types
- 6.8 million phone calls
- More than 1 million personal interviews
- Over 300,000 non-claim related pieces of correspondence
- Approximately 75,000 fiduciary-related actions including field examinations and account audits
- 350,000 anticipated service persons addressed in 8,400 briefings
- 73,000 hours of outreach (military, homeless, minority, POW, etc.)
- End-of-year pending inventory of 396,834 claims
  (2007 beginning-of-year inventory 417,852, plus projected claims of 828,186, less projected completed claims of 849,204)

The projected increase in the volume and complexity of the workload, coupled with the impact of the special outreach required by section 228 of the Military Quality of Life and Veterans Affairs Appropriations Act, 2006, will have a significant impact on program performance in FY 2006 and 2007. The average days to process compensation and pension claims is expected to increase from 167 days in 2005 to 185 days in 2006 and then decrease slightly to 182 days in 2007. Likewise, the pending

inventory of disability claims is expected to rise from 346,292 at the end of 2005 to 417,852 in 2006 and fall to 396,834 by the end of 2007.

Outreach and Transition Services

VBA will continue the Seamless Transition program for service members who are medically separated or retired. In this program, VBA works with individual active duty personnel at the start of the military Medical Evaluation Board and/or Physical Evaluation Board processes through personal interviews at military treatment facilities and/or outpatient facilities. We provide claims assistance, vocational rehabilitation, and employment evaluations, and discuss eligibility for health care. As you are aware, VA has created a joint VBA/Veterans Health Administration (VHA) Seamless Transition Coordination Office to monitor and coordinate VA efforts with respect to healthcare and benefits, with a focus on the successful reintegration of seriously injured service persons into civilian society.

VBA is committed to increasing our outreach efforts. We will continue briefing separating and retiring service members about VA benefits and services through military services programs including the formal Transition Assistance Program co-sponsored by the Departments of Defense (DoD) and Labor. Outreach efforts are also targeted to meet the needs of returning National Guard members and reservists. Last year we conducted almost 8,200 transition assistance briefings to over 326,000 separating service members and returning Reserve and National Guard members. These outreach efforts continue to result in significantly higher claims rates. In 2004, the greatest increase in rating receipts was in original claims – an increase of 17 percent. The 2005 increase in original claims was an additional 8 percent over the prior year's high rate, which combines to a 25 percent increase over the last 2 years.

Separating military personnel also receive enhanced services through the Benefits Delivery at Discharge (BDD) Program. On either a permanent or itinerant basis, VBA staff members are stationed at 140 military discharge points around the

Nation and in Korea and Germany. Additionally, VBA employees conduct transition assistance briefings in Italy, England, Japan, Okinawa, and Spain.

Under the VA/DoD Joint Strategic Plan, a Memorandum of Agreement (MOA) was signed on November 17, 2004, to create a Cooperative Separation Process/Examination. This MOA allows service members to begin the VA disability application process up to 180 days prior to separation from service. If the military service requires an examination prior to separation the service member receives a single examination using VA's protocols. This MOA supports VA efforts to facilitate the transition for separating service members.

Mandated Special Outreach

Section 228 of the Military Quality of Life and Veterans Affairs Appropriations Act, 2006, states "the Department of Veterans Affairs shall conduct an information campaign in States with an average annual disability compensation payment of less than $7,300 (according to the report issued by the Department of Veterans Affairs Office of Inspector General on May 19, 2005), to inform all veterans receiving disability compensation, by direct mail, of the history of below average disability compensation payments to veterans in such States, and to provide all veterans in each such State, through broadcast or print advertising, with the aforementioned historical information and instructions for submitting new claims and requesting review of past disability claims and ratings." The states meeting the statutory criterion are Connecticut, Illinois, Indiana, Michigan, New Jersey, and Ohio.

Based on our experience with prior targeted outreach endeavors, we project VA will receive about 98,000 more claims directly related to this outreach. In addition, we believe the number of appeals will increase considerably based on requests to review past disability claims, as well as veterans' "rising expectations" for increased benefits and retroactive effective dates. Telephone inquiries from and personal interviews with veterans seeking additional information and clarification regarding the outreach will also increase significantly. VBA Customer Satisfaction Surveys have shown an average of three phone calls are generated during the course of claims processing which would

possibly result in almost 300,000 additional telephone interviews due to the special outreach effort mandated by statute.

As a result of VA's public information campaigns and efforts to brief service organizations, state directors of veterans affairs, and county veterans service officers in the affected states, we believe that veterans in other states will learn of this outreach effort through the news media, veterans service organization publications, and family and friends. We, therefore, anticipate that claims activity in the balance of the country will increase as well.

Growth of Disability Claims Workload

The number of veterans filing initial disability compensation claims and claims for increased benefits has increased substantially every year since FY 2000. Disability claims from veterans who served in Afghanistan and Iraq as well as from veterans of earlier periods of service increased from 578,773 claims in FY 2000 to 788,298 claims in FY 2005. This represents an increase of more than 209,000 claims in FY 2005, or 36 percent, over the claims received in FY 2000. It is expected that these increases will continue over the next five years.

The most important factors leading to the sustained high levels of claims activity are: Operations Iraqi and Enduring Freedom; an increasing number of beneficiaries on the rolls, with resulting additional claims for increased benefits; improved and expanded outreach to active duty service members, guard and reserve personnel, survivors, and veterans of earlier conflicts; and implementation of Combat Related Special Compensation (CRSC) and Concurrent Disability and Retired Pay (CDRP) programs by DoD.

Studies by VA indicate that historically the most significant indicator of new claims activity is the size of the active force. Over 1.2 million active duty service members, members of the National Guard, and reservists have thus far been deployed to Afghanistan and Iraq. Over 400,000 have returned and been discharged. Veterans of the Gulf War Era, which includes veterans who served in Afghanistan and Iraq,

currently comprise the second largest population receiving compensation and pension benefits after Vietnam Era veterans.

The number of veterans receiving disability compensation has increased by almost 300,000 since 2000 – in that year just over 2.3 million veterans were receiving disability compensation compared to 2.6 million on our rolls in 2005. Many compensation recipients suffer from chronic progressive disabilities such as diabetes, mental illness, and cardiovascular disabilities. As they age and their conditions deteriorate, these claimants will continue to generate more claims for increased benefits in the coming years. Reopened disability compensation claims comprise nearly 60 percent of VBA's disability claims receipts and increase 2 to 3 percent each year.

CRSC, a benefit available from DoD for certain military retirees with qualifying combat-related disabilities, became effective July 1, 2003, and was later expanded effective January 1, 2004. Today more than 43,000 military retirees receive this benefit. This benefit and CDRP, another DoD program that permits partial to total restoration of retired pay previously waived to receive VA compensation, further contributes to increased claims activity for VBA.

Complexity of Claims Processing Workload

The increase in "claims received" is not the only change impacting the claims processing environment. The average veteran reports more disabilities on each claim than was the case a decade ago. The increasing complexity of the disabilities being claimed, and changes in law and procedures, concomitant with the training required for our workforce, pose challenges to the claims processing workload and the timing of the various steps in an increasingly complicated process. The trend toward increasingly complex and difficult-to-rate claims is expected to continue for the foreseeable future.

