

MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS FOR 2012

TUESDAY, APRIL 5, 2011.

U.S. COURT OF APPEALS FOR VETERANS CLAIMS

WITNESS

HON. BRUCE KASOLD, CHIEF JUDGE, UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

OPENING STATEMENTS

Mr. CULBERSON. The Appropriations Subcommittee on Military Construction and Veterans Affairs will come to order.

We are delighted to have with us today the Honorable Bruce Kasold, who is the chief judge of the U.S. Court of Appeals for Veterans Claims, a statutory court created for veterans to hear their cases for the first time. Actually in 1988, a statute created the court with original jurisdiction.

And there is some discussion, I guess, going on today, Judge, which we will hear about in your testimony, on the efficacy of creating, like, a new intermediate court of appeals, I gather, from—

Judge KASOLD. Actually, doing away with it, sir.

Mr. CULBERSON. Doing away with it? Okay, because I am brand new to this and looking forward to hearing your testimony and the vital role you play, because one of the biggest complaints that we continue to hear from veterans is the length of time that it takes to have their benefit decisions made at all, and then to have them finalized.

And it is my privilege to recognize our ranking member, the gentleman from Georgia.

Mr. BISHOP. Thank you very much, Mr. Chairman. My comments will be very brief.

I want to hear Judge Kasold's thoughts on the court's caseload, how it has increased over the past few years. And I want to make sure that the court has the necessary resources to deal with this caseload. I am also interested in hearing Judge Kasold's thoughts on the veterans appeals courthouse.

One of my constituents was overturned on a VA opinion that he did not suffer from PTSD, despite several medical diagnoses to the contrary. This is the kind of attention that we need to provide our nation's veterans, and we need to do it in an efficient and an effective way.

Finally, I simply want to welcome Judge Kasold, and I want to promise not to hold your service in the Senate against you.

Judge KASOLD. Thank you, sir.

Mr. BISHOP. We all make mistakes.

Mr. CULBERSON. Thank you, Mr. Chairman, very much.

Judge, we are glad to have you here with us today. And, of course, your full statement will be entered into the record without objection. And we look forward to hearing your testimony.

STATEMENT OF CHIEF JUDGE KASOLD

Judge KASOLD. Thank you very much. Thank you, Mr. Chairman, Ranking Member.

It is an honor to have the opportunity to discuss our budget and the court's activities with you and your distinguished colleagues. As noted in my written statement, our budget is easiest viewed in three blocks—pro bono funding, our operating budget and the veterans courthouse.

Pro bono funding is a pass-through, and I defer comments other than to note the good work done by the consortium.

Our operating budget reflects a 10 percent increase over fiscal year 2011 due primarily to three factors—one, the normal increase in pay and benefits associated with staff increases and promotions, which is about \$400,000; two, the need to lease additional space, relocate offices and build out and equip two new chambers on one of our secure floors, all associated with the anticipated appointment of two new judges, bringing the court from seven to nine judges, and that is about \$600,000; and three, the recognition that our budget request for the past several years has underestimated the statutorily required funding needed for the retirement fund, and that is about a million dollar addition.

One reason for the past years' under budgeting of the retirement fund was that the estimate was based on an average 5 percent growth of the fund from the investment and treasury bills, when in reality it has been a .25 percent growth over the past few years. That alone accounted for a guaranteed million-dollar shortfall at the end of each fiscal year. And our 2012 budget now reflects a better estimate of what is needed to maintain the required funding.

The third category reflects the amount needed to continue toward construction of the veterans courthouse. That is \$25 million. In these fiscally constrained times, the priority attached to this project can only be made by you and Congress as a whole. We are not privy to the needs of the other entities in your portfolio or the needs of the nation.

Moreover, the need for a stand-alone courthouse is not driven by space, equipment, or supply needs alone. Rather, it is driven by the sense of major veterans groups and the sense of Congress over the past several years that veterans, who only recently in the grand total of American history have been granted the right to judicial review of their claims, should have a courthouse at least as equal to the courthouses provided to hear the claims of our everyday citizens.

As you well know, working in the grand House of the people, buildings, particularly government buildings, represent more than

just a place to work. They speak to the respect our nation has for the work that is being done within them.

Courthouses reflect respect for the rule of law, and particularly in the case of veterans, a veterans courthouse, as so aptly stated in H.R. 3936, would be, and I quote—"symbolically significant of the high esteem the nation holds for its veterans and would," I continue quoting—"express the gratitude and respect of the nation for the sacrifices of those serving and those who have served in the Armed Forces and their families."

Whether a dedicated courthouse is to be funded now or at some later date is a decision the committee and Congress must make, weighing this project against others. Although belts must be tightened, some buildings will be funded, and I was just noting, listening to the "Civil War" last night—or Sunday night—that construction on this building continued during the Civil War.

As noted in my written statement, if any courthouse is to be built, we support those who suggest that it should be a veterans courthouse. As to our specific budget request, it is \$25 million, which, as you know, GSA advises us is all that prudently can be spent over the next year.

With regard to court activities, our caseload remains high, and the processing time for many cases is longer than might be expected. Since becoming chief judge about 7 months ago, I have reviewed the process and time.

Much of the time that is spent is simply reflective of the transition from the claims processing that takes place in VA and the Board of Veterans Appeals to the adversarial appellate judicial review that takes place in an appellate court. A record needs to be compiled and consolidated. The briefs need to be prepared by the parties.

We have mandatory conferencing in 65 to 70 percent of the cases where the appellant is represented by counsel, which is 65 to 75 percent of all of our cases. This conferencing results in resolution without judicial review in about 50 percent of those cases that go to conferencing.

There are also many motions for additional time, although with the support of Congress, additional funding has been provided to the secretary, and he has reduced the number of requests for delay. It is still a lot, but reduced.

For cases not resolved in the conferencing process, review will take about a year, even when there are no unprogrammed delays. Some cases will take longer, because they are sent to panel, or they are stayed pending a panel decision, or they are stayed pending a decision by the Federal Circuit or the Supreme Court.

In addition to the normal appellate process, there are two areas of unprogrammed delay that I hope to focus on as chief judge. Indeed, when I testified last year on behalf of then Chief Judge Greene, I noted that it was taking about 3 months after briefing by the parties was completed to transfer a case from our central legal staff (CLS) to the chambers. I had thought to tackle this problem as one of my first duties on becoming chief.

However, with the complete picture that only the chief has of the caseload within chambers, I learned of the significant number of cases already assigned to chambers and had to face the fact that

the number would only grow with the announcement of the retirement of former Chief Judge Greene as he went off the wheel in early summer, late spring, to complete those cases that were already assigned to him.

Rather than work towards transferring cases even sooner from CLS to chambers, where they would only sit pending resolution of those already assigned to chambers, and with the cooperation of all the judges, we have assigned CLS staff to work with our senior judges to reduce those cases that are currently in chambers. I am pleased to say that well over 100 of these cases are being adjudicated by our senior judges.

Consequently half of the central legal staff is working with the senior judges, the other half is focused on the conferencing, so the flow of cases into chambers has slowed.

We have hired three additional temporary staff attorneys to prepare cases for chambers, and I have assigned my executive attorney to review the remaining cases pending transfer, with an eye towards transferring those with issues clearly identified without the normal CLS preparation. That process I just began this past month.

In the end, however, we are now one judge short of our currently authorized judges, and neither of our two temporary judicial positions have been filled. Should these positions be filled, and once the appointed judges have attained experience and familiarity with veterans law and judicial decision-making, I fully anticipate the two areas I have identified, time in transferring cases from CLS to chambers and time in chambers, can be and will be significantly reduced.

As a final prepared remark, I believe the time is right to review the continued need for a limited review by the U.S. Court of Appeals for the Federal Circuit of decisions of the Court of Appeals for Veterans Claims where questions of law are involved. This review does add a significant time and cost to the decision process not only for the individual case, but with a magnitude far beyond, depending on the precedential nature of the decision being rendered.

Over the past few years, we have had one case decided by the Veterans Court overturned by the Federal Circuit only to be overturned by the Supreme Court and another precedential case decided by our court, affirmed by the Federal Circuit, and then overturned by the Supreme Court.

While a second review on issues of law was a good idea when the court was created and there was no body of judicial interpretations, there are now 23 volumes of precedential case law and a recognition by the Supreme Court of the expertise of the Veterans Court in the area of veterans law.

Given the fiscal crisis our nation faces, this time-consuming, costly and unique extra step in the appellate process is now worthy of examination for its continued need.

With that, Mr. Chairman, I close my remarks and will address any questions you may have.

[Prepared statement of the Honorable Bruce E. Kasold follows:]

*TESTIMONY OF
THE HONORABLE BRUCE E. KASOLD, CHIEF JUDGE
U.S. COURT OF APPEALS FOR VETERANS CLAIMS*



*FOR SUBMISSION TO THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON MILITARY CONSTRUCTION,
VETERANS AFFAIRS, AND RELATED AGENCIES
APRIL 5, 2011*

STATEMENT OF
THE HONORABLE BRUCE E. KASOLD, CHIEF JUDGE
U.S. COURT OF APPEALS FOR VETERANS CLAIMS

FOR SUBMISSION TO THE
UNITED STATES HOUSE OF REPRESENTATIVES
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APRIL 5, 2011

CHAIRMAN CULBERSON, REPRESENTATIVE BISHOP, AND DISTINGUISHED MEMBERS
OF THE SUBCOMMITTEE:

It is both an honor and a pleasure to present testimony to this esteemed body on the fiscal year (FY) 2012 budget request and performance plans of the United States Court of Appeals for Veterans Claims. My remarks today mirror the statement I presented last month to the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs. Herein I will (1) summarize our budget request, (2) provide an overview of the Court, its caseload, and its Operation Plan, (3) suggest a broad examination of the structure of federal appellate review of veterans benefits decisions, and (4) provide an overview of recent developments on the Veterans Courthouse.

I. Budget Request

The Court's FY 2012 budget request is best viewed as three parts making up the whole. One piece is a request for \$2,726,363 sought by the Veterans Consortium Pro Bono Program (Pro Bono Program). Another part is the Court's necessary operating expenses, requested at \$28,070,327. The third part is a request for \$25,000,000 for design engineering and site acquisition for a veterans courthouse. In total, our FY 2012 budget request is \$55,796,690.

Our FY 2012 request reflects an increase of \$211,134 sought by the Pro Bono Program. Since FY 1997, the Pro Bono Program's budget request has been provided to Congress as an appendix to the Court's budget request. Accordingly, I offer no comment on that portion of our budget request, although I do commend the Pro Bono Program for its success in providing legal assistance to many appellants seeking judicial review from the Court.

Our FY 2012 request reflects an increase of \$2,438,827 for the Court's operations, which is due primarily to (1) anticipated rent payment for additional space associated with two new chambers, plus the expenses associated with relocating staff to another floor, building out and equipping those offices, the two new chambers, and appropriate chambers for our Senior Judges (\$600K), (2) an increase of \$1 million (M) in the statutorily required contribution to the Judges Retirement Fund (*see* 38 U.S.C. § 7298); (3) the estimated, annual increase in payroll associated with normal promotions and step increases (\$400K), and (4) continued cyclical replacement of IT equipment (\$250K).

With regard to the two new chambers, additional leased space, relocation of staff, and appropriate chambers for our Senior Judges, any funding spent on these matters in the current fiscal year would result in a commensurate reduction in costs incurred in FY 2012. The Court has forestalled implementing these changes in the past, due to a lack of appropriate space and the lack of any known movement on appointment of two new judges. However, it now appears that space will be available in our building this summer and that the two additional judgeships authorized in 2008 likely will be nominated this year; accordingly, we will proceed with these plans as soon as the space is available, if we have the funding.

As to funding the Judges Retirement Fund, on becoming Chief Judge I reviewed past contributions and noted that our internal budgeting for this has been underestimated the past several

years, requiring funds originally planned for other activities, but not used, to be contributed to the Fund at the end of the year. One reason for the past-years under-budgeting was that the estimate was based on an average 5% growth in the Fund, which is invested in Treasury instruments. In reality, there was less than .25% growth, and that alone accounted for a guaranteed \$1M shortfall at the end of each FY. Our budget request for 2012 is based on a more realistic estimate of growth in the Fund.

II. The Court, its Caseload, and its Operations

With the creation of the Court in 1988, veterans became entitled, for the first time, to contest in a court of law adverse final decisions made by the Department of Veterans Affairs (VA) on their benefits claims. Over its 20 years of existence, the Court has grown to become one of the busiest federal appellate courts based on the numbers of appeals filed and decided per judge.

Appeals and petitions from FY 2007 through 2010 averaged almost 4,500, (FY 2007 (4,644), FY 2008 (4,128), FY 2009 (4,725) and FY 2010 (4,341)), compared to an average of about 2,300 from just five years earlier (FY 2002 (2,150), FY 2003 (2,532), and FY 2004 (2,234)). In addition to new appeals and petitions filed, the Court receives hundreds of motions each month, ranging from procedural to dispositive questions. In FY 2010 the Court disposed of 5,141 cases. The Court has implemented several innovations to help process these matters, which I will outline here.

Our pre-briefing dispute-resolution program was expanded significantly over the past few years. Our Central Legal Staff (CLS) attorneys now conduct conferences in essentially all merits appeals where the appellant is represented by counsel—equating to roughly 65-70% of the total number of appeals. Of the cases where consultation is scheduled, approximately 50% are resolved with the parties agreeing to a remand for further adjudication below without judicial review. Further, even in those cases where the appeal is not resolved at conference, the dispute-resolution process

generally is successful in narrowing and focusing the issues on appeal. The feedback from members of the Court's Bar, as well as from our CLS attorneys, is that the conferencing program is efficient and effective in bringing the parties together and resolving issues consistent with the law, due process, and the interests of justice, while conserving judicial resources.

For the past several years, we have recalled our retired Senior Judges. We currently have a total of six Senior Judges eligible for recall, with two judges serving as I speak, and all are on notice that their continued service is needed. The Senior Judges primarily assist with the more straightforward appeals and the Court's motions practice, which in turn affords the regular active judges additional time to focus on the more time-consuming decisions.

Several years ago, the Court also partnered with the Administrative Office of the U.S. Courts (AO) to acquire, adapt, and implement an electronic case management/electronic case filing system (CM/ECF). CM/ECF has now been fully functioning for two years and we now receive most documents electronically and issue most orders and decisions electronically, although we still have paper filing and orders for pro se litigants. CM/ECF permits remote 24-hour filing access, reduced storage space needed for record retention, the opportunity for multiple users to access records, efficient electronic notification procedures, and reduced mailing/courier costs. We just installed an updated version of CM/ECF and will continue working with the AO to acquire future versions to provide ever more useful and time saving features for case processing and management.

The Court decided more appeals this past fiscal year than were filed. This significant accomplishment is due largely to our mandatory conferencing program. However, more than half of the appeals filed, including a significant number of appeals where the appellant is pro se, require judicial review. In FY 2010, more than 2,000 appeals required judicial action, as did another 200

EAJA applications, petitions for extraordinary relief, and hundreds of motions. This level of demand for judicial review exceeds the capacity of our six active judges, who average over 200 appeals a year, in addition to the EAJA applications, petitions, and motions. The current need for judicial review also exceeds the support provided by our Senior Judges who average about a quarter of the production of a regular active judge (Senior Judges decided 284 appeals in FY 2010, as well as numerous motions).

Nevertheless, there is daylight. Once all of our judicial vacancies are filled and the newly appointed judges attain experience and familiarity with veterans law and judicial decision making, I am confident there will be an increase in the annual number of appeals resolved.

III. Suggestion for Possible Time and Cost Savings Without Judicial Review Degradation

Over the past couple of years there has been discussion among various stakeholders of the benefits of establishing a commission to evaluate the process of appellate review of veterans benefits decisions and to make recommendations on how to improve that system. In October 2009 I testified before the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs, supporting an unnumbered draft bill (the "Veterans Appellate Review Modernization Act") that would establish such a commission, and I reiterated that support when I testified before that same subcommittee last month.

As I stated then, the time is right for a working group to step back and review the system we have, critically examine its strengths and weaknesses, and identify measures that could benefit the overall appellate process. Specifically, we support and encourage a commission to weigh the costs and benefits of the unique two-tiered federal appellate review system in place for veterans benefits

decisions. Similar action was taken in the past with regard to the U.S. Court of Appeals for the Armed Forces, where direct appeal to the Supreme Court ultimately was permitted. With two decades of experience in appellate review of veterans benefits claims, and the resultant seasoned body of case law, it is time to consider the added value of a second layer of federal appellate review.

No doubt, continued bites at the apple, so to speak, will be sought by some, but at the end of the day, I suggest it cannot be convincingly argued that a veteran, the taxpayer, or anyone is best served by waiting nearly two years to have a decision of the Veteran's Court overturned by the Federal Circuit, only to wait approximately another two years to have the Federal Circuit overturned by the Supreme Court, as was the situation in the case of *Shinseki v. Sanders*, 129 S.Ct. 1696, 1707 (2009), or to have a veteran wait 18 months to have a decision of the Veteran's Court upheld by the Federal Circuit, only to wait another 9 months to have that decision overturned by the Supreme Court, as was the situation in the recently decided case of *Henderson v. Shinseki*, 131 S.Ct. 1197 (Mar. 1, 2011). Because these cases involve issues of law, their impact is far reaching, often causing cases to be stayed, reconsidered, or readjudicated below. The extra step in the appellate process is unique, time consuming and costly, and worthy of examination for its continued need.

IV. A Veterans Courthouse

Although now over 20 years old, the United States Court of Appeals for Veterans Claims remains the newest federal court. Under the able leadership of our first Chief Judge – Chief Judge Nebeker – the Court offices and courtroom were constructed in leased commercial space, where the Court is housed today. Since at least 2003, many of our Nation's largest Veterans Service Organizations (VSOs) have supported a dedicated courthouse for veterans seeking judicial review. In 2004, the United States House of Representatives expressed its sense that the Court "should be

housed in a dedicated courthouse" that would be "symbolically significant of the high esteem the Nation holds for its veterans" and would "express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families" (H.R. 3936). That sentiment was echoed in 2007 with the sense of Congress that the Court be provided appropriate office space "to provide the image, security, and stature befitting a court that provides justice to the veterans of the United States" (S. 1315). The Board of Judges fully supports the convictions expressed by Congress and the VSOs.

In 2004, pursuant to Congressional support and funding, an initial and follow-on studies were undertaken by GSA to determine the feasibility of acquiring a dedicated courthouse. In 2009, eight National VSOs collaboratively sent a letter to Congress expressing their strong support of legislation that would authorize the funding and construction of a veterans courthouse. In FY 2009, Congress responded by appropriating \$7M for advance planning and architectural design, and those funds were transferred to GSA for completion of a pre-development planning study (planning study). The Court made no specific funding request for the courthouse project in its FY 2010 budget request because the planning study had not yet been concluded and plans were too uncertain at that time to make such a request prudent.

Following receipt of a GSA estimate that \$50M was needed for construction funding and an additional \$12M for land acquisition, \$62M was requested in the Court's FY 2011 budget submission. In response, the House proposed full funding at \$62M, and the Senate proposed \$25M – sufficient funding, per GSA, to perform more detailed design and planning, and to purchase the necessary land adjacent to GSA property being considered for the courthouse, the next steps in the process. As you know, the FY 2011 budget request has not yet been acted on because we are

operating on a continuing resolution, and therefore no funding has been appropriated for construction of the courthouse in FY 2011.

At the time of my February 2010 testimony before this Committee, I noted that GSA had hired MGA Partners, an architectural firm, to complete a Pre-Development Planning. That study, which was completed this past summer, and verified by GSA this past fall, presents a more specific courthouse cost estimate based on the particular location and general design requirements of a courthouse, and it reflects a significant cost increase for project completion over the FY 2011 budget request. We understand that GSA has either briefed or offered to brief this Committee as to the basis for the cost increase.

We also have learned over the past few months that the local government may not be amenable to closing an infrequently used street on the side of the proposed location for the courthouse, and that there have been no assurances that the additional property needed to site the courthouse can be purchased within the estimated cost. GSA is less concerned about the second factor than it is the first. Should the side street be neither closed nor limited to controlled access, the cost of construction surely would rise. Failure to limit access to the side street, and the impact on cost and design of the courthouse, might also warrant finding another site.

Given the increased cost estimate from GSA and need for close study thereof, as well as the factors just noted, and mindful of the Court's responsibility to ensure fiscal prudence, our FY 2012 request includes \$25M, which GSA advises is the amount necessary for funding the next steps toward construction, i.e., more detailed planning, design, and land acquisition. (This \$25M is not needed in FY 2012 if it is appropriated in FY 2011.) We are sensitive to budget constraints and understand that priorities must be set by Congress; however, if any federal courthouses are to be

funded for construction, we support the veterans who contend that their courthouse should be one of them.

If construction of the courthouse is to be delayed, with no work anticipated for the next several years, it is my understanding the \$7M already appropriated for initial design – which has been transferred to GSA and of which a little over \$6.6M still remains – could be used to fund the construction at our current location of two chambers, the relocated offices, and Senior Judges' chambers, if there is appropriate congressional agreement to do so.

V. Conclusion

On behalf of the judges and staff of the Court, I express my appreciation for your past and continued support, and for the opportunity to provide this testimony today.

VETERANS BENEFITS

Mr. CULBERSON. Thank you very much, Judge.

To make sure I understand the procedure a veteran follows in applying for benefits and when does the court become involved, can you walk us through the process.

Judge KASOLD. The claims are actually processed by VA, and that processing is done by a regional office. The regional office is required to gather the information and evidence. The regional office should work hand in glove with the veteran to get that evidence. You will hear complaints about that, but that is the design of it. The benefit of the doubt is given to the veterans at the regional office and the Board.

I think about 1.2 million claims per year are being processed now by those offices. If a veteran is dissatisfied with the results of that process, he then can appeal to the Board. There are about 60,000, I believe, claims that the Board is projected to process this year. That process includes a de novo review by the Boards. That also is somewhat unique.

Evidence can be gathered at the Board, but if it is gathered, unless the veteran waives it, it has to go back to the regional office for another first decision, so then that decision can be reviewed de novo by the Board. Veterans claims are entitled to two de novo reviews.

Mr. CULBERSON. Okay.

Judge KASOLD. That used to be the entire process, through 1988; Basically, veterans couldn't go to court. In 1988 Congress created this court, the Court of Appeals for Veterans Claims. This is an appellate court. It reviews the process. The claim has already been adjudicated down below.

Mr. CULBERSON. Nationwide jurisdiction.

Judge KASOLD. Nationwide jurisdiction.

Now when a veteran is dissatisfied with a board decision, he can have it reviewed. The standard of review on facts is clear error. It is not just "I disagree with you," as would be a board versus regional office de novo review. It is "there has to be clear error in the Board's decision."

Mr. CULBERSON. Discretion of abuse type.

Judge KASOLD. Not quite discretion of abuse, although the Supreme Court has noted that between those standards—does anybody really understand the difference between them? But, yes, a clear error. We have to believe there is a firm conviction that an error has been made to overturn fact—to overturn fact-finding.

Questions of law, however, are reviewed de novo by the court. So if there is a determination made by the Secretary, and the Board on a question of law, then the court would review it de novo. Those questions would generally go to a panel for decision.

Mr. CULBERSON. A panel of your judges.

Judge KASOLD. A panel of our judges.

Mr. CULBERSON. A three-judge panel?

Judge KASOLD. That is a three-judge panel. It can also be en banc. Let me back up a bit. This court also issues single-judge decisions. Most of our cases are done by a single judge.

I know we couldn't process the volume of cases we have if we didn't have that particular authority; or we would have to sit as a panel and just render an "affirm" or "deny" decision, without an explanation going out. With single-judge review authority, all of our cases go out with an explanation.

All those decisions are circulated to all the other judges. They are reviewed by the other judges. We are the only appellate court, federal appellate court, that does single-judge decisions.

And we came up with the review by all the judges as a compromise to the traditional panel review. So those cases are reviewed by all judges, and they can be called to panel during that particular process, if two judges call a panel.

Mr. CULBERSON. If the veteran is dissatisfied with the opinion of one judge, he can then ask for as—

Judge KASOLD. Two processes.

Mr. CULBERSON. So he can then go to a three-judge panel or then ask for an en banc of everybody?

Judge KASOLD. That is correct. He asks. First, you get a single-judge decision. That could be sent to panel by the single judge directly. If a single judge decides it is not panel worthy, it can be decided on all the case law that exists. That decision would circulate. Two judges could call a panel, but if not, the decision is finally issued. If the veteran doesn't like the result, he can seek reconsideration or panel review.

Mr. CULBERSON. Got it. You are handling about 2,000 cases a year.

Judge KASOLD. The judges are.

Mr. CULBERSON. The judges are.

Judge KASOLD. The court receives about 5,000.

Mr. CULBERSON. That is conferencing process.

Judge KASOLD. That is correct. Every year we get, well, 4,500 cases and 2,000 now to about 4,500 of—that is correct. That is correct.

Mr. CULBERSON. Okay. And you all issue your opinion, and then it is today some questions of law. It can go to the Circuit Court of Appeals for D.C.?

Judge KASOLD. Court of Appeals for the Federal Circuit. There are two courts of appeals in D.C. that are federal. One is the D.C. Court of Appeals, and the other is the Court of Appeals for the Federal Circuit, a specialized Article III federal appellate court.

Mr. CULBERSON. Okay.

Judge KASOLD. They take Merit System Protection Board appeals. They take Boards of Contract Appeals. They take Court of Appeals for Veterans Claims. They take the Claims Court appeals. We are the only appellate court that they take.

Mr. CULBERSON. Do they take administrative law judge appeals?

Judge KASOLD. No, those usually go to the Court of Appeals for the District of Columbia Circuit.

Mr. CULBERSON. Okay.

Judge KASOLD. Well, the Merit System Protection Board decision; That is an administrative law judge. It would go to the Federal Circuit.

Mr. CULBERSON. And this Federal Court of Appeals only looks at questions of law.

Judge KASOLD. No, they have broad jurisdiction on all areas of the law, except in this one area. We are the final determination on clearly erroneous facts.

Mr. CULBERSON. And a veteran can appeal any case.

Judge KASOLD. The overwhelming majority of the cases that go to the Federal Circuit are denied for lack of jurisdiction, because they involve questions of fact.

But the Federal Circuit can address a question of law that this court had addressed, and I am suggesting that when this court was created, that made sense, because it was a brand-new court. You got the appeal into a system where a court had experience. This court has been here 20 some-odd years now, and has a body of law.

There can be another review of the law by the Federal Circuit that can get appealed to the Supreme Court. While this is not a direct appeal from our Court to the Supreme Court, there is a precedent for establishing that. The Court of Appeals for the Armed Forces (CAAF) didn't used to have direct review by the Supreme Court. Over time that was then granted, and CAAF appeals go directly to the Supreme Court.

Mr. CULBERSON. And the Supreme Court would typically only take certiorari—

Judge KASOLD. That is right. They would only—

Mr. CULBERSON [continuing]. Constitutional issue.

Judge KASOLD. It would have to be a big issue, I guess, fiscal, constitutional issue—

Mr. CULBERSON. Large popular issue—

Judge KASOLD. Generally, on the other cases, not veterans law, Supreme Court review is granted when there is a conflict in the circuits.

JURISDICTION

Mr. CULBERSON. Are you suggesting in order to expedite things to provide greater efficiency, cost effectiveness, that we remove the ability of the courts outside of our jurisdiction, but directing to Congress that the jurisdiction of the Federal Circuit Court of Appeals be removed on questions of law for appeals—

Judge KASOLD. Right. From the Veterans Court straight to the Supreme Court, just like they do for the Court of Appeals for the Armed Forces. In other words if you are a bad soldier, you get a trial, a court of military review, and then you go to the Court of Appeals for the Armed Forces, and then you get cert to the Supreme Court.

If you are a good soldier, you get a regional office decision, you get a board decision, and you go to the Court of Appeals for Veterans Claims, and then there is this very unusual appeal process that—as I said, most of the cases are denied for lack of jurisdiction anyway, but—you can get a decision by the Federal Circuit.

And as I noted in my testimony, then one way or another you are going to get the Supreme Court to say we were right, or you get the Supreme Court to say none of us are right, etc.

COURTHOUSE

Mr. CULBERSON. Well, and I want to move on to another area, but ask first about the courthouse. I mean, we are all living on bor-

rowed money. But when I saw your testimony in preparing for the hearing today, it was the first time I was really aware that you are trying to build a whole brand-new courthouse, which is ultimately a massive expense.

Judge KASOLD. It is a big one, a big one.

Mr. CULBERSON. Huge. And sounds like you could, with the \$6 or \$7 million that has currently already been—it is in the pipeline, you said, for—it was appropriated in the last appropriations bill to actually be signed into law, equipped with two courtrooms that you need for the President's appointed—you are almost there.

You have got all your judges, just about. And the money you have got will allow you to finish building out the courtrooms in the leased space you are currently in.

Judge KASOLD. Let me be very frank.

Mr. CULBERSON. A little gun-shy about paying for a brand-new courthouse, because we can't, sir. I tell you nobody—I am confident Minnesota probably needs a new courthouse. I bet Georgia needs a new federal courthouse somewhere. In Houston our courthouse was built—

I am sorry?

Mrs. MCCOLLUM. I believe I just got mine right.

Mr. CULBERSON. Oh, good. Minnesota got one. That, let me tell you, is extraordinary achievement, Betty. That is not easy.

We are way behind in Houston. Our courthouse was built back when Lyndon Johnson or Kennedy was President. It looks like a bomb shelter. Our judges hate it. Everybody hates it. The U.S. attorneys are in there. They are wildly over—you know, they don't have enough room. The FBI is in there, the DOJ, I mean, everybody is in there, ATF. It is a mess. And we can't get one.

I bet you probably need a courthouse, too, in Georgia.

Mr. BISHOP. No, not in my district.

We got a brand-new one. I don't know—about 5 or 6 years old.

Mr. CULBERSON. Did you?

Mr. BISHOP. Yes.

Mr. CULBERSON. It is really difficult, and they are tremendously expensive. It is tremendously expensive.

Mr. BISHOP. But it took them about 30 years before they got it.

Mr. CULBERSON. There you go. It is a big deal. I agree with you. I have to tell I am really gun-shy about paying for a brand-new courthouse, because, boy, it is off to the races then. There is no telling how much it is going to wind up costing our kids.

Mr. BISHOP. I have a question about the courthouse.

Mr. CULBERSON. Why don't you—and I will yield to my friend, Mr. Bishop. This is a nonpartisan committee.

CONSTRUCTION COST FOR NEW COURT HOUSE

Judge KASOLD. I understand that, sir.

Mr. CULBERSON. And so if he is going to ask about the courthouse, let us visit about it. Talk to both of us about the courthouse, all three of us about the courthouse.

Mr. BISHOP. Okay. As you already know, the GSA estimated that \$50 million was needed for construction funding and an additional \$12 million for land acquisition, so \$62 million was requested in

the fiscal year 2011 submission. However, the GSA made some errors in their estimate.

So first question is what is the current estimated total cost of the courthouse?

Judge KASOLD. The current estimated total cost of the courthouse is about \$114 million. You need an additional \$12 to \$14 million for that piece of property to—

Mr. BISHOP. You said 114?

Judge KASOLD. One-fourteen plus.

Mr. BISHOP. Yes, and you said that you have learned over the past few months that the local government may not be amenable to closing a street that is on the site of the proposed location for the courthouse and that there have been no assurances that the additional property needed for the courthouse can be purchased within the estimated cost.

It seems like the project is on unstable footing. Can you explain how the \$25 million that is requested for the courthouse in fiscal year 2012 will be used and whether or not you believe that it is necessary right now, while there are still outstanding issues regarding the site?

Mr. CULBERSON. And the site, if you could, if I may, where is the site?

Judge KASOLD. It is over by the Nationals ballpark. It is on L Street.

Mr. CULBERSON. Okay.

Judge KASOLD. It has Metro access right near it.

Mr. CULBERSON. But it is—talk about the uncertainties regarding the site and—

Judge KASOLD. One uncertainty is whether or not we are going to buy the land. And that requires money to buy, so it is just plain old uncertainty until a decision is made that the courthouse will be built on that spot.

A second uncertainty is whether or not a side road will be closed. The original discussions with GSA about security requirements was that it needed to be closed. Subsequently, we have learned that some of the security requirements have been modified a little bit, and the building can be hardened.

I don't have the cost of that, because we have been waiting to see if we can actually proceed with getting a cost estimate on that. But there is going to be some additional cost to harden the building if they won't close that particular road.

The third thing is that the building is expensive. There is no question about it. The GSA, when they had the original estimates done, didn't estimate it like a courthouse. They estimated it like a commercial type of building, using a 1.3 versus the 1.7 ratio of square footage, of gross space to usable space. The difference ends up being 20 some-odd million dollars.

An additional 20-plus million dollars is added because of the way GSA costs dollars. When this was first estimated to cost \$50 million, it was around 2007. With the more detailed estimate, GSA looked out towards the projected year of half completion, and they added another 20 some-odd million dollars. And we have suggested that GSA needs to talk to the appropriate congressional staff who

know more about this than I do, because \$20M seems like it is an awful high figure for the future cost of money.

If we are appropriated funds to proceed, we would go back to GSA and make sure that what we get is an appropriately sized and funded building.

Should the building not be built, sir, let me just make very clear, we can function. Most of us are retired from the military or had military service. We do have chambers, and we do have a courtroom for our hearings.

But a courthouse has been supported by the veterans groups and by the sense of Congress. When you are speaking about a courthouse, it is bigger than us. The current judges wouldn't likely serve in it as active judges, given how long it takes GSA to build a courthouse, or what they are estimating.

So this comes down to, I guess—our appropriation is within Military Construction. So, appropriations for a courthouse will be found on your analysis as to what is needed within this nation at any particular time. We have been here 20 years. We don't have a courthouse. We are located on three floors at the top of a commercial building with a restaurant at the bottom and a child development center.

Mr. CULBERSON. How much is the rent?

Judge KASOLD. One hundred sixty thousand a month.

Mr. BISHOP. A hundred and sixty thousand a month.

Mr. CULBERSON. How many square feet?

Judge KASOLD. 42,500, roughly.

Mr. CULBERSON. 42,500.

Judge KASOLD. And that will grow because of the additional two chambers that we need, and a little bit more because of the senior judges that we have been recalling.

Mr. BISHOP. I am generally in favor of courthouses. I think that people who use the courthouse ought to have the dignity, a dignified setting provide in which to have their disputes resolved.

However, given the uncertainties, I am just wondering—and I don't know, and I am not expressing an opinion—I am just wondering whether or not it is advisable, given our fiscal constraints at the moment to move forward with it with all the uncertainty as opposed to waiting until those contingencies are resolved.

Judge KASOLD. Right. Well, again, I can't give you a price on the property until we have the funds. GSA doesn't do it that way.

Mr. BISHOP. So the \$25 million that is requested, would that be for planning?

Judge KASOLD. Yes, it is for continued planning. The way I understand it with GSA—and they have iterations of development and development and development. We did the initial planning on a courthouse in general. That is the one that they underestimated, et cetera.

The latest estimate is based on a design of a courthouse to fit the courthouse requirements on the specific piece of property, and you have some demolition costs associated with an old building on the land that weren't included in the original estimate. GSA didn't include a garage in the original design: the 1.7 to 1.3 differential; and now you have this additional 20 million because of the cost of the money, et cetera.

Mr. BISHOP. The \$25 million, though, includes the cost for the land.

Judge KASOLD. The \$25 million includes the cost of the land. In other words if you gave us the \$25 million, we would make all efforts to, decide what the actual cost of the land is and what we can do with the city, and then, if it is reasonable, close that out and buy that piece of property. We are then shot down range. We are building the courthouse.

Let us say those don't fulfill. Well, you have \$25 million back. I am not spending it.

Let us say they do fulfill. At that point we scrub this courthouse estimate. We have the experts talking on cost of money, and we get a final figure. My gross is we come in with the final figure somewhere in the neighborhood of \$75 million to \$80 million, because we already have \$25.

It is almost a Catch-22, as we look at it, because I can't give you the answer on the land specifically. I can tell you GSA's estimate is \$14 million at this point.

Mr. BISHOP. Suppose we give you the \$25 million, and then you find out that the city is not willing to close the street.

Judge KASOLD. That is why I said the latest information we got from GSA is that they think that they can harden the building and still meet the security requirements, which are not established, I understand, by GSA, but by the federal marshals, et cetera. As to the costs with the hardening; that I don't know.

Mr. BISHOP. What do you mean by hardening?

Judge KASOLD. I am getting out of any expertise here. The wall is bigger and thicker. The wall is thicker. The glass is thicker.

Mrs. MCCOLLUM. They don't have a setback—

Judge KASOLD. Oh, yes, the setback. Instead of being on this road, to build this building on this piece of lot—

Mr. FARR. It is like building a military building. It is a waste of money. It is crazy.

Mr. CULBERSON. But if I may, Sanford how much money is already in the pipeline? Do you know how much money is in the 2011 bill that we are wrestling with right now?

Mr. BISHOP. It was 62.

Mr. CULBERSON. I mean in 2011 that we are trying to resolve right now.

Mr. BISHOP. Yes, it was taken out.

Mr. CULBERSON. It was taken out.

Mr. BISHOP. It was taken out, because there is a request for 62, 50 million for construction funding, additional 12 million for land acquisition, a total of 62. But I think it was taken out.

Mr. CULBERSON. So how much money is in the pipeline is what I am driving at, Sanford?

How much money do we think is in the pipeline, then, that is already heading their way?

Judge KASOLD. We have about \$6.4 left of the original \$7 million that Congress appropriated in the first instance.

Mr. CULBERSON. Okay.

Mr. BISHOP. Is that enough? Would that not be enough to continue with the planning?

Judge KASOLD. I think that is enough to find out how much the hardening costs, although I think the hardening is not going to amount to a figure that would make you not do the building. CSA can't negotiate the land without the money.

So if there was some idea to put enough in for the land, yes, the \$7 million would cover the other part for sure.

Mr. CULBERSON. The gentlelady from Minnesota?

D.C. PROPERTY TAX

Mrs. MCCOLLUM. Thank you. I have got a couple of different questions. I want to jump around a lot. One of my former city councilpersons had on here not only closing the street is the property that currently pays property taxes that you are looking at that would come off of D.C. property tax—

Judge KASOLD. It is mostly GSA, but the additional part would come off, I guess, city-taxed land.

Mrs. MCCOLLUM. No, I don't want to know how big it is. I just kind of want to know have you had any discussions with the District of Columbia and how they feel about maybe capturing that to put that for sale for GSA to put that up for auction to get someone to purchase it, even if they don't want to take it down to put it back on the tax rolls?