The increase in complexity grows as the number of directly claimed conditions increases. A number of variables, a primary one being the need for multiple medical examinations, must be considered and addressed. Multiple regulations, multiple sources of evidence, multiple potential effective dates and presumptive periods, and

preparation of adequate Veterans Claims Assistance Act (VCAA) notice and rating decisions, all increase proportionately and sometimes exponentially as the number of claimed conditions increases. Additionally, as the number of claimed conditions increases, the potential for secondary, aggravated, and inferred issues increases as well. Since veterans are able to appeal decisions on specific disabilities to the Board of Veterans' Appeals (BVA) and the Court of Appeals for Veterans Claims (Court), the increasing number of claimed conditions significantly increases the potential for appeal.

VA's experience since 2000 demonstrates that the trend of increasing numbers of conditions claimed is system-wide, not just at special intake locations such as BDD sites. The number of cases with eight or more disabilities claimed increased from 21,814 in FY 2000 to 43,655 in FY 2005, a 100 percent increase over the 2000 base year and a 20 percent increase over FY 2004.

Deployment of U.S. forces to combat zones and under-developed regions of the world has resulted in new and complex disability claims based on environmental and infectious risks, traumatic brain injuries, complex combat injuries involving multiple body systems, concerns about vaccinations, and other complicating factors. In addition, the aging of the veteran population that is already service connected for diabetes adds to the complexity of claimed disabilities. As veterans with diabetes reach and move past the 10-year point since initial diagnosis, additional secondary conditions tend to become manifest. VA is already seeing increasingly complex medical cases involving neuropathies, vision problems, cardio-vascular problems, and issues directly related to diabetes. The increased complexity of the disabilities adds to the growing complexity of our workload and increases the resources needed to process it.

The number of veterans submitting claims for post-traumatic stress disorder (PTSD) has grown at a greater rate than expected over the last several years and contributes to the increased complexity in claims processing. From FY 1999 through FY 2005, the number of veterans receiving compensation for PTSD has increased from 120,000 to nearly 245,000. These cases present unique processing complexities

because of the evidentiary requirements to substantiate the event causing the stress disorder.

The VCAA has significantly increased both the time and individual steps required for claims development. VA's notification and development duties increased as a result of the VCAA, adding more steps to the claims process and lengthening the time it takes to develop and decide a claim. We are also now required to review the claims at more points in the decision process. Mistakes due to a failure to address all issues or an incomplete understanding of the claim when it was initially developed have resulted in significant rework as well as remands from BVA and the Court.

Appellate Workload

A significant portion of VBA's workload results from appeals of regional office decisions and subsequent remands by BVA and the Court. As overall claim receipts increase, so do appellate workloads.

As VBA renders more disability decisions, a natural outcome of that process is more appeals filed by veterans and survivors who disagree with some part of the decision made in their case. Appeals of regional office decisions and remands by BVA and the Court following appeal are some of the most challenging types of cases to process because of their complexity and the growing body of evidence necessary to process these claims.

In July 2003, VBA created the Appeals Management Center (AMC) to manage remands by BVA. We determined that the best way to manage remand processing was to consolidate the responsibility to a single processing center where resources and expertise could be concentrated. The AMC has complete authority to develop remands, reach decisions based on additional evidence gathered, and authorize the payment of benefits. If the AMC is unable to grant an appeal in full, the appeal is recertified to BVA for continuation of the appellate process.

Due the high volume of remands pending at the AMC after the first year of operation, VBA and BVA undertook aggressive joint initiatives to address the root causes of remands. These initiatives focused on increased coordination of data collection, identification of trends, training, and reduction of avoidable remands. These joint efforts are proving successful. The remand rate for FY 2005 was 38.6 percent compared to 56.8 percent in FY 2004. The goal is to reduce the remand rate to 30 percent by the end of FY 2006. The timeliness of remand processing has also improved from a high of 742 days in 2003 to 408 days in 2005. In addition, we are working with the Veterans Health Administration and BVA in the Compensation & Pension Examination Project (CPEP), which will improve the quality and consistency of compensation examinations and further reduce remands. These improvements positively impact the appeals process and result in better service to veterans.

Program Highlights

VBA's robust training program is key to improving the quality and consistency of our decisions, and enabling VBA to be flexible and responsive to changing workload volume. VBA is engaged in an ongoing effort to improve its training systems, both for new employees and to raise the skill levels of its existing staff. Improved quality and consistency require resources dedicated to providing employees with more and better training, up-to-date tools, and information technology systems to support their decisions.

To that end, VBA has deployed new training tools, desk-top job aids, and centralized training programs that support accurate and consistent decision making. New hires receive comprehensive training and a consistent foundation in claims processing principles through a national centralized training program called "Challenge." After the initial centralized training, employees follow a national standardized training curriculum (full lesson plans, handouts, student guides, instructor guides, and slides for classroom instruction) available to all regional offices. Standardized computer-based tools have been developed for training decision-makers (53 modules completed and an additional 38 in development). Training letters and satellite broadcasts on the proper approach to rating complex issues are provided to field stations. In addition, a

mandatory cycle of training for all C&P business line staff has been developed, consisting of an 80-hour curriculum annually.

VBA has also developed a skills certification instrument for assessing the knowledge base of current and new Veteran Service Representatives (VSRs) and plans to develop similar modules to test Rating VSRs, Decision Review Officers, Field Examiners, and Pension Maintenance Center employees. Skills certification will enable VBA to identify systemic knowledge deficits through the testing process and use this information to provide nationwide training.

Mr. Chairman, this concludes my testimony. In summary, the FY 2007 budget for VBA is a good one that will enable us to serve our Nation's veterans in a timely, accurate, and compassionate manner. I greatly appreciate being here today and look forward to answering your questions.

STATEMENT OF
BRIAN LAWRENCE
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 16, 2006

Mr. Chairman and Member of the Committee:

I am pleased to appear before you on behalf of the Disabled American Veterans (DAV), which is one of the four member organizations of *The Independent Budget* (IB). We are grateful for the opportunity comment on, and compare, the President's proposed fiscal year (FY) 2007 budget for the Department of Veterans Affairs (VA) Veterans' Benefits Administration (VBA) compensation and pension business lines to the recommendations of the 2007 IB. As you know, the IB is a budget and policy document that sets forth the collective views of the DAV, AMVETS, the Paralyzed Veterans of America (PVA), and the Veterans of Foreign Wars of the United States (VFW). Along with the IB recommendations on ways to improve benefit programs, this statement includes recommended staffing levels to administer the respective benefits. Benefit programs are effective for their intended purposes only to the extent VBA can deliver benefits to entitled veterans and dependents in a timely fashion. We believe sufficient staffing levels for VBA are closely reflected by the IB recommendations.

The level of funding sought in the President's 2007 budget would increase VBA operating expenses by nearly $114 million, a 10.8 percent increase over last year's level. We are greatly encouraged that the Administration has proposed a substantial increase in resources for VBA. The need for such an increase has become critical, and we deeply appreciate the President's bearing on this issue.

With the Administration's proposed budget, VBA staffing would be increased in FY 2007 by 173 full-time employees (FTE). Compensation and Pension (C&P) Service would be authorized 9,445 FTE, which is a total increase of 14; however, the number of FTE under the subcategory, Direct Compensation, would be reduced by 149. The net gain of FTE would be as a result of increases in other VBA activities. This recommendation is somewhat perplexing because one of the Administration's stated goals is to decrease the number of backlogged compensation claims. Additionally, ongoing hostilities in Iraq and Afghanistan and an aging veteran population will almost certainly increase the number of claims for compensation. In the 5-year period from the end of FY 2000 to the end of FY 2005, the volume of disability claims increased 36 percent, or an average of 7.2 percent annually. However VA projects that the number of disability claims will increase by only 3 percent during 2006 and 2 percent in 2007. Even with such modest projections for increased work, the Administration's budget request for fewer direct program FTE will result in a greater amount of pending claims. What makes this

proposed reduction in staffing all the more questionable is VA's estimate that, above these projected increases in regular claims work, it will receive an additional 98,000 claims from its outreach to veterans in the six states with the lowest average compensation payments, as mandated by last year's legislation. VA admittedly anticipates increases in the already unacceptable claims backlogs in these two years, despite the fact that VA projects it will increase its 2005 production by 75,102 completed claims in 2006 and 85,740 completed claims in 2007. The backlog of pending rating cases would grow from 346,292 at the end of FY 2005 to 417,852 cases at the end of FY 2006, and 396,834 in FY 2007.

The IB recommends 10,820 FTE for C&P Services. In its budget submission for FY 2006, VA projected production based on an output of 109 claims per direct program FTE. The IB organizations have long argued that VA's production requirements do not allow for thorough development and careful consideration of disability claims, resulting in compromised quality, higher error and appeal rates, and even more overload on the system. In addition to recommending staffing levels more commensurate with the workload, we have maintained that VA should invest more in training adjudicators and that it should hold them accountable for higher standards of accuracy. In response to survey questions from VA's Office of Inspector General, nearly half of the adjudicators responding admitted that many claims are decided without adequate record development. They saw an incongruity between their objectives of making legally correct and factually substantiated decisions and management objectives of maximizing decision output to meet production standards and reduce backlogs. Nearly half reported that it is generally or very difficult to meet production standards without sacrificing quality. Fifty-seven percent reported difficulty meeting production standards if they make sure they have sufficient evidence for rating each case and thoroughly review the evidence. Most attributed VA's inability to make timely and high quality decisions to insufficient staff. They indicated that adjudicator training had not been a high priority in VA. To allow for more time to be invested in training, we believe it prudent to recommend staffing levels based on an output of 100 cases per year for each direct program FTE. Based on an estimated 930,000 claims in FY 2007, 9,300 direct program FTE would be required to handle the caseload efficiently. With the FY 2006 level of 1,520 support FTE added, this would require C&P to be authorized 10,820 total FTE for FY 2007.

Overall, VBA is a well designed system that is ultimately fulfilling its intended purpose. The rating schedule for disabilities has been developed and refined over the course of decades. The varying circumstances of each war in which our nation has been engaged during those decades have presented new challenges that the VA has adapted to meet. For instance, the rating schedule had to be altered to adequately serve certain World War II veterans exposed to radiation. Vietnam veterans' issues brought similar changes with regard to Agent Orange related diseases and Post Traumatic Stress Disorder, and most recently, Persian Gulf War Syndrome compelled the VA to create a rating formula beyond what already existed. These instances illustrate that Congress must make adjustments from time to time to address the need for improvements. The IB makes a number of recommendations to adjust rates and improve the benefit programs administered by VBA. Some of those recommendations are:

- Completely eliminate the requirement that career military retirement pay be offset by VA disability compensation. Steps have been taken to gradually phase-out the ban on concurrent receipt, but only for a portion of disabled military retirees. The law should be immediately repealed for everyone affected. Eligibility criteria should not depend on level of disability. What is unfair to a veteran who is 50 percent disabled, is equally unfair to a veteran with a 40 percent disability
- Eliminate the unfair offset between dependency and indemnity compensation (DIC) and the Survivor Benefit Plan (SBP).
- Revise the premium schedule for Service-Disabled Veterans' Insurance (SDVI) to reflect current mortality tables and increase the face value of the policy to $50,000. SDVI Premium rates are still based on mortality tables from 1941, thereby costing disabled veterans more for government life insurance than is available commercially
- Establish cost-of-living-adjustments for compensation, specially adapted housing grants, and automobile grants, with provisions for automatic annual increases in the housing and automobile grants based on increases in the cost of living
- Establish presumption of service connection for hearing loss and tinnitus for combat veterans and veterans who had military duties involving high levels of noise exposure who suffer from tinnitus or hearing loss of a type typically related to noise exposure or acoustic trauma
- Restore protections for veterans' benefits against awards to third parties in divorce actions

We invite the Committee's attention to the section of the IB addressing the Benefit Programs for details on these and other IB recommendations for improvement.

Closing

In preparing the IB, the four partners draw upon their extensive experience with the workings of veterans' programs, their firsthand knowledge of the needs of America's veterans, and the information gained from their continual monitoring of workloads and demands upon, as well as the performance of, the veterans' benefits system. Historically, this Committee has acted favorably on many of our recommendations to improve services to veterans and their families, and we hope you will give our recommendations full and serious consideration again this year.

STATEMENT OF JAMES P. TERRY
CHAIRMAN, BOARD OF VETERANS' APPEALS

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS, COMMITTEE ON VETERANS' AFFAIRS U.S. HOUSE OF REPRESENTATIVES

February 16, 2006

Mr. Chairman, members of the Committee, and staff, I want to thank you for the opportunity to submit a statement for the record concerning the Fiscal Year 2007 budget request for the Board of Veterans' Appeals (Board or BVA).

The Board's mission, as set forth in section 7101(a) of Title 38, United States Code, is essentially unchanged since its establishment in 1933 – "to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner." The Board renders a final decision on behalf of the Secretary on appeals of all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of VA benefits. These appeals generally arise from decisions of VA regional offices, but also include those arising from certain decisions by VA medical centers. Although the Board is an appellate body, it must consider all evidence and material in the record and applicable laws and regulations in each case it considers. In addition to ruling on the merits of a claim, the Board may direct further development of the evidence and readjudication of the claims at issue by the originating agency if it is necessary to fairly consider the appeal.

The Board has jurisdiction over a wide variety of issues and matters, but the vast majority of appeals considered (about 96 percent) involve claims for disability compensation or death claims. Examples of other types of claims that are addressed by the Board include fee basis medical care, waiver of recovery of overpayments, reimbursement for medical treatment expenses, education assistance benefits, vocational rehabilitation training, attorney fee matters, and insurance benefits.

Our objective is to produce well-reasoned, accurate, timely and fair appellate decisions in all the cases that come before us.

The Board operates under the administrative control and supervision of its Chairman. I am assisted in this responsibility by our Vice Chairman, Senior Deputy Vice Chairman and four Deputy Vice Chairmen and eight Chief Veterans Law Judges. We have 56 Veterans Law Judges (VLJs) who render decisions on appeals. They are assisted by 240 staff counsel and other administrative, clerical and legal support staff.

The Board is organized into four Decision Teams with jurisdiction over appeals arising from regional offices in one of four geographical regions. Each Decision Team includes a Deputy Vice Chairman, two Chief Judges, 11 line Judges, 2 Senior Counsel, and currently 60 Counsel and Associate Counsel. Each line Judge has five or six attorneys assigned to him or her. Counsel and Associate Counsel research and prepare decisions for review by the VLJs. Our Office of Quality Review reviews a statistically significant sampling of the Board's decisions for quality and legal correctness. We had an accuracy rate of about 89 percent in FY 2005, as determined by the Board's Quality Review process, and are striving to improve accuracy through identifying areas of deficiency and providing appropriate training and guidance to our judges and counsel.