Have you had any—are you aware of any conversations with the District of Columbia on that?

Judge KASOLD. We have not. GSA has, and I have not heard of any balking on it. It doesn't mean that there isn't, but I haven't heard any.

CASELOAD

Mrs. MCCOLLUM. Looking at the caseload, your caseload has gone up. There are more veterans going up. Anecdotally, has your caseload gone up because more people are aware of the process or because you have a backlog? And so when I am looking at these numbers, on the top line it is new cases filed, and every year it has gone up.

Judge KASOLD. We basically doubled over a time period, and you will have some fluctuations each year, as you can see in that report.

Mrs. MCCOLLUM. And is that because—so then my question, then, kind of to dovetail them together, is that because there are more—I am speaking as the daughter of a disabled veteran who had issues, so I am not asking these questions because I don't think veterans deserve their day in court—does the issue of number of—how many cases are ruled in favor of the veteran?

What percentage of the cases—I was trying to look at this chart; I am not my parents' smartest child when it comes to math—what percentage of cases on average do you find for the veteran?

Judge KASOLD. I am going to have to answer it this way. The cases are adjudicated by VA at the regional office and the board. They are on appeal to this court.

Mrs. MCCOLLUM. Right.

Judge KASOLD. So there are very few cases where the court will reverse and grant an award of benefits, but there are somewhere

in the neighborhood of 70 percent of the cases that are remanded for a continuation of the development of the case down below.

Mrs. MCCOLLUM. So it is a problem that the other court doesn't do its job? Seriously. I mean, if you are overturning or sending back 70 percent—

Judge KASOLD. I would send them back for more information, more facts of the—

Mrs. MCCOLLUM. I understand that, but that means somebody didn't ask good questions at the court the first—I mean, that is a lot to turn back.

Judge KASOLD. I am not here to defend VA, but out of 1.2 million claims, 60,000 get to the board; about 4,500 to 5,000 get to us. Of that 4,500 to 5,000, about 70 percent are going back.

Mrs. MCCOLLUM. So if you didn't have that 70 percent coming, you wouldn't need this larger facility.

Judge KASOLD. If we didn't have that 70 percent coming, we wouldn't need the two additional judges.

AGENT ORANGE CLAIM

Mrs. MCCOLLUM. The other question I have is now that there has been a decision not to—to use the slang, to hassle veterans about Agent Orange claims, do you see that affecting in a positive way, that you will have less cases coming forward?

Judge KASOLD. I should think so.

Mrs. MCCOLLUM. But you are going to have more veterans in the pipeline because of what has happened.

Judge KASOLD. I think the pipeline is very determinative. It is certainly a significant factor in how many we get. So when you have 1.2 million cases coming in to VA, going down to 60 thousand going to the Board, 60 is more than the 40 thousand they used to have, and we are probably going to get more appeals related to that as long as veterans are now aware of their benefits.

Mrs. MCCOLLUM. So and then am I reading this chart right, where you have self represented at filing? Does that mean the veteran travels out here?

Judge KASOLD. No. He filed his appeal with the court, but he doesn't have to physically travel to come out here.

Mrs. MCCOLLUM. Right, but as a sidebar, I was just wondering if some of them chose to or whatever.

Judge KASOLD. No, they usually don't.

Mrs. MCCOLLUM. They usually don't. So then another question is if you were to rehab the new building, if you were to put in the technology needed, make sure that everything was veteran friendly if a veteran did come in, and so it was above and beyond ADA compliant, because some of our wounded warriors have suffered greatly with physical trauma, what would be the cost of rehabing the building?

And has GSA told you or have you asked GSA how long of a lease we could get with the building owner, if you put that kind of rehab into it?

Judge KASOLD. I think getting the longer lease is not an issue, and we don't have the cost to rehab. At the time the feasibility studies were done, there was a study done to estimate the cost of

moving other current tenants out of our building so that the court could stay in the current location.

Moving that group out was actually very expensive, and the expense is usually picked up by the agency that is moving them out, because they don't want to move out. And so that cost differential, given the costs we had before, made sense to build a new courthouse at the time.

It turns out the VA itself, which occupies part of our building, is moving out this summer, early fall. We do intend to take one of the floors that they have to move some people down from the secured floors and then build the two additional chambers upstairs.

Let me make this very clear. We can function as a court where we currently are. It is a nice little courtroom. Those of you who have not come over, you are certainly welcome to come over, and you will find it to be very adequate.

Mrs. MCCOLLUM. I will, some of this—thank you, Your Honor.

Judge KASOLD. The question—and this is all driven by veterans groups, by a sense of Congress that \$7 million was originally put in by Congress, not requested by the court—comes down to: Where does providing a courthouse fit? I mean, you have been in courthouses, federal courthouses, I am sure, and—

Mrs. MCCOLLUM. And if you are going to rehab them right, it is excessive.

Judge KASOLD. And if you are going to rehab them right, or if you are going to build a courthouse at that level, the question is whether it is in a commercial building—with the things that I just mentioned, versus a stand-alone courthouse. That is a big policy question. Functionally, as the congressman said, there is one view that this is a waste of money. And I am not going to sit here and argue that it is not.

We sit in the grand Capitol that was built by our forefathers, and we all know we don't need all this to work in, but we do need it for the symbol that it is. And so the symbolism associated with a veterans courthouse and whether it is built is a call way above my pay grade. It is with the Committee and Congress, and if you build 117 planes, or 116 and a courthouse. Those are the questions I can't answer.

Mrs. MCCOLLUM. To kind of sum up, and I will come over and see the facility and thank you so much for offering, you know, we are making some tough choices right now. And I understand the importance of a symbol, but I also understand that our veterans, if we put those dollars to eliminating the VA backlog, they would appreciate that.

And I am concerned, and thank you for sharing, about the 70 percent you sent back down for more information. The work you do is important, but you shouldn't be—and I will say you shouldn't be doing other people's work for them.

And so, Mr. Chair, that might be something we want to look into in a hearing. Thank you.

Mr. CULBERSON. Great question. Thank you very much.
The gentleman from California.

APPEALS COURTS

Mr. FARR. Yes, thank you.

That is very public service. And I have been on this committee a long time, but I don't think I have ever drilled down to understand exactly how the appeals process works. This is solely within the Department of Veterans Affairs. We have our own internal legal system, or are you part of the Justice Department?

Judge KASOLD. We are a stand-alone Article I court. We are part of, in a sense, Congress, if you will. We are not under the AO, the administrative office of the courts.

Mr. FARR. How many appeals courts are there?

Judge KASOLD. There are 13 federal courts of appeal, Article III. There are two Article I's. Actually, there are three. There is the D.C. one, but it is different.

Mr. FARR. And so the funding for construction of those courthouses normally comes out of Department of Veterans Affairs budget or out—

Judge KASOLD. No, the funding for the construction of the federal courthouses comes out of the Judiciary appropriation, I think. The funding for the construction of this federal courthouse would come out of the military construction, VA, and Veterans Court appropriation, because we happen to be under this committee's jurisdiction. Armed Forces comes out of Armed Forces. Tax Court comes out of Finance.

Mr. FARR. No, I understand. I am just trying to understand this court. So this court would come out of the Department of Veterans Affairs?

Judge KASOLD. No. This court would come out of the Court of Appeals appropriation.

Let me make it clear. We aren't anywhere in the VA's budget. We have a separately, independently submitted budget.

Mr. BISHOP. They are just under our jurisdiction.

Judge KASOLD. We go directly to you.

Mr. BISHOP. They are under our jurisdiction as a subcommittee.

Judge KASOLD. Authorizers and appropriators, we go direct.

Mr. FARR. So that, I mean, that pocket of money for construction, then, is in your own budget. Nobody else has—

Judge KASOLD. That is in our own budget, which comes out of the military construction subcommittee.

Mr. FARR. What I am really—I mean, Mr. Chairman, you are going to hear me railing on this a lot. I mean, I have been fighting for 15 years to get a veterans clinic, with DOD as a partner, built, and they can't do it.

Judge KASOLD. Well, DOD won't come to you and ask for this courthouse. VA won't particularly come to you and ask for the courthouse.

Mr. FARR. What VA has done is authorize a build to suit, so that you build a building, you build it privately and lease back.

Judge KASOLD. We are not VA at all. There is no VA involvement in the court other than they might support, and they might say, yes, it makes sense.

Mr. FARR. All right. I guess I am just—you know, I appreciate this, and I do share. I mean, we beefed up the budget to hire enough people so that we can get these claims adjudicated in the first instance. I think we have even passed a bill to give a presumption of—did that bill pass?

Mr. BISHOP. That was the eligibility.

Mr. FARR. Eligibility. And did that or not? It was Hall's bill that would allow the presumption—

Judge KASOLD. Is this the one where there was a presumption up front that the claimant just got paid, and you take it back later if disproved? I don't think that passed, but we don't have appeals on anything like that yet.

Mr. FARR. Well, you probably would have cut down on all the costs of administration, probably also put a lot into the courts, but, I mean, there is a cause and effect here. One of the reasons you are getting so many appeals is because people don't feel they got a fair rating or a decision, right?

Judge KASOLD. That is correct. I asked the Secretary about this when I went around on one of my tours as I became the new chief judge. I suggested to him that he might look at these 70 percent of cases that are remanded and see if the veteran gets benefits. Very often just because we remand does not mean the veteran gets benefits.

I will also tell you that these are not claims from the current conflicts. We haven't seen but maybe a handful, if there are any. I have not seen an appeal arising from the current wars. We see the older cases. You know, as the veterans get older, they wonder why their back is hurting them. And they think back to something that happened in service, and those claims are filed, and they are harder to prove. They are the ones that this court sees.

The beauty of an appellate court is not just that the individual case gets reviewed, but the beauty of the appellate court is its effect on the entire system to ensure that procedures and process are provided.

Mr. FARR. You know, I certainly understand that.

Judge KASOLD. Okay.

Mr. FARR. But what I am concerned about, and all of us as members of Congress have district offices. And I can't speak for every member, but I certainly speak for the California colleagues. I have two people in my office that ought to be paid by, you know, one by VA.

Mr. BISHOP. Social Security is another.

Mr. FARR. And two of them on immigration issues. I mean, we do so much casework that we could be essentially federal employees in other bureaucracies. And the same thing with our VA guy.

And what you do is we get into all this micro stuff and end in people coming to us and wanting to know how they can appeal or why—they made their appeal, why haven't they heard. I mean, there is so much stuff stuck that it ends up, you know. I come from a long family of lawyers, and the most costly way to resolve this thing is to get it in at your level.

Judge KASOLD. I agree.

Mr. FARR. So if we can do that ounce of prevention or that better, you know, administration of the first instance, making sure that these—

Judge KASOLD. I would agree with you, sir. I will say one thing. You will never eliminate human error. I don't think we will eliminate human error. And so that is why you have an appellate court and why the veteran was provided the right to appeal.

Mr. FARR. If our federal courts can rule that California has got to let about a third of its population out of jails, and because we are overcrowded and we can't build them so it is not going to be an option of not to, why can't you order that the administration—

Mr. CULBERSON. Great question. See where he is going with that?

Judge KASOLD. I see where he is going, but you write the laws, sir. We ensure they are enforced. And I don't believe you have given us the authority, but I will tell you if it comes up and someone argues it—I don't want to pre-judge it—we will review it, and we will see if we have the authority to do that.

CHANGE ADMINISTRATIVE PROCEDURES

Mr. CULBERSON. Sam, if I may follow up on that?

Mr. Farr raises a superb question. Isn't there any breadth of discretion in the statute that authorizes your court where you could order VA to change their administrative procedures to further fact-finding, for example, as Betty quite correctly points out. If you are sending back, remanding 70 percent for further fact-finding, couldn't you issue remedial orders like appellate courts do all the time? You know, clean up your process at the court of origin, in this case the VA?

What a great way to help clean up the VA disability claims system, if we gave you jurisdiction, because you would see specifically what is going on. By the time it gets to us, it has gone through so many other layers of people, it is hard for us to kind of get our finger on exactly where the screw-up is. But you would see it. And plus, you could post them up. You could issue an order with specific remedial relief.

Mr. BISHOP. If we gave them authority.

Mr. CULBERSON. If we give them the authority. What sort of breadth of authority do you have? Sam raises a superb question.

Judge KASOLD. Well, he does raise a good question, and I don't know the answer to your question. If it were brought up before the court, we would have to review it. I am sure it would be a panel type case, maybe even an en banc case.

Mr. CULBERSON. How broad is your discretion? I mean, how broad does the statute give you authority?

Judge KASOLD. We have exclusive jurisdiction over all board decisions.

Mr. CULBERSON. What is the scope of your authority?

Judge KASOLD. The scope of our authority is to review board decisions.

Mr. CULBERSON. Period?

Judge KASOLD. Period.

Mr. CULBERSON. What about remedial relief? What about relief? What kind of relief?

Judge KASOLD. Well, we can handle writs also. So if there was something being stuck, being prevented from going to regional office decision or a board decision, we can step in and grant relief.

Most of the time what happens on our petitions is they don't meet the standard for relief, which is that there is no other alternative relief available when you come up and seek or petition for mandamus from the court, or we have asked the Secretary to com-

ment, and by the time we asked the Secretary to comment, the problem is relieved, and the claim is being processed. And again, that is the process and decision-making occurring down below by the regional office and the board.

APPEALS PROCESS

Mr. FARR. I really want to—I think that we are very concerned. I think this is only going to get worse. I think the economy is obviously so flat that you are coming home and you are getting all screwed up, because you know you got to go back and look for a job, and you are coming out of your—at least, you know, all this, and went through college, is you had a structured situation.

In the military it is a structured situation. You get out and it is, I think, with anybody, whether you are a young kid getting out of college or a kid getting out of the military, you go through that adjustment problem, but particularly a tough adjustment if you have had assignments overseas, so this PTSD, which is real.

Judge KASOLD. PTSD, TBI, both of them.

Mr. FARR. It is really real. And not being able to get a job and get the pressures and frustrations, people can appeal. It is the only way they can get some income to pay some basic bills.

Judge KASOLD. Right, but if they appeal, it doesn't—

Mr. FARR. And they are going to plot. Excuse me, they are going to plot.

Judge KASOLD. Oh, they are—

Mr. FARR. And if we don't adjudicate it pretty well somewhere, I mean, we do all this outreach just to tell these kids that, look, there are some programs you can get a hold of. You can go back and you can get your education paid for. And guess what? If you go to housing in the universities, we can give you some housing allowance.

But we have got all this, and this has all happened in the last few years. It is a huge counseling system that we have created. And the universities are buying in, because they get money out of it. They get veterans coming to their school and they get paid for it, so they have a student that isn't on scholarship that is a paying student.

Judge KASOLD. Right.

Mr. FARR. So there is money to be made, and the universities see that, and they are out doing what they should be doing, which is then creating a specialized veterans person in the administration. Our office is a door. And I can just say it isn't like these numbers—as Mrs. McCollum has pointed out, it is they are growing.

So if people can't find a remedy for kind of just how am I going to financially get through this period, I think they are going to appeal more, if they don't get a satisfactory answer.

So somewhere along the line, Mr. Chairman, we put in I don't know how many thousands of new people we have hired in the VA just to process claims. I mean, it is thousands. Maybe it is—

Does anybody in the room know what the—do you know what it is? How many more personnel we added in the last 3 or 4 years? It was—

Seven thousand. I mean, we have been a job production center here. And that is to me the market demand. And it is growing.

So I just think collectively, we have got to figure out how do we resolve these things satisfactorily, and maybe even dispute resolution or anything, because your only remedy is now to file an appeal. How long does it take once an appeal is filed to get a—

Judge KASOLD. If you file an appeal represented by an attorney—and ultimately about 70 percent of the appellants are represented—you are going to go through a conferencing process. Fifty percent of those get remanded, for the reason we were talking about before. So that is 50 percent of 70 percent.

If you make it through that process and don't get a remand out of it or a settlement for your claim, you then will complete your briefing. And it will be 9 months to a year before you get to the judge because of this briefing time and the process that we already talked about.

And then, with the number of judges we have now, you are going to wait another half a year for a decision. So it could be a year and a half. If it is going to a judge, it will be about a year and a half. And then if it is a panel case, it will be longer.

Mr. CULBERSON. This is, I think, after. This is you have already sent it back for review, and it came back up.

Judge KASOLD. Well, some cases do do that. The veterans call it the hamster wheel. You can have a case that is remanded for a medical exam, for example. Another medical exam is given. Again the veteran isn't pleased with the results, and he appeals. That will be a second time up on appeal. And it could be remanded again.

Congress has imposed on the board a reasons and basis requirement, and the court has read that stringently, if you will. We have to understand why it is VA is making the determination against the veteran. We don't see those in favor of the veteran. Only the veteran can appeal.

For example, the court has held that the board needs to address all the favorable information in the record and explain why the favorable information doesn't result in an award. So, if/when that 2,000-page record comes to the court, there is a document that the board didn't discuss, and it is favorable to the veteran, there is a remand.

On remand, the board discusses it. Does it mean that the veteran will get benefits? No, but it does mean that the reasons and basis requirement has been addressed. On appeal again, the board assessment is reviewed. If it is not clearly erroneous, the case is affirmed. Or, there may be another issue that the veteran raises but the board didn't explain and the claim is remanded again.

Mr. FARR. This is kind of a street problem. If I were a veteran and I file my claim, and they come back and say, "You have got a disability of a certain percentage. You are going to be awarded this much per month," and you don't like that. And you say, you know, "I think I think they cheated me. I should get more." Actually you file a claim. How much of those claims end up getting veterans more money?

Judge KASOLD. I couldn't answer you.

Mr. FARR. Because the sense on the street is, "Hey, it is worth taking the risk, you know, and losing."

Judge KASOLD. Not to the court, I don't believe. It would be worth seeking an appeal at VA, it seems to me, because the benefit

of the doubt goes to the veteran. And so if you are between a 40 and a 50 percent disability rating, you may get a higher rating at the board if there is reasonable doubt.

Also, the rating schedule is established by the Secretary, and we cannot mess with it. That is law.

So the board is applying that rating schedule to the facts. For us to overturn that, the board's decision would have to be clearly erroneous. So when you are saying somebody gets 60 or 70 percent on the rating schedule, it is rare that such a board decision is clearly erroneous. You might independently disagree with that, but that is not a basis to reverse the board decision.

Mr. FARR. But I guess my question goes to what is the street sense of lawyers and others saying, "Well, you know, file your appeal, because your chances are you are going to—"

Judge KASOLD. I think the street sense of a veteran is that you file the appeal; I think the street sense of the bar is mixed. Those in the bar generally understand these issues. One of the reasons why you might have 30 percent filed up front by the bar and 70 percent not filed up front might be what you are getting at.

Mr. FARR. How do the lawyers get paid for this?

Judge KASOLD. Lawyers usually have an agreement with the veteran that if there is an award, they get paid for that award.

Mr. FARR. It is a contingency fee.

Judge KASOLD. Usually. It doesn't mean a veteran can't pay, but usually that is the case. Lawyers may also get another fee, under the equal access to justice act. So if they win—and a win in our court involves a remand back to the board—you can get a fee.

Mrs. MCCOLLUM. This is like a David Letterman—top 10 reasons why submissions to the courts are rejected. Are you ready? Motions or certificates of service are not signed. Serving the wrong party. Not having the right telephone number on it. I mean, this needs to be—

Judge KASOLD. None of those three are our court.

Mrs. MCCOLLUM. No.

Judge KASOLD. None of those three is a reason for a remand in our court.

Mrs. MCCOLLUM. But this is how—I am going to say—sloppy it is down below the—

Judge KASOLD. Yes, the—

Mrs. MCCOLLUM. Going to make sure that the form is filled out.

BUILDING OPERATING COSTS

I want to go back, and this might be more for our staff. So we are asking out of the milcon budget to build a court. Currently, they pay rent out of the independent agencies, right? The rent is paid out of independent agencies. It is not paid out of milcon. My question, if we build a new building, then we are responsible for all the shell maintenance then, right? It is a maintenance change.

Judge KASOLD. GSA takes on responsibility as they do for—

Mrs. MCCOLLUM. So what is our operating cost of the new building?

Judge KASOLD. What GSA is going to charge us.

Mr. CULBERSON. I think as we all pay all federal agencies—

Mrs. MCCOLLUM. But what I am saying right now we know what the fixed agency is. We know what the fixed costs are, kind of. It can go up and down. But we are not responsible for the shell. We are not responsible for the structural insurance. We are not responsible—there is a contract for cleaning the floors in all that we pay, but there are a lot of things we are not responsible for.

Mr. BISHOP. But it is built into the rent.

Judge KASOLD. Yes, in the rent.

Mr. CULBERSON. And the rent is in there, too. Paying rent to GSA.

Mr. BISHOP. How many—\$140,000 a year?

Mrs. MCCOLLUM. Right.

Mr. BISHOP. Oh, \$160,000.

Mr. CULBERSON. \$162,000 a month.

Mr. BISHOP. A month.

Mrs. MCCOLLUM. But GSA, when I went around and I was looking to lease, and this was 10 years ago, GSA was more expensive than market.

Mr. BISHOP. That is true. That is absolutely true.

Mrs. MCCOLLUM. A lot more expensive than the marketplace.

Mr. BISHOP. I agree.

Judge KASOLD. My understanding is that Judiciary complains about that all the time.

Mrs. MCCOLLUM. So my concern is that, there is an independent budget. We don't know at the end of the day after we open up the courthouse, we don't know what the long-term costs are going to be, because we don't know what GSA thinks that they might be charging us to give them a court facility later.

Mr. CULBERSON. That is true, because we only see it after they have already done the deal with GSA and signed the rent and—

Mrs. MCCOLLUM. And I don't know enough about this to know if GSA has something out there where they can guesstimate or let us know or anything like that.

Judge KASOLD. You might be able to. I will say that that is true of every building, though, that the government builds.

Mrs. MCCOLLUM. We are talking about building a new one.

Judge KASOLD. Right, but I don't know what is in your military construction budget, but my guess is there are a few buildings in there. And the same thing would apply to them. I mean, it is just inherent to—

Mr. FARR. That is one of the buildings that the services own.

Mrs. MCCOLLUM. No.

Judge KASOLD. No, but DOD has a cost to run it. If you are saying that GSA is expensive, that is what I understand, too.

Mr. FARR. Let me ask, Mr. Chairman, maybe to look into the fact if we could build this cheap, first would be to speed it all up, if we got the property.

Judge KASOLD. Well, we don't have the property. I will say—I am going to say this, and the Senate won't be happy—but there are two parking lots over there across from Union Station. That would be the perfect place to build a courthouse for the Court of Appeals for Veterans Claims, which is an Article I court.

Mrs. MCCOLLUM. Right.

Judge KASOLD. Build a basement garage, as they did with the AO. The Senate could park in that particular garage.

Mr. FARR. Didn't the Senate leader used to listen to your opinion for years?

Judge KASOLD. They used to. I am not there anymore. That is outside my jurisdiction now. But I am just going to put it out here, because you want to put a courthouse where it is visible to veterans.

Mrs. MCCOLLUM. Right.

Judge KASOLD. It is visible to people walking from Union Station. It is a perfect place. It is property already owned by the government. It is run by the architect of the Capitol. But that would take powers to be well above me.

Mrs. MCCOLLUM. And it has security.

Judge KASOLD. And it has security. It is a perfect place—recommended it. It was rejected by the chairman of the Rules Committee in a letter to the veterans groups, but—

Mr. FARR. Interesting.

Judge KASOLD. Again, those are decisions for pay grades above me. You are asking, though, all the questions we asked, so you know—

Mr. BISHOP. It is \$160,000 a month. What is that a year?

Judge KASOLD. \$2.1.

Mr. BISHOP. \$2.1 million. And you are talking about 75 million to get a new one.

Mrs. MCCOLLUM. And then we pay GSA.

Judge KASOLD. And then you are paying GSA.

Mr. CULBERSON. You are going to pay rent to GSA on top of that, probably, which I keep coming back to.

Judge KASOLD. We are building courthouses every day. This is the veterans courthouse. You are not building it for me. You are not building it for the judges who sit in there. You are building it only for the veterans, and they have asked for it, so I defer to them.

CLAIMS BACKLOG

Mr. CULBERSON. But, of course, other member, everybody raises a vital question about him. What about, you know, investing some of that money to help with the backlog and—

Mr. BISHOP. That is a different type of money.

Judge KASOLD. Yes, if you give me the three judges, in a year and a half after they are up to speed, I think our what you call backlog will be taken care of. There is just no doubt in my mind.

Mr. CULBERSON. I might follow up on the same question about your ability to order, you know, remedial measures to help correct the problems that you spot. Do you—or perhaps could someone on your staff judge or have looked at the statute and tell us if it looks like it does give you any authority to issue any kind of an order to the Veterans Administration or the Veterans Benefits Administration?

Judge KASOLD. You are talking about an across-the-board?

Mr. CULBERSON. No, an individual case, you know, a case where—

Judge KASOLD. Well, we do it in an individual case. We can order a medical exam.

Mr. CULBERSON [continuing]. That opens, that reveals bigger, broader problems, though, in the way they are handling claims. Do you think you have got authority today to order a change in—

Mr. BISHOP. You have to request.

Judge KASOLD. No, no, don't misunderstand. I—

Mr. BISHOP. What happens if they don't do it?

Judge KASOLD. We can hold them in contempt.

Mr. BISHOP. Okay.

Judge KASOLD. We have had several hearings where we have found against the secretary and had him pay costs he would normally not pay. We can do that. I thought we were talking about a broader systemic problem. For example, if I were to order VA to hire 6,000 people. Well, tell me that won't impact the budget up here. I don't know that we have that kind of authority, but I am not saying we don't. We haven't faced it.

Mr. CULBERSON. Well, authority as Sam was suggesting, you know, if you spot a systemic problem—

Judge KASOLD. We do.

Mr. CULBERSON. Like Betty was listing the top 10 reasons that—

Mrs. MCCOLLUM. You are not rejecting, but, I mean, they shouldn't be happening, period.

Mr. CULBERSON. Yes, it is ridiculous. If, you know, you are seeing the same kind of error over and over and over, and clearly somebody in some department decided just doing the basics, can you order them to—

Judge KASOLD. Yes.

Mr. CULBERSON. Okay. Today you have got that kind of authority.

Judge KASOLD. Yes.

Mr. FARR. You were saying for the fine the Secretary has to pay if it—

Judge KASOLD. We haven't yet fined the Secretary.

Mr. FARR. Wonderful.

Judge KASOLD. But we have, yes, had him pay costs on various factors that he wouldn't otherwise have to pay.

Mr. FARR. Fix it tickets.

Judge KASOLD. And we have the authority to enforce our rules. I think generally—and I don't want to speak for the Secretary—but I think generally he tries to follow it. Again, there are about 1.2 million claims, 60,000 at the board, and 4,500 with us. Now, a number do get remanded, but the Board does have to meet a high standard with its reasons and basis.

And the focus, I think, correctly, was stated over here that there are 6,000, 7,000 people at the VA to process those claims initially, because that is where the claims get decided. And this is an appellate court that is reviewing and ensuring that due process was provided to—

Mr. CULBERSON. Right.

Judge KASOLD. And we do have authority. Those issues are usually addressed in the cases we take to panel because they have

more of a systemic type impact. They are precedential. They are totally binding on the secretary.

Mr. CULBERSON. It is worth exploring. It is something I am going to talk to my friends and colleagues in a little more detail, but I will also have questions for the record.

Any other questions, Mr. Bishop?

We really appreciate your service. It has really been enlightening.

Mr. BISHOP. I really appreciate it.

Mr. CULBERSON. Very, very worthwhile, so I thank you.

Judge KASOLD. I am going to see you shortly, I think.

Mr. CULBERSON. Thank you very much.

Judge KASOLD. Thank you very much.

[Questions for the Record submitted by Congressman Bill Young follows:]

[Questions for the Record submitted by Congressman Bill Young follows:]

Question 1. The recent decision by VA to include Agent Orange presumptive conditions have created a significant increase in workload for the Board of Veterans' Appeals. Many veterans claim that the Board of Veterans' Appeals are not properly adjudicating their case. What percentage of the cases being appealed to the US Court of Appeals for Veterans Claims are being overturned in favor of the Veteran?

Answer. About 70% of the appeals filed with the Court involve a remand for further adjudication. This is largely due to the large number of claims below, human error, and the broad duty of the Secretary to assist claimants during the processing of their claims, and in part because the Board is required to provide a statement in support of its decision that addresses the material evidence in the record, in particular favorable evidence, and otherwise fully explain its decision. A remand for further adjudication does not guarantee an award of benefits, but it does permit the claimant and the Secretary to gather and submit additional evidence for consideration as the claim is re-adjudicated. It also ensures that the procedures provided by statute and regulation for the proper adjudication of a claim are fulfilled.

As an aside, although there is frustration by some in the number of appeals that are remanded, our review of the cases does not reveal a general systemic problem beyond that associated with the tremendous number of claims being handled by the Secretary and the Board, and human error, which, when recognized, can be controlled, but which cannot be legislated away. Looking from the top down, the number of appeals remanded provides one picture, while looking from the bottom up — from over 1.2M claims filed each year to about 60,000 administrative appeals filed at the Board (about 5% of the claims filed) to about 4,500 judicial appeals filed at the Court (about 7.5% of the administrative appeals, and .375% of the claims filed) — presents another picture.

In the grand scheme of veterans claims, although the number of cases appealed to the Court is relatively small, the impact of judicial review required to follow the Court's decisions and interpretations of law in all of the claims VA processes. Therefore, judicial review helps to ensure that all veterans are provided a fair opportunity to develop and argue their claims and receive the procedural protections Congress has provided them. Succinctly stated, judicial review — long fought for by our Nation's veterans, with citizen and congressional support — ensures not only the right required to follow the Court's decisions and interpretations of law in all of the claims VA processes. Therefore, judicial review helps to ensure that all veterans are

In the grand scheme of veterans claims, although the number of cases appealed to the Court is relatively small, the impact of judicial review is huge. The Secretary is

provided a fair opportunity to develop and argue their claims and receive the procedural protections Congress has provided them. Succinctly stated, judicial review – long fought for by our Nations veterans, with citizen and congressional support – ensures not only the right to a judicial, independent review in each case timely appealed, but the very integrity of the administrative process itself.

Question 2. Please provide a detailed report on what projects the \$6.6 million appropriated in to GSA would accomplish for the Court.

Answer. In fiscal year (FY) 2009, the Court was appropriated \$7M for advanced planning and design of a courthouse. That money was transferred to GSA and to date we have spent about \$335,000 for a pre-development planning study that included a comprehensive program and design study specific to the location at 49 L Street, SE. There currently is about \$6.65M unspent.

As I noted in my testimony to the Committee, there remain some contingencies to proceeding with construction of a courthouse on that site. First, although GSA owns much of the identified land, a portion of the proposed site is privately owned and must be purchased before it is prudent for plans to move forward. GSA requires sufficient funds (about \$14M) to begin formal negotiations with that land owner. Second, current indications are that a side street adjacent to the identified site will not be closed by local government, and additional design and cost work needs to be done to assess the cost increase necessary to harden the courthouse should the site otherwise remain viable. We will be coordinating with GSA in the near future to ascertain a cost estimate for these contingencies. Finally, we need to ascertain congressional support for continuing with the project at this time. Given the Nation's fiscal crisis and the outstanding contingencies to moving forward any time soon, it appears that fiscal prudence demands no further money be expended until further guidance from Congress is provided as to funding.

Although I noted in my testimony to the Committee that some of the \$6.6 million might be used for 1) constructing and equipping two chambers needed for the additional two judges that have been authorized, and that we hope will be appointed this year, and 2) for relocation and related construction and equipping of current staff to make room for the new chambers on one of our two more secured floors, funding for these projects recently was approved with passage of the FY 2011 appropriation.

Should the Committee and/or Congress direct reconsideration of options other than construction of a courthouse at 49 L Street, SE, the funds might be used to support such effort. For example, in coordination with the appropriate congressional committees, including, of course, the Subcommittee on Military Construction and Veterans' Affairs, these funds might be used to support 1) reconsideration of a build-to-lease courthouse on space currently used by the Senate for staff parking, near Union Station, (with secure underground replacement parking for Senate staff being included in construction of a courthouse), or 2) looking for other locations for build-to-lease options, or 3) reconsideration of expansion and renovation in our current, leased location in a commercial building (although this last option does not fulfill congressional intent to build a "dedicated courthouse [] symbolically significant of the high esteem the Nation holds for its veterans [and] express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families" (H.R. 3936) or "to provide the image, security, and stature befitting a court that provides justice to the veterans of the United States" (S. 1315)).

[Questions for the Record submitted by Congressman Flake follows:]

Question 1. Current statute holds that a veteran cannot appeal his or her case with the Court of Appeals for Veterans Claims if the request is not postmarked before 120 days of the mailing of the decision rendered by the Board of Veterans' Appeals. A recent holding by the Supreme Court has paved the way for administrative or legislative action to more consistently apply the 120-day rule.

Answer. The recent Supreme Court decision in *Henderson v. Shinseki*, 131 S.Ct. 1197 (2011), found that the 120-day time period mentioned above does not necessarily prevent the Court from hearing appeals that are filed outside of the 120-day period. Absent a change in law, this effectively reinstates case law that permits equitable tolling of the 120-day period in which to file a Notice of Appeal (NOA). There is established criteria in our case law for applying equitable tolling, which permits a consistent application of the 120-day rule, and the exceptions thereto.

For example, equitable tolling may be allowed when one misfiles a notice of appeal with the Secretary and it is determined that: (1) the appellant has exercised due diligence in pursuing his legal rights; (2) the misfiled appeal reveals a clear intention by the claimant to seek further review; and (3) the misfiled appeal put the Secretary on notice of the appellant's intention. *Hunt v. Nicholson*, 20 Vet.App. 519, 524 (2006).

Equitable tolling also may be allowed when an appeal is filed late if it is determined that: (1) the late filing was due to an extraordinary circumstance beyond the appellant's control; (2) the untimely filing was a direct result of the extraordinary circumstances; and (3) the appellant exercised "due diligence" in preserving his appellate rights, meaning that a reasonably diligent appellant, under the same circumstances, would not have filed his appeal within the 120-day judicial-appeal period. *McCrecy v. Nicholson*, 20 Vet.App. 86, 89 (2006).

Given that there are established criteria for applying the doctrine of equitable tolling, legislation to address misfiling or late filing of a Notice of Appeal does not appear warranted, and may itself generate significant litigation when otherwise not needed. For example, the term "good cause" is not defined, and likely would be the subject of litigation requiring its interpretation and establishing parameters that would permit a consistent application of the 120-day rule and its exceptions.

If the intent of the proposed legislation is to permit the Court to consider appeals where an appellant purposely is pursuing an appeal but errs by filing in the wrong place, or is impeded from filing in a timely manner for reasons beyond his and any guardian's control and an appeal is filed promptly upon regaining control, then equitable tolling should suffice to address those matters.

We caution against a broad exception to the 120-day filing period that might permit filings well beyond the 120 days due to general inattentiveness, such as forgetting to timely file, or being too busy to file, or mis-calendaring the date to file.

The 120-day period for filing an appeal with the Court is already quite generous when compared to the 60-day filing period generally applicable for appeals filed in the other federal appellate courts. The 120-filing period serves the important function of promoting efficient judicial administration by bringing a degree of finality to a matter that is not prudently pursued. Moreover, Congress has long authorized a veteran or one seeking veteran's benefits to request to reopen a claim by filing new and material evidence with the Secretary, or to seek reconsideration or revision of decision on a claim at any time when the matter has not been settled on judicial appeal. See e.g., 38 U.S.C. 5108 (permitting a claim to be reopened); §§ 5109A and 7111 (permitting revision of a decision based on clear and unmistakable error); § 7103 (permitting reconsideration or revision based on clear error).

Question 2. One existing legislative proposal would allow a veteran to file for an appeal beyond the 120 day deadline if he or she can show "good cause." In your estimation, how many additional cases would move forward if this legislation were enacted?

Answer. Inasmuch as equitable tolling has been restored, legislatively extending the time to file an appeal for good cause does not appear warranted. Whereas the criteria for equitably tolling the time to file an NOA has been litigated and defined, the term "good cause" has not, which might result in a period of litigation as the term is interpreted and applied. If the term "good cause" ultimately is deemed to be

equivalent to the criteria for equitable tolling, then enactment of the proposed legislation ultimately would have little affect on the number of cases moving forward. A broader interpretation would permit more cases to move forward. We cannot be more definitive at this time, other than to restate that with equitable tolling reinstated, the need for the proposed legislation is not clear.

Question 3. Would additional cases result in overloading the system as it exists now, lengthening already long wait times?

Answer. Given present staffing and the Court's current heavy case load, any increase in the number of appeals deemed timely filed will increase the average time required to decide an appeal at the Court. Likewise, judicial interpretation of any new legislative action addressing the 120-day rule and addressing the parties' arguments on such provisions would likely add some delay to the processing of all cases pending at the Court. As noted above, it cannot be stated with any assurance what the impact of the proposed "good cause" legislation would be, should it be enacted.

Question 4. Would there be a significant cost increase associated with such an expansion?

Answer. Our case load has doubled over the last several years and our authorized judgeships have increased by 2, to a total of 9 (although currently only 6 are filled). If the time to file an appeal were open-ended or very broadly framed, additional judges and staff would be needed to process the increased number of appeals. Quantifying that expense at this time cannot be stated with any assurance.



**UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS
FISCAL YEAR 2012
BUDGET ESTIMATE**

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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

INTRODUCTION

The United States Court of Appeals for Veterans Claims (Court) is a national court of record established by the Veterans Judicial Review Act, Pub. L. No. 100-687, Division A (1988) (The Act). The Act, as amended, is codified in part at 38 U.S.C. §§ 7251-7299. The Court is part of the federal judicial system and has a permanent authorization for seven judges, one of whom serves as chief judge. The judges are appointed by the President, by and with the advice and consent of the Senate, for 15-year terms, except that two have been appointed for 13-year terms pursuant to Pub. L. No. 106-117, Nov. 30, 1999. Two additional positions have been authorized but not yet filled, and one judge recently entered senior status, such that the Court currently has three vacancies. Our senior judges, now numbering 6, are available for service, and have been recalled the past several years. One judge is retired due to permanent disability. Certain decisions by the Court are reviewable by the United States Court of Appeals for the Federal Circuit and, if *certiorari* is granted, by the United States Supreme Court. Further, for management, administration, and expenditure of funds, the Court exercises the authorities provided for such purposes applicable to other courts under Title 28, U.S. Code.