Each non-supervisory VLJ is expected to complete a minimum of 752 decisions per year as his or her "fair share" of the Board's total workload, and conduct three one-week travel boards to regional offices. In Fiscal Year 2005, staff counsel were required to draft at least 152 decisions per year as their "fair share." We plan to increase that requirement in the near future. The Board decided 34,175 appeals in 2005. All cases are decided in the order in which they are placed on the Board's docket, unless advanced upon motion as a result of the appellant's age, serious illness, severe financial hardship, or other good cause shown.

When I testified before the House Committee on Veterans' Affairs in December 2005, I contrasted our performance with that of past years, notably in 1994 and 1998. This comparison is helpful in demonstrating where the Board has been, where we currently are, and where we are heading in the future, including challenges we face. Like most other private and public organizations, we are producing more quality products with less resources by optimizing performance and management.

In Fiscal Year (FY) 1994, the Board issued 22,045 decisions with 442 full time equivalent employees (FTE) – or 50 decisions per FTE. Our pending caseload stood at 47,148, and was on its way to 60,000. Our measure of timeliness then used—average response time—was 781 days.

By FY 1998, we had significantly improved our timeliness and productivity. With 491 authorized FTE, we held 4,875 hearings and issued 38,886 decisions – or 79 decisions per FTE. Appeals resolution time—the time from the date a claimant files a Notice of Disagreement until he or she receives a final decision on appeal from either the agency of original jurisdiction (AOJ) or the Board—was 686 days.

In FY 2005the Board issued 34,175 decisions with 434 FTE – or 79 decisions per FTE. We also conducted 8,576 hearings, a substantial increase from 1998 and the highest number ever by the Board. Appeals resolution time stood at 622 days. Our cycle time—the time that it actually takes the Board itself to issue a decision after we receive the record on appeal—was 104 days. This measure of timeliness excludes the time the case is with the service organization representative and the time the case remains at a field station prior to a requested Travel Board or Video conference hearing.

The Board's most significant challenge for the future is to continue to improve our performance and processes to eliminate the growing backlog. The FY 2007 budget level will enable us to do so as the chart below indicates:

	Actual			Projections	
Item	**FY2003**	**FY 2004**	**FY 2005**	**FY 2006**	**FY 2007**
Case Receipts	39,969	39,956	41,816	43,000	43,000
Decisions	31,397	38,371	34,175	35,000	36,000
Cases Pending	27,230	28,815	37,539	45,539	52,539
FTE	451	440	434	434	444

The two most important goals to enable us to eliminate the growing backlog are reducing avoidable remands and increasing productivity. In regard to remands, we know that veterans want timely and correct decisions with respect to their claims for benefits. For the Board to do that, the record must contain all evidence necessary to decide the claim and show that all necessary procedural protections have been provided. If the record does not meet these requirements, and the benefits sought cannot be granted, a remand for further development by the AOJ is necessary.

Remands significantly lengthen the amount of time it takes for a veteran to receive a final decision. A remand adds about a year to the appellate process. Remands delay not only the individual cases, but divert resources from deciding new appeals. About 75 percent of cases remanded are returned to the Board, which increases our workload and further degrades timeliness. In addition, because by law we must process the oldest cases first, processing of newer appeals

is delayed when remanded appeals are returned to the Board for readjudication. Hence, eliminating avoidable remands is a goal that will provide better service to veterans and their families and, ultimately, will contribute to diminishing the growing backlog.

We are working with the Veterans Benefit Administration (VBA), Office of General Counsel (OGC), and the Veterans Health Administration (VHA) to identify and track the root causes of remands in order to provide training that will eliminate avoidable remands. Our training efforts have been considerable. Several training sessions on remand avoidance have been held for all VLJs and staff counsel. We also have held joint training sessions with VBA, including a national video broadcast, on avoidable remands and evidence development. We have conducted numerous sessions on a variety of medical and legal subjects within our jurisdiction—all designed to reduce remands and improve quality. Additionally, each of our Travel Boards has met with regional office personnel to answer questions and/or discuss shared areas of concern. Finally, we are working with VHA and VBA on the Compensation and Pension Examination Project (CPEP), which, by improving the quality of VA compensation medical examinations, will reduce a major cause of remands.

The results so far are encouraging. During 2005, 14,292 cases were returned to the Board for readjudication following completion of development actions directed by BVA remands. There were 25,656 cases in remand status at the end of FY 2005, down from 31,645 at the end of FY 2004. The Board's remand rate for FY 2005 dropped to 38.6 percent, as compared to 56.8 percent in FY 2004. In FY 2006, the remand rate thus far stands at 32.1 percent. We expect further improvement once we begin reaching cases on our docket that have been subject to VBA's efforts to avoid remands.

Another important challenge is to work with the 57 regional offices and the veterans service organizations to ensure Travel Boards are dispatched as soon as a sufficient number of cases are ready for hearing. In 2005, in addition to 104 scheduled Travel Boards, trips to Waco, St. Petersburg, Columbia, Las Vegas and Manila were extended for an additional week due to the number of cases ready for hearing. Similarly, unscheduled trips to Waco, St. Petersburg, Detroit, Honolulu, Phoenix and Cheyenne were added after the regional office provided notice that the docket was ready.

Although much has been done, we still have much to do in increasing productivity at the Board. Within existing resources, and by way of incentives and sound management, we will continue to improve by:

(1) **Eliminating avoidable remands**;
(2) **Strengthening our intra-agency partnerships**: Our joint training efforts with VBA, OGC, and VHA will improve decision quality and reduce remands;
(3) **Writing shorter and more concise decisions**: We are training our VLJs and counsel to write clear, concise, coherent, and correct decisions;
(4) **Utilizing employee incentive, mentoring and training programs**: A number of new programs have been introduced to increase employee motivation and satisfaction, as well as to increase productivity and decision quality;
(5) **Making judicious use of overtime**: We will use overtime within existing resources to enhance productivity;
(6) **Increasing our use of paralegals**: We will increase the use of our paralegals for non-decisional support activities, freeing up our legal staff to decide appeals;
(7) **Providing improved on-line legal research tools and analytical frameworks to aid timely and correct decision production**;
(8) **Succession Planning**: The Board will continue its rigorous associate counsel recruitment program to hire the best and brightest attorneys available;
(9) **Improving Quality**: The Board will use its quality review process to identify areas of concern that require follow-up training;
(10) **Using VLJs to draft some decisions,** in addition to reviewing and revising drafts prepared by staff counsel; and
(11) **Implementing an aggressive recruiting and training program to ensure full productivity by maintaining our authorized staffing levels**.

We believe these measures will reduce the backlog and shorten the time it takes for a veteran to receive a fair, well-reasoned Board decision. Working together with VBA, we have reduced the time it takes for an appeal to be finally resolved at either the AOJ or Board levels from 686 days in FY 1998, to 622 days in FY 2005. While the Board's decision quality modestly improved to 89 percent in FY 2005, as determined by the Board's Quality Review process, this reflects the complexity involved in drafting more merits decisions, as opposed to remands. Finally, the Board's own timeliness—our cycle time—stands at a little over three months.