The Court has exclusive jurisdiction to review decisions made by the Department of Veterans Affairs' Board of Veterans' Appeals (Board) that adversely affect a person's entitlement to VA benefits. This judicial review, although specialized in scope, is the same as that performed by all other United States Courts of Appeal. In cases before it, the Court has the authority to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions; and to determine the meaning or applicability of actions/decisions by the Secretary of Veterans Affairs. The Court may affirm, set aside, reverse, or remand those decisions as appropriate. Additionally, the Court has authority under 28 U.S.C. § 1651, to issue all writs necessary or appropriate in aid of its jurisdiction, and to act on applications under 28 U.S.C. § 2412(d), the Equal Access to Justice Act (EAJA).

The Court is empowered to compel actions of the Secretary that are unlawfully withheld or unreasonably delayed, and can set aside decisions, findings, conclusions, rules, and regulations issued or adopted by the Secretary, the Board, or the Board Chairman that are arbitrary or capricious, an abuse of discretion or otherwise not in accordance with law, contrary to constitutional right, in excess of statutory jurisdiction or authority; or without observance of the procedures required by law. The Court also may hold unlawful and set aside or reverse findings of material fact that are adverse to the appellant if the findings are clearly erroneous.

The Court is located in Washington, D.C., *see* 38 U.S.C. § 7255 (requiring the principal offices of the Court to be located in the D.C. metropolitan area), but as a national court, the Court may conduct hearings anywhere in the United States.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

APPROPRIATION LANGUAGE
GENERAL AND SPECIAL FUND

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by 38 U.S.C. §§ 7251-7299, [\$90,146,729] **\$55,769,690**: Provided that, of the foregoing amount, **\$25,000,000** shall be transferred to the General Services Administration (GSA) for the design engineering and site acquisition of a courthouse to house the United States Court of Appeals for Veterans Claims: Provided further, that [\$2,515,229] **\$2,726,363** shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law No. 102-229.

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
PROGRAM JUSTIFICATION**

Court Caseload Trends and Variations:

The United States Court of Appeals for Veterans Claims is one of the busiest federal appellate courts, when considering numbers of appeals per judge. Approximately 200 cases were filed monthly from FY 1999 through FY 2004. Thereafter the caseload began a steady increase, with the Court averaging 350 cases filed per month for the past several years. The chart below shows the figures by fiscal year since FY 1999. In addition, in FY 2010 the Court acted on over 2,600 applications for fees and expenses authorized by the Equal Access to Justice Act (EAJA). 28 U.S.C. § 2412(d).

Appeals to the Court come from the pool of cases in which the Board has denied some or all benefits sought by claimants. Also, under its All Writs Act authority, the Court has jurisdiction to consider petitions for extraordinary relief or writs of mandamus filed by claimants who believe that unlawful action is being taken by the Secretary of Veterans Affairs on their claims. As the number of claims processed by the Board has increased over the years, and as the number of issues raised in each claim has grown, the number of appeals filed with the Court has increased, although not on a linear path. Every indication is that the number of cases handled by the Board will continue to increase, and we anticipate that this will result in continued growth in the number of appeals to the Court over time.

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY09	FY10
BVA TOTAL DENIALS	14881	14080	8514	8606	10228	9299	13033	18107	16531	17005	17601	13788
CASE FILINGS TO USCAVC	2397	2442	2296	2150	2532	2234	3466	3729	4644	4128	4725	4341
CASE FILINGS AS % OF DENIALS	16.1%	17.3%	27.0%	25.0%	24.0%	24.2%	26.6%	20.6%	28.1%	24.3%	26.8%	31.5%

Unrepresented Appellants:

The Pro Bono Representation Program (the Pro Bono Program or Program) began in FY 1992 when Congress authorized the Court to fund a pilot Pro Bono Representation Program in the amount of \$950,000 from that fiscal year's appropriation. Under this program, the Legal Services Corporation (LSC) administers pro bono representation and legal assistance to veterans and their survivors who have appeals at the Court and who are unable to afford legal representation. The Court and the parties benefit from this Program because when an attorney is retained, the issues and arguments presented in the brief are generally more detailed and thorough than would be if

the claimant had remained unrepresented.

The now well-established Pro Bono Program continues to receive funding through the Court's annual appropriation. Before FY 1997, Congress gave the Court limited discretion over the Pro Bono Program's funding level. Since FY 1997, the Appropriations Subcommittees have considered the Program's budget request separately from the Court's budget request, although both are submitted together. The Program budgeted \$2,515,229 in FY 2011. Distribution of the grant and oversight for the Program continues to be performed by the LSC, which provides monitoring, evaluation, and technical support, as it does for all of its grantees. The Pro Bono Program's FY 2012 request for \$2,726,363 is attached at Appendix A.

Staffing Requirements:

The Court requests funding for 127 full-time equivalent (FTE) positions. This request represents no increase from the FY 2011 level. It includes, as did the 2011 budget, staffing for two additional chambers, as authorized by 38 U.S.C. § 7253(i). It also includes one secretary for support to our senior judges in service, one additional staff attorney, and a senior attorney position (for possible service as an Appellate Commissioner), originally requested for FY 2011; these positions have not been filled as of this writing because we are operating on a continuing resolution for FY 2011.

Veterans Courthouse:

The United State Court of Appeals for Veterans Claims is the newest federal court and the only Article I court without a dedicated courthouse. Since at least 2003, several of our Nation's largest Veterans Service Organizations (VSOs) have supported a dedicated courthouse for veterans seeking judicial review. In 2004, the House of Representatives expressed its sense that the Court "should be housed in a dedicated courthouse" that would be "symbolically significant of the high esteem the Nation holds for its veterans" and would "express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families" (H.R. 3936). That sentiment was echoed in 2007 with the sense of Congress that the Court be provided appropriate office space "to provide the image, security, and stature befitting a court that provides justice to the veterans of the United States" (S. 1315). The Board of Judges fully supports the convictions expressed by Congress and the VSOs.

In 2004, pursuant to Congressional support and funding, an initial and a follow-on study were undertaken by GSA to determine the feasibility of acquiring a dedicated courthouse. In 2009, eight National VSOs collaboratively sent a letter to Congress expressing their strong support of legislation that would authorize the funding and construction of a veterans courthouse. In FY 2009, Congress responded by appropriating \$7 million (M) for advance planning and architectural design, and those funds were transferred to GSA for completion of a pre-development planning study (planning study). The Court made no specific funding request for the courthouse project in its FY 2010 budget request because the planning study had not yet been

concluded and plans were too uncertain at that time to make such a request prudent.

Following receipt of a GSA estimate that \$62M was needed for construction funding, this amount was requested in the Court's FY 2011 budget. In response, the House proposed full funding at \$62M, and the Senate proposed \$25M – sufficient funding, per GSA, to perform more detailed design and planning, and to purchase necessary land adjacent to GSA property being considered for the courthouse, the next steps in the process. The FY 2011 budget request has not yet been acted on because we are operating on a continuing resolution, and therefore no funding has been appropriated for construction of the courthouse in FY 2011. Subsequent to submitting the Court's FY 2011 request, GSA presented a more specific courthouse cost estimate based on the particular location and general design developed in the planning study. This estimate reflects a substantial cost increase for project completion over the FY 2011 budget request. We understand that GSA has either briefed or offered to brief the appropriate congressional committees as to the basis for the cost increase.

Given the increased cost estimate from GSA and need for close study thereof, and mindful of the Court's responsibility to ensure fiscal prudence, our FY 2012 request includes \$25M, necessary for funding the next steps toward construction, i.e., more detailed planning, design and land acquisition. (This \$25M is not needed in FY 2012 if the \$25M for the veterans courthouse is appropriated in FY 2011.) We are sensitive to budget constraints and understand that priorities must be set by Congress; however, if any federal courthouses are to be funded for construction, we support the veterans who contend that their courthouse should be one of them.

FISCAL YEAR 2010 PROGRAM

The Court's FY 2010 program accomplished the following:

Opened 4,341 new cases, including appeals from decisions of the Board of Veterans' Appeals and petitions for extraordinary relief directed to the Court. During the same period, the Court disposed of 5,141 cases through a combination of court orders, single judge decisions, and panel opinions. In addition, the Court ruled on thousands of motions and took action on 2,653 applications for attorney fees filed under the Equal Access to Justice Act.

Paid all obligations and staffed all positions necessary for the continued, proper functioning of the Court.

Received a clean audit with no exceptions for FY 2010.

Continued to develop and execute plans for construction of a veterans courthouse for the United States Court of Appeals for Veterans Claims, including coordinating with GSA.

Continued to work with GSA to locate additional leased space for existing staff and two new judicial chambers.

Continued the agreements with the U.S. Marshals Service (USMS) for Court security, with the Department of Agriculture's National Finance Center (NFC) for payroll/personnel services, and with the Bureau of the Public Debt (BPD) for administrative payments, credit-card, travel, and financial accounting and reporting services. Also, continued existing agreement with the Administrative Office of US Courts (AO) for electronic-case filing (e-filing) system support.

Transferred appropriations made available for the Pro Bono Representation Program.

FISCAL YEAR 2011 PROGRAM

To maintain and enhance the FY 2010 initiatives, the Court's FY 2011 budget request reflected the following:

Funding to pay for projected expenses to staff and support the operations of the Court to ensure its continued, proper functioning throughout the fiscal year, including two new chambers and three FTE positions not previously required -- a secretary for the senior judges, a staff attorney, and a senior attorney (for possible service as an appellate commissioner).

Funding to have the Court's financial statements audited.

Funding to build a veterans courthouse at GSA cost estimate.

Funding to acquire additional leased space to meet space needs for existing staff and two new judicial chambers.

Funding to continue agreements with the USMS for Court security, with the Department of Agriculture's NFC for payroll/personnel services, and with BPD for administrative payments, credit-card, travel, and financial accounting and reporting services. Also, to continue existing agreement with the AO for e-filing system support.

Funding to be made available for the Pro Bono Representation Program.

FISCAL YEAR 2012 PROGRAM

To maintain and enhance the FY 2011 initiatives, the Court's FY 2012 budget request reflects the following:

Funding to pay for projected expenses to staff and support the operations of the Court to ensure its continued, proper functioning throughout the fiscal year, including two new chambers to accommodate the two judges authorized by Congress (judges authorized but not yet appointed), and three FTE positions first requested for funding in FY 2011 (budget not yet approved) - a secretary for the senior judges, a staff attorney, and a senior attorney (for possible service as an appellate commissioner).

Funding to have the Court's financial statements audited.

Funding for design and site acquisition toward ultimate construction of a veterans courthouse. The FY 2012 request includes funding for the next major step in the construction, planning, and design process, as opposed to full construction cost funding, and is subject to continued congressional and veteran support for a veterans courthouse at this time.

Funding to acquire additional leased space to meet space needs for existing staff and two new judicial chambers.

Funding to continue agreements with the USMS for Court security, with the Department of Agriculture's NFC for payroll/personnel services, and with BPD for administrative payments, credit-card, travel, and financial accounting and reporting services. Also, to continue existing agreement with the AO for e-filing system support.

Funding to be made available for the Pro Bono Representation Program.

SUMMARY OF FISCAL YEAR 2012 BUDGET REQUEST
(in thousands of dollars – \$000)

A summary of the FY 2012 funding requirements for conducting the Court's activities follows:

	FY 2011 Appropriation	FY 2012 Estimate	Change
FTE Positions	127	127	0
Personnel Compensation and Benefits	\$17,458	\$17,863	+\$405
Other Objects (Operating Expenses)	\$8,174	\$10,208	+\$2,034
Courthouse	\$62,000	\$25,000	-\$37,000
Grants	\$2,515	\$2,726	+\$211
Budget Authority/Appropriation	\$90,147	\$55,797	-\$34,350

The FY 2012 budget request of \$55,796,690 reflects a decrease of \$34,350,039 from the Court's budget request for FY 2011. This significant decrease results primarily from the fact that \$62,000,000 was requested in FY 2011 for construction of a veterans courthouse. That request has not been approved, and indications from congressional staff are that the project will be funded, if at all, in a piecemeal fashion tied to major steps in the construction process. GSA advises that \$25,000,000 will fund the next major step, which is design engineering and site acquisition, and this is the amount reflected in our FY 2012 budget request.

The Court's operating expenses reflect an overall increase of \$2,033,827, primarily due to the fact that two new chambers for which funding was requested and appropriated in 2010 were not built out and equipped because the judges were not appointed, and funding for this purpose was not requested in our FY 2011 budget request. The FY 2012 request for personnel compensation and benefits reflects an increase of \$405,000 over our FY 2011 budget request to accommodate scheduled step increases and time-in-grade promotions for current FTE positions. There is also a \$211,000 increase requested by the Pro Bono Representation Program.

FISCAL YEAR 2012 PROGRAM FUNDING CHANGES
(in thousands of dollars – \$000)

Personnel Compensation and Benefits: + \$405
The overall increase in personnel compensation and benefits includes maintaining FTE positions at the FY 2011 level, as well as accommodating scheduled step increases and time-in-grade promotions.

All Other Objects (Operating Expenses): + \$2,034
The increase in operating expenses is due largely to anticipated one-time expenses to build out and equip two new chambers for two additional judges authorized and anticipated to be appointed.

Courthouse: (- \$37,000)
This significant decrease results primarily from the fact that \$62,000,000 was requested in FY 2011 for construction of a veterans courthouse that has not been approved, with indications from congressional staff that the project will be funded, if at all, in a piecemeal fashion tied to major steps in the construction process. GSA advises that \$25,000,000 will fund the next major step, which is design engineering and site acquisition.

Grants: + \$211
The grantee, Pro Bono Representation Program, explains its request in Appendix A.

Total Changes: - \$34,350

DETAILS OF FISCAL YEAR 2012 FUNDING CHANGES
(in dollars – \$0)

The following information provides details for the funding changes from the FY 2011 budget request:

PERSONNEL COMPENSATION & BENEFITS: + \$405,000

The overall increase in personnel compensation and benefits includes maintaining existing FTE positions as well as accommodating possible promotional allowances.

OTHER OBJECTS (OPERATING EXPENSES): + \$2,033,827

TRAVEL: +\$55,000

Budget requests in FY 2010 and FY 2009 have proven to be inadequate, but this trend was identified after submission of the FY 2011 budget. This increase will accommodate ongoing Court travel for oral arguments outside of the Washington, D.C. Metropolitan Area.

TRANSPORTATION OF EQUIPMENT + \$1,000

Budget requests in FY 2010 and FY 2009 have proven to be inadequate, but this trend was identified after submission of the FY 2011 budget. This increase will accommodate ongoing Court activities, to include transportation of things associated with Court travel as well as continue to fund for anticipated additional staff.

RENTAL PAYMENTS TO GSA: + \$105,000

This increase is attributed to the estimated rental costs for the current space (42,541 sq ft) plus future space (13,000 sq ft). The amount is calculated based on information provided by GSA.

RENTAL PAYMENTS TO OTHERS: + \$3,600

This increase is attributed to the estimated rental cost for garage and storage space.

COMMUNICATIONS, UTILITIES, AND MISCELLANEOUS CHARGES: +\$25,000

This increase is based on increased communications and utilities costs experienced over the past two years and projected additional costs to provide communications and utilities associated with the appointment of two additional judges, additional staff, and an increase in future leased space of approximately 13,000 sq ft.

PRINTING & REPRODUCTION: + \$7,000

Increased to accommodate additional printing costs for a Bench and Bar Conference.

ALL OTHER SERVICES: + \$100,000

This increase is due to increased cost associated with the USMS contract for Court security officers, finance and accounting services, guards in the building and garage pursuant to the FPS contract, security-system maintenance, and projected cost associated with the appointment of two additional judges, additional staff, and an increase in future leased space of approximately 13,000 sq ft.

SUPPLIES & MATERIALS: + \$60,000

This increase is for the initial set up and supply for two new chambers to accommodate two additional judges and the required supporting staff.

EQUIPMENT: + \$625,000

This increase reflects our scheduled industry standard (3-year) replacement program for IT equipment and continued enhancement of electronic filing and case management.

CONTRIBUTION TO JUDGES RETIREMENT TRUST FUND: +\$1,052,227

This increase reflects the amount required to maintain the statutorily required estimate for full funding as of September 30, 2011, for the retirement fund, as estimated by Actuary's report.

COURTHOUSE: (- \$37,000,000)

This significant decrease results primarily from the fact that \$62,000,000 was requested in FY 2011 for construction of a veterans courthouse that has not been approved, with indications from congressional staff that the project will be funded, if at all, in a piecemeal fashion tied to major steps in the construction process. GSA advises that \$25,000,000 will fund the next major step, which is design engineering and site acquisition.

GRANTS: + \$211,134

The grantee, Pro Bono Representation Program, explains its request in Appendix A.

UNITED STATES COURT APPEALS FOR VETERANS CLAIMS

Program and Financing (in thousands of dollars)

	2010 Actual	2011 Budget Request	2012 Estimate
OBLIGATIONS BY PROGRAM ACTIVITY			
10.00 Total obligations	\$25,436.0	\$90,147.0	\$55,797.0
BUDGETARY RESOURCES AVAILABLE FOR OBLIGATION			
21.40 Unobligated balance available, start of year		\$ -	
22.00 New budget authority (gross)	\$27,115.0	\$90,147.0	\$55,797.0
22.30 Unobligated balance expiring	\$1,679.0	\$ -	\$ -
23.95 New obligations	\$25,436.0	\$90,147.0	\$55,797.0
24.40 Unobligated balance available, end of year	\$ -	\$ -	\$ -
NEW BUDGET AUTHORITY (GROSS) DETAIL			
40.00 Appropriation	\$27,115.0	\$90,147.0	\$55,797.0
40.35 Appropriation rescinded	\$ -	\$ -	\$ -
43.00 Appropriation (total)	\$27,115.0	\$90,147.0	\$55,797.0
CHANGE IN UNPAID OBLIGATIONS:			
72.40 Obligated balance, start of year	\$10,796.0	\$10,987.1	\$11,077.2
73.10 New obligations	\$25,914.2	\$90,147.0	\$55,797.0
73.20 Total outlays (gross)	-\$25,712.5	-\$90,056.9	-\$50,217.3
74.40 Obligated balance, end of year	\$10,987.1	\$11,077.2	\$16,656.9
OUTLAYS (GROSS), DETAIL			
86.90 Outlays from new current authority	\$23,313.8	\$79,069.8	\$39,140.1
86.93 Outlays from current balances	\$2,398.8	\$10,987.1	\$11,077.2
87.00 Total outlays	\$25,712.5	\$90,056.9	\$50,217.3
NET BUDGET AUTHORITY AND OUTLAYS			
89.00 Budget authority	\$27,115.0	\$90,147.0	\$55,797.0
90.00 Outlays	\$25,712.5	\$90,056.9	\$50,217.3

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
SALARIES AND EXPENSES

Object Classification (in thousands of dollars)

	2010 Actual	2011 Budget Request	2012 Estimate
Direct Obligations:			
11.1 Full-time permanent	\$10,386.25	\$13,225.00	\$13,625.00
11.5 Other personnel compensation	\$284.47	\$150.00	\$150.00
11.9 Total personnel compensation	\$10,670.72	\$13,375.00	\$13,775.00
12.1 Civilian personnel benefits	\$2,853.77	\$4,083.00	\$4,087.50
13.1 Unemployment compensation			
21.0 Travel and transportation of persons	\$99.63	\$70.00	\$125.00
22.0 Transportation of things	\$3.40	\$3.00	\$4.00
23.1 Rental payments to GSA	\$2,100.00	\$3,500.00	\$3,605.00
23.2 Rental payments to others	\$104.10	\$120.00	\$123.60
23.3 Communications, utilities, and miscellaneous charges	\$149.97	\$145.00	\$170.00
24.0 Printing and reproduction	\$23.35	\$13.00	\$20.00
25.2 Other services	\$1,577.28	\$1,793.00	\$1,843.00
25.3 Purchases of goods and services from government sources	\$757.53	\$590.00	\$620.00
25.4 Operation and maintenance of facilities	\$41.00	\$37.00	\$45.00
25.7 Operation and maintenance of equipment	\$89.50	\$80.00	\$92.00
26.0 Supplies and materials	\$164.97	\$193.00	\$253.00
31.0 Equipment	\$691.99	\$325.00	\$950.00
32.0 Land and Structures	\$0.00	\$62,000.00	\$25,000.00
41.0 Grants, subsidies, and contributions	\$1,820.00	\$2,515.00	\$2,726.36
43.0 Interest	-	-	
94.0 Contributions to Trust Fund	\$4,715.37	\$1,305.00	\$2,357.23
99.9 Total obligations	\$25,862.58	\$90,147.00	\$55,796.69

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
JUDGES RETIREMENT FUND**

The Judges Retirement Fund, established under 38 U.S.C. § 7298, is used for judges' retired pay and for annuities, refunds, and allowances provided to surviving spouses and dependent children. Participating judges pay 1 percent of their salaries to cover creditable service for retired-pay purposes and 2.2 percent of their salaries for survivor-annuity purposes. Additional funds needed to cover the unfunded liability may be transferred to this fund from the Court's annual appropriation. The Court's contribution to the fund is estimated annually by an actuarial firm retained by the Court. The fund is invested solely in government securities. The Court paid from fund assets one survivor annuitant and six retired judges in FY 2010. In FY 2011 and FY 2012, the Court anticipates these payments to retired judges to increase to seven retirees.

**JUDGES RETIREMENT FUND
(in thousands of dollars)**

	2010 Actual	2011 Budget Request	2012 Estimate
Unavailable Collections Schedule:			
Balance, start of year:			
01.99 Balance, start of year	19,039.00	22,727.00	23,657.00
Receipts:			
02.01 Earnings on investment	52.22	650.00	80.00
02.02 Employer contributions	4,715.37	1,530.00	2,357.00
02.03 Employee contributions	47.60	50.00	55.00
02.99 Subtotal, receipts	4,815.19	2,230.00	2,492.00
04.00 Offsetting Collections (Outlays)	1,124.17	-1,300.00	-1,474.00
88.03 Total: Balances and collections	22,727.00	23,657.00	24,675.00
Appropriations:			
65.99 Judges Retirement and Survivor Annuity Fund	1,124.17	-1,300.00	-1,474.00
88.99 Balance, end of year	22,727.00	23,657.00	24,675.00

APPENDIX A

**THE VETERANS CONSORTIUM PRO BONO PROGRAM
FY 2012 FUNDING REQUEST, BUDGET AND NARRATIVE**

OVERVIEW

The Pro Bono Program is requesting an appropriation of new grant funds in the amount of \$2,726,363 for FY 2012. This request represents an increase of \$216,133 or 8% from the \$2,515,229 pending authorization for the Program for the current FY 11. The Pro Bono Program has recently brought on a new Executive Director and taken steps to become a "stand-alone" entity. The 8% increase is due to the need to cover the additional costs associated with this goal.

The Program's proposed budget for FY 2012 is attached.

SIGNIFICANT PRO BONO PROGRAM, COURT, and BVA STATISTICS:

The Program sent program information to 2,320 pro se appellants in calendar year (CY) 2010, a slight decline over prior years. The Program received 671 requests for assistance in 2010. This continues to mirror the change in the Court's caseload; historically, the Court has received 2,200 - 2,400 new filings per fiscal year, until FY 2005, when the Court's caseload began to rise rather dramatically.

The Court's Annual Reports (available at www.uscourts.cavc.gov/documents/Annual_Report_FY_2009_October_1_2008_to_September_30_2009.pdf) indicate that the Court had 4,725 new pro se and represented cases filed in 2009; 4,128 new cases filed in FY 2008; 4,644 new cases filed in FY 2007; and 3,729 new cases filed in 2006. Preliminary Court statistics for FY 2010 indicate that the number of new cases filed with the Court in FY 2010 declined slightly from FY 2009, to 4340.

The Program evaluated 669 cases in 2010, a decline over the 849 cases evaluated in 2009, the 818 cases evaluated in CY 2008 and the 737 cases evaluated in CY 2007. Of those 669 evaluated cases, 205 cases were accepted into the Program, the remainder being rejected for a variety of reasons (e.g., financial ineligibility, jurisdictional defects, lack of merit, retained own counsel, etc.).

We note, as we did in our FY 11 budget request, that the Court's statistics (reported on a fiscal year basis) show that the percentage of appellants unrepresented at the time of filing the appeal remained steady at 58-59% from FY02 through FY 05. While the percentage decreased to 53% in FY 2007, it rebounded to 64% in FY 2008 and increased further to 68% in FY 2009 (a level not seen since FY 2000). However, the pro se percentage declined in FY 2010 to 57%.

The Program continues to provide free legal service to a significant number of unrepresented veterans with active appeals at the Court, as more and more veterans seek judicial review. The number of appeals decided by the Board of Veterans' Appeals increases annually, with the BVA issuing over 48,800 decisions in 2009 and 43,700 decisions in 2008 (see http://www.bva.va.gov/docs/Chairmans_Annual_Rpts/BVA2009AR.pdf). Preliminary reports from the BVA indicate that the Board decided some 49,100 cases in FY 2010, although the

percentage of denials declined from 36.1% in 2009 to 28.1% in 2010, which necessarily impacts the number of appeals to the Court, and the number of appellants seeking Program services.

However, the number of claims filed by a rapidly-growing number of returning Iraq and Afghanistan veterans can be expected to continue to increase. We believe that the BVA will continue to decide an even greater number of appeals and that, in turn, more cases will be filed with the Court, and that there will be a resultant increased demand for Program services in 2012 and beyond.

To meet that anticipated demand, we added a full-time administrative support person in January, 2009. We are requesting continued funding for this administrative support person in FY 2012, and continuation of funding for the remainder of the Program staff. In addition, the Legal Services Corporation, in a recent review of the Program, concurred in the decision of the Board of Directors to hire a full-time Executive Director. We are pleased to report that the new Executive Director, with an extensive background in nonprofit management, joined the program on January 10, 2011.

DETAIL

Personnel costs – salary and benefits of those individuals performing services for the Program that are reimbursed from grant funds – account for 57% of the proposed FY 12 budget. These costs include the time for part-time personnel who staff the Outreach and Education Components and the time of the full-time paid personnel who staff the Case Evaluation and

Table A

PRO BONO PROGRAM PERSONNEL AND FTE DISTRIBUTION				
Component	Total Number of Personnel Providing Services to the Program FY 11	Total FTE Authorized by the Grant FY 11	Total Number of Personnel Providing Services to the Program FY 12	Total FTE to be Authorized by the Grant FY 12
Outreach	6	0.25	6	0.25
Education	13	0.92	13	0.92
Case Evaluation and Placement	11	11	11	11
Direct Representation	1	1	1	1

Administration	3	3	3	3
Total	34	16.17	34	16.17

Placement Component along with the three new additional personnel required to move the Pro Bono Program to a stand-alone entity. Staff who are reimbursed from grant funds for all or a portion of their salary and benefits are currently employees of either the National Veterans Legal Services Program (NVLSP) or the Paralyzed Veterans of America (PVA). It is anticipated that by the end of 2011, all of these personnel will be employees of the stand-alone entity.

Table A above shows in summary form the number of persons providing services for each component, and the number of Full Time Equivalent (FTE) positions to be paid out of grant funds in FY 11 and FY 12.

A detailed breakdown by Component follows.

I. Case Evaluation and Placement Component \$1,698,330

The FY 12 funding request reflects a \$168,132 (10.99%) increase over the FY 11 budget for the Case Evaluation and Placement. Personnel cost increased by \$56,361 and non-personnel cost increased by \$111,771 for this Component.

A. Personnel

There are three categories of personnel staffing this component -- attorneys, non-attorney veterans law specialists, and other.

Three attorneys - the Director, the Deputy Director for Case Evaluation and the Deputy Director for Placement - function full time. Their personnel costs are currently fully reimbursed by the Program - one position to PVA and two positions to NVLSP. The attorneys are reimbursed from grant funds, in both FY 11 and FY 12. It is anticipated that all of these individuals will become full time employees by FY 12.

Veterans law specialists review the VA claims file and BVA decision in each case to determine whether the case presents an issue that justifies referral to a lawyer. Veterans law specialists are among the most experienced non-lawyer personnel in the veterans-law field. The Program requests funding for four full time veterans law specialists in FY 12, the same number as in FY 11. It is anticipated that all of these individuals will also become full time employees by FY 12.

We request funding for four full time administrative support staff. All are currently employees of NVLSP, and are all reimbursed out of Program funds. The other components in this increase represent the combination of a modest cost of living and merit raises.

The level of salaries and benefits paid by the Program for personnel provided on a reimbursable basis is governed by the personnel policies of the constituent organizations of which they are employees – i.e., NVLSP and PVA – and to which they may return in the event of termination of the Program or rotation of personnel by the organizations involved. Typically, the Program budgets a 5% increase in salary and benefits – 3% for cost-of-living increases, and 2% for merit increases. The budget for FY 12 follows this formula. Such increases are reflected in the personnel costs of all four Components of the Program in the FY 12 budget.

B. Space-Rent

The largest single increase in the requested budget for FY 12 is associated with space-rental costs. The Program's current space lease will expire in November, 2012. Consequently, during FY 12, the Program will be entering into a new lease. It is expected that the Program will incur higher rental costs and moving costs related to the anticipated move. The FY 12 funding request reflects an \$82,208 (33.39%) increase over the FY 11 budget for this line item.

C. Equipment Rental and Maintenance

The increase of \$903 from FY 11 provides for a 5% rate adjustment for the maintenance contracts/service agreements on office equipment and telephone system.

D. Office Supplies & Expense

The increase of \$12,122 over the amount budgeted for FY 11 reflects the increased cost for office supplies and the use of Priority Mail to expedite delivery of Program materials to an increased number of pro se appellants. Furthermore, due to the Court's change in the manner in which the cases are referred to the Pro Bono Program, i.e., from hard copy to electronically, the copying costs have risen significantly. This increase represents a 17.32% rise over the prior year.

E. Telephone

The increase of \$540 over the amount budgeted for FY 11 provides for a 5% rate increase.

F. Travel/Continuing Legal Education

The increase of \$1,060 provides for a 5% increase over FY 11.

G. Library

The increase of \$381 over the amount budgeted for FY 11 provides for a 5% rate increase.

H. Insurance

The increase of \$5,344 over the amount budgeted for FY 11 represents a 77.67% increase that is due to the Pro Bono Program having to acquire its own insurance. In prior years, the Pro Bono Program was able to rely on the NVLSP for insurance coverage. By moving to a stand alone entity, the Pro Bon Program's insurance costs have significantly increased.

I. Dues and Fees

There is a significant increase in expected costs associated with Dues and Fees over the prior year. The increase of \$3,090 represents a 166.51% rise over FY 11 due, in large part, to costs related to becoming a stand alone entity.

J. Audit

The increase of \$1,050 over the amount budgeted for FY 11 provides for a 5% rate increase.

K. Property Acquisition

The increase of \$525 over the amount budgeted for FY 11 provides for a 5% rate increase.

L. Contract Services

The increase of \$20,277 over the amount budgeted for FY 11 provides for a 5% rate increase in expected Contract Services.

M. Expense for Administration

The increase of \$2,100 allows for a 5% rate increase for the cost of grant administration, which now must be procured from a third party, since NVLSP will no longer supply it at a reduced fee.

II. Direct Representation Component \$131,250

Some cases require immediate attention by a lawyer experienced in veterans law. Previously, PVA committed to accepting 20 such cases and charging the Pro Bono Program just 75% of PVA's out-of-pocket costs, the remaining 25% being donated by PVA. It is unclear whether, when the Pro Bono Program becomes a stand-alone entity, these services will remain available at a discounted rate. Consequently, the FY 12 budget provides for the hiring of a full-time attorney to handle these cases and other items that may arise during the course of the year.

III. Outreach Component \$74,579

The Outreach Component is provided on a fixed price contract by the NVLSP. Overall, the FY 12 budget calls for a \$3,551 increase from the FY 11, a 5% increase. In addition to the prior outreach services, this budget component also provides for website maintenance and an annual report and brochure.

IV. Education Component \$300,828

The proposed FY 12 budget for the Education Component reflects an increase of \$14,325 (5%) over the budget for FY 11. Like the Outreach Component, for FY 12, these services are

being provided by the NVLSP at a fixed price. Included in this budget component are the costs of volunteer reference materials of approximately \$105,000.

V. Executive Administration **\$501,375**

In accordance with certain suggestions made by the Legal Services Corporation in its 2009 *Program Quality Report* assessing the Pro Bono Program, the Program is in the process of becoming a "stand-alone" entity such that it will no longer be able to rely upon component veterans service organizations (The American Legion, Disabled American Veterans, National Veterans Legal Services Program and Paralyzed Veterans of America) for certain administrative and other assistance. The amount budgeted for FY 12 represents a 5% increase over FY 11, specifically \$23,875.

VI. TOTAL BUDGET REQUESTED

Case Evaluation and Placement Component	\$1,698,330
Direct Representation Component	131,250
Outreach Component	74,579
Education Component	300,828
Executive Administration	<u>501,375</u>
Total Budget	\$2,706,363
LSC Oversight	<u>20,000</u>
TOTAL Budget & Oversight	\$2,726,363
LESS: ANTICIPATED FY 11 CARRYOVER	<u>(\$ 0)</u>
TOTAL FY 2012 FUNDING REQUESTED	<u>\$2,726,363</u>

TUESDAY, APRIL 5, 2011.

ARMED FORCES RETIREMENT HOME

WITNESS

STEVE McMANUS, ACTING CHIEF OPERATING OFFICER, ARMED FORCES RETIREMENT HOME

OPENING STATEMENTS

Mr. CULBERSON. The second phase of our hearing will come to order. We have with us today Steve McManus, who is the Acting Chief Operating Officer of the Armed Forces Retirement Home.

I was saying what great comfort you must provide to the veterans, to their families, and marvelous service dates all the way back to the War of 1812, I see.

Mr. MCMANUS. Yes, sir.

Mr. CULBERSON. So thank you very much for your service, sir, and for your testimony today. And, of course, your written statement will be entered into the record, and we welcome your oral testimony. Thank you.

Mr. MCMANUS. Thank you, sir. I know that—

Mr. CULBERSON. I am sorry. Excuse me, Mr. Bishop. I apologize.

Mr. BISHOP. That is okay.

Well, the subcommittee is proud to recognize the long history of the Armed Forces Retirement Home. Since its creation in 1851, following the Mexican-American War, what was then called the Old Soldiers Home has been the place for U.S. servicemen to retire for many generations.

The driving forces behind the establishment included Major Robert Anderson, then Secretary of War, Jefferson Davis, and General Winfield Scott. Many people in Washington, as well as historians throughout the country, recognize the Anderson cottage as the site known as President Lincoln's cottage. It was there that the 16th President sought refuge from the oppressive summers during the Civil War.

In addition to the historic Washington campus, we recognize the Gulfport facility. I had an occasion to visit there shortly after Hurricane Katrina destroyed it in 2005, and we are pleased that the new facility has opened in October of last year.

So we look forward to receiving an update on the Homes from you, Mr. McManus. And thank you, Mr. Chairman.

Mr. CULBERSON. Thank you very much. And excuse me for not recognizing you.

Thank you very much for being with us today, Mr. McManus. We look forward to your testimony.

STATEMENT OF STEVE MCMANUS

Mr. MCMANUS. Thank you, sir. It is an honor to be here. I notice you said 1812. That would have been the Gulfport Home, which started in Philadelphia.

And, sir, you said 1852, which was—

Mr. BISHOP. 1851.

Mr. MCMANUS. 1851, which was the Soldiers Home that started in D.C.

Sir, I know you have the testimony in front of you. I am just going to read a short version of the testimony that captures the highlights of it.

Mr. Chairman and distinguished members of the subcommittee, thank you for the opportunity to appear before you today. First, we would like to thank the Committee for strongly supporting the replacement of the former Navy Home in Gulfport, Mississippi, and the renewal of the Washington, D.C., Home. We successfully opened the Gulfport Home last fall on time and on budget, and plan to do so in D.C.

I am honored to present the Armed Forces Retirement Home's Congressional Budget Justification of \$67,700,000 for fiscal year 2012. This budget request would assist the AFRH in providing shelter and care for former eligible enlisted military, warrant officers, retirees and veterans as they age.

This care demonstrates to today's service members and tomorrow's veterans that their service and sacrifices won't be forgotten. Our budget request of \$68 million for 2012 contains \$66 million in O&M and 2 million in capital improvements.

The O&M request reflects \$3 million in growth for the Gulfport Home as they stand it up and as we transferred 238 residents to Gulfport. These resident transfers contribute to a \$6.5 million decrease in the D.C. Home as the facility begins to eliminate transition duplication, modernize and right size to the population we serve in D.C. This would produce a net decrease of \$3.5 million across our budget.

This decrease is associated with the Armed Forces Retirement Home's continued efforts to become more fiscally sound and move toward sustainable AFRH Trust Fund.

We expect our budget authority to peak in 2011 and then decline in 2012. The budget forecast shows operating costs for the Home in D.C. will decline from \$45.9 million in 2009 to \$36.6 million in 2012. This represents approximately 20 percent reduction in 2012 for the D.C. campus.

One of the primary reasons for the reduction is the modernization of the D.C. campus through the Scott Project. The Scott Project would generate savings in all major cost drivers.

We are going to consolidate dining services into one dining facility, reduce subsistence costs by 40 percent, reduce nursing staff by almost 50 percent from 2009 levels, reduce utility costs by approximately 44 percent, reduce facility maintenance requirements by greater than 50 percent, reduce custodial requirement by approximately 40 percent, and then streamline the campus operations so that on-campus transportation is no longer needed. The residents will be centrally located.

In regards to the Trust Fund balance, in 2003 operating costs greatly increased over previous years, eventually outpacing our revenue. The Trust Fund balance declined from \$156 million in 1995 to \$94 million in 2003. Renewing a healthy balance became a critical mandate to retain the Home's solvency.

We followed the Federal Government's lead by implementing an integrated strategy—linking planning with budget and performance. From 2003 to 2010, we aggressively developed and began to implement a disciplined, strategic plan that netted many gains. The result: the Trust Fund balance grew substantially to \$186 million at the end of fiscal year 2010.

However, over the next two years, the Trust Fund will have negative growth as we disburse cash for the Scott Project. In fiscal year 2012, the Trust Fund will level out to \$94 million and begin to once again climb thereafter. The chart below reflects the Trust Fund's consistent growth over the years, with an expected decline in fiscal year 2011 and 2012.

In summary, our paramount goal is to continue to serve our heroic population of residents with the high level of residential and medical services that they deserve. This justification presents complete, reliable information that demonstrates our efforts to hold programs and financial systems to the highest standards of accountability in serving our residents.

We have an impressive record of providing a high level of services while reducing costs through sound fiscal management as the evidence indicates over the past few years. I respectfully ask the Subcommittee's favorable consideration of our 2012 Congressional Budget Justification.

Mr. Chairman, this concludes my testimony. I will be pleased to respond to the questions of the Subcommittee.

[The information follows:]

ARMED FORCES RETIREMENT HOME

COMPLETE STATEMENT

OF

**Mr. Steven McManus
Chief Operating Officer (Acting)**

BEFORE

**THE SUBCOMMITTEE ON MILITARY CONSTRUCTION,
VETERANS AFFAIRS AND RELATED AGENCIES**

COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

ON

ARMED FORCES RETIREMENT HOME

INTRODUCTION

Mr. Chairman and distinguished members of the Subcommittee: Thank you for the opportunity to appear before you today. First, we would like to thank the Committee for strongly supporting the replacement of the former Navy Home in Gulfport, Mississippi, and the renewal of the Washington, DC Home. We successfully opened the Gulfport Home last fall on time and on budget, and plan to do the same here in Washington. I am honored to present the Armed Forces Retirement Home's (AFRH) Congressional Budget Justification (CBJ) of \$67,700,000 for Fiscal Year 2012.

The 1991 Defense Authorization Act, Public Law 101-510, created an Armed Forces Retirement Home (AFRH) Trust Fund to finance the AFRH-Gulfport and the AFRH-Washington Homes. The Homes are financed by appropriations drawn from the Trust Fund. Nearly two centuries ago, the leaders of our young nation made a Promise to care for our former enlisted military personnel who were aging or infirm. This pledge would serve as a payback to soldiers for risking their lives to preserve democracy.

Today, we continue to provide shelter and care for former enlisted military, Warrant Officers, retirees and veterans as they age. This care demonstrates

to today's service members – and tomorrow's veterans – that their service and sacrifices won't be forgotten. Just as our brave young men and women helped save the world from fascism in the 20th Century, today's heroes can fight for and preserve our way of life – knowing their country will repay them for their service. The AFRH Fiscal Year 2010 Performance and Accountability Report displayed the significant progress of the AFRH over the past eight years.

FY 2012 BUDGET

The Gulfport Home was rebuilt within funding and completed on schedule in 2010. The first residents returned to Gulfport on October 4, 2010. The modernization at the DC campus is ever evolving through the design build of one of our primary dormitories – The Scott Building. The Scott Project was approved and funded by \$5.6 million and \$70 million in FY 2009 and 2010 respectively from our Trust Fund. This Project will create better living conditions for our DC residents; promote aging in place; and bring AFRH resident facilities in line with the Americans with Disabilities Act (ADA), fire codes, and other building regulations. This Project is also within funding and on schedule.

Our Budget Request of \$68 million for FY 2012 contains \$66 million in Operations & Maintenance (O&M) and \$2 million in Capital Improvements. The O&M request reflects \$3 million in growth to begin full operations in Gulfport with the transfer of 238 residents from DC to Gulfport. These resident transfers contribute to a decrease of \$6.5 million in DC as the facility begins to eliminate transition duplication, modernize and right size to the population it will serve. This will produce a net decrease of \$3.5 million in operating costs across the Agency in 2012. This decrease is associated with AFRH's continued efforts to become more fiscally sound and move towards a sustainable AFRH Trust Fund.

The Gulfport Campus will grow by 21 full-time equivalents (FTE) employees, which is completely offset by a 21 FTE reduction on the Washington Campus, thus producing no net growth between FY 2011 and 2012. Being that our mission is peculiar in nature when compared to other Federal Government Agencies; our non-labor expenditures contain a diverse assortment of fundamental cost drivers. AFRH's key cost drivers are: Dining Services; Subsistence; Nursing; Wellness Center; Dental and Optometry; Utilities; Facility and Grounds Maintenance; and Transportation.

We expect our Budget Authority to peak in 2011 and then decline as the duplication of resources (funding and FTE) decline as the shift from Washington to Gulfport is completed. Although we have opened Gulfport for residency in 2011, the Assisted Living, Memory Support, and Long-term care units will grow as the resident population ages. Initially in Gulfport our plans reflect few occupied beds in these levels of care. The result is a drawdown of our costs across the agency.

We are working on multiple initiatives to reduce costs in the out years. The primary effort is our "Independent Living Plus" program, which assists residents with aging in place. We believe this effort will reduce costs in the Trust Fund while enhancing the care and well-being of our residents.

The greatest risk to the Trust Fund is occurring over the four transition years (e.g. 2010 - 2013) as we stand up operations in Gulfport and transition to a reduced footprint in Washington. Many of the infrastructure and new facility changes occurring at AFRH will have a positive and direct impact on the solvency of the Trust Fund, as well as a profound influence on the well-being of our residents. As we move forward to our vision of a vibrant, economical operation at both AFRH campuses, we continue to work to use

our funding wisely and in the best interest of our stakeholders.

The budget forecast shows that operating costs for the Washington campus will decline from \$45.9 million in 2009 to \$36.6 million in 2012. This represents approximately a 20 percent reduction in 2012 for the DC campus.

The Scott Project will generate savings in all major cost drivers:

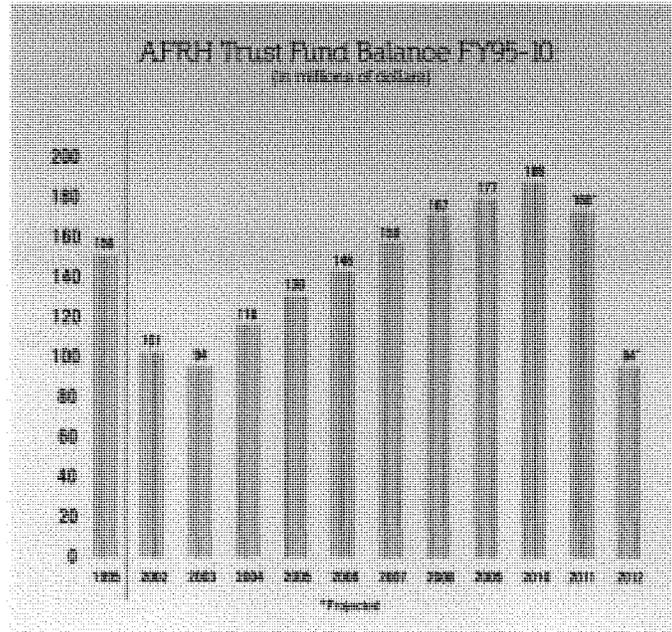
- Consolidate Dining Services so that only one dining facility is operational
- Reduce subsistence costs by approximately 40%
- Reduce nursing staff by almost 50% from FY09 levels
- Reduce utility costs by approximately 44% or greater
- Reduce facility maintenance requirements by greater than 50%
- Reduce custodial requirement by approximately 40%
- Streamline Campus operation so that on-campus transportation is no longer required

TRUST FUND BALANCE

In 2003, operating costs greatly increased over previous years - eventually outpacing our revenue. The Trust Fund balance declined from \$156 million in 1995 to \$94 million in 2003. Renewing a healthy balance became a

critical mandate to retain the Home's solvency. So, we concluded that our operating model had to change. We followed the Federal Government's lead by implementing an integrated strategy - linking planning with budget and performance. From 2003 - 2010, we aggressively developed a disciplined strategic plan that netted many gains. The result: the Trust Fund balance grew substantially to \$186 million at the end of FY10. However over the next two years the Trust Fund will have negative growth as disbursements are made for the Scott Project. In FY 2012 the Trust Fund will level out at \$94 million and begin to once again climb thereafter. The chart below reflects the Trust Fund's consistent growth over the years, with an expected decline in FY 2011 and 2012.

The Trust Fund Balance has been steadily increasing since 2003 but will decrease with withdrawals for the Scott Project in 2011:



CONCLUSION

Our paramount goal is to continue to serve our heroic population of residents with the high level of residential and medical services that they deserve. This Justification presents complete, reliable information that demonstrates our efforts to hold both programs and financial systems to the highest standards of accountability in serving our residents. We have an impressive record of providing a high level of services while reducing costs through sound fiscal management as the evidence indicates over the past few years. I respectfully ask the Subcommittee's favorable consideration of our FY 2012 Congressional Budget Justification. Mr. Chairman, this concludes my

testimony. We will be pleased to respond to questions from the subcommittee.

TRUST FUND

Mr. CULBERSON. Thank you. Thank you, Mr. McManus. We are deeply, deeply grateful, truly, for the service you provide. It is a huge comfort to the families, to the veterans and to know that you are there and able to help these fine men and women. It means a great deal.

And since you are self-supporting, you have got a Trust Fund and money that comes from the Armed Forces Retirement Home Trust Fund is dedicated to pay for the operation of the Home, and you are reopening the Gulfport.

Mr. MCMANUS. Yes, sir. We opened. The first residents returned back there October 4th of this past year.

Mr. CULBERSON. And moving employees down there.

Mr. MCMANUS. That is true. One employee moved from D.C. to Gulfport.

Mr. CULBERSON. I imagine you are getting some—are you getting some savings there as well because of the lower cost of living?

INDEPENDENT LIVING

Mr. MCMANUS. Sir, yes, sir. The growth was \$3.5 million and this decrease was over \$6 million in D.C. Most of the debts are associated with the Independent Living Plus program that we actually started in D.C. as a pilot program, where it actually allows our residents to age in place instead of moving them into a higher level of care.

So although we are drawing down in D.C., a lot of our residents are moving into the Independent Living Plus program. And then in Gulfport we started it that way, so you don't have the high level of nurse staffing down in Gulfport as you do in D.C.

Mr. CULBERSON. And the bulk of the savings that you are achieving is from this consolidation of your facilities in D.C.?

MODERNIZATION OF D.C. FACILITIES

Mr. MCMANUS. Yes, sir, it is from the modernization of the D.C. facilities. The modernization effort entails taking the 272 acres of infrastructure across the entire campus and reducing it to half its size. Instead of having three dormitories, you will have two. All of the independent and assisted living in one dormitory and all programmed activities in another dormitory with long-term care and memory support on the top floors.

Mr. CULBERSON. How do you measure customer satisfaction? How have you been able to? And have you had any awards or recognition? I read an account of one that you had been rated very highly, but if you could talk to us about the level of satisfaction of the families and your residents.

ANNUAL SURVEY

Mr. MCMANUS. Sir, what we do is have an annual survey where the residents tell us what they think of the Home. We also do monthly focus groups with the residents we get input from them to know how they feel.

I just had the Resident Advisory Committee Chair in this morning just to talk to him. And right now residents are not upset. They

are just very calm. They are going through a transition in D.C., where we have moved their dining facility into our North Sherman Building, because we are tearing down the building that it was in.

Through the focus groups and through the Resident Advisory Committee, we get a lot of feedback from the residents and their families, if they come to the focus groups, and then through the survey that we conduct.

Mr. CULBERSON. Mr. Bishop.

WAITING LIST AND ADMISSIONS

Mr. BISHOP. Thank you very much.

I am going to just congratulate you. I have heard good things about the operation and am glad to hear that it is consolidated and working, and working well. How long is the waiting list for the Home for those who want to live at one of the facilities?

Mr. MCMANUS. May I grab a card, sir, just to make sure that I am giving the right data. The Gulfport facility has 393 on the waiting list. That probably is roughly about 18 months. D.C. has 239, so it will be slightly less than that.

Mr. BISHOP. Okay. Would you explain to the subcommittee the criteria for gaining admission, on getting residence at one of the Homes?

Mr. MCMANUS. The eligibility criteria? There are four. Basically, retirees with 20 years or more of military service, and they have to be at least 60 years old. Unable to earn a livelihood due to service connected disability is the second category. The third category is unable to earn a livelihood due to non-service connected disability, but served in a war theater.

The fourth criteria is women who served in a women's component before June of 1948. Of course, now, that won't matter, because women are in theater. However, back in World War II, they weren't, so they had this special category.

Mr. BISHOP. So both facilities are coed now?

Mr. MCMANUS. That is correct. Yes, sir.

Mr. BISHOP. Okay. What role does the facility play with regard to homeless veterans?

Mr. MCMANUS. If a homeless veteran qualified under this criteria, the homeless veteran could be admitted.

RECONFIGURATION OF CAMPUS

Mr. BISHOP. And now, currently, the Washington campus has a nine-hole golf course. What will happen as a result of the reconfiguration of the Washington campus, or did you maintain the golf course?

Mr. MCMANUS. Sir, I am glad you brought that up. Under the recent legislation of 2010, the Armed Forces Retirement Home now has to follow Enhanced Use Lease legislation in order to do anything with the property. The first thing we have to do is inventory the property. Then we have to register our property, and then we have to determine if it is excess or non-excess.

The golf course is not part of that process and it is not being considered, because it is part of our primary footprint. So the golf course will stay, just as the main dormitories up on the hill. All the

property, which I referred to as “up on the hill” is our main footprint.

Mr. BISHOP. Looking closer, they said the main dormitories are the two that are being retained. You want to demolish the third one?

Mr. MCMANUS. Within the 272 acres on the southern part of our campus, we have one long-term care with memory support and assisted living facility that contains 200-beds. We will plan to close that facility. That will become part of our Enhanced Use Lease effort.

Up on top of the hill, we have one dormitory that is roughly 297,000 square feet that houses our independent population. In the future by 2013, that will house independent living, and it will also house assisted living on two floors of two wings.

Mr. BISHOP. It is going to be expanded, it is going to be renovated, or what?

Mr. MCMANUS. It was renovated. That dormitory I am talking about, the Sheridan, was renovated in 1998 and completed right about 2001. So it has been renovated. We are going to renovate two of the floors on two of the wings for assisted living, to put dining and programmed activity on those floors so we can actually feed them in that location.

Our 200 bed will be eliminated and reduced to 36 beds of long-term care and 24 beds of memory support. This will be on top of our program space and our new 170,000 square foot facility.

OPERATION AND MAINTENANCE

Mr. BISHOP. Is operation and maintenance of the golf course still being considered a part of the recreational and therapeutic activities for the residents who live there?

Mr. MCMANUS. It absolutely is, yes, sir.

Mr. BISHOP. But it is also open to be used by other veterans.

Mr. MCMANUS. Yes, sir, it is.

Mr. BISHOP. Okay. Does the facility in Gulfport have a golf course?

Mr. MCMANUS. It does not. There is a golf course within 200 meters of the facility itself, so the residents can actually go over there, or they can go to Keesler or to the CB base and golf.

Mr. BISHOP. How far is Keesler?

Mr. MCMANUS. Sir?

Mr. BISHOP. How far is Keesler away?

Mr. MCMANUS. Keesler is accessible by bus. You would have to get on a bus and go to Biloxi. The golf course is right at the edge of Gulfport and Biloxi.

Mr. BISHOP. That is 40 miles, 30 miles?

Mr. MCMANUS. Oh, no. Four miles.

Mr. BISHOP. Four miles?

Mr. MCMANUS. Four or five miles, yes, sir. Not very far. And the one that is right next to them is 200 meters. It is very close to the Gulfport facility.

Mr. BISHOP. It is private. I mean, it is a private course.

Mr. MCMANUS. It is a private golf course. That is correct.

Mr. BISHOP. So they will have to pay to use that course.

Mr. MCMANUS. That is correct. Yes, sir.

Mr. BISHOP. The Home in Washington, they don't have to pay to use the course there.

Mr. MCMANUS. That is correct, sir.

Mr. CULBERSON. Mr. Yoder.

Mr. YODER. I will pass for the moment, Mr. Chairman, thank you.

GENDER OF RESIDENTS

Mr. BISHOP. Could I just ask you if you could break down the residents by gender? How many are men and how many are women in Washington and in Gulfport Home?

Mr. MCMANUS. We have about—

Mr. BISHOP. How do you expect that ratio to change?

Mr. MCMANUS. Yes, sir. It is about balance. I think we have 10 percent women. I need to get the specifics, but I believe it is about 10 percent. We have a predominantly male population. Our largest population used to be World War II Veterans. Now it is Korea. It has just shifted to Korea, so it is predominantly that.

As they go into the future, though, I think it will be more balanced.

Mr. BISHOP. Next Vietnam, I guess.

Mr. MCMANUS. Yes, sir.

Mr. CULBERSON. Mr. Farr.

REQUIREMENTS

Mr. FARR. Thank you. Thank you, Mr. Chairman.

Of the women that are in the facilities, do they have the same requirements? They have to be over age 60, have 20 years of service, and have a disability in action or in civil? So everybody who lives in these old age Army homes are disabled?

Mr. MCMANUS. Not necessarily disabled, sir. Just unable to earn a livelihood.

Mr. FARR. So the 20-year plus, which is your first criteria, doesn't mean disability.

Mr. MCMANUS. That is correct.

Mr. FARR. Okay, you have to be 60.

Mr. MCMANUS. That is correct, sir.

Mr. FARR. And how about the disabilities in action or otherwise? Do they have to be 60 also?

Mr. MCMANUS. No. The only criteria where they really have to be 60 is if they are retired or have 20 years of service, although retirees can also qualify in the other categories. However, the other categories would allow them to come in. We have residents that have been part of Desert Storm, as an example.

Mr. FARR. How many veterans are in those categories that qualify for the Homes in the whole country?

Mr. MCMANUS. Sir, I don't know. I would have to find out.

Mr. FARR. I mean, the problem I have—certainly love the service, but the exclusivity of it.

Mr. MCMANUS. Sir?

Mr. FARR. The exclusivity. You have got more people waiting on your waiting list than you have beds in the facilities that are there. And they are, I imagine, regionally, I mean, if you have family support and everything and you are on the West Coast, why would you

have to move all the way to Washington or Gulfport to get into the——

Mr. BISHOP. You probably won't.

Mr. FARR. You probably won't. It takes greater—how many soldier homes are there in the United States?

Mr. MCMANUS. Just two. There is one in Gulfport and one in D.C. I truly understand. Our goal is always——

Mr. FARR. There is more than two, because the State of California has a whole bunch of them.

Mr. BISHOP. It is the state, so the state owns them.

Mr. FARR. That is right. But, I mean, how many are there in the whole country run by whatever?

Mr. MCMANUS. Oh, I don't know, sir. VA homes?

Mr. FARR. What?

Mr. MCMANUS. Most states have two. There are only two states, D.C. and Hawaii, who don't.

Mr. FARR. Why aren't they under your jurisdiction? Or why aren't you under their jurisdiction? I mean, the exclusivity of having a federally run program with all that bureaucracy it takes to run a program to run two Homes.

Mr. MCMANUS. I don't—I am——

Mr. FARR. Couldn't this be contracted out?

Mr. MCMANUS. I think honestly, sir, probably anything can be contracted out. We have always felt as if it was important for employees to be involved in any operation that directly impacts our residents.

Mr. FARR. There is a huge demand out here. What I am talking about is this is really exclusive stuff. You have got a retirement home here. You have got a waiting list that is so long. You have got people that are unable. They are just critically in need of a—I mean, they may be homeless, and no income to support themselves or very little income. They are disabled. They are aging. My God, there is a huge population of veterans out there. And we think we are doing a service to them by having two places.

DISABLED GOLF CARTS

How about your golf courses? Do you require that they have disabled golf carts on them?

Mr. MCMANUS. We do, sir. We have——

Mr. FARR. The one in Gulfport as well, even though you don't own it? It is private, but they get a lot of business from you.

Mr. MCMANUS. No, sir, we have not bought one to put on their course.

Mr. FARR. You don't buy. You should require that they have to do it under the ADA Act. My brother-in-law is disabled and thanks for disabled golf carts. Every military base in the United States now has one, because they did—and you ought to require it.

Mr. MCMANUS. We will look at that, sir. We will.

Mr. FARR. So let me know a little bit more about how many—so there is only two states that don't have soldier retirement homes.

Mr. MCMANUS. That I know of—or VA state homes.

Mr. FARR. VA homes.

Mr. MCMANUS. There are multiple VA state homes.

Mr. FARR. So is the—you are not a VA home—

Mr. MCMANUS. No.

Mr. FARR. How many does VA have?

Mr. MCMANUS. Sir, I don't know. I can find out, but I honestly don't know.

QUALITY OF LIFE

Mr. FARR. Maybe, Mr. Chairman, someday we ought to just get the whole—when we are looking at benefits for veterans, maybe we get the whole quality of life or the end of life. We spend a lot on childcare and stuff like that. What about the other end? Because I know we appropriated a hunk of money, about 100 million bucks to the State of California earmarked a few years ago to retrofit and restore and those things you are doing here for their veterans homes.

And it is very difficult to get in. And I can tell you with the economic situation we have and where we as a society doesn't have—you know, to get into a nursing home or a rest home is extremely pressing, and that is why we sell long-term care insurance. But people who are qualifying here don't have it. The one common denominator is that they are lucky to find you.

FISCAL SOUNDNESS

Mr. MCMANUS. One thing we would like to do, though, is if we can get our costs in line, which we think we can by our approach right now to fiscal soundness, we will have enough money, and once we do something with our property in D.C., then we will have the ability to have another Home on the West Coast to increase the population. That is our goal.

Mr. BISHOP. So a Trust Fund was set up by Congress just to run these two homes?

Mr. MCMANUS. It was set up by General Scott, who captured booty in the Mexican-American War and brought it back in 1852. That is what—

Mr. BISHOP. But this Trust Fund was set up by Congress.

Mr. MCMANUS. Yes, sir.

Mr. BISHOP. And taxpayer money was appropriated into the Trust Fund.

Mr. MCMANUS. No, it was booty that was captured during the Spanish-American War.

Mr. BISHOP. It was what?

Mr. MCMANUS. Booty.

Mr. CULBERSON. It was captured silver and gold. They used the captured booty from Mexico.

Mr. BISHOP [continuing]. Into your collection?

Mr. FARR. So then that was what was the Trust Fund. The Trust Funds—who manages the Trust Fund?

Mr. MCMANUS. We do, the Armed Forces Retirement Home.

Mr. FARR. With some private—I mean, it is invested in what? Securities and other—

Mr. MCMANUS. Yes, sir, we are required to invest in securities and bills.

Mr. FARR. And so the trust is like any other trust right now. It has had a bad few, bad decade, and now it—so that is why it has gone down, right? Or you must stay principal of the trust.

Mr. MCMANUS. Our Trust Fund has actually gone up since 2003 from \$94 million to \$186 million. It is going to go down over the next few years as we disburse—

Mr. FARR. Better than a thrift savings plan.

Mr. BISHOP. You have been spending money on the basics.

Mr. MCMANUS. Yes, because we are going to disburse funding for the Scott Project.

Mr. FARR. But you are required to live off the income from the trust.

Mr. MCMANUS. We are required to live off the Trust. We have five sources of revenue.

Mr. CULBERSON. So you can spend the principal of the trust?

Mr. MCMANUS. Well, technically, yes, we can. That is what happened between 1995 and 2003. It went from \$195 million down to—

Mr. FARR. Because you dipped into the principal. Let me just say that I really am appreciative. I mean, there is nothing—I wish we could take care of every senior citizen—

My wife does end of life planning. She is Sarah Palin's death squad. She does a hell of a job, and people love her for it, because she tells it. She sits down with so many people who don't have the instruction.

What is going to happen to you when you are elderly and you cannot take care of yourself? Can you afford in-home services? Do you know how much they cost? Can you afford a retirement home? Do you know how much they cost? Do you know what the varieties are, the Cadillac models and the Volkswagen models?

Do you know what it is going to cost to get a skilled nursing home? Where would you like to do that? Do you know about hospice? Have you had a durable power of attorney? Do you have any wishes for end-of-life planning, so on?

So every single day she comes home with these stories and just people after people, and I live in a very affluent area. They can't afford to die. They can't afford to live. They just can't afford to live.

In our health care today, we found that 60 percent of the entire health care budget of America is spent in the last 6 months of life, and all these heroic tests keep you alive. We spend no time concentrating on essentially the community of interests that you are in charge of.

And here we have a total number of how many in each home? There are 393 in the Gulfport waiting list. How many are in? How many residents in the Gulfport? How many beds?

Mr. MCMANUS. We have 582 beds.

Mr. FARR. Five hundred eighty-two?

Mr. MCMANUS. In D.C. we have 568.

Mr. FARR. Five hundred—

Mr. MCMANUS. It will be 568.

So you have 1,150 people of all the qualifying elderly, disabled, low-income veterans.

Mr. CULBERSON. With 20 years of service.

Mr. FARR. Not all of them. Just that is the first—

Mr. MCMANUS. Approximately 79 percent are retirees with 20 or more years of service.

Mr. FARR. That is a pretty exclusive, pretty exclusive thing you are running. Does it cost? It doesn't cost them anything, right?

REVENUE SOURCE

Mr. MCMANUS. It does, sir. One of the sources of revenue is actually 50 cents that is taken from all enlisted servicemen and women.

Mr. BISHOP. Fifty cents.

Mr. MCMANUS. Fifty cents every month from the servicemen throughout their tenure.

Mr. BISHOP. From every active duty service member.

Mr. MCMANUS. Then, of course, you have resident fees. So once you are in the Home, then there is a fee for them as well. The biggest source we have is—

Mr. FARR. Well, I guess what I would say, it is really about quality of service. And I think you have certainly high quality. Why couldn't we use all this money to buy a lot more beds for an awful lot more people?

Mr. MCMANUS. Honestly, sir, one of the problems that we found in D.C. is that if the focus is to have long-term care, then it becomes much more costly to have this as our central focus. So if you have 200 beds of long-term care it's more costly versus like in Gulfport where we have more independent living, and to help them stay independent, you will have lower cost.

OTHER RETIREMENT COMMUNITIES

Mr. FARR. There are a lot of retirement communities that have that. I have a retirement community that you buy in, and it is all the way to they take care of you if you need acute care and nursing skills. You die there.

I mean, essentially, you can stay with your spouse. They move you to a more, you know, if the one that is really failing moves into an acute care room, the spouse is still there on the campus and can visit every day. And, I mean, there are all kinds of programs like this.

I can't believe that we are only able to serve 1,150 people when the demand is out there probably in the hundreds of thousands.

Mr. CULBERSON. If I may, I thought I understood one of your requirements were, of course, 20 years of service. You have got to be unable to work and 20 years of service, so it is designed to be aimed at a fairly—

Mr. FARR. And putting in 50 cents a month with the idea that I may need this someday. But it is a pretty exclusive club.

CAREER MEN AND WOMEN

Mr. CULBERSON. Well, career men and women who served 20 years or longer, that is an exclusive group of people.

Mr. FARR. Yes, and I mean, just the ones that get in, because there is waiting lists. You have got 500 beds here in D.C., 568, and 239 people who are qualified to be there, if there is space available. And then you imagine how many more people would—I don't know what—is it just open anytime you can apply?

Mr. MCMANUS. Yes, sir.

Mr. BISHOP. How much are the fees?

Mr. MCMANUS. It is based on a percentage of income, so independent living is 35 percent of their income. The average fee for independent is about \$867.

Mr. BISHOP. Thirty-five percent.

Mr. MCMANUS. That is right. Assisted living goes up to 40 percent. Long-term care is 65 percent.

Mr. FARR. But I thought the people that had got in were all low income.

Mr. MCMANUS. They are. That is what I am saying, sir. That is why, AFRM bases it on a percentage of income instead of a set fee. So the average for independent living is about 860-some dollars a month, where normally you would pay probably \$1,200 to \$2,200.

Mr. BISHOP. How much does an officer or NCO average?

Mr. MCMANUS. Officers would not qualify. It is for enlisted servicemembers and warrant officers who have contributed over the years.

Mr. BISHOP. How much do they pay, and what is the average time to get in?

Mr. MCMANUS. I can find out for you.

Mr. BISHOP. They all have to pay 35 percent of that to the Home.

Mr. MCMANUS. Our average retirees going back to the Korean War is about \$21,000. That is going back to the Korean War, but I am sure there will be a lot more as we move forward.

Mr. CULBERSON. Officers are not eligible.

Mr. MCMANUS. They are not, sir.

Mr. CULBERSON. Separate—is there anything similar for officers?

Mr. MCMANUS. I don't know, sir, unless they qualify as enlisted, and that is serving more than 51 percent of their time as enlisted.

Mr. CULBERSON. I see.

Mr. FARR. Does Mississippi, Gulfport—is that a state that also has state-run?

Mr. MCMANUS. It does.

Mr. CULBERSON. Most of the southern states do.

Mr. MCMANUS. State facilities are more focused on skilled and the highest level of care.

Mr. CULBERSON. And you are really focused on independent living.

Mr. MCMANUS. Independent living and assisted living, although we have, because we want to be able to age through life—

Mr. CULBERSON. Sure.

Mr. MCMANUS [continuing]. So we do have long-term care.

Mr. FARR. So what happens if somebody, I mean, here in Washington when they get to be too frail to live?

Mr. CULBERSON. Independently.

Mr. FARR. Independently.

Mr. MCMANUS. They move into assisted living, and then they would move to long-term care. There are times when we will have a resident—

Mr. FARR. Where do they find that assisted living?

Mr. MCMANUS. They are within our facility there. We have all levels of care.

Mr. CULBERSON. You are providing, obviously, pretty high level of quality.

Mr. FARR. Oh, yes, it is a wonderful purpose.

Mr. CULBERSON. I don't want to do anything to dilute that.

BUILDING MORE

Mr. FARR. Why can't we figure out a way that we could build more? Who are those 239 people in D.C. who might be living right now in conditions where they—the rest of the country that don't even know we have a federally run home?

Mr. MCMANUS. I think it is well advertised by the services. And we also go out and talk to many of them, plus it is on the pay stub. We do marketing and talk to enlisted to make sure that they are aware of the benefit that they have.

Mr. CULBERSON. Mr. Bishop.

ADA COMPLIANCE

Mr. BISHOP. Soldiers do know about it, because they joke about it all the time, you know, you are going to be placed in the old Soldiers Home. But my question is I read that part of the operations and the renovations and the upgrades that you have done on the campus in Washington went to make you compliant with the Americans with Disabilities Act.

Mr. MCMANUS. That is correct.

Mr. BISHOP. That was in 2009.

Mr. MCMANUS. Sir, in 2009 we received the design money and in 2010 the capital in order to rebuild the new facility, which is ADA compliant. In 1998 we did the ADA requirement with the renovation of our Sheridan dormitory.

Mr. BISHOP. Okay. So I think it is not until 1998 that you did the ADA renovation.

Mr. MCMANUS. With the Sheridan, that is correct.

Mr. BISHOP. So when should you have ADA compliance?

Mr. MCMANUS. Whenever we renovate facilities, we are supposed to become ADA compliant as part of that renovation.

Mr. BISHOP. So it is grandfathered in.

Mr. MCMANUS. Yes, sir, unless we renovate. Then it is required that we make it compliant. With our population, this needs to be a requirement.

Mr. CULBERSON. Mr. Yoder.

RECAP

Mr. YODER. Thank you, Mr. Chairman. I would like to follow up on the previous line of questioning. It has been very intriguing to learn about the retirement home. I wasn't familiar with it previously. I was in the House Appropriations Committee in Kansas, and we dealt with the Soldiers Home there, so I have a little familiarity with this type of organization.

I wasn't familiar with these two facilities here, and I was looking at the picture of the Gulfport facility. It is beautiful. Is this the one that was just recently renovated?

Mr. MCMANUS. Just—

Mr. YODER. You mentioned a waiting list; how many people are on this list? You said 200? How long do they normally stay on the waiting list?

Mr. MCMANUS. About 18 months right now—

When you have 300-plus on the waiting list it takes about 18 months. In the 200s, probably about—

Mr. YODER. And the range of age for these folks? They are all the way from age 65 to—

Mr. MCMANUS. Anywhere from 60 years old, which is the requirement. Some are actually younger than that. They qualify because they are unable to earn a livelihood. We had, as I mentioned, the Veterans from Desert Storm, so they aren't 60. But generally, from 60 until—I think our oldest is 105. He is 105, but the average age is 81 years.

TRADITIONAL RETIREMENT

Mr. YODER. And so this is a similar traditional retirement community in that there is social programming and individual rooms? Is there a nursing home that is a component of the home?

Mr. MCMANUS. Yes, sir. They are individual rooms.

Mr. YODER. Right.

Mr. MCMANUS. We currently have a dormitory for independent living and then right now we have another facility base for—and long-term care support and assisted living.

Mr. YODER. Are asking for an appropriation? What is the role of the trust fund? Is this trust fund governed by an authority or some sort of board that makes decisions related to the investments? Who decides where you invest your money?

Mr. MCMANUS. In 2002 the legislation changed. It was governed by a board. In 2002 the COO, my position, reports to Secretary of Defense. So really the Secretary of Defense provides the oversight from the fiscal perspective.

Mr. YODER. In what sort of things is the \$186 million invested?

Mr. MCMANUS. We are required by legislation to invest it in securities and bills.

Mr. YODER. This Trust Fund is generated originally from you said gold and silver from the Spanish-American War.

Mr. MCMANUS. That is correct.

Mr. YODER. And that has been allowed to appreciate I assume. It has been turned into cash, and that is invested. What is the rate of return on a given year? I mean, this conversation you are having here about principal and interest, what is the amount of interest that we will gain next year?

Mr. MCMANUS. We just bought a 20 year note at 5.7. We had to buy securities at a prime interest rate to yield a high rate of return for the years following large disbursements from the Trust due to the Scott Project.

Mr. YODER. So you have \$186 million in the trust, and you will make 5 percent on that a year.

Mr. MCMANUS. It varies. Our notes vary depending on when we buy in.

Mr. YODER. So it is about \$9 million or \$10 million next year, this 5 percent.

Mr. MCMANUS. Probably seven.

Mr. YODER. Seven million.

Mr. MCMANUS. Because we are going to expense from the \$186—

Mr. YODER. So I am confused. We are going to make 7 million in interest, but we are going to spend \$66 million?

Mr. MCMANUS. That is correct.

Mr. YODER. And is that a yearly expenditure, or is that just a 1 year? What is your annual appropriation normally?

Mr. MCMANUS. Normally, we were operating somewhere between \$54 million and \$60 million prior to Hurricane Katrina, and we put all the residents up in one facility in D.C. After Katrina it went up to around \$62 million or \$63 million. Now it has reached \$69 million for 2011, when we opened up Gulfport.

But now that goes down as we—sorry, I am—

Mr. YODER. And so you have income of \$7 million. What other income do you have? What is the rest of your income?

Mr. MCMANUS. We just have five sources of income.

Mr. YODER. So you are not just spending the interest.

Mr. MCMANUS. No.

Mr. YODER. Okay. Where else are we getting money?

Mr. MCMANUS. We had \$62 million as an example in fiscal year 2010 in revenue—fines and forfeitures, \$37.2 million, about 60 percent of our revenue; resident fees, at about 17 percent; and then that 50-cent withholding we discussed. That is another \$7.3 million—was \$6.6 million in 2010, and then sales and gifts were almost a million dollars.

Mr. BISHOP. How much?

Mr. MCMANUS. Almost a million.

Mr. BISHOP. Do you have a gift shop or something?

Mr. MCMANUS. No, sir. People donate money. That is part of the legislation.

PER RESIDENT

Mr. YODER. You are spending \$60 million, and you have about a thousand residents. What is the cost per resident?

Mr. MCMANUS. Something right around \$57,000, well, \$58,000.

Mr. FLAKE. How does it compare to the private sector?

Mr. MCMANUS. About the same. When you consider, that is an average for our residents, so we are about 70-plus thousand, if we want to be clear.

Mr. YODER. So there is no tax revenue that goes into this at all?

Mr. MCMANUS. No.

Mr. YODER. We are taking care of 1,000 soldiers and the waiting list is only 18 months?

Mr. MCMANUS. That is correct.

Mr. YODER. I have heard worse things we are doing in the Federal Government—

Mr. CULBERSON. Well done. Thank you.

Mr. YODER. Thank you, Chairman.

Mr. CULBERSON. And that is well said. I think also acorn apparently coming out of the captured gold and silver from the war with Santa Ana, I guess? Was it the Spanish American or was it the 1845? General Scott created this out of money that he captured

from Santa Ana. He is not particularly liked in Texas, and he probably stole it from us to begin with anyway.

Any further questions?

WAITING LIST

Mr. FARR. Yes, just one on the waiting list. Usually normally in a situation like they are when you think that lower income and probably like that—

And I think people who want to get in probably want to get in right away. You said the average wait time is only 18 months.

Mr. MCMANUS. It is about 18 months.

Mr. FARR. How many people on the waiting list don't make it that long? What is your—

Mr. MCMANUS. Veterans drop off the list for various reasons. Whether it is for family needs or the family wants them to co-locate with them instead of coming into the Home at the last minute, or they can't sell their home and they want or decide to stay in their home. But there are various reasons why they may drop off—

Mr. FARR. And what is the highest income one could qualify to get into whatever the percentage rate, and assuming they have the disabilities that are actually noted?

Mr. CULBERSON. Is there an income cap?

Mr. MCMANUS. There isn't an income cap.

Mr. CULBERSON. No income cap.

Mr. BISHOP. Did I understand you to say that there are no taxpayer dollars that go to support this?

Mr. MCMANUS. No, there is none.

Mr. BISHOP. Well, what are you asking us?

Mr. MCMANUS. By legislation we are required to have Congress appropriate money from our Trust Fund to be used for our facilities.

Mr. BISHOP. Oh, we just tell you how to spend your own money.

Mr. MCMANUS. You authorize us to use our money.

Mr. BISHOP. Okay. We are just allowing you to spend your own funds.

Mr. CULBERSON [continuing]. On behalf of the four payments on—

Mr. FARR. Well, we have an active duty regular morale operating account, which is a—dollar account that runs all the business and all the income from all the businesses that are on the military bases in the United States.

And those are called non-appropriated funds, and they have a subcommittee on the standing committee that oversees those, you know, and I don't know what all. I think those investments are—probably just a whole bunch of funds, trust funds out there, and the Federal Government runs them, and they could be managing their own.

Mr. MCMANUS. That is what it is. We are part of the Government—and form their own—

Mr. FARR. Well, I, you guys, oh, my. Sorry, I know it is a tough question, but it is too bad we have a trust fund that is so—that we can't just, you know, you are in deep water and use it, because we could be growing need out of that.

Or my generation is going to be in the situation pretty soon when we get out at retirement, a lot of those people have a marginal cost of living, and they are—

And we will have a longer living elderly population. I see, frankly, I don't know where in Congress we want to do with this.

Nobody has ever addressed an aging society and their needs. Nobody ever thought that Medicare would have to pay for so many years—million bucks that Social Security could run into—veterans benefits in order to make.

AGING POPULATION

Well, what do we do with this aging population? We have no modern policy, and we require people wanting to retire at 65, a lot retiring even at 55. And they are going to live a long time. It is not just this. The pressures that are on you by an aging society with limited income are going to have all kinds of consequences to the future of America.