In order to accomplish the above goals, the Board is requesting for FY 2007 an average employment level of 444 full time employees (FTE) and $55,309,000 to support its operations. We also plan to increase productivity by increasing the

number of decisions per FTE from 79 (as in FY 1998 and FY 2005) to 81 in FY 2006 and FY 2007. A summary of the Board's request for FY 2007, as well as the budget numbers from FY 2005 and FY 2006, is contained in chart below:

Summary of Employment and Obligations (dollars in thousands)					
		2006			
	2005 Actual	Budget Estimate	Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Average employment:					
Executive, Management and Administrative Support	145	141	141	141	+0
Decision Teams (Board Members and Counsel)	288	293	304	303	-1
Total	**433**	**434**	**445**	**444**	**-1**
Obligations:					
Personal services	$47,286	$49,343	$50,743	$52,798	+2,055
Travel	427	545	545	453	-92
Transportation of things	30	55	55	40	-15
Rents, communications and utilities	403	430	430	419	-11
Printing and reproduction	107	88	88	114	+26
Other services	1,168	2,133	2,127	1,204	-923
Supplies and materials	224	311	259	229	-30
Equipment	3	162	71	52	-19
Total obligations	**$49,648**	**$53,067**	**$54,318**	**$55,309**	**+991**
Carryover	$1,587	0	**($1,400)**	0	0
Budget Authority	**$51,235**	**$53,067**	**$52,918**	**$55,309**	**+2,391**

The 2005 obligations above contain $161,000 in non-personal services Information Technology (IT) costs. Beginning in 2006, all of VA's non-personal services IT funding is being budgeted within a separate IT account.

Additional supporting information for the FY 2007 budget request follows.

AVERAGE EMPLOYMENT

Executive, Management and Administrative Support: This consists of all personnel in the Office of the Chairman, the Appellate Group, and the Management and Administration division. General responsibilities include executive direction, development and implementation of Board policy, planning, direction of operations, and coordination of resources of the BVA to assure accomplishment of its mission. Included in this group are personnel responsible for quality review program operations, attorney fee program matters,

FOIA/Privacy Act matters, litigation support issues, regulatory and legislative matters, publications, and the Board's Research Center operations. Also included are personnel to maintain the docket; schedule hearings; and provide correspondence, mail and record management activities, information systems support, secretarial services, transcription, and other administrative support.

Decision Teams: These are comprised of VLJs and staff counsel. The VLJs consider all appeals properly before them, conduct hearings, evaluate evidence of record, and enter written decisions on issues presented on appeal. Board counsel conduct research and prepare decisions for review and approval of members and perform records designation responsibilities relative to appeals filed with the Court of Appeals for Veterans Claims. On cases requiring development, Board counsel are also responsible for preparing a remand decision setting out evidence to be obtained prior to entry of a decision.

OBLIGATIONS

Personal Services: Personal services include base pay, cash awards, SES bonuses, overtime, terminal leave, and the government's cost for regular benefits such as retirement, health benefits, life insurance, Medicare, travel subsidy, and child care subsidy. *BVA is prepared to effectively manage its operations and shift more of its funding to the direct support of our Nation's veterans with 444 FTE in 2007- more than a 2.3 percent increase in manpower.*

Detail of Budget Estimates
(dollars in thousands)

	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Personal services	$47,286	$50,743	$52,798	+$2,055

2006 Average Salary Methodology

2005 Average salary (261 days)	**$84,535**
Annualization of the 3.5 percent 2005 pay raise (0.875 percent)	740
Impact of 3.1 percent 2006 pay raise (2.325 percent)	1,965
One day adjustment (0.3831 percent)	324
Impact of VLJ pay/grade differential (1.404 percent)	1,187
2006 Average salary (260 days)	**$88,751**
Regular benefits percent	24.3%
2006 Average salary with benefits	**$110,317**

2007 Average Salary Methodology	
2006 Average salary (260 days)	**$88,751**
Annualization of the 3.1 percent 2006 pay raise (0.775 percent)	688
Impact of 2.2 percent 2007 pay raise (1.65 percent)	1,464
One day adjustment (0.3846 percent)	341
Impact of VLJ pay/grade differential (1.12 percent)	992
2007 Average salary (260 days)	**$92,236**
Regular benefits percent	24.3%
2007 Average salary with benefits	**$114,649**

Travel: These funds are used primarily for traveling VLJs to conduct formal hearings at field stations. Other travel expenses include trips of the Chairman and other Board staff to participate in initiatives with VA appellate program implications, and to attend conferences and other meetings involving veterans' affairs. These funds are also used for travel in conjunction with executive development and other training. The requested funds will also provide for Board attorneys to travel to regional offices to assist VLJs in preparing for hearings and provide other assistance as needed by the field staff. Current practice was recently changed to send only one attorney, instead of two, on Travel Boards, except for trips to St. Petersburg and Waco. This will result in a reduction of needed travel funds.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Travel	$427	$545	$453	-$92

Transportation of Materials: These funds cover shipping costs of recordings to the Board's transcription unit in Wilkes-Barre, Pennsylvania, and pay for shipping claims folders and miscellaneous appeals documentation to and from VA regional offices, medical schools, VA medical centers, and other sources utilized to obtain outside medical opinions and other shipments relative to pending appeals.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Transportation of things	$30	$55	$40	-$15

Rents, Communications, and Utilities: These funds cover the rental costs for telephone lines and miscellaneous office equipment.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Rents, communications, and utilities	$403	$430	$419	-$11

Printing and Reproduction: These funds are used to cover the cost of printing the forms, pamphlets, manuals, and other information necessary to accomplish the Board's mission.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Printing and reproduction	$107	$88	$114	+$26

Other Services: The Board uses contractual support for the BVA Research Center, and tuition costs for executive development, legal, medical, professional, and other training.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Other services	$1,168	$2,127	$1,204	-$923

Supplies and Materials: This budget object classification includes funds for general office supplies, operating supplies, office automation supplies, books, professional periodicals, and other reference materials for case-related research.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Supplies and materials	$224	$259	$229	-$30

Equipment: These funds are used toward the acquisition and/or replacement of equipment, photocopiers, dictating equipment, transcription devices, and other office equipment in accordance with equipment acquisition and replacement schedules.

Detail of Budget Estimates (dollars in thousands)				
	2005 Actual	2006 Current Estimate	2007 Estimate	Increase (+) Decrease (-)
Equipment	$3	$71	$52	-$19

I want to assure you, Chairman Miller, and the other distinguished members of this subcommittee, that the Board will continue working to develop new and creative solutions to the challenges we face in order to fulfill our statutory mission to hold hearings and provide timely, high-quality decisions to our Nation's veterans and their families.

I would be pleased to answer any written follow-up questions you or any other members of the subcommittee might have.

STATEMENT OF
HONORABLE WILLIAM P. GREENE, JR., CHIEF JUDGE
U.S. COURT OF APPEALS FOR VETERANS CLAIMS
FOR SUBMISSION TO THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS
FEBRUARY 16, 2006

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

On behalf of the Court, I appreciate the opportunity to present testimony on the fiscal year (FY) 2007 budget request for the United States Court of Appeals for Veterans Claims.

At the outset, let me state that it is an honor to be the new Chief Judge of an entirely new Court. None of the Court's original judges, appointed in 1989 and 1990, remain. We miss them and certainly salute them for blazing the trail in veterans law. We are building on their legacy, but we are a new crew. I was appointed in 1997, making me the most senior judge by a considerable number of years. Two of our current judges have just over two years of experience; the four other judges have been on the Court for a little more than a year. This turnover on the Court has had great significance, particularly in the short term, on the Court's case management, which I will address later in my testimony.