And we are not addressing if we tried to do that with the Older Americans Act, which was a brief beginning of let us look at the fact that we have older Americans. And we have never gone beyond the—and the 60s. Normally, they were looked at. You know, where you are going to do all this—we have some responsibilities.

WAITING PERIOD

And I would like to sell some of that gold and silver booty on the market today. I would be more than happy—

And we can serve a lot more people. Isn't it tragic we have to wait 18 months to get in where you are—and I think people at that stage are pretty desperate.

Mr. CULBERSON. What a marvel that the service is there for those that can qualify and able to provide that.

Mr. FARR. And we ought to find out how much of our homeless population is—you have them on the list.

Mr. CULBERSON. Thank you very much for your service, Mr. McManus. Thank you for being with us today. And the committee is adjourned.

[Questions for the Record submitted by Congressman Bill Young follows:]

Question 1. The Armed Forces Retirement Home is a positive program that provides members of the military the opportunity to spend their final years with other men and women who served in our armed forces. Recently, the Gulfport Armed Forces Retirement Home opened its new facility. With the two facilities, the Armed Forces Retirement Home covers two major regions of the US — East and South. Has there been any consideration of creating an Armed Forces Retirement Home West to service members who have families in the Western United States?

Answer. We appreciate Congress' support to rebuild Gulfport and the renewal of the Washington, DC Home. These efforts have modernized, right sized, and created the opportunity for growth; however, it is premature to speculate on future growth until the Washington renewal effort is completed in 2013.

Question 2. Members of the Gulfport Armed Forces Retirement Home recently moved back to Gulfport last fall. Can you comment on the reintegration to the new facility and any challenges that have been faced?

Answer. The standup for Gulfport was seamless throughout the reintegration. Our staff in Washington developed, awarded, and operated contracts until staff were onboard and prepared to conduct business. We were met with open arms by the local community and public sector. This has been an incredible team effort. Volunteers from across the area have had a big impact on resident quality of life and wellbeing. Both Keesler AFB and Biloxi VA Hospital have been very supportive of our medical needs. Just this last week, 6 April, the acting AFRH Chief Operating Officer met with the Director, VA Medical Center, Biloxi, MS and Commander, 81st Medical Group, Keesler Air Force Base, MS to discuss reviewing/studying potential efficiencies that can be gained through the Joint Venture Program or by working together. Both were very supportive.

CONGRESSIONAL BUDGET JUSTIFICATION
FISCAL YEAR 2012

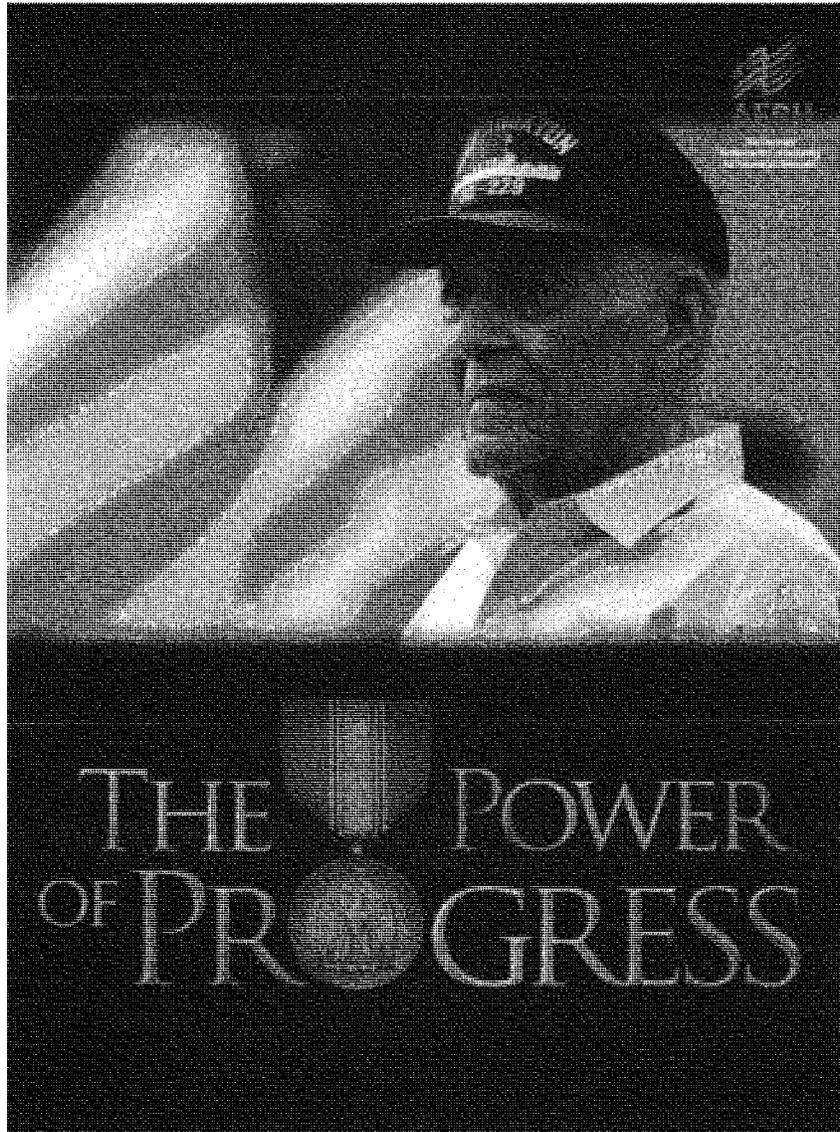


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AFRH Residents and Pearl Harbor survivors commemorate that December 1941 day.

**APPROPRIATION LEGISLATION****TRUST FUNDS**

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home_Washington, District of Columbia, and the Armed Forces Retirement Home_Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, [~~\$71,200,000~~]~~\$67,700,000~~, of which \$2,000,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home_Washington, District of Columbia, and the Armed Forces Retirement Home_Gulfport, Mississippi.

(Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010.)



INTRODUCTION

The Armed Forces Retirement Home (AFRH) is proud to present the Congressional Budget Justification (CBJ) for Fiscal Year 2012.

First, we would like to thank the Congress for strongly supporting the replacement of the former Navy Home in Gulfport, Mississippi, and the renewal of the Washington, DC Home. We successfully opened the Gulfport Home last fall on time and on budget, and plan to do the same here in Washington. Fiscal Year 2010 was a year marked by significant progress for the AFRH. We created a major new senior living pilot program -- Independent Living Plus (ILP), now populated with 46 residents. In the final year of our FY06-10 Strategic Plan, we have realized many of our goals and objectives -- a proud moment for AFRH.

The Fiscal Year 2011 Budget Request contained an increase of \$7.4 million for our Operations & Management (O&M) account and \$2 million for infrastructure. This funding was requested in order to complete our Gulfport campus and renovate one of our major dormitories in District of Columbia (DC) (Scott Project).

Our strategic objectives for both campuses became a reality as the Washington managers worked diligently to replicate their processes, contractual services, and programs for a receptive new Gulfport management. For the first time in AFRH's long history, we have two campuses mirroring one another. Our Request for 2012 reflects our new configuration of two distinct facilities while encompassing a "One Model/One Home" philosophy; which ensures that Residents on both Campuses are treated equitably. The residents who have lived in both places will feel even more at home with the same level of care and services. In order to ensure that these ever-increasing efficiencies and economies are obtained the total request for 2012 is \$67,700,000.

Focused on fulfilling our vision "to actively nurture the Health and Wellness Philosophy of Aging while providing our nation's heroes with a continuum of Life Care Services in a community setting", we have been reforming and improving our operations. The new Gulfport facility represents the finest 21st century model for senior living with energy efficiencies and ample area for programs and activities. Through the Scott Project and the Independent Living Plus pilot program at the Washington campus, we have continued to develop services better matched to the residents' needs and abilities. Each undertaking has been in an effort to make residents more independent and mobile, as well as improve our Return on Investment (ROI).

We also met other strategic objectives. In the Financial arena, AFRH received its 6th annual "unqualified" audit opinion and the Trust Fund balance reached its highest level in decades (\$186 million). FY10 was a year of transformation in our information systems as we partnered with National Business Center to provide a hosted network compliant with the Federal Information Security Management Act of 2002 (FISMA). FY10 performance challenges centered on our Strategic Human Capital Plan, succession plan, staffing models, military heritage, training, and managing costs and expenditures. All of the aforementioned items resulted in movement towards our goals.

AFRH responded to several oversight organizations throughout 2010. So of these responses are as follows:

The Office of Personnel Management (OPM) audit complimented AFRH on various focus areas. OPM also recommended improvements in the Performance Management system as well as coding and record keeping issues at Bureau of Public Debt (BPD).

The Local Advisory Board provides their expertise and knowledge in senior living. They met with AFRH Management to be educated on the capital and service improvements. The Advisory Board concurred with the direction that AFRH was going in.

The Department of Defense (DoD) Inspector General (IG) inspection resulted in fourteen (14) findings and five (5) recommendations. The AFRH IG implemented all recommendations and findings. They included items such as: increase weekend trips for residents, repair fire hydrants, improve investigations with DC Police Department and exploring the possibility of AFRH security personnel receiving DC police investigative training, and increase Local Advisory Board participation. Of note is that AFRH completed repairs to 101 streetlights, 25 fire hydrants, and four main domestic underground water pipe breaks.

The accrediting organization, Commission on Rehabilitation Facilities (CARF), performed their annual inspection in September 2010. CARF offered suggestions and ideas but culminated with praise for the staff that cares for the residents. CARF is focused on the "person-centered" approach and has made various recommendations. Responding to these recommendations, AFRH has been improving their processes to be ready for the next inspection which will occur in September 2011.

AFRH's priorities have remained steady for several years now. FY 2010 saw the culmination of a momentous effort to rebuild and open a modern AFRH-Gulfport (AFRH-G); streamline activities on both campuses; and embark on renovating and modernizing AFRH-Washington (AFRH-W).

- Goal 1: Healthcare (Resident Well-being)
- Goal 2: Housing (Gulfport & Washington)
- Goal 3: Stewardship (Corporate Effectiveness)

This CBJ presents complete, reliable information that demonstrates our efforts to hold both campuses to the highest standards of accountability. As we move forward to our vision of a vibrant, economical operation at both AFRH campuses, we continue to work to use the dollars of former military personnel efficiently and in their best interests.



STRATEGIC PLAN FRAMEWORK

VISION:

To actively nurture the Health and Wellness Philosophy of Aging while providing our nation's heroes with a continuum of Life Care Services in a community setting.

MISSION:

To fulfill our nation's Promise to its Veterans by providing a premier retirement community with exceptional residential care and extensive support services.

GUIDING PRINCIPLES:

We expect our workforce to achieve what we promise to our residents, staff and service partners. To ensure success, we measure progress and provide feedback to our customers.

We continuously work to improve our processes, services and delivery while striving for excellence in all we do. We expect excellence and reward it.

We honor the rich history of the US Armed Forces – from our Veterans to our victories. As such, our campus reflects that military heritage with memorabilia and tributes.

We will strongly uphold the mission of AFRH. We are honest and ethical and deliver on our commitments. We recognize that good ethical decisions require individual responsibility enriched by collaborative efforts.

We strive to hire and retain the most qualified people. We maximize their success through training and development as well as maintaining and promoting open communication.

Success depends on our devotion to consistently serve ever-changing customer preferences. Hence, we vow to be innovative and responsive – while offering exceptional products and services at competitive prices.

Strategic Goals

Create financial net growth and stability for the AFRH Trust Fund.

Enhance the overall AFRH experience to enrich the quality of residents' lives.

Modernize internal operations to maximize & leverage resources across AFRH.

Promote personal excellence and professional growth for all personnel.

Inspire commitment to the AFRH Guiding Principles through mutual respect.

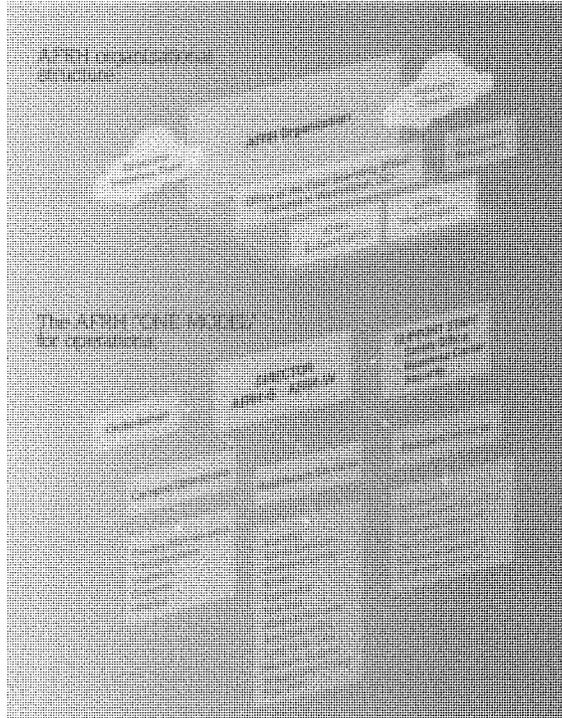
AFRH Organization

AFRH is a unique Federal Agency that resembles a private sector Continuing Care Retirement Community (CCRC). The Chief Operating Officer (COO) is subject to the authority, direction and control of the Secretary of Defense, delegated to the Under Secretary of Defense (Personnel & Readiness) and the Deputy Under Secretary of Defense for Military Community & Family Policy. A Local Advisory Board helps provide expert experience and knowledge of military and medical related concerns.

AFRH is organized in a contemporary business establishment, with a corporate office that manages independent functioning retirement communities in different locations. This arrangement allows corporate to make strategic decisions, as well as communicate with Congress and constituents.

Using the successful "One Model" for all community operations, each Home has a Director who reports to the COO. Plus each community can make its own tactical operational decisions, manage its facilities and respond to local resident requirements.

AFRH





RECENT ACCOMPLISHMENTS

FY 2009

October 2008

- Withdrew \$5.6 million from the AFRH Trust Fund to start design and planning of Scott Project

November 2008

- Completed the health assessment of 995 residents, the Vitality Plan, to assess level of care services required
- Earned an "unqualified opinion" from independent external auditors (4th year in a row)
- Three AFRH residents qualified for the 2009 National Senior Olympics (Aug 2009)

January 2009

- AFRH-Washington golf course designated "Certified Audubon Cooperative Sanctuary," the first golf course to achieve such honor in the nation's capital.
- Created staffing models for new "right-sized" AFRH

March 2009

- Building at AFRH-Gulfport is "topped off" as all exterior construction is completed
- Finalized the 10-year AFRH Long Range Financial Plan to ensure AFRH Trust Fund Solvency and to move ahead with the Scott Project at AFRH-W
- Halted progress on the highly promising revenue generator – the Washington Master Plan – due to economic downturn.
- Created AFRH Communications Plan (3-year) to guide the establishment of the new AFRH-G facility and AFRH-W Scott Project

April 2009

- Eight AFRH residents (World War II veterans) participate in "play for peace" softball game in Japan
- Hosted the first monthly focus groups for Gulfport and Washington on construction projects
- US Coast Guard Chief Warrant Officers' Association (CWOA) and the Chief Petty Officers' Association (CPOA) worked on their semi-annual pond beautification project at AFRH

May 2009

- Started development of support services to implement "Aging in Place" service delivery model

June 2009

- Formed two interim Resident Advisory Council (RAC) committees to provide resident input for AFRH-G Transition and AFRH-W Scott Project

August 2009

- Fourth anniversary of Hurricane Katrina is observed
- Initiated contract with CMI Management, Inc., the new facilities services at AFRH-W
- GSA awarded contracts to Design Management Associates (DMA) for the AFRH-W IT Relocation Study review support and to Leo Daly for preparation of the Independent Government Estimate for Bridging Architect-Engineer fees
- GSA selected Dimella Shaffer, Boston, Massachusetts as the Bridging Design Architect-Engineer and Jacobs Engineering as the Construction Manager (CM) for the Scott Project

September 2009

- Underwent DoD IG inspection with no major findings
- Signed MOA with Department of Interior (DOI) National Business Center (NBC) for AFRH-wide information technology services
- Completed the first AFRH Strategic Human Capital Plan (SHCP)
- Implemented an Agency-wide Performance Management Program (PMP)

- Co-hosted with President Lincoln's Cottage "Freedom Day" (September 22) honoring the 147th anniversary of President Lincoln signing the Emancipation Proclamation, the birthday of the Home's founder General Winfield Scott, and American military service
- National Capital Planning Commission (NCPC) approved the Scott Project

FY 2010

October 2009

- Coast Guard volunteers for pond clean-up project at AFRH-W continues for 3rd year in a row
- Building 22 at AFRH-G demolished

November 2009

- Dr. Sissay Awoke, Medical Director, appointed as the new AFRH-W Health Care Administrator

December 2009

- For the first time since its inception, the U.S. Soldiers' and Airmen's Home National Cemetery was part of the Wreaths Across America program which took place across the country on Saturday, Dec. 12.

January 2010

- Reviewed initial design concept for new Commons/Healthcare building for Scott Project
- Closed Scott 3 building (formerly for Assisted Living residents)
- Gulfport Ombudsman Master Chief named for new Gulfport facility
- Established the Resident Support Team (RST) to set up Independent Living Plus (ILP) program

February 2010

- Opened pilot program for Independent Living Plus (ILP) – part of Aging in Place – with 10 residents and RST of 3.
- Gulfport Director hired for new Gulfport facility
- Building 13, last remaining original building at AFRH-G, demolished
- Started transition in Scott with relocation of Volunteer Services

March 2010

- Moved to Pay.Gov through Department of Treasury

April 2010

- Completed the Stover Study whose aim was to get costs under control and integrate food service
- Study FTEs and labor force (saved more than \$4m in 2010 and \$2M per out-year)
- US Coast Guard partners with AFRH-W to clean up the fish pond

May 2010

- Completed 1st year with Millennium Pharmacy

June 2010

- National Capital Planning Commission (NCPC) approved the Scott Project concept design
- AFRH-W was part of the DC Walking Tour for the first time in partnership with President Lincoln's Cottage
- Seabees from Construction Battalion Maintenance Unit (CBMU) 202 Detachment from Washington, DC poured a concrete pad and installed an anchor on the AFRH-W grounds

July 2010

- GSA handed over the keys to Gulfport on July 28, 2010
- Increased AFRH-Washington ILP to 40 residents
- AFRH-W Volunteer Coordinator continues to expand the program with volunteers from the Army Volunteer Corps Program at Walter Reed Army Medical Center and with volunteers from the Dept. of Veterans Affairs Headquarters

August 2010

- Observed the 5th year since Hurricane Katrina
- Priority 1 Gulfport residents residing at AFRH-G selected their rooms in the new facility
- Final Design Concept approved for the new AFRH-W Commons and Healthcare building (Scott Project)
- AFRH residents hosted in Korea in commemoration of 60th anniversary of Korean Conflict

September 2010

- Held the last Gulfport focus group for returning residents
- Farewell picnic for Gulfport residents with a presentation of a marble plaque donated by grateful Gulfport residents
- Gulfport Priority 1 residents packed their household goods for shipment to AFRH-G
- Total number in AFRH-W ILP equals 46 residents
- CARF-CCAC inspection at AFRH-W – renewed accreditation

AFRH STRATEGY

When OMB called upon all Agencies to support the President's attention to high-impact goals, AFRH had already been working on this by focusing on its "significant challenges." Dubbed originally as Focus Areas and now as High Priority Performance Goals, AFRH has worked diligently to make progress in the following areas.

Ensure exceptional resident care and extensive support.

CARF, the accrediting body, and AFRH share a "person-centered" philosophy for those served. This innovative approach to residential senior living entails attention and responsiveness to each individual's physical, mental and social needs. The necessary training on AFRH's deployment of the "person-centered" approach has been developed and will be given to every employee, contractor, and volunteer.

CARF accreditation was renewed in 2010 after the annual inspection in September 2010. Following on the heels of the DoD Inspector General's review in 2009, AFRH has pushed its entire staff to meet requirements and adjust to recommendations. An overhaul of the Performance Improvement (PI) process has been underway since the summer of 2010. Training was completed in December 2010 and the new PI team began work in January 2011.

Assessment of residents upon arrival and at critical junctures in their healthcare management is a key action to which AFRH must adhere. A review by CARF and by an independent senior living consultant has pointed out ways to improve coverage and provided meaningful input for resident assessments.

Aging in Place (AIP) initiatives support the health and wellness philosophy of aging which aims to keep residents as independent as long as possible. The pilot program for Independent Living Plus (ILP), the first unit in AIP, was developed during FY 2009 and was formally introduced in January 2010 with 10 residents. Under the direction of the Director of Nursing (DoN), the Resident Support Team (RST) administers assistance to the ILP residents. Based on almost an entire year's experience of resident needs, the RST has expanded to two Registered Nurses with two Licensed Practical Nurses. The program has grown to 46 ILP participants, mostly needing assistance with medications, light housekeeping, and bathing.

Resident Satisfaction is measured annually and is well over the 70% satisfaction rate sought for. On annual surveys, residents have rated AFRH services at 75% in the "Outstanding" or "Above Average" category. For the second year in a row a Dining Survey was conducted in the Healthcare area with 80% in the "Excellent" or "Good" ratings for all areas queried.

Add residents to a fully functional facility in FY 2011.

Renovate the campus while maintaining the appropriate size to fully accommodate our residents' needs (estimated completion of 2013)
(The modernization projects are of such significance that we have fuller discussions on the pages following Goal 3.)

Maintain overall vitality via more efficient

management.

Success in this area means solvency of the AFRH Trust Fund. During FY 2010, we reviewed and updated the AFRH Long Range Financial Plan. Again, the analysis and forecasting assured solvency. Development of the plans for AFRH in the near term and the transition years were key. The Risk Management Plan, already developed, will be monitored by the new PI process at each campus with reports to the Internal Control (IC) Board.

Financial reporting continues at a high level of accuracy as AFRH received its sixth Unqualified Audit Opinion. Training of AFRH staff ended on a high note with training presented to 100% of the new AFRH-Gulfport staff and between 80-93% in all mandatory training classes at AFRH-Washington. Emphasis on "person-centered" training has already begun.

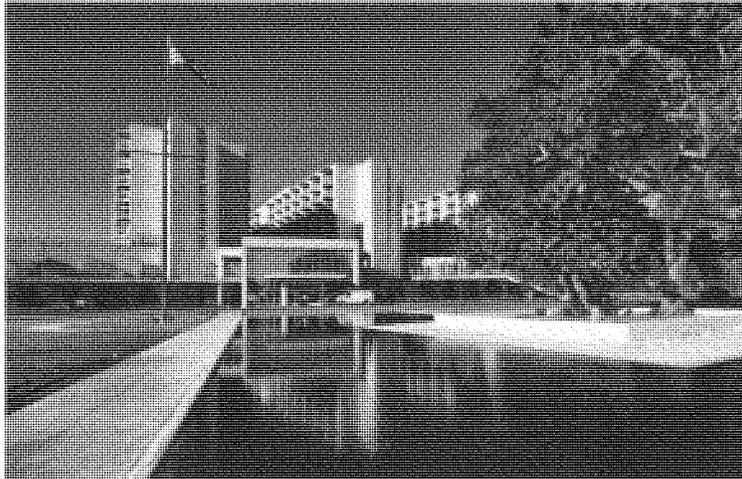


GULFPORT TRANSITION

Add residents to a fully functional facility in FY 2011.

Mission accomplished! With top-notch construction management, advanced engineering, and efficient scheduling, a modern facility with new amenities is complete. The Gulfport facility which was destroyed by Hurricane Katrina in 2005 was rebuilt over 4 years with funding provided by Congress. The Trust Fund provided approximately \$21 million of the rebuild, which was reprogrammed specifically for the rebuilding of the Gulfport campus.

The new modern facility was officially turned over to AFRH in July 2010. Staffing began with the hiring of key personnel early on in 2010 and followed by the hiring of support staff. Training was completed in the summer of 2010. As planned, the first Gulfport residents arrived at their new Home on October 4, 2010.



AFRH-Gulfport Front Entrance October 2010

Throughout FY 2010 AFRH-W staff planned diligently for the Gulfport opening. Stellar work in developing Gulfport service contracts, as well as moving Gulfport residents and their household goods from DC, made the transition a success.

AFRH transported 135 former Gulfport residents residing at AFRH-W and their household goods from AFRH-W to AFRH-G. Additionally, AFRH covered the moving and transportation costs for more than 100 AFRH-W residents who were on the waiting list for AFRH-G. Gulfport is over 90% occupied with a waiting list as of January 2011. Full occupancy is anticipated by March 2011.

The Grand Opening "Glory on the Gulf" program was on November 9, 2010, attended by local and national Government officials, residents, families, and friends of the Gulfport veterans. Celebrating the successful return to a modern facility, the grateful residents proudly showed off their new Home.



WASHINGTON SCOTT PROJECT

Renovate the campus while maintaining the appropriate size to fully accommodate our residents' needs (estimated completion of 2013).

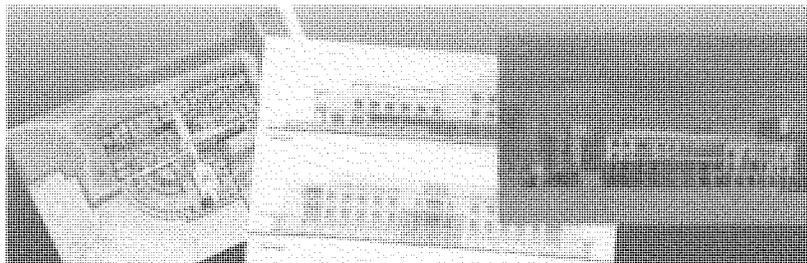
High on a hill overlooking Washington, DC, the AFRH has been home to many of the unsung heroes of necessary and just wars in America's defense of freedom. As our residents have aged, so have the buildings and infrastructure around them. Soon, a modern facility with the latest amenities – one that respects our rich history and will match the new AFRH-G facility– will adorn these grounds.

"The Scott Project" is underway. Throughout FY 2010, AFRH staff worked with designers to finalize the design concepts. Completion of the construction is slated for FY 2013. The project includes demolishing the Scott dormitory, building a new common area and healthcare services area, and relocating Assisted Living (AL) to the Sheridan.

The new "Commons" will replace the aging Scott Building with a new structure featuring more amenities with less maintenance. Energy efficient structures are designed to current building codes and in compliance with the latest standards and practices in senior care design. Long-term Care (LTC) and Memory Support (MS) residents will be in closer proximity to Independent Living (IL) and AL residents. This option has the advantage of drawing LTC and MS residents into the community, instead of keeping them in the remote and isolated LaGarde Building. The new Commons will include a progressive Health and Wellness Center (with medical, dental and optometry services).

All plans are rooted in the Aging in Place philosophy and are financed from the AFRH Trust Fund. This will help our Washington facility keep pace with the new Gulfport community and bring greater health and wellness to residents. Under GSA's project management, the Scott Project will produce a facility with a similar population to Gulfport.

	IL	AL	MS	LTC	Total
Gulfport	474	60	24	24	582
Washington	450	58	24	36	568



Artist concept of the new Commons/Healthcare building.

Project Execution

AFRH partnered with GSA to manage this project via its design/build project delivery methodology, starting in August 2008. GSA procured the Bridging Design Architect-Engineer (AE), DiMella Shaffer, using GSA's Design Excellence procedures in August 2009. The Construction Manager selected is Jacobs Engineering.

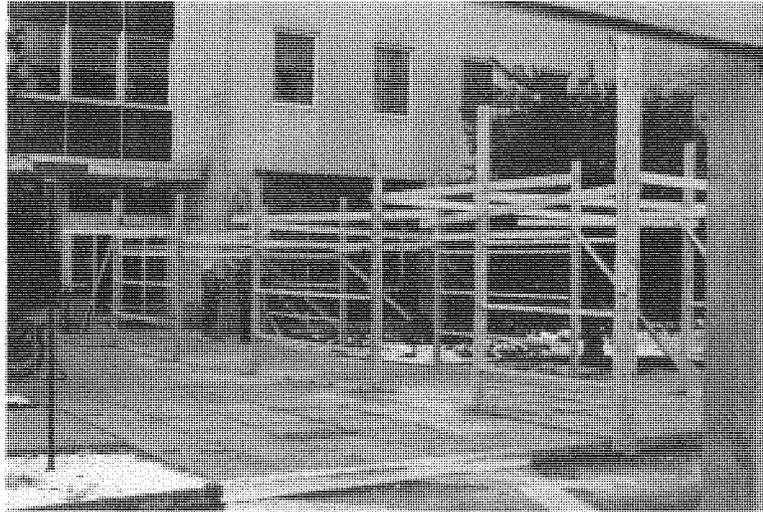
Throughout FY 2010, DiMella worked with the Program of Requirements (POR) created during the analysis for the long range financial plan and developed a conceptual design which was reviewed in

early 2010. AFRH staff worked with the designers to modify the designs and completing them in August 2010. Bids were completed for the Construction Design Build and will be awarded in January 2011. All conceptual designs were reviewed and approved by the National Capital Planning Commission (NCPC).

The transition period began in earnest when the contracts were awarded in the summer of 2010 for relocation of the IT and chiller/cooling tower to Sheridan (prior to the demolition of the Scott building). Work also began in the Sherman Building for the temporary relocation of the Business Office, dining facility and the theater. In Sherman North, leased space was cleared, the elevators were renovated, and work has begun to transform the space into a fully functional area.

A special walkway from Sheridan to the basement of Sherman is under construction. The engineered walkway will be covered in inclement weather to aid residents traveling to and from their living quarters to the Sherman Building.

In December 2010 the Scott Building ceased to be a dormitory. With the departure of many Gulfport-bound residents, the remaining residents were all accommodated in Sheridan. The Scott will be demolished by May 2011 with new construction to be completed by December 2012. LaGarde will transfer all its residents to the new Healthcare building in January 2013. Sheridan second and third floors will be renovated starting in January 2011 to accommodate all AL residents.



Walkway from Sheridan to the basement of Sherman is under construction



AFRH FINANCIAL DEVELOPMENT PLAN

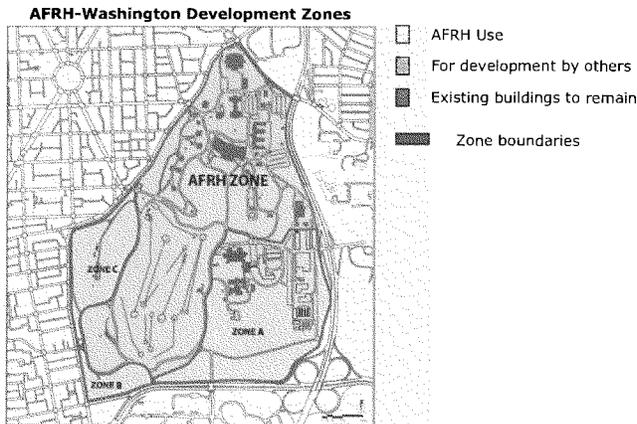
The National Defense Authorization Act for FY 2002 permitted AFRH through DoD to sell, lease or otherwise dispose of underutilized buildings and property. So, AFRH launched its real estate development plan, first named the Washington Master Plan, and currently known as the AFRH Development Plan.

The AFRH Development Plan focus is to preserve and improve life for the residents and the community a 77-acre parcel of land, Zone A, highlighted in chart below. At the same time this Plan aims to create an additional revenue stream for the Trust Fund.

In November 2002, AFRH started an effort to determine and identify what real property is essential to the core mission of the AFRH. Using the Department of Army's Inspector General Inspection of 1999, the Most Efficient Organization Study, internal reviews and a Manning Analysis we determined what core mission requirements are and how to minimize risk to the AFRH mission. The Inspector General's inspection of 1999 also identified significant cost savings which could be achieved by better management of facilities and personnel relocation.

The Plan seeks to attract development at a fair market value that is compatible with the AFRH Mission. In summer 05, an open dialogue with the residents and neighbors began. At the close of FY06, a major milestone was reached: we chose three potential developers for the first AFRH redevelopment project. In 2007, a plan contract was awarded to a preferred developer for Zone A. In 2008 we finally received approval from the National Capitol Planning Commission (NCPC) to move forward with the Plan. We were poised to continue with GSA as our development partner. Although postured, AFRH never reached an agreement to proceed with the development on the campus. Although market conditions were deteriorating during the course of the discussions between AFRH and the preferred developer (April 2007 – September 2008), the cessation of negotiations was based on the inability of the respective organizations to reach agreement on several fundamental transaction-related issues related primarily to the control structure of the transaction.

This Plan remains approved and on hold until market conditions improve.





MASTER PLANNING

AFRH is beginning to develop separate 10-year Master Plans for each campus to capture all individual development projects under one umbrella and to align the Long Range Financial Plan with the capital improvement needs.

GULFPORT MASTER PLAN

Although the Gulfport facility was recently reconstructed and opened in October 2011, the campus has capital improvement needs resulting from a focus on “person-centered” care. Any projects envisioned for development in the next ten years must be planned and funded.

The Gulfport Master Plan is being developed in 2011.

WASHINGTON MASTER PLAN

After consultations with historical, architectural and energy experts and engineering consultants, AFRH has determined that the best and most efficient footprint at the Washington campus exists around the historic quadrangle near the Eagle Gate. With that in mind, AFRH is no longer utilizing buildings that do not serve the current population such as the old security building, the former administration building, and the Grant Building. These buildings are available for renovation and use by outside interests.

With the Scott Project in progress, several transition projects are already underway: creation of transition space for activities and dining, a walkway from Sherman to Sheridan, moving the chilling towers and IT, and creating assisted living rooms in Sheridan.

More projects are envisioned to include renovating the Eagle Gate, putting Sherman and Sheridan on their own heating units, upgrading heating and cooling to the historic residences that are being leased, upgrading security fences and access, moving 2 golf greens adjacent to the 77 acres of the development zone A, creating keyless entry to resident rooms, building smoking shelters, upgrading the historic Gazebo, installing safety deposit boxes, building a new Golf clubhouse to Leadership in Energy and Environmental Design (LEED) standards, and developing ways to water the golf course. Another project is to design ways to allow residents and visitors to move through the campus using golf carts via walkways in order to visit remote areas of the campus such as the historic Scott monument with its splendid view of the US Capitol. The AFRH-W campus also has projects underway involving American Disabilities Act (ADA) accessibility requirements, suicide prevention modifications, and signage for visually impaired residents.

Other initiatives include shutting down the Power Plant, remapping utility grids and revitalizing certain historic buildings through a national program support.

Power Plant Phase-Out

The present plant is old and distributes steam, which requires full-time licensed operators and utilizes old underground distribution lines. Economies are available from decentralizing these steam heating systems and installing modular systems, which don't require operators, in each of the buildings. A gradual transition from the central plant may result in the plant load becoming too small to maintain operations, at some point. First off, the fuel costs to provide campus heat can be reduced by as much as 37% by utilizing decentralized heating systems with modern technologies. Second, the steam plant can produce steam at lower levels while still operating properly. While it is economical to replace the current steam system, AFRH is not forced to make this replacement as buildings are removed. The best transition is an immediate change to distributed heating systems, which will produce the greatest economies. Yet, that would require a maximum capital expenditure. The recommendation is to incorporate new modular heating systems within each new project, including the Scott Project, until the rest of the campus can be converted and the steam plant may be shut down.



BUDGET IMPLICATIONS

The 1991 Defense Authorization Act, Public Law 101-510, created an Armed Forces Retirement Home (AFRH) Trust Fund to finance the AFRH-Gulfport and the AFRH-Washington Homes. The Homes are financed by appropriations drawn from the Trust Fund.

The AFRH Fiscal Year 2010 Performance and Accountability Report displayed the significant progress of the AFRH over the past six years.

The Gulfport Home was rebuilt within funding and on schedule in 2010. AFRH received \$5.6 million for the planning and design of the Scott Project in 2009 and an additional \$70 million from the Trust Fund in 2010 for completion of the Project, which will create better living conditions for residents; promote aging in place; and bring AFRH resident facilities in line with the Americans with Disabilities Act (ADA), fire codes, and other building specifications. This Project is also within funding and on schedule.

The AFRH provides, through the Armed Forces Retirement Home-Gulfport and Armed Forces Retirement Home-Washington, residences and related services for certain retired and former members of the Armed Forces. The agency's annual operating costs will decrease by approximately \$4 million in 2012. This decrease is associated with the pay freeze and AFRH's continued efforts to become more fiscally sound and move towards a sustainable AFRH Trust Fund.

We have set the groundwork to reduce operational costs in Washington. Residents moved back to Gulfport and Washington is streamlining operations to adhere to the decrease in population.

FY 2011 marked the last year of growth as the new facility opened in Gulfport, MS on October 1, 2010.

We expect our Budget Authority to stabilize in 2011 as resources (funding and FTE) continue to shift from Washington to Gulfport. Although we are standing up Gulfport in 2011, the Assisted Living, Memory Support, and Long-term care population will grow as resident's age in place. Initially in Gulfport we are planning a deminimus amount of beds being occupied in these levels of care, which will minimize our costs across the Agency.

We are working on multiple initiatives to reduce costs in the out-years. Our primary efforts are an "Independent Living Plus" program to assist our residents with aging in place. We believe this effort will reduce costs in the Trust Fund while enhancing the care and well-being of our residents.

The greatest risk to the Trust Fund will occur over the four transition years (e.g. 2010 - 2013) as we establish and maintain operations in Gulfport and transition to a reduced footprint in Washington. Many of the infrastructure and new facility changes occurring at AFRH will have a positive, direct impact on the solvency of the Trust Fund. Although we recognize negative growth will occur between the transition years as we expense the Scott Project, we expect positive growth to continue after 2013. We are also reviewing our fee structure and enhancing staffing at the Agency level to meet growing demands of the transition years. As we move forward to our vision of a vibrant, economical operation at both AFRH campuses, we continue to work to use our funding wisely and in the best interest of our stakeholders.

FY 2012 BUDGET

The Gulfport Home was rebuilt within funding and completed on schedule in 2010. The first residents returned to Gulfport on October 4, 2010. The modernization at the DC campus is ever evolving through the design build of one of our primary dormitories - The Scott Building. The Scott Project was approved and funded by \$5.6 million and \$70 million in FY 2009 and 2010 respectively from our Trust Fund. This Project will create better living conditions for our DC residents; promote aging in place; and bring AFRH resident facilities in line with the Americans with Disabilities Act (ADA), fire codes, and other building regulations. This Project is also within funding and on schedule.

Our Budget Request of \$68 million for FY 2012 contains \$66 million in Operations & Maintenance (O&M) and \$2 million in Capital Improvements. The O&M request reflects \$3 million in growth to begin full operations in Gulfport with the transfer of 238 residents from DC to Gulfport. These resident transfers contribute to a decrease of \$6.5 million in DC as the facility begins to eliminate transition duplication,

modernize and right size to the population it will serve. This will produce a net decrease of \$3.5 million in operating costs across the Agency in 2012. This decrease is associated with AFRH's continued efforts to become more fiscally sound and move towards a sustainable AFRH Trust Fund.

The Gulfport Campus will grow by 21 full-time equivalents (FTE) employees, which is completely offset by a 21 FTE reduction on the Washington Campus, thus producing no net growth between FY 2011 and 2012. Being that our mission is peculiar in nature when compared to other Federal Government Agencies; our non-labor expenditures contain a diverse assortment of fundamental cost drivers. AFRH's key cost drivers are: Dining Services; Subsistence; Nursing; Wellness Center; Dental and Optometry; Utilities; Facility and Grounds Maintenance; and Transportation.

We expect our Budget Authority to peak in 2011 and then decline as the duplication of resources (funding and FTE) decline as the shift from Washington to Gulfport is completed. Although we have opened Gulfport for residency in 2011, the Assisted Living, Memory Support, and Long-term care units will grow as the resident population ages. Initially in Gulfport our plans reflect few occupied beds in these levels of care. The result is a drawdown of our costs across the agency.

We are working on multiple initiatives to reduce costs. The primary effort is our "Independent Living Plus" program, which assists residents with aging in place. We believe this effort will reduce costs in the Trust Fund while enhancing the care and well-being of our residents.

The greatest risk to the Trust Fund is occurring over the four transition years (e.g. 2010 - 2013) as we stand up operations in Gulfport and transition to a reduced footprint in Washington. Many of the infrastructure and new facility changes occurring at AFRH will have a positive and direct impact on the solvency of the Trust Fund, as well as a profound influence on the well-being of our residents. As we move forward to our vision of a vibrant, economical operation at both AFRH campuses, we continue to work to use our funding wisely and in the best interest of our stakeholders.

The budget forecast shows that operating costs for the Washington campus will decline from \$45.9 million in 2009 to \$36.6 million in 2012. This represents approximately a 20 percent reduction in 2012 for the DC campus. The Scott Project will generate savings in all major cost drivers:

- Consolidate Dining Services so that only one dining facility is operational
- Reduce subsistence costs by approximately 40%
- Reduce nursing staff by almost 50% from FY09 levels
- Reduce utility costs by approximately 44% or greater
- Reduce facility maintenance requirements by greater than 50%
- Reduce custodial requirement by approximately 40%
- Streamline Campus operation so that on-campus transportation is no longer required

The Scott Project also accomplishes the following:

- Closes the LaGarde Facility
- Relocates all Assisted Living (AL), Memory Support (MS), and Long-term Care (LTC) from LaGarde to renovated or new space within Sheridan and Scott footprint.
- Reduces square footage by approximately 44% or 386,000 square feet
- Postures AFRH Operations for positive Trust Fund Growth
- Creates similar capacity and service capabilities between AFRH-G and AFRH-W

TRANSITION YEARS FY 2012-2013

FY 2011 marked the opening of the new Gulfport facility. The population of Washington is shifting from 867 at the end of FY2010 to a target of 568. There will be a shift of Full-time Equivalents (FTE) from all working in Washington to a mix between Gulfport and Washington.

Cost savings associated with the Gulfport Transition are as follows:

- No LTC costs for a few years
- Reduced dining services and subsistence
- Minimal maintenance costs (Project Management Focus)
- Less than 50% AL & MS requirement
- Begins significant reduction of Washington population
- Lower cost of living due to shifting costs

There are risks, however, during the transition years:

- 1.) Being able to attain the targeted reduction in population for the Washington campus
- 2.) Successfully realigning and reducing contracts in Washington

- Dining Services
 - Nurse Staffing
 - Pharmacy and Medical Supplies
 - Facility Maintenance
 - Grounds Maintenance
 - Custodial
 - Transportation
- 3.) Contract strategy
- New contracts for transition years vice modifications for reduced scope
 - New contracts beginning 2013
 - Negotiate the same costs at Gulfport and Washington for Dining Services and Custodial contracts



CURRENT CHALLENGES

Nearly two centuries ago, the leaders of our young nation made a Promise to care for our aging and infirm retired military personnel. This pledge would serve as a payback to soldiers for risking their lives to preserve democracy. In 1811, Congress fulfilled this Promise by passing legislation that created a home for destitute Navy officers, sailors and Marines in Philadelphia. Over the centuries, the Home has evolved into a modern retirement community: the AFRH.

Today, we continue to provide shelter and care for former enlisted military, Warrant Officers and veterans as they age. This care demonstrates to today's soldiers – and tomorrow's veterans – that their service and sacrifices won't be forgotten. Just as our brave young men and women helped save the world from fascism in the 20th Century, today's heroes can fight for and preserve our way of life – knowing their country will repay them for their service. Now, more than ever, the AFRH and Congress are bound to honor that original Promise, the Home's heritage and the tradition of the US military. Accreditation and Inspection

The National Defense Authorization Act (NDAA) of 2008 required the AFRH to seek a more comprehensive accreditation service to review its healthcare practices. In FY07, the AFRH embarked on acquiring such a new independent accreditation. Throughout FY08, the AFRH worked very diligently to implement new standards in accordance with those set forth by the Commission on Accreditation of Rehabilitation Facilities (CARF)/ the Continuing Care Accreditation Commission (CCAC) International, an independent, nonprofit accreditor of human service providers in the areas of aging services, behavioral health, child and youth services, DMEPOS, employment and community services, medical rehabilitation, and opioid treatment programs. The CARF/CCAC family of organizations currently accredits more than 5,000 providers at more than 18,000 locations in the United States, Canada, Western Europe, and South America. More than 6.5 million persons of all ages are served annually by CARF/CCAC accredited providers. The CARF/CCAC accreditation replaces the long standing Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation held by AFRH for nursing care only. The AFRH received a 5 year accreditation by CARF/CCAC in August 2008.

In addition to the CARF/CCAC inspection, the NDAA of 2008, changed the manner in which the Department of Defense conducts inspections of the AFRH. No longer will the agency be inspected by the services (Army, Navy and Air Force) triennially. The Department of Defense's Office of the Inspector General (DoD OIG) will now inspect the AFRH in the years that the agency is not inspected by an independent accreditation body. CARF will inspect AFRH again in 2011.

In accordance with the Reports Consolidation Act of 2000, the AFRH Inspector General (IG) annually identifies the most serious management and performance challenges facing the AFRH in FY 2011.

FY 2011 Management Challenges

- Return residents to Gulfport and initiate programs and services
- Implement, manage and monitor Washington Scott Project Plan
- Continue to educate, define, train and promote Resident well-being ("person-centered" care) to the Resident community and staff

FY 2011 Performance Challenges

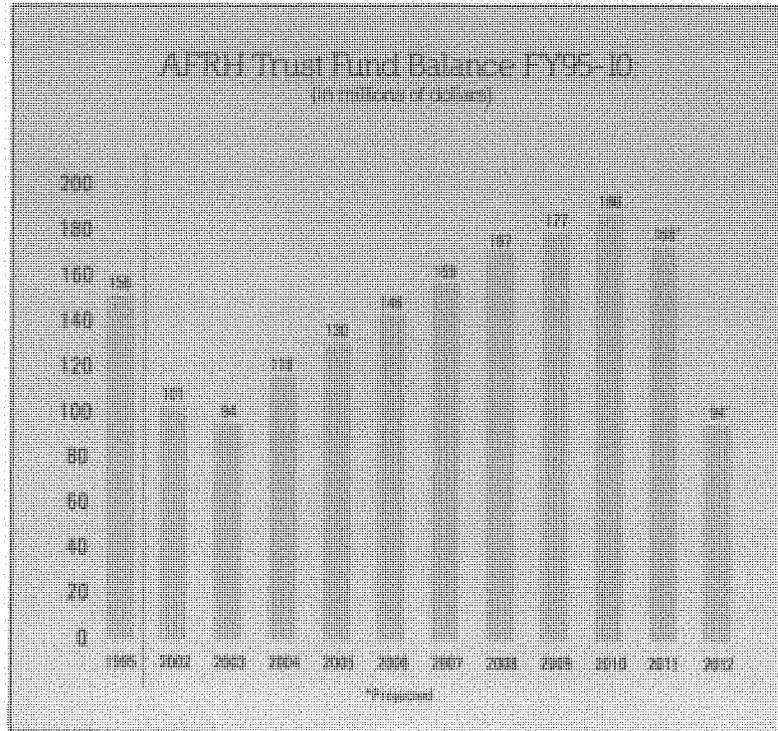
- Implement Scott Project Plan Construction. Manage the supporting construction efforts and the relocation of programs and services to ensure that residents do not experience in degradation of services during the construction for the Scott Project.
- Implement Independent Living Plus Program. AFRH must implement the ILP program at both facilities (Gulfport & Washington) while educating staff on the new policies and residents on the program's benefits.
- Implement Human Capital Succession Plan. AFRH must complete the development of the plan and implement the procedures while educating staff on the new policies.
- Implement e-Records/e-Health Records Systems. AFRH must research, select and secure electronic Records/Health Records system(s) to support both facilities (Gulfport & Washington).
- Implement NBC Hosted Information Technology System. AFRH must ensure that staff is trained on the NBC network policies and procedures, as well as the access protocols for the hosted applications at both facilities.

- Expand visibility of military heritage. AFRH should ensure that displays of military heritage are implemented throughout the Gulfport facility.
- Adhere to timelines and participate in annual mandatory training. AFRH management must continue to enforce attendance for its employees for the mandatory training classes outlined by the agency. Tighter constraints and measures must be taken to ensure that employees participate in the mandatory training classes and that participation is timely.
- Financial Management of operating costs and expenditures. AFRH management must continue to streamline costs at the Washington campus and seek to bring spending parity between the two campuses (Gulfport & Washington, in as much as possible to ensure that long-range financial goals are met.



TRUST FUND BALANCE

In 2003, operating costs greatly increased over previous years - eventually outpacing our revenue. The Trust Fund balance declined from \$156 million in 1995 to \$94 million in 2003. Renewing a healthy balance became a critical mandate to retain the Home's solvency. So, we concluded that our operating model had to change. We followed the Federal Government's lead by implementing an integrated strategy - linking planning with budget and performance. From 2003 - 2010, we aggressively developed a disciplined strategic plan that netted many gains. The result: the Trust Fund balance grew substantially to \$186 million at the end of FY10. However over the next two years the Trust Fund will have negative growth as disbursements are made for the Scott Project. In FY 2012 the Trust Fund will level out at \$94 million and begin to once again climb thereafter. The chart below reflects the Trust Fund's consistent growth over the years, with an expected decline in FY 2011 and 2012.





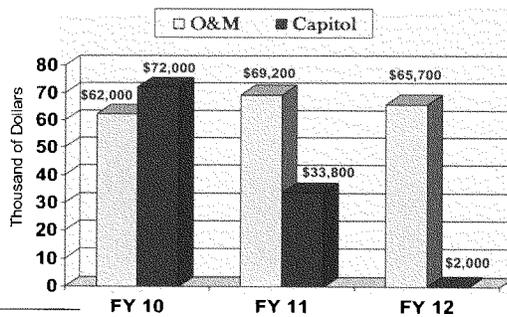
JUSTIFICATION HIGHLIGHTS

Budget Authority

**ARMED FORCES RETIREMENT HOME
BUDGET AUTHORITY & OBLIGATIONS BY ACTIVITY
(\$ in Thousands)**

	FY 10 Actual Amount	FY 11 Continuing Resolution Amount	FY 12 Estimate Amount	FY10-12 Increase or Decrease Amount
TOTAL OBLIGATIONS				
O & M BUDGET AUTHORITY	\$ 62,000	\$ 69,200	\$ 65,700	\$ 3,700
CAPITAL AUTHORITY ¹	\$ 72,000	\$ 33,800	\$ 2,000	\$ (70,000)
TOTAL BUDGET AUTHORITY	\$134,000	\$103,000	\$ 67,700	\$ 66,300
TOTAL FTE's	252	336	336	84

AFRH Budget Authority by Activity
(in thousands of dollars)



¹ The FY 2011 Continuing Resolution (CR) for Capital has been annualized and does not reflect AFRH's capital requirement.

Capital Outlay**ARMED FORCES RETIREMENT HOME
CAPITAL OUTLAY
(\$ in Thousands)****FY12 CAPITAL APPROPRIATION**

Scott Project planning, construction and construction management	\$	0	
LaGarde Building	\$	0	
Sheridan Building Repairs	\$	550	
Scott Building Emergency Repair	\$	0	
Sherman Building Repairs	\$	400	
Other Repairs (not anticipated by facility assessment)	\$	500	
A/E Design Fee	\$	200	
Master Plan – GSA	\$	350	
TOTAL		\$ 2,000	\$2,000

FY11 CAPITAL APPROPRIATION

Scott Project planning, construction and construction management	\$	0	
LaGarde Building	\$	250	
Sheridan Building Repairs	\$	440	
Scott Building Emergency Repair	\$	0	
Sherman Building Repairs	\$	350	
Other Repairs (not anticipated by facility assessment)	\$	500	
A/E Design Fee	\$	150	
Master Plan – GSA	\$	310	
Continuing Resolution Driven Requirement ²		\$31,800	
TOTAL		\$33,800	\$33,800

FY10 CAPITAL APPROPRIATION

Scott Project planning, construction and construction management	\$70,000		
LaGarde Building	\$	200	
Sheridan Building Repairs	\$	450	
Scott Building Emergency Repair	\$	0	
Sherman Building Repairs	\$	400	
Other Repairs (not anticipated by facility assessment)	\$	500	
A/E Design Fee	\$	200	
Master Plan – GSA	\$	250	
TOTAL		\$72,000	\$72,000

² The FY 2011 Capital Appropriation includes the annualized 2011 CR level of \$31.8M; which does not reflect AFRH's capital requirement.

Summary of Changes (O&M)
ARMED FORCES RETIREMENT HOME
SUMMARY OF CHANGES (O&M)
(\$ in Thousands)

FY10 O&M Appropriation	\$62,000
FY12 O&M Request	<u>\$65,700</u>
Net Change	\$3,700

	FY2010		FY2012	
	<u>Workyears</u> <u>(FTE's)</u>	<u>Base</u> <u>Budget</u> <u>Authority</u>	<u>Workyears</u> <u>(FTE's)</u>	<u>Change from Base</u> <u>Budget</u> <u>Authority</u>
Changes:				
A. <u>Built-In:</u>				
1. Base Payroll Costs*	252	\$21,589	84	\$ 5,430
2. Non-Salary Decreases:				
Travel/Leases		\$ 211		\$ (76)
Transportation*		\$ 620		\$ 361
Communications/ Utilities*		\$ 4,608		\$ 1,515
Printing*		\$ 48		\$ 27
Other Services (Contracts)		\$29,553		\$ (3,920)
Supplies & Materials*		\$ 5,174		\$ 535
Equipment		\$ 192		\$ (167)
Claims		\$ 5		\$ (5)
Total Non-Salary Decrease:		\$40,411		\$ (1,730)
TOTAL BUILT-IN INCREASES		\$62,000		\$ 3,700
NET CHANGE				\$ 3,700

Total Obligations by Object Class

ARMED FORCES RETIREMENT HOME

TOTAL OBLIGATIONS BY OBJECT CLASS

(\$ in Thousands)

	FY 10 ACTUAL	FY11 CR	FY12 ESTIMATE	FY10-12 INCREASE (DECREASE)
11 PERSONNEL COMPENSATION	\$17,049	\$20,221	\$20,221	\$3,172
12 PERSONNEL BENEFITS BENEFITS, FORMER	\$5,368	\$6,798	\$6,798	\$1,430
13 PERSONNEL	\$31	\$0	\$0	\$(31)
21 TRAVEL/LEASING	\$291	\$132	\$135	\$(156)
22 TRANSPORTATION OF THINGS	\$338	\$961	\$981	\$643
23 COMMUNICATIONS & UTILITIES	\$4,480	\$6,801	\$6,123	\$1,643
24 PRINTING AND REPRODUCTION	\$69	\$74	\$75	\$6
25 OTHER SERVICES	\$29,436	\$28,577	\$25,633	\$(3,803)
26 SUPPLIES AND MATERIALS	\$4,763	\$5,611	\$5,709	\$946
31 EQUIPMENT LAND & STRUCTURES	\$250	\$25	\$25	\$(225)
32 (CAPITAL OUTLAY)	\$14,762	\$69,620	\$2,000	\$(12,762)
42 CLAIMS	\$9	-	-	\$(9)
TOTAL OBLIGATIONS	\$76,846	\$138,820	\$67,700	\$(9,146)
NUMBER OF FTE	252	336	336	84

Appropriations History
ARMED FORCES RETIREMENT HOME
APPROPRIATIONS HISTORY FY 2002-2012
(\$ in Thousands)

FISCAL YEAR	DESCRIPTION	CONGRESSIONAL BUDGET		APPROPRIATION HOUSE		SENATE	FINAL
		JUSTIFICATION	AUTHORIZED	ALLOWANCE	ALLOWANCE	APPROPRIATIO	
2002	O&M	61,628	61,628	61,628	61,628	61,628	61,62
	CO	<u>9,812</u>	<u>9,812</u>	<u>9,812</u>	<u>9,812</u>	<u>9,812</u>	<u>9,81</u>
	Total	71,440	71,440	71,440	71,440	71,440	71,44
2003	O&M	61,628	61,839	61,839	61,839	61,839	61,83
	CO	<u>5,712</u>	<u>5,769</u>	<u>5,769</u>	<u>5,769</u>	<u>5,769</u>	<u>5,76</u>
	Total	67,340	67,608	67,608	67,608	67,608	67,60
2004	O&M	63,926	63,296	63,296	63,296	63,296	63,29
	CO	<u>1,983</u>	<u>1,983</u>	<u>1,983</u>	<u>1,983</u>	<u>1,983</u>	<u>1,98</u>
	Total	65,909	65,279	65,279	65,279	65,279	65,27
2005	O&M	57,195	57,163	57,163	57,163	57,163	57,16
	CO	4,000	3,968	3,968	3,968	3,968	3,96
	PUBLIC LAW 109-62*	<u>6,000</u>	<u>6,000</u>	<u>6,000</u>	<u>6,000</u>	<u>6,000</u>	<u>6,00</u>
	Total	67,195	67,131	67,131	67,131	67,131	67,13
2006	O&M	57,033	57,033	57,033	57,033	57,033	56,46
	CO	1,248	1,248	1,248	1,248	1,248	1,23
	PUBLIC LAW 109-148**	0	65,800	65,800	65,800	65,800	65,80
	PUBLIC LAW 109-234**	<u>0</u>	<u>176,000</u>	<u>176,000</u>	<u>176,000</u>	<u>176,000</u>	<u>176,00</u>
	Total	58,281	300,081	300,081	300,081	300,081	299,49
2007	O&M	54,846	54,846	54,846	54,846	54,846	54,84
	CO	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	Total	54,846	54,846	54,846	54,846	54,846	54,84
2008	O&M	55,724	56,524	56,524	56,524	56,524	55,72
	CO	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	Total	55,724	56,524	56,524	56,524	56,524	55,72
2009	O&M	54,985	54,985	54,985	54,985	54,985	54,98
	CO	8,025	8,025	8,025	8,025	8,025	8,02
	Total	63,010	63,010	63,010	63,010	63,010	63,01
2010	O&M	62,000	62,000	62,000	62,000	62,000	62,00
	CO	72,000	72,000	72,000	72,000	72,000	72,00
	Total	134,000	134,000	134,000	134,000	134,000	134,00

FISCAL YEAR	DESCRIPTION	CONGRESSIONAL BUDGET		APPROPRIATION		FINAL APPROPRIATIO
		JUSTIFICATION	AUTHORIZED	HOUSE ALLOWANCE	SENATE ALLOWANCE	
2011	O&M	69,200				
	CO	2,000				
	Total	71,200				
2012	O&M	65,700				
	CO	2,000				
	Total	67,700				

[NOTE:(*) Supplemental funding from the General Fund as a result of Hurricane Katrina for the movement and stabilization of displaced residents from Gulfport in Fiscal Year 2005.
(**) Majority of Supplemental funding from the General Fund as a result of Hurricane Katrina for the stand up of the Gulfport Campus.]

Staffing History
ARMED FORCES RETIREMENT HOME
STAFFING HISTORY
(\$ in Thousands)

<u>FISCAL YEAR</u>	<u>SALARIES & BENEFITS</u>	<u>FTE's</u>
1995	39,312	989
1996	37,655	903
1997	37,671	865
1998	37,605	841
1999	37,419	799
2000	38,612	753
2001	38,292	734
2002	41,936	736
2003	40,495	683
2004	35,870	548
2005	30,684	446
2006*	25,754	299
2007	22,460	288
2008	24,043	283
2009	21,120	268
2010	21,589	252
2011**	27,019	336
2012	27,019	336

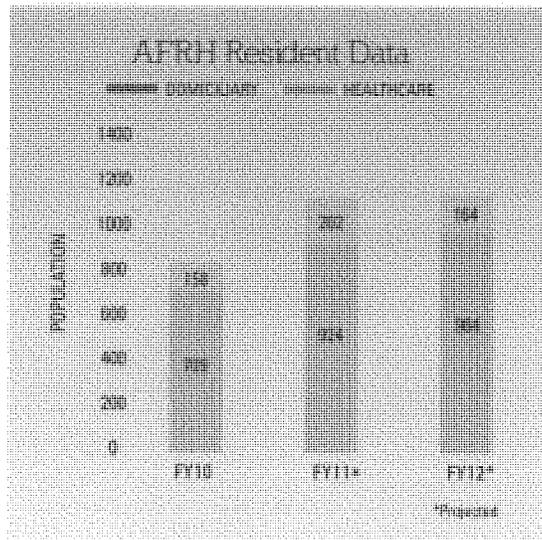
[NOTE:

(*) The significant reduction in FTE in 2006 was a result of Hurricane Katrina and the closure of the Gulfport Facility.

(**) Growth is the result of opening Gulfport.]

Resident Data
ARMED FORCES RETIREMENT HOME
RESIDENT DATA

	<u>Actual FY10</u>	<u>CR FY11</u>	<u>EST. FY12</u>
Domiciliary Care	709	924	984
Health Care	158	202	164
Total Residents	867	1,126	1,148
Operating Budget	\$ 62,000,000	\$ 69,200,000	\$ 65,700,000
Capital Outlay ³	\$ 72,000,000	\$ 33,800,000	\$ 2,000,000
Total Budget	\$ 134,000,000	\$ 103,000,000	\$ 67,700,000
Operating Budget Per Resident*	\$71,511	\$61,456	\$57,230



³ The FY 2011 CR for Capital has been annualized and does not reflect AFRH's capital requirement.

THURSDAY, MAY 5, 2011.

CEMETERIAL EXPENSES, ARMY

WITNESS

KATHRYN A. CONDON, EXECUTIVE DIRECTOR, ARMY NATIONAL CEMETERIES PROGRAM

OPENING REMARKS

Mr. CULBERSON. The Appropriations Subcommittee on Military Construction and Veterans Affairs is called into order. And this afternoon's first hearing will be on the budget request for the Army National Cemeteries Program. The budget request for this fiscal year 2012 is \$45.8 million for the Department of the Army's National Cemeteries Program, an increase of \$700,000 when compared to the expected fiscal year 2011 appropriation.

Our witness today is Ms. Kathryn Condon, Executive Director. Before I formally introduce our witness, I would like to yield to my good friend, Mr. Bishop from Georgia, for any opening comments.

Mr. BISHOP. Thank you very much, Mr. Chairman. My comments will be brief.

Ms. Condon, thank you for being here today. And I really enjoyed the meeting that we had a few weeks ago to discuss the progress that you have made regarding Arlington Cemetery.

Mr. Chairman, as you know, the Army Inspector General's report released last year found widespread issues at the Nation's most venerated military burial ground. The report found unmarked and mismarked graves, urns that had been unearthed and dumped in a dirt pile, chaotic management, spent millions on botched contracts attempting to digitize the cemetery's paper records. What is even more troubling than the issues I just raised is the fact that apparently there are more problems that are still surfacing. These types of issues shouldn't exist at any cemetery, let alone Arlington, which is our Nation's most hallowed cemetery.

Ms. Condon, you have had the difficult task of fixing the mess there, And I truly believe that you are doing the best that you can with the hand that you were dealt. In fact, you might even be a trump card that the Army is now playing in order to clean it up. I believe that you are really being blamed to some extent for issues that were around long before you ever got there. But I have noticed that you don't pass the blame on; you assume the responsibility, and you actually are putting a shoulder to the grindstone to solve the problems.

Mr. Chairman, since Ms. Condon has taken charge, she has established standards for chain of custody, reduced the number of contracts, rebuilt and trained the workforce and implemented a customer service center. By no means is the job complete, and there are a lot of issues that still need to be addressed, but under

her leadership they will be addressed, I believe, and we need to make sure that we give her the resources that will allow her to regain the public trust and to close the book on this sordid chapter in the history of Arlington. I look forward to your comments. And I yield back, Mr. Chairman.

Mr. CULBERSON. I concur with you, Mr. Bishop, on that.

And we look forward to your testimony today and appreciate very much the work that you have done to correct the problems that the Secretary of the Army appointed you to solve. Ms. Condon, I know you were appointed Executive Director in June 2010, and you have had a long and varied career as a civilian employee of the Department of the Army, and we appreciate so much your service to the country. You have served as Special Assistant to the Under Secretary of the Army as a principal planning adviser and as a civilian deputy to the commanding general of the U.S. Army Materiel Command. You have your bachelor of arts degree from the University of Rochester, an MBA from Syracuse. And, of course, your entire statement will be entered into the record, and we look forward to your testimony today. Thank you.

STATEMENT OF EXECUTIVE DIRECTOR CONDON

Ms. CONDON. Thank you, Chairman.

Mr. Chairman, Congressman Bishop and other members of the subcommittee, thank you for the opportunity to present the President's budget for the Department of the Army Cemeterial Expenses Program for fiscal year 2012. As the Executive Director responsible for both Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery, I can assure you that the Army is committed to rendering public honor and recognition through dignified burial services for members of the armed services and their loved ones.

On behalf of the cemeteries and the Secretary of the Army, I would like to thank Congress for the support that they have provided over the years, but in particular I would really like to thank you for the support that has been given to me and the Superintendent over the last 11 months. Change has been brought to Arlington in the last 11 months. And thank you, Congressman Bishop, for recognizing that. Policies, processes and procedures have been created to ensure that standards are established, understood, trained to and met, and also verified. This has necessitated instituting training where training was not happening before, procuring the right equipment so that the workforce could achieve those standards, and maintaining and implementing 21st century information management technology.

The fiscal year 2012 budget is \$45.8 million, which is a little more than the amount that was appropriated to the cemetery for fiscal year 2011. The funds requested are adequate to support the workforce, to acquire necessary supplies and equipment, and to provide the standards of services expected at Arlington and the Soldiers' and Airmen's Home.

Our priority is to extend the burials at Arlington for as long as we possibly can. Under current estimates, Arlington National Cemetery expects to exhaust the availability for inurnments in niche spaces in fiscal year 2016. To preclude this from happening, I have

accelerated investment in developing and constructing Columbarium Court 9 during this fiscal year. This investment will add approximately 20,300 niches to the inventory, extending available niche space out to fiscal year 2024. I expect Columbarium 9 to be operational in November of 2012 and to have a ground breaking in late June or early July of this fiscal year.

The Millennium Project should allow Arlington National Cemetery to continue to offer inurnment services out to 2017 and in-ground burials out to 2035. Right now the current estimates for in-ground burial space is exhausted in 2025. The transfer of the Navy Annex Public Law 108-375 will further permit the expansion of the cemetery beyond 2037.

Another priority was to reexamine funding priorities and allocations of the past. Due to obligation curtailments, prior-year funding was carried forward into this year. We examined prior-year obligations to reduce or eliminate unliquidated obligations. The net effect of carrying forward prior-year unobligated balances and recovering unliquidated obligations will cover the cost of our personnel increases and the construction of Columbarium Court 9 in this fiscal year, and it will also allow us to start the Millennium Project, which is prepping the ground for any future construction that we may have there.

I could not certify the fiscal year 2010 year-end financial reports in the schedules due to the lack of available accountability records at Arlington. To remedy this issue in fiscal year 2011 and beyond, I accelerated implementation of the General Fund Enterprise Business Systems, which is affectionately known as GFEBS, and this will allow us to provide the accountability, to include the ability to conduct audits, and allow me at the end of this fiscal year to certify the funds. There wasn't a formal accounting system prior.

In addition, all recurring service contracts will be recompeted this year. We reduce the number of contracts, as we stated before, from 28 to 16. All of those contracts were awarded to small businesses. And we saved approximately \$6 million from the government cost estimate on those contracts. The new service contracts will include quality assurance surveillance plans and performance requirement summaries. These documents will assist our newly trained contracting officer representatives to hold the contractors accountable for the services they provide. And to ensure accountability, I have asked the Army audit agency to return at the end of this fiscal year to Arlington to ensure that the policies and the procedures and the changes that the Superintendent and I have put in place in fiscal year 2010 are indeed working and sufficient to address the errors that were outlined in the past.

I would like to thank the subcommittee for the support that they have provided to Arlington and to the U.S. Soldiers' and Airmen's Home, and the support that they have provided to the many visitors to Arlington, and also the support for the capital investments that we truly need to make for this national treasure.

This concludes my testimony, and I would be pleased to respond to any questions that anyone may have, sir.

Mr. CULBERSON. Thank you, ma'am.

[The information follows:]

RECORD VERSION

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

MS. KATHRYN A. CONDON

EXECUTIVE DIRECTOR, ARMY NATIONAL CEMETERIES PROGRAM

BEFORE

THE SUBCOMMITTEE ON MILITARY CONSTRUCTION, VETERANS AFFAIRS AND
RELATED AGENCIES

COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE CEMETERIAL EXPENSES, ARMY PROGRAM

MAY 5, 2011

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
COMMITTEE ON APPROPRIATIONS

Chairman Culberson, Ranking Member Bishop and distinguished members of the Subcommittee, thank you for the opportunity to present the President's Budget for the Department of the Army Cemeterial Expenses program for Fiscal Year (FY) 2012.

INTRODUCTION

I am pleased to be testifying on behalf of the Secretary of the Army, who is responsible to effectively and efficiently develop, operate, manage and administer the Army National Cemeteries Program which is comprised of Arlington National Cemetery, Arlington, VA, and the U.S. Soldiers' and Airmen's Home National Cemetery, Washington, DC.

Arlington National Cemetery is both the most hallowed burial ground of our Nation's fallen and one of the most visited tourist sites in the Washington, DC, area. A fully operational national cemetery since May 1864, Arlington National Cemetery presently conducts an average of 27 funerals each workday-final farewells to fallen heroes from the fronts of Iraq and Afghanistan, as well as to veterans of World War II, the Korean conflict, Vietnam and the Cold War and their family members. While maintaining the honor, dignity and privacy of each graveside service, Arlington National Cemetery hosts approximately 4 million guests annually. This duality of purpose serves to bring the national shrine of Arlington National Cemetery, and the sacrifices of those buried there, closer to the American people.

As the agency responsible for these two cemeteries, the Army is committed to rendering public honor and recognition through dignified burial services for members of the Armed Services and other qualified deceased persons where they may be interred or inurned in a setting of peace, reverence and natural beauty. On behalf of the cemeteries and the Department of the Army, I would like to express our appreciation for the support that Congress has provided over the years.

BUDGET OVERVIEW

Before I discuss the FY 2012 budget itself, it is important to understand the comprehensiveness of the change that has been brought to Arlington National Cemetery since I assumed the position as the Executive Director ten months ago. Policies, processes and procedures have been created to ensure that standards are established, understood, trained to, met, and verified. This has necessitated instituting training where none existed previously, procuring the right equipment to meet and maintain the standards, and implementing 21st century information technology to increase effectiveness and efficiency.

The FY 2012 budget is \$45,800,000, which is \$5,950,000 more than the FY 2010 appropriation of \$39,850,000. The funds requested are adequate to support the work

force, acquire necessary supplies and equipment, and provide the standards of service expected at Arlington and Soldiers' and Airmen's Home National Cemeteries.

The increase reflects changes instituted in administration functions and operational realignments as a result of the Secretary of the Army's reorganization of the agency. Most notably, funding levels for compensation and benefits are increasing due to ongoing hiring actions to fill 57 additional full-time equivalent positions required to manage and operate effectively.

Under current estimates, Arlington National Cemetery expects to exhaust its availability for inurnments in niche spaces in FY 2016. To preclude this from happening, I have accelerated investment in developing and constructing Columbarium Court 9 during FY 2011. This investment will add approximately 20,300 niches to the inventory and with the follow on efforts in the Millennium Project, should allow Arlington National Cemetery to continue to offer inurnment services out to FY 2037. I expect Columbarium Court 9 to be operational by November 2012. The transfer of the Navy Annex under the Base Realignment and Closure Act will permit expansion of the Cemetery and will further extend its viability as an active cemetery.

Investment in the Millennium Project recommences in FY 2012. When all five phases have been completed, this project will provide space for casketed remains, niches, and space for in-ground cremated remains. Continuation of this project is critical to extend the viable life of Arlington National Cemetery and will permit us to offer multiple services to be performed simultaneously across the expanse of the cemetery.

Arlington National Cemetery now has a dedicated engineering staff and has begun a comprehensive assessment of the current status of all facilities and infrastructure. This effort will be integrated with long-term strategic planning that will directly address sustainment, maintenance, repair and the need for additional construction.

Reallocating Carry Over & Recoveries of Prior Year Obligations

As a result of the Secretary of the Army's June 10, 2010 directive, several Army organizations have conducted analyses of operations, including contracts, force structure, information technology and systems architecture, and funding. Findings from these analyses resulted in a reexamination of funding priorities and allocations for FY 2010. Due to obligation curtailments, prior year funding was carried forward into FY 2011. Prior year obligations are also being examined to reduce or eliminate unliquidated obligations. The net effect of carrying forward prior year unobligated balances and recovering unliquidated obligation should cover the cost of personnel increases and construction of Columbarium Court 9 but will not be sufficient to also cover the cost of the next phase of the Millennium Project.

FISCAL RESPONSIBILITY

I could not certify the FY 2010 year-end financial reports and schedules due to a lack of available accountability records. To remedy this issue for FY 2011, I accelerated the implementation of the General Fund Enterprise Business System (GFEBS) to 1 October 2010. GFEBS will provide the accountability, to include the ability to conduct required audits, to ensure I can certify FY 2011 year-end financial reports.

Instrumental to fiscal responsibility was instituting disciplined processes, with oversight and direction, to enhance procurement operations. Executive Director policies and appointments are now in place to ensure a qualified senior-level staff member conducts funds certification; only the Director of Resource Management and the Budget Officer are authorized to certify funds. Similarly, funds approval is limited to the Executive Director and Chief of Staff. I developed and implemented a Gift Policy to ensure proper joint ethics accountability and approval for all gifts and proffers made to Arlington National Cemetery. I initiated accountability of all Real Property and implemented a preventative maintenance and repair process to ensure care and maintenance. I lowered the threshold for legal review of contracts to \$100,000. Recurring service contracts were extended to allow for a thorough review for requirements determination. The acquisition strategy for the re-competed requirements included the consolidation of like efforts; reducing the total number of existing contracts by approximately 60%. Each of the new service contracts has a Quality Assurance Surveillance Plan and a Performance Requirements Summary as part of the contractual requirement. These documents will assist the trained contracting officer representatives in effectively managing the contract Quality Assurance and essentially ensuring the contractor is held accountable for services.

To ensure accountability for the past, the Army Audit Agency (AAA) was asked to audit contracts, revenues and the government purchase card. The Army will use these results to learn from past errors and correct them where possible. I have asked AAA to return to ensure that the policies, procedures, and practices that have been established are indeed working and sufficient.

ACCOUNTABILITY

On December 22, 2010, the President of the United States signed Public Law 111-339 requiring the Army to submit a report to the Congress one year from the date of enactment that provides an accounting of gravesites at Arlington National Cemetery, Arlington, VA. The report on gravesite accounting requires the Army to specify whether gravesite locations at Arlington National Cemetery are correctly identified, labeled, and occupied. Additionally, the law requires the Army to set forth a plan of action, including the resources required and a proposed schedule, to implement remedial actions to address deficiencies identified pursuant to the accounting. Though the language of the law does not require the automation of records, its goals will accelerate the plan to

address the cemetery's automation deficiencies. The plan to meet this requirement, coupled with the creation of digital maps, will ensure that all of the Cemetery records are electronically recorded and future records are created in an electronic database that integrates to the Army's information system architecture.

CONCLUSION

I would like to thank the Subcommittee for the support that it has provided to maintain Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery, provide services for the many visitors, make capital investments needed to accommodate burials, and preserve the dignity, serenity and traditions of these national shrines.

Mr. Chairman and distinguished members of the Subcommittee, this concludes my testimony. I am eager to respond to questions and look forward to your guidance.

TOTAL CEMETERY MANAGEMENT SYSTEM

Mr. CULBERSON. We have a vote ongoing that has just begun. I will ask a couple of questions.

A little preface to this, that the budget request that you have asked for includes a line item for the development of the Total Cemetery Management System, which has a goal of automating, of course, your operations at Arlington, and this effort has been under way for about 5 years—I know you just got there. But over the course of the last 5 years, this subcommittee has asked for reports on the status of the development and implementation plans for this automation project without a whole lot of luck. We have not gotten good information from Arlington.

In the 10-year capital investment plan for Arlington National Cemetery, which was submitted by the Assistant Secretary of the Army to the subcommittee on February 7, 2007, this Total Cemetery Management System was described as being under development and, quote, “Testing is ongoing and driven by the overarching strategic plan. The TCMS is now on track to provide a robust, interoperable and secure means of managing all cemetery functions.”

That obviously wasn’t correct. As recently as February of 2010, in response to a question from this subcommittee, the Assistant Secretary of the Army for Civil Works stated that this system will maximize the use of electronic means to deliver services and benefits to the public in a manner that promotes security and privacy. And his report further states, in quote, “The Arlington National Cemetery has been working to further define the requirements of this comprehensive project.”

Seven months after receiving the most recent reassurance that everything was going well with this project, you informed the subcommittee in a letter dated September 1st of last year that the Total Cemetery Management System, quote, “as of this date remains conceptual.” And you informed the subcommittee that you had ordered all work to cease on the project.