First, however, I will briefly summarize the Court's budget request, focusing on the reasons for a requested increase. Then I will take up the matter of our caseload and the effect of a dramatically escalating number of new cases. Finally, I will update you on two Court initiatives -- outreach to other areas of the country, at present specifically through law schools, and our continued encouragement of a voluntary bar association of veterans benefits law practitioners.

First, the budget request: The Court's FY 2007 budget request of $19,790,000 includes $1,260,000 as the amount requested by the Veterans Consortium Pro Bono Program (Representation Program). In accordance with practice since FY 1997, the Representation Program has provided its own budget request, which the Court has forwarded (without comment) along with the Court's budget request.

The FY 2006 appropriation to the Court in Public Law No. 109-114 was $18,795,000 (before the one percent rescission, which was applied to the Court), of which $1,260,000 was the amount requested by the Representation Program. Our FY 2007 budget request reflects an increase of $995,000 over the Court's appropriation for Court operations for FY 2006. Several factors account for the increase, and I will discuss them further. These factors are increases in personnel compensation, costs of General Services Administration (GSA) studies and services in connection with a Veterans Courthouse and Justice Center, an anticipated raise in rent, implementing an electronic case filing system, other essential services whose costs are uncontrollable by the Court, and increased needs for supplies, materials, and equipment.

In the personnel arena, the Court requests funding for 97 full-time equivalent (FTE) positions. This represents an increase of one position for an additional staff member for the Court's Public Office, above the FY 2006 requested level. I'll discuss that position more fully, later in my testimony. The FY 2007 request for personnel compensation increases by $279,000 over the FY 2006 appropriation. This amount takes into account the government-wide pay increase requested by the President. The requested staffing level will also help us address the dramatically increased volume of new cases filed.

For eight of the past ten years (from FY 1997 through FY 2004), the number of new cases at the Court has averaged slightly above or below 200 per month, or approximately 2400 per year.

In FY 2005, we had 3466 new cases filed, closer to an average of 300 per month. This trend is continuing, with 907 new cases filed in the first quarter of FY 2006, putting us on track for potentially more than 3600 cases in this fiscal year. Of these cases, approximately 227 have involved bilateral tinnitus claims, which the Court recently held would be entitled to separate ratings for the disability in each ear. *See Smith v. Nicholson*, 19 Vet.App. 63 (2005), *appeal docketed*, No. 05-7168 (Fed. Cir. July 11, 2005); *Stolasz v. Nicholson*, 19 Vet.App. 355 (2005). The tinnitus cases account for just over 20 percent of the total increase in new filings over those in FY 2004; we understand that many thousands of tinnitus cases are awaiting final action by VA. A considerable number of these cases could eventually come before the Court after the Board of Veterans' Appeals (Board) renders decisions on these claims. The other eighty percent continue to involve a variety of matters, primarily disability claims of various types.

The significant increase in cases not only increases chambers caseload, but also broadens the tasks for the Court's Central Legal Staff and the clerical staff in the Court Clerk's Public Office that must process all filings in the appeals and petitions as they are submitted. The new position requested for the Public Office will allow us to place a person in position to assist in processing in a timely fashion the increased volume of appeals and petitions. As always, the Court will monitor staffing to ensure that it is kept at the minimum level necessary for timely review of the cases brought before the Court.

The background on our caseload since FY 1994 is summarized in the following table, which also appears on page 4 of the Court's FY 2007 Budget Request:

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
BVA TOTAL	6194	6407	10444	15865	15360	14881	14080	8514	8606	10228	9299	13033

DENIALS												
NEW CASES TO USCAVC	1142	1279	1620	2229	2371	2397	2442	2296	2150	2532	2234	3466
NEW CASES AS % OF BVA DENIALS	18.4%	20.0%	15.0%	14.0%	15.4%	16.1%	17.3%	27.0%	25.0%	24.7%	24.2%	26.6%

Although the Board reports only the number of total, but not partial denials, appeals to the Court come from a pool of cases in which the Board has denied some or all benefits sought by claimants. We also receive petitions for extraordinary relief seeking Court action to "compel action of the Secretary unlawfully withheld or unreasonably delayed." 38 U.S.C. § 7261(a)(2). Over the last four fiscal years, the number of new cases as a percentage of Board denials has risen considerably over the level in FY 2000 and earlier years. In the FY 2006 budget request the Court predicted that an increase in Board activity (both total number of decisions and total number of denials) would increase the number of appeals to this Court. In FY 2005 it happened! In FY 2005 the number of Board total denials rose to 13,033; and the Court experienced its largest number of case filings ever. I note that, although the Board denied more appeals in FYs 1997 through 2000 than in FY 2005, the number of appeals to our Court surpassed appeals received in each of those earlier years by more than one thousand.

Additionally, the Court continues to receive a substantial number of Equal Access to Justice Act, 28 U.S.C. § 2412(d) (EAJA), applications. The case-filing figures provided in the table above do not reflect the number of EAJA applications filed and EAJA cases pending, even though these applications initiate a separate proceeding requiring Court action. In addition to the

number of cases listed in the table, the Court acted on 877 EAJA applications in FY 2005. This compares to 1,048 in FY 2004; 1,339 in FY 2003; 1,104 in FY 2002; 801 in FY 2001; and 770 in FY 2000. Processing and disposing of EAJA applications is an additional workload factor.

In addition to personnel costs, a second factor contributing to the increase in budget is the Court's request for $400,000 for General Services Administration (GSA) services for site analysis and design of a Veterans Courthouse and Justice Center either by a private developer or through federal funding. At Congress's direction, in FY 2005 the Court contracted with GSA for the initial phase of studies to determine the feasibility of the Court and associated entities occupying a Veterans Courthouse and Justice Center. (The associated entities are the following: VA General Counsel Group VII, the Pro Bono Representation Program, the National Veterans Legal Services Program, the appellate divisions of the Disabled American Veterans and Paralyzed Veterans of America, and possibly the executive office of the Court's voluntary bar association.) The initial study has been completed and was forwarded to the Court's authorizing Committees and appropriations Subcommittees. Study results predict that the Court's present space will be inadequate by FY 2011 when the current lease expires. The Court is pursuing with GSA an examination of four options, including leasing or constructing a dedicated Courthouse, as discussed in the Court's FY 2005 budget request. The FY 2007 funds requested include $200,000 for follow-up studies to focus on specific sites, and $200,000 for in-depth analysis of these potential sites, architectural services needed for adaptation of existing space or to design a Courthouse and Justice Center, and for GSA project management.

Third, the Court is requesting $500,000 for implementing an electronic case filing system. In the FY 2006 appropriation, Congress earmarked funding of $500,000 and directed the Court to work with the Administrative Office of the U.S. Courts (AO) to purchase and implement a version of its case filing software program already being adopted for the rest of the federal judiciary. The Court Executive has initiated a discussion with the AO Director of Information Technology. Furthermore, I have written to AO Director Leonidas Ralph Mecham, calling his attention to the Report language accompanying the earmarked funds in the FY 2006 appropriation, as well as my obligation to report to Congress on progress with the AO on this matter. The process of implementing e-filing is expected to take three years. This transition presents many challenges. For this Court, in particular, with a relatively high rate of pro se appellants and petitioners, it will be necessary to maintain the capability of accepting and maintaining paper filings as well as electronic transmissions. The Court is seeking adequate resources to smooth the transition and to maintain efficient and expeditious processing.