It really is obvious that there are multiple levels of mismanagement, just a systemic failure at many, many levels. From Arlington Cemetery to the Assistant Secretary of the Army, to the Office of Management and Budget, all failed not only to keep Congress informed of program execution, but obviously to even execute the program competently or properly.

How much money has been spent so far in TCMS? And what value, if any, did taxpayers receive for that investment?

Ms. CONDON. Sir, if I could take for the record the actual amount spent on TCMS so I give you an accurate figure that we have here. [The information follows:]

TOTAL CEMETERY MANAGEMENT SYSTEM

The money spent on TCMS activities included: \$1,146,842.57 for scanning digital records of interment and grave cards through 2005, \$296,734.39 for upgrading Interment Services System, and \$1,391,890.96 for developing a replacement system called the Interment Management (IMS) system. The IMS was never delivered to ANC. Scanned images, contracted for incorporation into IMS, were delivered with a corresponding database that is usable as an extensible database. Both the scans and the database are incomplete. Arlington National Cemetery has integrated the

usable data and images as part of the work being conducted by Army Data Center Fairfield in support of the accountability baseline and digitization efforts.

Mr. CULBERSON. Sure. Ballpark is fine. And we will understand that you are going to correct it later.

Ms. CONDON. One of the things that we were able to get from the previous efforts was that we were able to find disks of where they actually scanned the records in the cemetery. We took those scans and have since put them into a database. So now we have an accountable database. So we were able to salvage some of the efforts from that previous effort.

Mr. CULBERSON. Some?

Ms. CONDON. Some.

Mr. CULBERSON. It is pretty grim. And we appreciate the work that you are doing in trying to straighten it out.

How much money approximately was spent by taxpayers on this effort?

Ms. CONDON. Sir, it was in the millions. I think it was probably 5 to \$10 million, somewhere in that range.

Mr. CULBERSON. Four to five to ten million dollars? Taxpayers got, what, a few disks of scanned documents?

Ms. CONDON. Sir, what we were able to salvage from there was we got the scanned disks for the documents, and we also—they put in place the Interment Scheduling System of which we have since improved that system to date. But as I was saying, we truly stopped that contract and are moving forward with other initiatives to make sure that we have a digitized Arlington National Cemetery.

Mr. CULBERSON. So \$5 million-plus was paid to—who were the contractors involved; do you know? Do you remember?

Ms. CONDON. Sir, I would have to take that for the record to get all the contractors.

[The information follows:]

RECORDS AUTOMATION CONTRACTORS

From Fiscal Year 2004 (FY04) through June of Fiscal Year 2010 (FY10), Arlington National Cemetery (ANC) spent \$6,583,429.19 on IT expenditures, excluding phone services. Of this, \$2,308,550.17 was spent on Operations and Maintenance (O&M) of existing automation equipment and associated hardware including: telephone system, call center server equipment, computers, printers, storage devices, ANC official website, video systems, and television displays. The majority of the operations and maintenance funds paid for two full-time IT contractors onsite from 2004 through 2010, contracted through the Alpha Technology Group, LLC. ANC spent \$1,387,718.86 to upgrade the fiber optic connectivity and \$2,835,467.92 on TCMS activities. The money spent on TCMS activities included contracts with Offise Solutions, Incorporated, Optimum Technical Solutions, Incorporated (OTSI) and Alpha Technology Group, LLC. \$1,146,842.57 was awarded over multiple contracts to Offise Solution for scanning digital records of interment and grave cards through 2005. \$296,734.39 was awarded to Offise Solution and Alpha Technology Group for upgrading Interment Services System, and \$1,391,890.96 was awarded to Optimum Technology Solutions and Alpha Technology Group for developing a replacement system called the Interment Management (IMS) system. These figures include 1,012,834.94 more than included in the TCMS report dated 1 September 2010 submitted to Congress due to the discovery of additional records.

Mr. CULBERSON. Five million dollars-plus to some private contractor and in addition, obviously, to the personnel who were obviously incompetent at the cemetery, and we got a few disks of scanned documents. The taxpayers received a few disks of scanned

documents. I know it is just as appalling to you as well and unacceptable; utterly outrageous and unacceptable not only for the disgraceful way they handled bodies and mislabeled and mismarked and put people in wrong spots, but to spend that kind of money and to have the project be such a complete disaster.

What, if any—for example, is criminal liability—has there been or will there be—there should be—suits or legal action for breach of contract to try to recover the taxpayers' money?

Ms. CONDON. Sir, there has been investigations and audit into that exact issue that you are talking about.

Mr. CULBERSON. Will there be litigation or criminal action brought, and against who?

Ms. CONDON. Sir, I would have to take that for the record.

[The information follows:]

CONTRACT MISMANAGEMENT

It is premature to state whether this will lead to litigation or criminal charges.

Ms. CONDON. I do not know if there is currently—for the TCMS system if there is currently any ongoing investigations on that. But—

Mr. CULBERSON. But that is within your jurisdiction. The Secretary of the Army gave you a very broad charge to identify and correct any and all problems at Arlington.

Ms. CONDON. Sir, the Secretary did have—we had a complete contract review, and as part of that contract review, it was done by our Army contracting agencies and the Assistant Secretary of the Army for Acquisition, Logistics and Technology, and we also had the Army audit looking at those contracts.

Mr. CULBERSON. Director Condon, one of the, I think, most valuable tools you have got at your disposal is the broad scope of your authority. The reason it is not clearly defined is I know the Secretary of the Army wanted you to come in and use your best judgment in solving these problems. And one of the greatest frustrations, I know, that taxpayers have, just across the board of the Federal Government, nobody ever seems to be held accountable. And all of us, I know, and our constituents, and I know my colleagues feel the same way, we want to know that people have been held accountable either for—there has got to be criminal liability involved, not only the mismanagement of money, but even more horribly the mismanagement of the cemetery, and misplacing of graves, and misidentification of loved ones, and the catastrophic grief that must cause their family members.

You have really got a very broad portfolio. You have got the authority to recommend action. And please don't leave it up to the Office of the Secretary of the Army Contract Review Division. What I am asking you is if you would please—within the scope of your authority, you can do so. Would you please recommend that criminal charges and/or litigation be brought against the contractors for mismanagement of our tax dollars, and criminal charges be brought against the people that are responsible for mislabeling and mishandling bodies?

Ms. CONDON. Sir, you have my promise that I will, as I did when we discovered the eight urns buried in one unknown gravesite, I immediately called in the Criminal Investigation Division. You

have my promise that if we find any inappropriate action on a contract or any mistakes, that I will take immediate action.

Mr. CULBERSON. I know it is up to the U.S. Attorney, obviously, to recommend criminal charges, but have you yet been able or heard of any conduct that would—have you seen or heard anything from the U.S. Attorney's Office that they are going to bring criminal charges against any of the people responsible for mishandling—

Ms. CONDON. Sir, I am only aware there are two ongoing investigations as we speak. And as it is an ongoing investigation, I would not hear anything until it is complete.

Mr. CULBERSON. What about breach of contract; what about recovering taxpayers' lost money, in this case this total cemetery management system which was obviously a disaster?

Ms. CONDON. Sir, that is one of the issues that has been looked at in the past, and it still is an ongoing investigation.

Mr. CULBERSON. We would like you to pursue it, please.

Ms. CONDON. Yes, sir, you have my promise. I will take that back.

Mr. CULBERSON. And to recover as much of our constituents' lost tax dollars as possible, particularly in this environment.

So what are you considering then to try to get to the point where you have an automated cemetery operation and redundant systems double-checking what people are doing to ensure that graves are not misidentified?

Ms. CONDON. Sir, as you know, I have a report that is due out to Congress at the—in December of this year on the accountability and how we are going to do that. We have made improvements to our interment scheduling system. We have put in chain-of-custody procedures. We are automating each and every one of our processes. We established the call center so that now we are literally documenting each and every phone call that comes in to the cemetery and logging in. So we are truly digitizing the cemetery as we speak.

Mr. CULBERSON. I have to run up and go vote. I am going to pass the gavel to Mr. Austria and the microphone to my good friend from Georgia Mr. Bishop for any questions. And I will have a follow-up round afterwards. Thank you.

Ms. CONDON. Thank you, Mr. Chairman.

ARMY NATIONAL CEMETERIES ADVISORY COMMISSION

Mr. BISHOP. Thank you very much, Mr. Chairman.

Let me just say that I had a long list of questions, but your testimony covered most of those questions. Of course, we were very, very concerned about the inspector general's report. And you, I think, have in your testimony and in our conversations prior to your testimony set forth the various matters that you set forth to address those concerns in the inspector general's reports.

And you talked about in your testimony the reduction of the contracts from 28 to 16 and how you were able to do it, and which contracts were consolidated, and which ones were maintained. And, of course, I join with the chairman in expressing concern that those people responsible for the misappropriation or the mishandling of taxpayer dollars should be held accountable, and, of course, look

forward to hearing the report on ultimately how that accountability was enforced.

Secretary McHugh established the Army National Cemeteries Advisory Commission to review the policies at Arlington and to make recommendations. Have they met? Have you worked with them? Have they made recommendations to you? And if so, were they incorporated into your efforts going forward to correct the situation?

Ms. CONDON. Sir, the charter for that Commission was established in October of 2010. And since October of 2010 there, we have been working on—as it is with all Federal Advisory Commission Act commissions—getting the nomination packets through. We have not yet had a Commission meeting, but that is one of Secretary McHugh's priorities because they are going to be the independent look for the issues that we are doing at Arlington. But we are still establishing and getting the nomination packets through the process.

Mr. BISHOP. So basically the Advisory Commission has not been effective because it is not yet constituted?

Ms. CONDON. Yes, sir.

Mr. BISHOP. So you have had to pretty much take things on your own without benefit of any recommendations from that Commission.

The Columbarium Court 9. You wanted to speed up the events in developing, constructing that during fiscal year 2011, but, of course, the funding was received very late in the fiscal year. Has that delay affected your efforts? And will you still be on track to have it operational by November of 2012?

Ms. CONDON. Sir, the good news there is the design was already in the works, and we were able to—working with the engineers, we will be able to award that contract in late June or early July of this fiscal year, and we will have a groundbreaking. Not having the money in 2011, if it was a little bit longer, I wouldn't be as confident as I am now, but we literally will start working on the columbarium in July of this year.

MILLENNIUM PROJECT

Mr. BISHOP. Let me just ask you about the Millennium Project. Obviously it will extend the life of the cemetery. It will make more spaces available in your portfolio. Do you have adequate resources? Is that on track? Is there anything that the committee needs to do to assist you in that long-range project?

Ms. CONDON. Sir, one of the things that I really would like to accomplish starting this fiscal year is the second phase of the Millennium Project, and that is getting the place ready for future burials, because as you know, for in-ground burials you have to let the land settle before you can use that. So getting that phase started, which is truly just getting the land prepped, is something that we really need to start this fiscal year, or absolutely we need to do it in fiscal year 2012.

Mr. BISHOP. Have you had any concerns expressed by historical groups about the planned expansion?

Ms. CONDON. Sir, the plans for the Millennium Project were well under way prior to my becoming Executive Director. But one of the

things that I am doing now that I have a professional engineer on my staff is to look at the plans that were submitted before and to see if there are any modifications that we may need to look at in those plans for the Millennium Project.

Mr. BISHOP. Thank you on that. The Soldiers' and Airmen's Home National Cemetery, I take it that you don't operate the home, but you operate the cemetery?

Ms. CONDON. Sir, I do not operate the home. I am only responsible for the cemetery.

Mr. BISHOP. And that has adequate resources? We have provided adequately for that?

Ms. CONDON. Yes, sir.

Mr. BISHOP. Have you had any issues there with regard to accountability in burial plots?

Ms. CONDON. No, sir, we have not. But I want you to know that as we do our accountability for Arlington, we are also going to include the Soldiers' and Airmen's Home, because I am responsible for both cemeteries.

Mr. BISHOP. Thank you very much, Mr. Chairman.

NEW COLUMBARIUM CONSTRUCTION

Mr. CULBERSON. Mr. Flake is here.

While he is getting settled, let me ask you quickly about the budget justification material provided to the committee that indicates you will use \$16.5 million of fiscal year 2011 and prior funding for the Columbarium Phase 5 Project of Court 9. What is the scheduled start date, and have all the designs been completed and approved?

Ms. CONDON. Sir, the columbarium, the design is complete. We had a design charrette, et cetera. We are ready to go. We are going to award the contract late June, early July of this fiscal year, and we should be having a groundbreaking for the start of the ninth columbarium in the next several months.

Mr. CULBERSON. One of the things that has been brought to my attention is that apparently it is in standard operating procedure for projects that the Army Corps of Engineers pursues, or any facilities, that 35 percent of the work, the design work, has to be completed before they can even begin construction. Which seems to make pretty good common sense. And I suspect the private sector operates in the same way. Is that the procedure you are following here?

Ms. CONDON. Yes, sir. And as a matter of fact, the ninth columbarium, we already have eight columbariums in that same Columbarium Court. So the design for the ninth columbarium is in line with that as well.

MILLENNIUM PROJECT

Mr. CULBERSON. Marvelous. Let me continue, then, while Mr. Moran is getting settled and ask about fiscal year 2012 construction projects. The budget request for fiscal year 2012 anticipates funding the Millennium Project at \$8.7 million. Could you tell us what is the status of planning for the project? And have you received all the necessary approvals from the National Capital Planning Commission and any local approvals from the Virginia De-

partment of Environmental Services? Tell us about the status of the planning, have you got all your approvals that are necessary, and what do you expect the total cost of the project to be, and when will it be completed.

Ms. CONDON. Sir, the Millennium Project, the next phase that we are going to do is to prep the land. And we have been working with all the agencies that we need to get clearances through to do that. And the bottom line is we have—as I stated before, now that I have a professional engineer on the staff, what we want to do is to relook the Millennium plans that were presented to us so that we make sure that all of the checks were done, all of the Commission of Fine Arts and all of the local environmental agencies have agreed to the plan. So that is one of the things that we are going to relook just to make sure that we have all those checks done.

Mr. CULBERSON. What do you anticipate the total cost to be?

Ms. CONDON. The total cost for the Millennium Project. If I could take that one for the record, sir, and give you an accurate answer, because we keep moving from fiscal years of they started that. So I don't want to give you a guess of where it would be. I can take that one for the record and get you the total cost back on that.

[The information follows:]

MILLENNIUM PROJECT COST

The final design for the Millennium Project is being reexamined, so it is not possible to even estimate the total cost for the project. To date \$11,388,713 has been expended on design and Phase I work for the Millennium Project. An additional \$1,215,940 has been committed for stream restoration. Phase II which includes ground preparation and site work is estimated to cost \$14.4M and is necessary regardless of the final design.

Mr. CULBERSON. What is important, and as I have discovered on some of the projects, particularly with the Veterans Administration, is that we get low-ball numbers early on, and then apparently they get these huge plus-ups in later years. And then actually the VA has been kind of sitting on a lot of money for years. And please don't do that to us. Make sure we get good numbers and that you are following good design procedures. I think the Army Corps has obviously got good guidelines, and so does Naval Facilities.

Ms. CONDON. And for the reason why I couldn't give you an accurate number, because, as I said, we inherited the numbers from before. And I want to make sure that we check that each and every one of those numbers is accurate.

Mr. CULBERSON. Thank you very much.

At this time, I would like to recognize my good friend from Virginia, Mr. Moran.

NAVY ANNEX LAND EXCHANGE

Mr. MORAN. Thank you, Mr. Chairman. And thank you again for your leadership on this committee.

I understand that there have been some very productive discussions on a possible land swap that would enable Arlington Cemetery to expand its contiguous land holdings, and also improve security concerns, and enable Arlington to come and get a more suitable right-of-way for reconfigured Columbia Pike, and to enable them to develop a proposed light-rail system that would link up the Pentagon to DOD facilities at Skyline. So that is all kind of the

massive plan. Are we going to get an agreement soon and draft legislation that would authorize that kind of a land transfer?

Ms. CONDON. One of the things that we are working is we do need an amendment—I would love to get an amendment from the current Public Law 108-375 because the current language said that the land transfer was 4.5 acres north of the Navy Annex. And working with the county and the light rail, et cetera, I would prefer it to be—not to say north, but to say south, because if I may look at the map right here, this is how Columbia Pike currently—it is like in an S. The county wants to straighten out Columbia Pike. So what I would prefer is to make sure that the Arlington Cemetery property is contiguous, and that we are working with the county for the land that is on the other side of Columbia Pike, because, as you know, I don't really want caissons rolling across Columbia Pike.

And one of the issues working with the county is, as you can look here, the expansion of Arlington, this is the Millennium Project, this is the Navy Annex. Our footprint is going to be much changed in the future than it is right now because we are concentrated here. So working with the county for a light rail, because the Metro stop we currently have is over here, and most of our visitors are older, they are limited in their ability to get from point A to point B. So we are working with the county on what makes sense with that public law, sir.

Mr. MORAN. That is all very good. The administration is planning on requesting some changes to BRAC, a few areas that they just can't complete in the scheduled timeframe. I would think that you would want to put that kind of language—simply moving north to south, I would think you would want to include that in the packets they are sending up.

Ms. CONDON. Sir, that is something that I have been working with the county to do because it is a win-win for both of us.

ARMY VS. VETERANS AFFAIRS CEMETERY OPERATIONS

Mr. MORAN. Very good.

There appears to be some redundancy between the Army National Cemeteries Program, the American Battle Monuments Commission, and the VA's National Cemetery Administration. They are all doing great service to the country, but wouldn't there be some efficiencies gained and some money saved if you were to be able to combine some of those seemingly redundant functions?

Ms. CONDON. Sir—

Mr. MORAN. Or is it just too much turfdom that you don't want to tread on?

Ms. CONDON. No, it is not turfdom. The bottom line is that—we get asked the question a lot—is why not Veterans Affairs running Arlington Cemetery, or the American Battle Monuments Commission? The bottom line on that one is could VA run Arlington? Yes. Should VA run Arlington is the question.

The bottom line there is Arlington is probably one of the most busy cemeteries in the country. Unlike a Veterans Affairs cemetery, Arlington conducts gravesite burials with honors. The Army has been involved with Arlington since the start of the cemetery and the first person buried there. But on top of that, sir, we also

have 3,000 ceremonies of distinguished visitors from foreign countries who come to the cemetery, and on top of that is the fact that we are one of the largest tourist sites of Washington, D.C.

So the bottom line is there is a long tradition of the Army and DOD—I can reach back and get what we need to do to make sure that we do each one of those three things.

Mr. MORAN. Mr. Chairman, I am going to conclude now. But I would hope that we could look into the future, understanding that at some point we are going to reach some physical limitations at Arlington Cemetery. We can't just keep expanding it ad infinitum for every conflict that causes casualties. There is other hallowed ground around the country. So I would hope that we could consider sort of raising the status of other cemeteries and begin now so that people would understand that there are other prestigious cemeteries in which to be located, which is no slight to the importance of the people being buried or their devotion to our country, because at some point there are physical limitations that we are going to be meeting, and we need to plan for that. So, thank you, Mr. Chairman.

Mr. CULBERSON. Thank you, Mr. Moran.

And I, too, would like to explore the possibility of the VA taking over the actual operations of the cemetery and letting the Army continue to do all the ceremonies and everything they do so beautifully and so well. However, the long tradition you talk about is, of course, a grand one and a marvelous one, but a long history also of unfortunately incompetence, criminal neglect, gross negligence, incomprehensible grief to families to discover their loved ones have been misplaced.

So I think it is time for us to explore whether or not we would like the VA to take over Arlington and let the Army, however, continue to do what they do so well in handling the burials and the ceremony, et cetera. But obviously, Mr. Moran and all the members of this committee, this is something we would work on together. But we look to you for leadership on that, sir.

Mr. CULBERSON. Chairman Young, we are privileged to recognize you, sir, for any questions or comments.

Mr. YOUNG. Mr. Chairman, thank you very much. And it is always an honor to be here, and especially as we discuss the important issues of this subcommittee and the Arlington burial spot of America's heroes. But I do have a series of questions I would like to ask, but I would just like to submit them to the record in writing and ask if you would respond. And that would save time because I know we are running a little behind because of the votes.

Mr. CULBERSON. Yes, sir. Without objection.

Mr. YOUNG. Thank you.

NATIONAL REGISTRY OF HISTORIC PROPERTIES

Mr. CULBERSON. Thank you.

I am pleased to recognize my friend from California Mr. Farr.

Mr. FARR. Thank you, Mr. Chairman.

I have several questions. We heard that the two urns of the cemetery were recently listed for sale in private auction. And the question was raised if the Arlington National Cemetery were on the National Registry of Historic Properties, if they wouldn't be allowed

to sell things like that over the Internet. And I just wondered if you have been working with the Department of the Interior to list the cemetery on the National Registry?

Ms. CONDON. Sir, as a matter of fact, one of the issues that I discovered in November and was somewhat taken aback by was the fact that none of the properties in Arlington were listed on the National Historic Trust. We are currently working on a cultural and natural resources plan, which is what you have to do. It is the precursor for submitting what properties on Arlington are of historic value that need to be put on the National Historic Trust. I am working with the Army's proponent for that and the Assistant Secretary of the Army's office, and a priority is to get that national treasure listed on the National Historic Trust.

Mr. FARR. Thank you.

How about when you transfer the Navy Annex, do you know when that is going to occur?

Ms. CONDON. Sir, the property will be transferred to the Army in January of 2012.

Mr. FARR. How many Columbarium niche spaces, in-ground plots, will the Annex add to ANC?

Ms. CONDON. I could use the data that we received from the past, but with the Millennium Project, we will be able to expand to 2037.

Looking at the Navy Annex, what we want to do is to make sure that we design that property, working with the county, to have contiguous property. So we have not had the developmental stages on how we are going to use the Navy Annex because we want to make sure that we maximize the use of that property so that we can extend the cemetery as long as possible.

Mr. FARR. What about the south gate; will that road remain open?

Ms. CONDON. The south gate. The bottom line, sir, is we are working with the county and with the whole footprint to make sure that the cemetery is accessible, and that all the surrounding areas have the entrances that they need. We are at the planning stage right now.

Mr. FARR. And as the Annex property is acquired, do you foresee the need to acquire the homes on the three streets between the Navy Annex and the Marine Corps base itself, South Ode and South Oak? Obviously I am an interested party.

Ms. CONDON. Sir, we are not going to be taking over the people who live in those homes. Our design is around that.

POSSIBLE FUTURE CEMETERY SITE

Mr. FARR. I represent the Monterey Bay area, and we closed the largest training base in the United States there. It is 28,000 acres. It is a huge base. And we have created—because it is still in DOD ownership, the land there—tried to create an Arlington West.

The difficulty is that the way the Veterans Department handles all of this is that they have criteria that if you are within 70 flight miles of an existing cemetery with space, you cannot create another one.

So we can go through the existing process of just trying to create a national cemetery. The States, however, are allowed sort of Plan B that States can apply. The Feds reimburse them for the develop-

ment cost. But the State of California doesn't want to be in the cemetery business. Hawaii has 19 State cemeteries. California doesn't have any.

So the whole concept is what do you do when you have this incredible property where the history of California began, and it began with military and religious purposes when the Spaniards landed there and created a garrison. And it has been the longest continually used military property in the United States in the Presidio. That is not where the cemetery is.

So the idea is why don't we have—what would it take to have a national cemetery in California? We have got the geographic diversity west of the Mississippi, we have free land, we have access to major urban areas like San Francisco and L.A., and we have an historical military presence there.

Ms. CONDON. Sir, I am well aware of having the previous discussions on Fort Ord. And one of the topics that I think we need to present to the Commission once it is established is Arlington—there is going to be a finite time when we are literally going to run out of property at Arlington National Cemetery. My goal is to extend the life as long as possible. But what we really need to do is what do we do beyond Arlington, what is the next step. And that is something that I would like to present to the Commission, as well as putting that in the new master plan that I was going to start doing, because the current master plan of the cemetery is dated 1998.

So those are the kinds of issues that we need to put in the master plan is what is after Arlington. And that is one of the topics that I would present to the Commission is what do we do when we no longer have space in Arlington National Cemetery?

Mr. FARR. Do you present specific spots, real estate of States, locations within States, or is it a just generic "somewhere in the United States we need to have another cemetery"?

Ms. CONDON. Sir, the bottom line is what do we do after Arlington with no State in specific. But what we could do is if there is interest, as I know in the past, on Fort Ord and other Federal properties from BRAC, that might be something we could look at.

Mr. FARR. Time is of the essence because all those BRAC properties have to be rezoned. Essentially you don't have lot lines or anything when the military owns it. You really go through a whole development of a master plan. If you are not expressing your interest, those opportunities get passed over. And I would just urge that if indeed there is some thought, you have given some thought to it, that at least we make that known so that we won't foreclose the ability to create a cemetery.

Thank you, Mr. Chairman.

Mr. CULBERSON. Thank you, Mr. Farr.

Ms. McCollum.

Excuse me. Mr. Flake.

COST OF GRAVESITE ACCOUNTABILITY

Mr. FLAKE. Just a quick question. The Washington Post estimated it would take \$4.3 million to account for every headstone and match it with remains. Is that an accurate figure or close to? Or where did they get that figure?

Ms. CONDON. Sir, that is an accurate figure. That was an estimate that we have developed on what it will do to do the accountability at the cemetery.

Mr. FLAKE. Does that account for correcting some of the mistakes that have been made, or have those mistakes been corrected? I know some of them have, but have all of them?

Ms. CONDON. Right, sir. And that is all tied into the accountability that we plan that we are putting together for the cemetery to digitize the entire cemetery records and so forth.

If I could, the best example I can give you on our plans forward for that is very similar to if you were to go onto Google Earth right now and look at your house. We have already conducted a flyover of the cemetery, which literally has taken the picture of the terrain and the look of the cemetery from the top down so that you would have the houses. The process we are looking at digitizing as the next phase is we have an application we are working on which will literally give you the street view, which is the front and back of each and every cemetery stone and niche, and then we are tying that to the records that we are digitizing. So that was the dollars that you were—

Mr. FLAKE. Have all the known mistakes that have been made been corrected now?

Ms. CONDON. The mistakes that are known we have corrected. Sir, if we find any further discrepancies, we will correct those immediately.

Mr. FLAKE. And you can do that within the budget that you allocated?

Ms. CONDON. To date, sir, I think we have to do that in our budget, but if not, we will let people know.

Mr. FLAKE. Thank you.

Ms. CONDON. Thank you, sir.

Mr. CULBERSON. Thank you, Mr. Flake.

Ms. McCollum.

Ms. MCCOLLUM. You have had—not you personally, but the Department has had problems in the past. At Fort Snelling Memorial Cemetery, there was problems with garbage having been buried in part of the cemetery, and it had to go through and get cleaned up.

What have you done that you can try to assure families who have loved ones buried at the cemetery that might be planning on being there in the future, celebrating the life of a veteran at a cemetery, that you have gone through and really looked at all of the properties to make sure that this is either—whether it is a problem with debris—and it was a major problem with debris in parts of Fort Snelling or what we witnessed at Arlington. Are you being proactive to go out and identify possible problems now?

Ms. CONDON. Yes, ma'am. From the moment that we started on June 10th, Mr. Hallinan and I, who is the Superintendent—I am responsible for Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery in the District. But what we are doing is we are putting in the standards and procedures and making sure that we don't have issues like you were talking about with trash. And we are going to share those lessons that we are learning and finding across the cemeteries that are under the Army's purview.

STATE CEMETERY INQUIRIES

Ms. MCCOLLUM. The State cemeteries, States that are—Minnesota has one, and I had the honor and privilege of being part of making that happen in Minnesota. We have been approached about having a second cemetery. What are you seeing for anticipated needs from States coming to you? We know about the States that we live in and maybe a colleague has talked to us about, but do you see any potential lists or anything we should be aware of?

Ms. CONDON. Ma'am, those State cemeteries would be under the purview of Veterans Affairs and the National Cemetery Administration. So VA would be the one, solely, who handles those State cemeteries.

Ms. MCCOLLUM. The reason why I ask is lots of our servicemen sometimes think that you are the head cemetery. So are you getting requests? Are you passing them on? What do you do if you receive something?

Ms. CONDON. Ma'am, what we have established is we now have a consolidated call center so that anyone who calls in to Arlington—and what we have is we have a partnership with Veterans Affairs, and they pass information that they receive that is the responsibility of Arlington and vice versa. So whenever we get a question that was under the purview of Veterans Affairs, we immediately contact them and vice versa.

Ms. MCCOLLUM. So sometimes it is the veterans group that is interested, and sometimes it is a community organization. So we don't make them make another phone call, we are being proactive?

Ms. CONDON. We are being proactive. As a matter of fact, our call center has all of the contact numbers for Veterans Affairs and vice versa. We have a great partnership with all of the national cemeteries.

Ms. MCCOLLUM. My question might have seemed awkward for some of you, but I had heard that this call center existed. So that is what I was getting at. Thank you.

Ms. CONDON. Thank you.

CONCLUSION

Mr. CULBERSON. Thank you.
Any further questions?

Mr. BISHOP. No. I think I am satisfied. I appreciate your service, Ms. Condon. And we look forward to hearing your continued progress.

Mr. CULBERSON. Ms. Condon, I join Mr. Bishop and my colleagues in wishing you good luck in this effort and do want to stress, however, as I mentioned earlier, that we are keenly aware you have been given a very broad charge and the authority from the Secretary of the Army to solve these problems and ensure that they don't happen again in the future.

But above all, we want to insist that you pursue aggressively to ensure that criminal charges are brought against those that engaged in criminal conduct that resulted in this terrible mishandling of bodies and graves, and where it can be done, breach of contract, disciplinary actions, firings. And you are the person that can best push this. Don't just refer it to the Army. Don't just rely on the

Department of Justice. Please vigorously pursue these people that caused these problems yourself to ensure that justice is done to these families and to our country. We would be very grateful.

Ms. CONDON. Thank you, sir. I will do that.

Mr. CULBERSON. Thank you, ma'am. Thanks for your testimony very much.

[Questions for the Record submitted by Congressman Young for Ms. Kathryn A. Condon follows:]

Grave Owner Identification

Question 1. Please comment on the progress that has been made since last year's IG report. Specifically, provide us with the confidence that we will be able to properly identify each grave owner and notify his or her family member if there is a change needed. Also include a report that estimates how much it will cost to conduct this identification task for the cemetery and any outside resources that you will require to accomplish this task.

Answer.

COMPREHENSIVE ACTIONS

The full accounting and automation are inherently linked and will proceed with the following milestones: (1) transition the interment services branch from a paper-dependant operation; (2) automate historic records; (3) create digital maps; (4) collect information on all headstones and other markers; and (5) reconcile these burial records and headstone data to create an accurate and authoritative database capable of integration into the current Army information system or any future information system used to support Arlington National Cemetery operations. When complete this will ensure a comprehensive and authoritative accounting of all personnel and gravesite locations.

TRANSITIONING A PAPER-DEPENDANT OPERATION

Burial Operations at Arlington National Cemetery are driven by the Cemetery's daily funeral schedule. The Cemetery inputs required decedent and veteran information regarding the Cemetery's burial scheduling operations into an information system, the Interment Scheduling System. This system is used to generate a daily funeral schedule. This information system failed to keep pace with cemetery operations due to lack of operations and maintenance support over the past eight years. The Army Data Center Fairfield's continued support of the Interment Scheduling System and enhancements is enabling the transition of the interment services branch from a paper-dependant organization. Once complete the full range of authoritative records will "be backed up real-time.

AUTOMATION OF HISTORIC RECORDS

Because of the number of records involved, Arlington National Cemetery is using a contract to rescan all Records of Interments, Grave Cards, Reservation Cards, and Disinterment paperwork. It is estimated that these efforts will take three months from

contract award but delivery of scans will be incremental. Once complete the new electronic databases will be staged in a research portal where all gravesite artifacts can be viewed to make a decision on the accurate gravesite record. The Cemetery is forming a data analysis and research team to adjudicate any and all discrepancies to accurately account for the grave sites at Arlington National Cemetery.

RECONCILIATION OF BURIAL MAPS

The cemetery is currently working to field a Geospatial Information System (GIS) to improve gravesite assignment and management; however, prior to a Geospatial Information System (GIS) being fielded, Arlington National Cemetery must create this master grave location table to ensure all maps are accurately annotated and that new burial services are constrained limiting scheduling errors. A trial effort took approximately ten hours to create a comprehensive database of grave sites for one of the cemetery's 70 map sections. It will take approximately 700 hours of work to completely account for all cemetery plots contained within the maps. Once this location table is created it will be integrated into the existing system architecture providing a virtual constraint on all burials.

COLLECTION OF DATA ON ALL HEADSTONES AND OTHER MARKERS

To accurately account for all headstones and other markers, the Army will collect images and annotate all inscriptions from Government Furnished markers, both for gravesites and columbarium niches, private markers, and memorials. When complete, this information will be cross referenced with information contained on the official Record of Interment to ensure the labeling of all Government markers accurately reflects Arlington National Cemetery's official records. The effort will cost \$117,739 for the development of the application, design of the architecture, and database integration and development of a data-review environment. The Cemetery anticipates application the collection effort and post processing to take 2000 personnel work days to complete.

FULL GRAVESITE ACCOUNTING

A dedicated Task Force, co-led by an experienced active duty Colonel and a senior career Army civilian (GS-15), is configured to manage and focus on execution of the full accounting. This effort is estimated to cost approximately \$4,200,000 and take 2500 personnel work days to complete.

INTEGRATION INTO AN ARMY DATA SYSTEM

When the above process is complete and all the Cemetery's records are adjudicated, the Cemetery will have a single accurate and authoritative database detailing a full accounting of Arlington National Cemetery. This database and its data fields will be structured and capable of being integrated into the current Army data system or any future information system used to support Arlington National Cemetery Operations.

FORWARD INITIATIVES NECESSARY TO CONTINUE AUDITABLE ACCOUNTING AND ENHANCE OVERSIGHT OF OPERATIONS

For the Cemetery to continue enhancing operations, we will pursue initiatives to continue creating electronic burial records and enhance oversight and operations. These initiatives are: cleansing all Interment Scheduling System data and Burial Operations Support System (BOSS) data with the database created during the full accounting of Arlington National Cemetery, automating an interface to the Department of Veterans Affairs BOSS for marker ordering, and digitizing the Cemetery's current maps and gravesite assignment process.

CREATING DIGITAL MAPS

Once Arlington National Cemetery creates an electronic master grave location table it will ensure all maps are accurately annotated and that new services are constrained to preclude scheduling errors. This effort is estimated to cost approximately \$2.5 million due to the intensive geospatial data collection requirements necessary to spatial map all of the cemetery's markers. The cemetery estimates that data collection and application development will take approximately a year to fully implement digital mapping capability and the assignment of gravesites via a GIS integrated to the scheduling system.

DIGITIZING THE DAILY RECORDS

Arlington National Cemetery has daily scheduling and associated files with cemetery operations contained on site in a daily funeral log dating back to 1947. These records will be scanned and tagged with data as an individual files to enable searchable research efforts. The Cemetery expects this to cost more than \$2,500,000.

SUMMARY

The Army has taken immediate, short-term, and comprehensive actions to ensure gravesite accountability in accordance with the Secretary of the Army Directive 2010-04 mandate to provide a full accounting of Arlington National Cemetery. These actions ensure that we can submit an accounting of gravesites at Arlington National Cemetery as required by Public Law 111-339.

Army Burial Policy

Question 2. Recently, it was reported that flag officers and political appointees were "reserving" a gravesite at Arlington against Army policy. A person's position and status should not be a factor in whether they should be allowed to be buried into Arlington. Have you taken a look at how you select veterans who will be buried and is there a need to update the policy?

Answer. Gravesite reservation policy at Arlington National Cemetery is governed by Title 32 Code of Federal Regulations Part 553 (32CFR553), Section 18:

§ 553.18 Assignment of gravesites.

(a) Under present policy of the Department of the Army, only one gravesite is authorized for the burial of a service member and eligible family members.

(b) Gravesites will not be reserved

(c) Gravesite reservations made in writing before the one-gravesite-per-family unit policy was established will remain in effect as long as the reservee remains eligible for burial in Arlington.

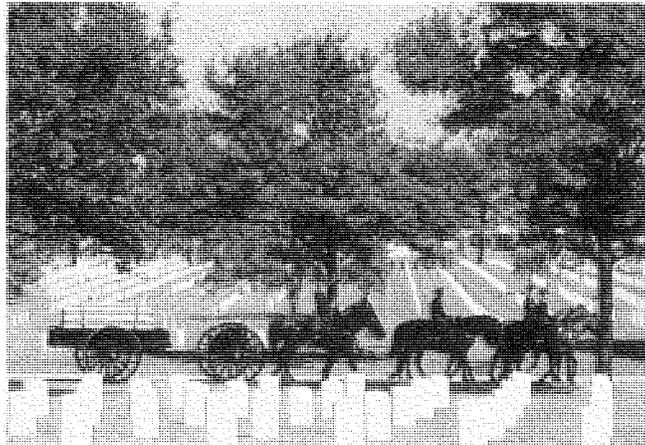
The Army's policy, consistent with 32CFR553, is there are no reservations or preneed arrangements for interment or inurnment at Arlington National Cemetery with the exception of those granted prior to 1962 which are grandfathered as long as reserve remains eligible for burial at Arlington National Cemetery.

The authority for the policy on reservations stems from 32CFR553 and has the force of law, but is not law. There is no need to update the policy itself, but codification could make it law.

U.S. Army National Cemeteries Program

CEMETERIAL EXPENSES, ARMY

FY 2012 PRESIDENT'S BUDGET CONGRESSIONAL JUSTIFICATION



FEBRUARY 14, 2011

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EXECUTIVE SUMMARY

This document serves as the Department of the Army's Fiscal Year (FY) 2012 President's Budget Congressional Justification for Cemeterial Expenses for the Army National Cemeteries Program, comprised of Arlington National Cemetery and the United States Soldiers' and Airmen's Home National Cemetery.

The Army is committed to rendering public honor and recognition through dignified burial services for members of the Armed Services and other qualified deceased persons where they may be interred or inurned in a setting of peace, reverence and natural beauty. Arlington National Cemetery also serves prominently as a destination for more than four million visitors annually and is the site for approximately three thousand wreath laying ceremonies each year.

On 10 June 2010 the Secretary of the Army installed a new leadership team to restore the faith and confidence of the public in the integrity and honor of Arlington National Cemetery. The new team immediately initiated comprehensive reviews by the Army's contracting, force structure, information technology and audit agencies. This budget is informed by the findings and recommendations of those reviews.