Escalating costs (not controllable by the Court) in the "all other objects" category also contribute to the increased budget request. These costs include a rent increase for both the Court's office space at 625 Indiana Avenue and a Continuation of Operations Program (COOP) site in Northern Virginia. Other increased costs are in cross-servicing charges for financial accounting and reporting; in the Court's share of the cost of paying security personnel at 625 Indiana Avenue pursuant to a contract with the Federal Protective Service; in the cost of the U.S. Marshals Service

contract for Court security officers; in the costs of Federal Occupational Health services; in GSA charges for use of the Personal Property Center; and in the costs of security-system maintenance.

Next is the Court's caseload. We have an increase in new filings and a substantial caseload. We are working hard to reduce the number of pending cases. The judges of the Court are fully committed to deciding each case in as timely a manner as possible, consistent with due process and fair assessment. I would like to give you some background.

In FY 2000 through 2002, the Court issued a greater number of decisions than in more recent fiscal years. Several factors contributed to that outcome. Dispositions during FY 2000 to FY 2002 were profoundly affected by passage in 2000 of the Veterans Claims Assistance Act (VCAA) (Pub.L. No. 106-475), which triggered almost immediate remand of over 1,000 pending cases for compliance by the Secretary with the requirements of the VCAA. That was a unique situation resulting from a fundamental change in the procedure for veterans claims processing. Moreover, from FY 2000 to FY 2002 the Court had its authorized seven judges, six of whom had served since 1989 or 1990, when the Court began operations, and myself who joined the Court in 1997. However, from FY 2003 until the second quarter of FY 2005, the Court functioned with only five judges, which led to a backlog. This was compounded by the fact that our caseload increased 55 percent between FY 2004 and FY 2005. Thus far for FY 2006, we are on track to receive over 3600 new cases. Nearly 60 percent of the Court's new cases are filed by unrepresented veterans or their family members. Thus, additional time is spent on many cases where an attorney enters the case on behalf of the veteran after the initial appeal or petition is filed.

We welcome this increased representation; however, we recognize that -- at times -- with representation comes an increase in the time to resolve a case.

Since the middle of FY 2005, the Court again is enjoying its full complement of judges. Our newer judges and their law clerks are gaining experience quickly, and I expect we will have a concomitant increase in productivity. We are currently assessing other measures, such as electronic filing and increased mediation by the Court's Central Legal Staff, which will improve case management. I am confident that we will reduce backlog significantly and at the same time process all cases expeditiously.

Finally, I want to give you an update on two continuing Court initiatives: To promote study of veterans benefits law in the nation's law schools and to support our voluntary bar association, the U.S. Court of Appeals for Veterans Claims Bar Association. During the past three and one half years, the Court has held oral argument at six area law schools (Catholic University, Georgetown University, the University of Baltimore, American University, Howard University, and George Washington University). One of the schools (Catholic University) is now regularly offering an evening course in veterans benefits law. The Court is in the process of scheduling oral argument at the law schools of the University of Florida, Stetson University, and the Arizona State University. Other schools that have expressed an interest in hosting an oral argument include Duquesne University in Pittsburgh, Pennsylvania, the University of Idaho Law School, and George Mason University in Northern Virginia. The Court will welcome invitations from any other interested law schools. The Court's jurisdiction over appeals of denials of VA benefits is nationwide. Our

appellants and petitioners live in every State, and many have expressed intense interest in the work of the Court. Section 7255 of title 28, U.S. Code, specifically provides that "the Court may sit at any place within the United States." Therefore, we are exploring the feasibility of conducting oral arguments in federal or local courthouses in various areas of the nation, if possible combining these arguments with outreach to law schools within the locality. We hope to arrange two such arguments during FY 2007. If this outreach effort is successful, the Court would plan eventually in future fiscal years to visit a northern, southern, eastern, and western State each year.

The voluntary bar association continues to operate successfully, drawing its dues-paying members (currently approximately 225) from the appellants' bar, VA, veterans service organizations, and the Court. It provides a forum where private attorneys, veterans-service-organization attorneys and non-attorney representatives, government attorneys, and the Court's judges and staff attorneys can interact. Its educational programs augment those offered at the Court's biennial judicial conference. Through its law school education committee, the bar association has become an active partner with the Court in broadening awareness of veterans benefits law. The committee members are working with law professors and law schools throughout the country to identify various means to expose future attorneys to this practice area.

Again, thank you very much for the opportunity to provide this testimony on the Court's budget request for FY 2007. On behalf of the judges and staff of the Court, we appreciate very much your past support and continued assistance. The Court will be happy to respond to any questions that you might have.

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STATEMENT FOR THE RECORD

STATEMENT OF

DAVID G. GREINEDER
AMVETS DEPUTY NATIONAL LEGISLATIVE DIRECTOR

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE DEPARTMENT OF VETERANS AFFAIRS
NATIONAL CEMETERY ADMINISTRATION BUDGET
REQUEST FOR FISCAL YEAR 2007

THURSDAY, FEBRUARY 16, 2006
340 CANNON HOUSE OFFICE BUILDING
2:00PM

Mr. Chairman, Ranking member Berkley, and members of the Subcommittee:

Thank you for the opportunity to submit a statement for the record as part of the Subcommittee on Disability Assistance and Memorial Affairs oversight hearing on VA's 2007 budget request for the Veterans Benefits Administration (VBA). Though the Subcommittee was not able to hold a separate hearing on the National Cemetery Administration, I appreciate the opportunity to provide our best estimates on the resources necessary to carry out a responsible NCA budget for the coming year.

AMVETS testifies before you as a co-author of *The Independent Budget*. Since 1987, AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars have pooled their resources to produce a unique document, one that has stood the test of time. It is hard to believe that twenty years have elapsed since the first *Independent Budget* was formulated.

The IB, as it has come to be called, is our blueprint for building the kind of programs veterans deserve. Indeed, we are proud that over 60 veteran, military, and medical service organizations endorse these recommendations. In whole, these recommendations provide decision-makers with a rational, rigorous, and sound review of the budget required to support authorized programs for our nation's veterans.

In developing this document, we believe in certain guiding principles. Veterans must not have to wait for benefits to which they are entitled. Veterans must be ensured access to high-quality medical care. Specialized care must remain the focus of VA. Veterans must be guaranteed timely access to the full continuum of health care services, including long-term care. And, veterans must be assured burial in a state or national cemetery in every state.

The National Cemetery Administration

I would like to acknowledge the dedicated and committed NCA staff who continue to provide the highest quality of service to veterans and their families despite funding shortfalls, aging equipment, and increasing workload. The devoted staff provides aid and comfort to hurting veterans' families in a very difficult time, and we thank them for their consolation.

The Department of Veterans Affairs National Cemetery Administration currently maintains more than 2.6 million gravesites at 125 national cemeteries in 39 states and Puerto Rico. There are approximately 14,500 acres of cemetery land within established installations in the NCA. Over half are undeveloped and have the potential to provide more than 3.6 million gravesites. Of the 125 national cemeteries, 62 are open to all interments; 19 can accommodate cremated remains and family members of those already interred; and 41 are closed to new interments.

VA estimates that about 26.6 million veterans are alive today. They include veterans from World War I, World War II, the Korean War, the Vietnam War, the Gulf War, and the Global War on Terrorism, as well as peacetime veterans. With the aging veterans population continuing to climb, nearly 676,000 veteran deaths are estimated in 2008, with the death rate increasing annually and peaking at 690,000 by 2009. It is expected that one in every six of these veterans will request burial in a national cemetery.

The administration requests $160.7 million and 23 additional FTE for NCA for fiscal year 2007. The members of *The Independent Budget* recommend that Congress provide $214 million and 30 FTE for the operational requirements of NCA, the National Shrine Initiative, and the backlog of repairs. We recommend your support for a budget consistent with NCA's growing demands and in concert with the respect due every man and woman who wears the uniform of the United States Armed Forces.

If the NCA is to continue its commitment to ensure national cemeteries remain dignified and respectful settings that honor deceased veterans and give evidence of the nation's gratitude for

their military service, there must be a comprehensive effort to greatly improve the condition, function, and appearance of the national cemeteries. *The Independent Budget* recommends Congress provide $50 million in fiscal year 2007 to begin a five-year, $250 million program to restore and improve the condition and character of NCA cemeteries. We call it the National Shrine Initiative. On page 123 of *The Independent Budget*, you will see that the National Shrine Initiative is listed as a separate and new line item. We feel this is appropriate because we do not want to take much-needed monies away the NCA Operations and Maintenance account, where NCA draws their cemetery restoration funds from currently.

The National Shrine Initiative is in response to the 2002 *Independent Study on Improvements to Veterans Cemeteries*. Volume 2 of the *Study* identifies over 900 projects for gravesite renovation, repair, upgrade, and maintenance. The cost of completing these projects is about $300 million. According to the *Study*, the project recommendations were made on the basis of the existing condition of each cemetery after taking into account the cemetery's age, its burial activity, burial options and maintenance programs.

Let me say that we are very pleased with the work NCA has done so far in cleaning, realigning, and restoring headstones and markers in our national veterans cemeteries. Their work has been superb. However, more needs to be done, and that takes resources. While we are encouraged that NCA has budgeted $28 million for the National Shrine Commitment, we have a long way to go before reaching the $300 million mark.

The State Cemetery Grants Program:

For funding the State Cemetery Grants Program (SCGP), the members of *The Independent Budget* recommend $37 million for fiscal year 2007, an increase of $5 million over the administration proposal. The State Cemetery Grants Program is an important element to the NCA. It complements the NCA mission to establish gravesites for veterans in those areas where the NCA cannot fully respond to the burial needs of veterans.

Six western states do not have a single national veterans cemetery: Idaho, Montana, Nevada, North Dakota, Utah, and Wyoming. The large land areas and spread out population centers in these and most western states make it difficult for them to meet the "170,000 veterans within 75 miles" national veterans cemetery requirement. Recognizing these challenges, VA has implemented several incentives to assist states in establishing a veterans cemetery. For example, the NCA can provide up to 100 percent of the development cost for an approved cemetery project, including design, construction, and administration. In addition, new equipment, such as mowers and backhoes, can be provided for new cemeteries. Since 1973, the Department of Veterans Affairs has more than doubled acreage available and accommodated more than a 100 percent increase in burials.

Burial Benefits:

There has been serious erosion in the value of burial allowance benefits over the years. While these benefits were never intended to cover the full costs of burial, they now pay for only a small fraction of what they covered in 1973 when the federal government first started paying burial benefits.

In 2001, the plot allowance was increased for the first time in more than 28 years, to $300 from $150, which covers approximately six percent of funeral costs. *The Independent Budget* recommends increasing the plot allowance from $300 to $745, an amount proportionally equal to the benefit paid in 1973, and expanding the eligibility for the plot allowance to all veterans who would be eligible for burial in a national cemetery, not just those who served during wartime.

In the 108th Congress, the burial allowance for service-connected deaths was increased from $500 to $2,000. Prior to this adjustment, the allowance had been untouched since 1988. *The Independent Budget* recommends increasing the service-connected benefit from $2,000 to $4,100, bringing it up to a proportionate level of burial costs. The non-service-connected burial benefit was last adjusted in 1978, and also covers just six percent of funeral costs.

The Independent Budget recommends increasing the non-service-connected benefit from $300 to $1,270. These modest increases will make a more meaningful contribution to the burial costs for our veterans.

The NCA honors veterans with a final resting place that commemorates their service to this nation. More than 2.6 million soldiers who died in every war and conflict are honored by burial in a VA national cemetery. Each Memorial Day and Veterans Day we honor the last full measure of devotion they gave for this country. Our national cemeteries are more than the final resting place of honor for our veterans, they are hallowed ground to those who died in our defense, and a memorial to those who survived.

Mr. Chairman, this concludes my testimony. I thank you again for the privilege to present our views for the record.

David G. Greineder
AMVETS Deputy National Legislative Director

David Greineder joined AMVETS (American Veterans) on May 10, 2004. As the Deputy National Legislative Director (currently serving as Acting National Legislative Director), he is the primary individual responsible for promoting AMVETS legislative, national security, and foreign affairs goals before the administration and the Congress of the United States.

Prior to assuming his current position, David worked nearly five years on Capitol Hill as a legislative staff aide in the offices of Pennsylvania Reps. George W. Gekas and Timothy F. Murphy. He was a key policy advisor for a wide range of issues, including veterans' affairs, and helped manage federal appropriations efforts in both congressional offices.

David completed undergraduate work at Millersville University of Pennsylvania, where he was an assistant of data collection for the Keystone Poll.

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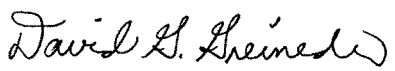
February 16, 2006

The Honorable Jeff Miller, Chairman
House Veterans' Affairs Committee
Subcommittee on Disability Assistance and Memorial Affairs
340 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Miller:

Neither AMVETS nor I have received any federal grants or contracts, during this year or in the last two years, from any agency or program relevant to the February 16, 2006, House Veterans' Affairs Committee hearing on the VA's budget request for fiscal year 2007.

Sincerely,



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INDEPENDENT BUDGET (IB) RESPONSE TO POST HEARING QUESTIONS REGARDING FISCAL YEAR 2007 BUDGET FOR THE DEPARTMENT OF VETERANS AFFAIRS (VA)

Congressman Udall Post Hearing Questions

Question: The IB has recommended that Congress authorize 10,820 total full-time employees (FTE), and 9,300 direct program FTE for Compensation and Pension (C&P) Service. With the Administration's proposed budget, C&P would be authorized 7,863 direct FTE, which is a reduction of 48. Even more disturbing, the number of FTE under the subcategory, Direct Compensation, would be reduced by 149. What number of FTE does the IB recommend that Congress authorize for Direct Compensation?

Answer: The IB recommends that Congress authorize 7,862 FTE for Direct Compensation.

The IB formed its recommendations for adequate staffing levels by using the same formula or method as the VA. However, we changed one variable in the equation. The VA based its needs projection on an output of 109 cases per year for each direct program FTE, while the IB arrived at it recommendation on an output of 100 cases per year for each direct program FTE. The rationale for fewer cases per worker is that VA's production requirements do not allow for thorough development and careful consideration of claims. The result is a higher error rate and a higher number of appeals that add to the already overwhelming claims backlog. Therefore, with an estimated 930,000 claims in fiscal year 2007, we arrived at the recommendation of 9,300 direct program FTE. Like the VA formula, ours did not include separate categories for each of the direct programs, which are burial, pension, and compensation. To calculate the specific number of FTE recommended for compensation, we simply subtracted the numbers for burial and pension that VA estimated for 2007 from the IB total recommendation.

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