The FY 2012 President's Budget for \$45,800,000 fully supports the operation and maintenance, administration, and construction requirements necessary to maintain Arlington National Cemetery and the United States Soldier's and Airmen's Home Cemetery. A summary of these requirements, by program, along with a comparison to the prior year appropriation, is shown below.

Appropriations by Program (\$ in Thousands)	FY 2010 Appropriated	FY 2011 CR*	FY 2012 PresBud	Change FY10 to FY12
Operation & Maintenance (0861)	\$ 24,871	\$ 23,075	\$ 24,300	\$ (572)
Administration (0864)	2,356	10,792	12,037	9,681
Construction (0865)	12,623	5,984	9,464	(3,159)
Total Program	\$ 39,850	\$ 39,850	\$ 45,800	\$ 5,950

*Continuing Resolution

The Army's Manpower Analysis Agency and Force Management Support Agency found that the Army National Cemeteries Program lacked sufficient personnel in key administrative and operational functions and recommended increased authorizations. The table below shows the change in full-time equivalent authorizations recommended, by year.

	FY 2010	FY 2011	FY 2012	Change FY10 to FY 12
SES	1	2	2	1
GS	45	79	79	34
Wage Grade	56	71	71	15
Military	-	7	7	7
Total FTE	102	159	159	57

The Army National Cemeteries Program began hiring against these new authorizations in August 2010 and expects to fully staff the program by the end of FY 2011.

SECTION 1 – INTRODUCTION

Army National Cemeteries Program

Arlington National Cemetery and the United States Soldiers' and Airmen's Home National Cemetery comprise the Army's National Cemeteries Program. These two cemeteries function as the final resting place for our Nation's heroes where public honor and recognition are accorded in a setting of peace, reverence and natural beauty. Operational responsibility for these cemeteries is vested in the Secretary of the Army.

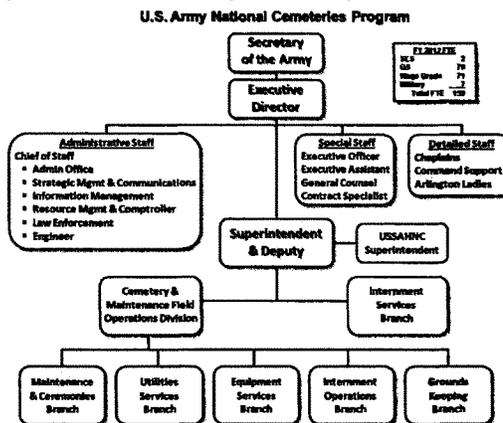
In addition to its principal function as a national cemetery, Arlington National Cemetery is the site of many non-funereal ceremonies that are conducted each year to honor those who rest in the cemetery. In FY 2010, approximately 2,000 such ceremonies were conducted. It is estimated that the annual number of ceremonies will remain constant for FY 2011 and FY 2012. Annually, about four million visitors come to Arlington National Cemetery as a destination, making it one of the most visited sites in the National Capital Region.

In FY 2010, Arlington National Cemetery conducted more than 6,000 interments and inurnments, averaging about 30 funeral services per day. It also maintained land and associated facilities, including miles of roadways and walkways. Activities included preparing burial plots; maintaining trees, grounds, and shrubs; raising, realigning, and maintaining headstones; and managing contracts for security, custodial care, and visitor information services.

Organizational Structure

On 10 June 2010, the Secretary of the Army released the findings and recommendations from a Department of the Army Inspector General investigation and inspection. Concurrently, the Secretary issued Army Directive 2010-04 to effectively and efficiently develop, operate, manage, and administer the Army National Cemeteries Program. In this directive, he established a new organizational construct to govern the organization as well as manage the day-to-day activities for these cemeteries.

The directive tasked the U.S. Army Manpower Analysis Agency and the U.S. Army Force Management Support Agency to complete an all-inclusive assessment of the current organizational structure with full consideration of the diversity of missions and functions and the volume and complexity of its workload. These assessments resulted in recommended changes to manning levels within the organizational structure.



Management

Management of the Army National Cemeteries Program is vested in the Executive Director who reports directly to the Secretary of the Army. The Executive Director's authorities and responsibilities include:

1. Exercising authority, direction, and control over all aspects of ANCPs long-term development and day-to-day administration and operations;
2. Formulating, administering, and overseeing plans, policies, and regulations pertaining to development, operation, and management of the Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery;
3. Overseeing the programming, planning, budgeting, and execution of the Cemeterial Expenses, Army Appropriation and other accounts pertaining to ANCPs operations;
4. Supervising and rating the performance of both the Superintendent and Deputy Superintendent; and
5. Implementing an Army National Cemeteries Advisory Commission who will visit the cemeteries at established intervals to inquire into the development, operations, management and administration of the Army National Cemeteries, including long-term strategic planning efforts, day-to-day functions, resource allocations, and other matters. The members of the Advisory Commission are charged with reporting annually to the Secretary detailing its actions during the preceding year and providing the Commission's views and recommendations pertaining to the Army National Cemeteries Program.

The Executive Director's staff has functional expertise in strategic management and communications, information management, and resource management. The Executive Director is supported by ceremonial units from the Armed Services, a detailed staff of chaplains, staff support from Headquarters, Department of the Army, and the Arlington Ladies who represent the Chiefs and Commandant's of each Armed Service at funerals.

The Superintendent is responsible for the execution of daily operations. There are four functional divisions reporting to the Superintendent: Interment Program Services Operations Division; Ceremonial and Memorial Field Operations Division; Facilities and Logistics Division; and Horticultural Services Division.

Operations

The Army National Cemeteries Program's FY 2012 budget focuses on allocating the appropriate funding for personnel costs, service fees, scheduled maintenance and repairs, supplies, materials, spare parts, contracting, and capital improvements sufficient to perform its mission.

The Army's National Cemeteries Program's annual program must provide for the sustainment of daily funerals, ceremonies, and memorializations that it hosts. Funding allocations support the care and upkeep of gravesites and niches, grounds with roadways, and facilities and support equipment.

ANCPs FY 2012 President's Budget is allocated within four major categories: compensation and benefits (27.8 percent); service and contract support (45.7 percent); construction projects (20.7 percent); and other supporting travel and transportation, rent, utilities and communications, printing and supplies, and equipment purchases (5.8 percent).

SECTION 2 – FY 2012 BUDGET PRESIDENT'S BUDGET***Overview of FY 2012 Funding Requirements*****FY 2012 Salaries & Expenses Requirements**

For FY 2012, the Army National Cemeteries Program requires \$45,800,000. This requirement is \$5,950,000 more than the amount estimated for ANCP in FY 2011. This increase reflects changes instituted in administration functions and operational realignments within ANCP as a result of the Secretary of the Army's reorganization of the agency. Most notably, funding levels for compensation and benefits are increasing due to ongoing hiring actions to fill full-time equivalent positions required to manage and operate effectively.

Assessment of current available capacity for inurnments necessitates starting work on Columbarium Court 9 immediately. Niche space in the existing columbaria courts and in the niche wall will be exhausted in FY 2016. Delays initiating the Millennium project have caused this program to slip by more than two years. The effect of this slippage puts the availability of above ground space for inurnments at risk as well as hindering the ability to provide privacy to the simultaneous funeral services conducted daily. Therefore funds are required for the Columbarium Court 9 project earlier than previously expected to close the gap for niche space availability and funds to begin the Millennium Project.

Reallocating Carry Over & Recoveries of Prior Year Obligations

As a result of the Secretary of the Army's 10 June 2010 directive, several Army organizations have conducted analyses of ANCPs operations, including contracts, force structure, information technology and systems architecture, and funding. Findings from these analyses caused the agency to reexamine its funding priorities and allocations for FY 2010. Due to obligation curtailments, the ANCP carried forward \$17.3 million of prior year funding into FY 2011. The ANCP is also examining its prior year obligations to reduce or eliminate unliquidated obligations.

The net effect of carrying forward prior year unobligated balances and recovering unliquidated obligation should enable the ANCP to cover the cost of Full-time Equivalent (FTE) personnel increases and construct Columbarium Court 9.

Effect of Secretary of the Army's Directive on the President's Budget**Personnel**

The Secretary's directive to institute change in the ANCP has caused the agency to relook its traditional organizational structure and task organize for effective management. In the Administrative area, greater emphasis is being placed on supporting the operational force by taking back outsourced functions to maintain tighter control. The ANCP has established a hiring plan to address personnel shortfalls.

Information Technology

Findings and recommendations from the Army Inspector General's report focused predominantly on the inability of Arlington National Cemetery to comply with Army and DoD information assurance policies resulting from a lack of internal government information technology staff. The findings also noted the inability of the agency to automate burial records and manage information technology contracts. Further investigation found that the infrastructure had also been neglected to the point where current operations were at risk of failure due to outdated hardware and software. ANCP continues to grow its dedicated information technology personnel to remediate the Inspector General's findings and provide a staff of onsite government information technology personnel necessary to enhance operations and oversight of the Cemetery's information technology programs.

Contracts

Another key area in the Army Inspector General's report focused on contracts. A comprehensive investigation conducted by the Deputy Assistant Secretary of the Army for Procurement identified faults at all levels within the Army contracting process. The Contracting community and ANCP have reexamined ANCP's service contracts and rewrote all the performance work statements to comply with established standards. All Contracting Officer's Representatives have been trained in FY 2011.

Training

Over the past few years, there has been a failure to invest in training to keep the workforce current in their jobs. With the new leadership in place, that status is changing dramatically. Individual development plans are in the process of being updated and supervisors are being given training targets that they and their people must meet. Also, ANCP established a memorandum of agreement with the Department of Veterans Affairs to leverage their training offerings.

SECTION 3 – APPROPRIATIONS LANGUAGE AND BUDGET SUMMARY TABLES***Appropriations Language*****Proposed Language for FY 2012**

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase *or lease* of [two] passenger motor vehicles *with higher fuel economy, including: hybrid vehicles; electric vehicles; and commercially-available, plug-in hybrid vehicles* for replacement *on a one-for-one basis* only; and not to exceed \$1,000 for official reception and representation expenses, [\$39,850,000] \$45,800,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account. Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally-owned water main at Arlington National Cemetery making additional land available for ground burials.

Rational and Justification for Modification to FY 2011 Language

Modification to ANCPs Appropriations language would provide authority to use Appropriated funds to move the agency toward a strategy of procuring or leasing environmentally friendly (or "green") passenger motor vehicles in order to reduce operational costs for the fleet and comply with:

- Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance;
- Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management;
- P.L. 102-486 – The Energy Policy Act of 2005; and
- Army directives.

Additionally, this language would eliminate the current ceiling on replacing passenger vehicles during the year, but would institute restrictive language that would cap replacement of the current fleet to a "one-for-one" basis. Procurement or leasing would follow current policy of retaining vehicles for their economic life-span or to be replaced with full justification as an exception to policy.

This modified Appropriations language would also continue to provide ANCP the authority to use Appropriated funds to complete relocation of the federally-owned water main, which is expected to continue into FY 2012.

Budget Summary Tables**Appropriated Budget Authority (FY 2010 – FY 2012)**

This table shows the budget authority for FY 2010 through FY 2012.

Cemetery Expenses, Army - Salaries & Expenses [21 - X - 1805]				
(\$ in Thousands)	FY 2010	FY 2011	FY 2012	Current
Budget Authority	Appropriated	CR	PresBud	Policy
Operation & Maintenance (0861)	24,871	23,075	24,300	
Administration (0864)	2,356	10,792	12,037	
Construction (0865)	12,623	5,984	9,464	
Totals	39,850	39,850	45,800	45,800
Outlays	20,000	39,850	45,027	45,027
Full-Time Equivalent Positions	102	159	159	159

Obligations by Program Activity (FY 2010 – FY 2012)

This table shows the obligations for each budget year and the budgetary resources available to ANCP, including allocation of unobligated balances and funds recovered from prior year obligations.

Identification Code: 21-1805-0-1-705	(\$ in Thousands)		
	FY 2010 Obligations	FY 2011 CR	FY2012 PresBud
Obligations by Program Activity:			
0.01 Operation & Maintenance (0861)	23,701	23,075	24,300
0.02 Administration (0864)	2,092	10,792	12,037
0.03 Construction (0865)	2,842	5,984	9,464
10.00 Total Obligations	28,634	39,850	45,800
Budgetary Resources Available For Obligation:			
21.40 Unobligated Balance Available, Start of Year: Appropriation	20	17,357	...
22.00 New Budget Authority (Gross)	39,850	39,850	45,800
22.10 Resources Available From Recoveries of Prior Years Obligations	2,496	...	...
23.90 Total Budgetary Resources Available For Obligation	42,366	57,207	45,800
23.95 New Obligations	42,366	57,207	45,800
24.40 Unobligated Balance Available, End of Year: Appropriation	...	...	...
New Budget Authority (Gross), Detail:			
40.00 Appropriation	42,366	57,207	45,800
41.00 Transferred to Other Accounts	...	...	...
42.00 Transferred From Other Accounts	...	...	...
43.00 Appropriation (Total)	42,366	57,207	45,800
70.00 Total New Budget Authority (Gross)	42,366	57,207	45,800
Change in Unpaid Obligations:			
72.40 Unpaid Obligations, Start of Year	...	...	...
73.10 New Obligations	42,366	57,207	45,800
90.00 Total Outlays (Gross)	20,000	39,850	45,027

FY 2012 President's Budget – Congressional Justification
U.S. Army National Cemeteries Program

Carry Over and Recoveries Allocations (FY 2010 – FY 2012)

This table shows how carry over and recoveries from prior years will be allocated.

	(\$ in Thousands)			Totals
	Operation & Maintenance (0861)	Administration (0864)	Construction (0865)	
A. FY 2010 Actual Appropriation (Allocations)	24,871	2,356	12,623	39,850
B. Allocation of Carry Over & Recoveries from PY	1,000	-	1,516	2,516
C. FY 2010 Total Budgetary Resources Available	25,871	2,356	14,139	42,366
D. FY 2010 Obligations	23,701	2,092	2,842	28,634
E. Rescission of FY 2010 Authority	-	-	-	-
F. FY 2011 Continuing Resolution (Allocations)	23,075	10,792	5,984	39,850
G. Allocation of Carry Over & Recoveries from PY	-	3,532	13,825	17,357
H. FY 2011 Total Budgetary Resources Available	23,075	14,324	19,809	57,207
I. FY 2011 Planned Obligations	23,075	14,324	19,809	57,207
J. FY 2012 President's Budget (Allocations)	24,300	12,037	9,464	45,800
K. FY 2012 Planned Obligations	24,300	12,037	9,464	45,800
L. Change (FY 2011 vs FY 2012)				
1. Appropriation (Line J minus Line F)	1,225	1,245	3,480	5,950
2. Obligations (Line K minus Line I)	1,225	(2,287)	(10,345)	(11,407)

Budget Obligations by Object Class (FY 2010 – FY 2012)

This table shows actual and expected obligations for all object classes. Note: FY 2011 includes carry over and recoveries allocations.

Identification Code: 21-1805-0-1-705	(\$ in Thousands)			
	FY 2010 Obligations	FY 2011 CR + PY Allocations	FY2012 PresBud	FY10 to FY12 Change
11.1 Personnel Compensation:	6,317.0	10,014.0	10,486.0	4,169.0
12.0 Civilian Personnel Benefits	1,735.0	2,310.0	2,258.5	523.5
21.0 Travel & Transportation of Persons	20.0	80.0	85.0	65.0
22.0 Transportation of Things	1.0	13.0	13.0	12.0
23.3 Communications, Utilities, and Misc	775.0	1,800.0	824.8	49.8
24.0 Printing & Reproduction	15.0	150.0	155.0	140.0
25.0 Other Services	15,301.1	17,392.5	20,941.8	5,640.7
26.0 Supplies & Materials	850.6	1,142.0	1,125.0	274.4
31.0 Equipment	778.0	965.0	447.0	(331.0)
32.0 Lands & Structures	2,841.7	23,340.5	9,463.9	6,622.2
99.9 Total Obligations	28,634.4	57,207.0	45,800.0	17,165.6

The following tables show allocations for Operations & Maintenance (0861), Administration (0864), and Construction (0865) programs:

Operation & Maintenance Program (0861)

Funding supports day-to-day operations of the Army National Cemeteries Program, including planning and execution for more than 6,400 interments and inurnments annually, as well as routine repairs made to facilities, contracted services, and horticultural work at Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery. Note: FY 2011 includes carry over and recoveries allocations. Additionally, funding previously shown under OC 23 – Communications, Utilities, and Misc as well as OC 24 – Printing and Reproduction has been realigned under the Administration Program (0864) to better describe the use of these funds.

Object Class	FY 2010 Obligations	FY 2011 CR + PY	(\$ in Thousands)	
			FY 2012 PresBud	FY10 to FY12 Change
11 Personnel Compensation	5,572.0	7,214.0	7,536.0	1,964.0
12 Personnel Benefits	1,594.0	1,610.0	1,698.0	104.0
21 Travel & Transportation of Persons	20.0	50.0	50.0	30.0
22 Transportation of Things	1.0	8.0	8.0	7.0
23 Rent, Communications & Utilities	775.0	-	-	(775.0)
24 Printing & Reproduction	15.0	-	-	(15.0)
25 Other Services	14,095.1	12,566.5	13,711.5	(383.6)
26 Supplies & Materials	850.6	1,031.0	1,014.0	163.4
31 Equipment	778.0	595.0	282.0	(496.0)
32 Lands & Structures	-	-	-	-
	23,700.7	23,074.5	24,299.5	598.8

Administration Program (0864)

Funding provisions administrative support for the Army National Cemetery Program, including work conducted or supported by other agencies. Note: FY 2011 includes carry over and recoveries allocations.

Object Class	FY 2010 Obligations	FY 2011 CR + PY	(\$ in Thousands)	
			FY 2012 PresBud	FY10 to FY12 Change
11 Personnel Compensation	745.0	2,800.0	2,950.0	2,205.0
12 Personnel Benefits	141.0	700.0	560.5	419.5
21 Travel & Transportation of Persons	-	30.0	35.0	35.0
22 Transportation of Things	-	5.0	5.0	5.0
23 Rent, Communications & Utilities	-	1,800.0	824.8	824.8
24 Printing & Reproduction	-	150.0	155.0	155.0
25 Other Services	1,206.0	8,358.0	7,230.3	6,024.3
26 Supplies & Materials	-	111.0	111.0	111.0
31 Equipment	-	370.0	165.0	165.0
32 Lands & Structures	-	-	-	-
	2,092.0	14,324.0	12,036.6	9,944.6

Construction Program (0865)

Funding supports ANCPs capital investments in construction of facilities, land improvements, and other major infrastructure sustainment, restoration, and maintenance efforts. Note: The Construction Program utilizes funds from carry over and recoveries from prior years for FY 2011.

<u>Project</u>	(\$ in Thousands)			
	<u>FY 2010</u> <u>Obligations</u>	<u>FY 2011</u> <u>CR + PY</u>	<u>FY 2012</u> <u>PresBud</u>	<u>FY10 to FY12</u> <u>Change</u>
Columbarium Court 9	-	16,468.0	-	-
Lodge 1 & 2 Repairs	-	280.0	200.0	200.0
IT Automation Infrastructure	-	760.6	500.0	500.0
Millennium Project	-	-	8,763.9	8,763.9
Facilities Maintenance Bldg.	2,002.0	-	-	(2,002.0)
Water Main Relocation	839.7	800.0	-	(839.7)
Mast of the Maine Restoration	-	1,500.0	-	-
	<u>2,841.7</u>	<u>19,808.6</u>	<u>9,463.9</u>	<u>6,622.2</u>

Investment in key projects includes development and construction in Columbarium Court 9 in FY 2011 and in the Millennium project in FY 2012.

Under current estimates, ANCP expects to exhaust its availability for inurnments in niche spaces in FY 2016. To preclude this from happening, ANCP has accelerated its investment in developing and constructing Columbarium Court 9 during FY 2011. This investment will add approximately 20,300 niches to ANCPs inventory and should allow ANCP to continue to offer inurnment services out to FY 2037. ANCP expects Columbarium Court 9 to be operational by November 2012.

Investment in the Millennium Project recommences in FY 2012. When all five phases have been completed, this project will provide space for casketed remains, niches, and space for in-ground cremated remains. Continuation of this project is critical to extend the viable life of Arlington National Cemetery and will permit ANC to offer multiple services to be performed simultaneously across the expanse of the cemetery.

Other capital investments in FY 2012 reflect ANCPs commitment toward upgrading its information technology architecture to support more efficient operations and repairs to the lodges located on the cemetery which began in FY 2011.

ANCP now has a dedicated engineering staff and has begun a comprehensive assessment of the current status of all ANCs facilities and infrastructure. This effort will be integrated with ANCP's long-term strategic planning.

Personnel

The table below shows a summary of full-time equivalent positions and displays the average salary for graded and ungraded positions. Note: Average Salary increases from FY2010 to FY 2012 reflect allowable increases due to Time-in-Grade.

FTE Authorization	FY 2010 Actual	FY 2011 Estimate	FY 2012 Budget	Change FY10 to FY12
Total Number of Permanent Positions	102	159	159	57
Total Compensable Work Years				
Full-time Equivalent Employment	102	159	159	57
Full-Time Equivalent of Overtime and Holiday Hours	1	1	1	No Change

Grade / Step Status	FY 2010	FY 2011	FY 2012	Change FY10 to FY12
Average Grade & Step (Graded Positions)	11/6	12/3	12/3	Less than 1 Grade
Average Salary (Graded Positions)	\$ 74,445	\$ 77,800	\$ 78,500	\$ 4,055
Average Salary (Ungraded Positions)	\$ 55,637	\$ 56,300	\$ 56,800	\$ 1,163

Gravesite Utilization

The table below provides current estimates for gravesite utilization at Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery.

**Status of Gravesites at Arlington and Soldiers' and Airmen's Home National Cemeteries
As of 30 September 2010**

Cemetery	Gravesite Capacity Developed Area	Total Gravesites Used	Gravesites Currently Available*	Year Available Capacity Exhausted	Gravesite Capacity Undeveloped Area**	Total Gravesite Capacity	Year Total Capacity Exhausted
Arlington National Cemetery	267,471	232,203	35,268	2025	23,500	290,971	2035
Soldiers' & Airmen's Home National Cemetery	13,894	13,780	114	2033	-	13,894	2033

*Note: Gravesites currently available includes approximately 20,000 that have been developed but not surveyed

**Note: Gravesite capacity in undeveloped area includes the Utility Relocation Project and the Millennium Project

Columbarium Utilization

The table below provides current estimates for columbarium utilization at Arlington National Cemetery. Note the U.S. Soldiers' and Airmen's Home National Cemetery has no columbarium.

**Status of Columbarium at Arlington National Cemetery
As of 30 September 2010**

Cemetery	Niche Capacity Developed Area	Total Niches Used	Niches Currently Available	Year Available Capacity Exhausted	Niche Capacity Undeveloped Area*	Total Niche Capacity	Year Total Capacity Exhausted
Arlington National Cemetery	50,673	38,569	12,104	2016	43,000	93,673	2037

*Note: Niche capacity in undeveloped area includes the Millennium Project and Columbarium Court 9

Current estimates for projected columbarium usage indicate that the Army National Cemeteries Program will run out of niche spaces in FY 2016 if funding for Columbarium Court 9 is not supported.

In December 2010, the President signed Public Law 111-339 requiring the Army to submit a report to Congress one year from the date of enactment that includes the requirement to provide an accounting of gravesites at Arlington National Cemetery. As part of the Army's effort to answer this legislation we will be able to confirm the accuracy of gravesite and columbarium utilization numbers listed above.

SECTION 4 – ANNUAL PERFORMANCE***Fulfilling the President's Initiatives*****Improper Payment Reductions**

ANCP has now gained access to the Wide Area Work Flow (WAWF) system and has implemented the online solution allowing vendors to electronically submit invoices and receiving reports; allowing the Government to perform inspection and acceptance of goods and services; and enabling interfaces with payment systems to receive transactions electronically while reducing or eliminating improper payments.

Acquisition Improvements

Acquisition improvements include training and certification of Contracting Officer's Representatives utilizing Army and Defense Acquisition University courses; participating in Service Acquisition Workshops to learn how to better write performance work statements; and instituting contract review boards to ensure that high quality procurement packages are assembled, processed and awarded.

Acquisition Workforce

Emphasis is being placed on identifying key people who must be integrated into the acquisition workforce. By having educated, trained, certified and experienced acquisition professionals on staff and engaged in the acquisition process, greatly reducing risk in procurement.

Information Technology Infrastructure

A complete network service provider transition from the Fort Belvoir Network Enterprise Center to the US Army Information Technology center is underway at Arlington National Cemetery. This effort will be complete by the end of FY 2011. This transition to the Headquarters Department of the Army information technology service provider will allow Arlington National Cemetery to mitigate most of the deficiencies noted in the Army Inspector General's report. When complete, Arlington National Cemetery will leverage the security and a full complement of information technology capabilities provided by the Army Secretary's IT service provider.

Information Technology Project Management

ANC continues to work with the Army's G-6 (CIO) office to put in place an appropriate governance structure for IT project management. ANC currently is working with information technology experts across the Army to leverage unique capabilities to support its current accountability efforts. By routing its projects through these organizations, the Army's IT and IT acquisition experts are able to ensure that IT projects support operations in the most effective and efficient manner possible.

Fulfilling Army and Agency Initiatives**Going “Green”**

ANCP has initiated a group to research and solicit ideas within its workforce and to create opportunities for the agency to be more knowledgeable and responsible about protecting the environment. The expected outcome is to develop a sustainability plan whereby “going green” becomes a quality business practice.

Gaining Accountability

The Army National Cemeteries Program implemented General Fund Enterprise Business Systems (GFEBS) on 1 October 2010. This Army initiative complies with the Federal Financial Management Improvement Act of 1996 (FFMIA) and other statutes. This initiative is enabling ANCP to provide accurate, reliable, and timely financial management information across the agency's operation.

GFEBS provides decision support information, analytical data, and tools to improve accountability and stewardship of ANCPs resources. GFEBS modules are organized around five business process areas central to ANCPs operations:

- Funds Management;
- Financials;
- Cost Management;
- Spending Chain; and
- Property, Plant, and Equipment.

Internal Control

During GFEBS implementation, ANCP also established internal controls measures to help the agency maintain its accountability and comply with laws, directives, and Army regulations. The Army Audit Agency assisted with establishing these internal control measures.

Department of Veterans Affairs BOSS

In July 2010, the Army explored options of returning to Burial Operations Support System (BOSS) for service scheduling. With the assistance of Army IT professionals, Arlington National Cemetery concluded it would be too costly to transition given the current lifecycle of the VA's BOSS. Arlington National Cemetery continues to work with the Department of Veterans Affairs' Office of Information and Technology support for the National Cemetery Administration in an effort to automate the interface between the current scheduling systems. Through this process Arlington National Cemetery can ensure that the electronic records it creates are accurate and synched with the VA's BOSS system.

Additionally, Arlington National Cemetery requested to participate in requirements development for the VA's new burial and memorial services system that will provide benefits to eligible Veterans and families supporting cemetery operations. Through this process Arlington National Cemetery will ensure it cemetery operations and scheduling requirements are captured in order to ensure interoperability between the departments.

Cultural Resource Master Plan

U.S. Army Corps of Engineers Baltimore District is currently working revisions we provided them. The revised Integrated Cultural Natural Resource Plan (ICRMP) is due back to us for another review by the end of February.

Based on an Army requirement, this ICRMP serves as ANC's guide for cultural resource management activities, primarily with regard to maintain compliance with the National Historic Preservation Act (NHPA) of 1966, as amended, and DoD policy on cultural resources. The recommendations outlined in this document are designed to ensure that ANC makes informed decisions regarding the cultural resources under its control, is in compliance with public laws, supports the military mission, and is consistent with sound principles of cultural resource management.

Historical Trust

Arlington National Cemetery is working closely with the office of the Assistant Secretary of the Army (Installations, Energy and Environment) to ensure Arlington National Cemetery and all appropriate structures are submitted for inclusion on the National Historic Register.

THURSDAY, MAY 5, 2011.

AMERICAN BATTLE MONUMENTS COMMISSION

WITNESS

MAX CLELAND, SECRETARY, AMERICAN BATTLE MONUMENTS COMMISSION

STATEMENT OF THE CHAIRMAN

Mr. CULBERSON. Thank you, Mr. Secretary, for being here with us today.

Our second hearing this afternoon is on the budget request for the American Battle Monuments Commission. Their budget request for fiscal year 2012 is \$61.1 million, a decrease of \$3.1 million from the appropriation of \$64.4 million that they received for fiscal year 2011.

In addition, the foreign currency fluctuation account request is estimated at \$16 million for fiscal year 2012, because, as you explained to me, you are hiring local folks, obviously, to handle the labor at cemeteries for which you are responsible around the world.

The American Battle Monuments Commission is responsible for the administration, operation, and maintenance of cemetery and war memorials to commemorate and honor the achievements and sacrifices of our American Armed Forces around the world.

I believe it was Colin Powell who said that America, we don't ask for a single square inch of any land on which our soldiers have fought but to bury our dead. We are the only Nation on Earth that has ever done that, to my knowledge.

In performing these functions, the Commission maintains 24 permanent American military cemetery memorials and 22 monuments, memorials, markers in 15 foreign countries, the Commonwealth of the Northern Marianas Islands, and the British Dependency of Gibraltar. In addition, memorials are located in the United States: On the east coast, the East Coast Memorial in New York; the West Coast Memorial, the Presidio in San Francisco; the Honolulu Memorial in National Memorial Cemetery of the Pacific in Honolulu, Hawaii.

Before I introduce our witness, I would like to recognize Mr. Bishop for any opening remarks he would like to make.

STATEMENT OF THE RANKING MINORITY MEMBER

Mr. BISHOP. Thank you very much, Mr. Chairman. I am very pleased to be here with my friend of long standing, whom I have been calling Mr. Secretary for a long time. He was our former secretary of state for the State of Georgia. He served in the State senate, where I served, and he was our State U.S. Senator. So we have a long-standing relationship. I am delighted to see him here.

I thank you for calling the hearing today, Mr. Chairman.

Max Cleland is a true American hero, and he is a friend of long standing.

As the ranking member of this subcommittee, I view our responsibility to support the American Battle Monuments Commission with unique solemnity. The Commission carries out our Nation's duty to honor and preserve the memory of the most valiant defenders of freedom that America has ever produced. The 131,000 graves that the Commission cares for are among the most sacred places on this Earth. They deserve our country's and the world's most profound gratitude, including the resources to meet the responsibilities of caring for them.

In reading Secretary Cleland's testimony, I was particularly touched by his references to Frank Buckles, the recently passed last veteran of the Great War; and Len Lomell, a first sergeant and hero at Pointe du Hoc. As Secretary Cleland said, these men exemplify humble courage, which is so rare and so precious.

One cannot imagine the fortitude required to approach forces in Higgins boats knowing what lay ahead. And by the way, Mr. Secretary, many historians, including Stephen Ambrose and the Supreme Allied Commander Dwight Eisenhower, said that the war could not have been won without Andrew Higgins of New Orleans.

On June 6, 1944, President Roosevelt led the Nation in prayer, in which he said: Our sons, pride of our Nation, this day have set upon a mighty endeavor to set free a suffering humanity. Some never will return.

Mr. Chairman, that freedom came at great cost in American blood, and many people, including Members of this House, have said that their visit to the American cemetery at Normandy was the most moving experience they have had in their lives. And it should be. And, of course, as ranking member of this subcommittee, I pledge, and I am sure that the chairman joins me and all of the members of this committee, to do everything that we can to ensure that the Commission has the resources to enshrine those who gave their full measure of devotion at the altar of liberty.

So, thank you, Mr. Chairman, for allowing me those remarks.

Again, welcome, Mr. Secretary.

Mr. CULBERSON. Thank you, Mr. Bishop. We all in Congress, especially this subcommittee, have a sacred trust to ensure that those who gave their lives for this country are honored in a reverent way, and we will make sure of that.

However, before I recognize the witness, I want to recognize our distinguished former full chairman and chairman of the armed services subcommittee, Mr. Young.

Mr. YOUNG. Well, Mr. Chairman, thank you very much. Welcoming Secretary Cleland to this subcommittee, or to any subcommittee, is a real honor. He is a great hero and a true friend.

Max, you know how much I appreciate you and the work you have done over the years.

If anybody has a question about what America's role in the world really is, what is it we want, what are we looking for—we get accused of a lot of things that just aren't true—visit one of these cemeteries overseas, see the markers, hear the stories. I can tell you, you will appreciate this country more and more and more and

what we have invested in young men and women in order to maintain a peaceful world.

I want to say, Mr. Secretary, having visited many of the cemeteries, as you know, I am extremely proud of the job that you and the folks who work with you have done in maintaining them. I have visited some of the other foreign cemeteries of other countries, and I can tell you they don't begin to compare with the American cemeteries overseas. So I think we owe you a great debt of gratitude, and we renew our thanks for maintaining those historic and those relevant places that say something very loud about what America is all about. You do a great job. I want to thank you on the record.

Mr. CULBERSON. Thank you, Mr. Chairman.

Mr. Secretary, I know we all share Chairman Young's sentiments and deep appreciation to you, sir, for your service and sacrifice on behalf of this Nation and for your service here today as the Secretary of this extraordinarily important trust on behalf of our young men and women and our Nation.

You have served, of course, as a United States Senator, as Mr. Bishop said, from the State of Georgia, and as the youngest-ever Administrator of the United States Veterans Administration. And I see that in 1964 you earned your bachelor or arts degree from Stetson University, and received a second lieutenant commission in the United States Army where you served with distinction in Vietnam, earning not only the Bronze Star for meritorious service, but the Silver Star for gallantry in action. We are deeply indebted to you, sir, for all you have done for this Nation.

As you indicated in your visit with me earlier, you are now completing, and I hope you will describe for the committee what you have done at the memorial in Hawaii for Vietnam War veterans. I think it is a great story. We thank you for your service to our Nation.

Sir, your full statement will be entered into the record in its entirety. We welcome your testimony today.

STATEMENT OF THE HONORABLE MAX CLELAND

Mr. CLELAND. Thank you, gentlemen. I would like to respond to some of the positive remarks.

First of all, former chairman of the full House Committee on Appropriations, Mr. Young, my dear friend. The first time I came to this subcommittee was 1977. I was 34 years of age and head of the Veterans Administration and scared to death. Mr. Young was in that hearing, and he has become a friend and a supporter and a dear soul and friend ever since. It is great to see you, sir. Thank you for those kind remarks.

My friend Sanford Bishop from our native State of Georgia, thank you very much for your kind remarks. We both hail from a State that has within it Fort Benning. And the last time I set foot in Fort Benning, I swore I would never come back after jump school, but I may be going back sooner than I think.

Thank you for referring to the FDR prayer. Many people know that Franklin Roosevelt on the occasion of D-Day offered a prayer for the Nation. I have that prayer hanging on my wall in my office, and I deeply appreciate that.

Mr. Chairman, I might say that I invite you and all the members of the subcommittee particularly to something that is quite rare, and that is in this town we often spin our wheels a lot, but very rarely do we have a sense of accomplishment. This subcommittee, each and every member and staff member, can take great pleasure in the fact that you have really done something. We have taken \$6 million of the money you gave us, and we have restored and reclaimed Pointe du Hoc. We have saved Pointe du Hoc, which was where the 2nd Battalion of the U.S. Army Rangers, commanded by Lieutenant Colonel Rudder from Texas, led those troops up there with 70 percent casualties. One can't hardly think of such an assault. General Bradley said it was the most dangerous mission of D-Day.

Stephen Ambrose pointed out that the two men most responsible for the success of D-Day were Dwight Eisenhower and Len Lomell, who found the guns, the 155-millimeter howitzers, and disabled them before they could be applied by the Germans to Utah Beach or Omaha Beach.

We, with your help, have restored Pointe du Hoc and saved the German bunker, the German observation post. If you ever saw the movie *The Longest Day* about the D-Day invasion, the German looks out through the slit in the observation bunker and sees the massive armada that is about to become D-Day right there on the shores. That bunker has been saved with your help, and Pointe du Hoc has been saved. And it was the scientists at Texas A&M, with half a million of your dollars, that found that the point could be saved rather than it floating out into the English Channel.

So we invite you to come on D-Day, the 67th anniversary of D-Day, June 6 of this year, to the commemoration of the saving of Pointe du Hoc, the saving of that bunker, and the beginning of telling the story to the whole world through better interpretation just exactly what that event in American history was all about.

In terms of Hawaii, the American Battle Monuments Commission shares with the VA only one site in the world. We are the overseas people. The VA runs the cemeteries in America, and the Army runs Arlington. But we are the overseas people.

If you watch *Hawaii Five-O*, either the old *Hawaii Five-O* or the new *Hawaii Five-O*, you catch a quick glimpse in the opening scenes of the shrine that we have there. That is called the Honolulu Memorial Courts of the Missing. We have 18,000 names from the missing from World War II; 8,000 from Korea; and 2,500 from Vietnam.

We are putting together something called the Vietnam battle maps. We have battle maps at all of our cemeteries. In Hawaii, we have the battle maps from World War II, the battle maps from Korea. We are putting together the battle maps from the Vietnam War. That will be dedicated Veterans Day 2012.

So we span the globe where Americans have been and where they have shed their blood, and many of them have not come back. We have interred about 125,000 Americans, and we know the name and service number and rank and unit of every one of them; plus 95,000 names on the walls of our missing.

So, we invite you to visit any one of our 24 cemeteries or any one of our 25 monuments around the world.

We have this year about \$64 million with which to operate. The budget that we are requesting is about \$3 million less, which includes a 5 percent across-the-board cut. We can live with that. It is \$61 million that we are basically asking you for, and we are taking it out of maintenance and infrastructure. We can handle that because we are one of the few agencies, and you gave us the authority, to use no year money; in other words, carryover money. Most Federal agencies cannot carry over their money from year to year. We can. So we had some extra money. That is how we are funding the \$10 million upgrade of the memorial in Honolulu. That is how we are funding some of our operations, our incredible improvements in terms of telling the story, some of the advancements we want to make in our presence on the Internet and interactive videos and virtual tours and so forth of our cemeteries. That is how we are funding it, with some of the money we stored up.

So we can handle the next couple, 3 years basically at this level, but beyond that we can't keep borrowing from Peter to pay Paul. But that is for another year and another time.

But basically, Mr. Chairman, we are operating now in this fiscal year at the level of about \$64 million. We ask the committee to approve our request for about \$61 million. We can handle it. We can do it.

I might say, Mr. Chairman, when I came to the American Battle Monuments Commission a couple of years ago, I found that we needed to, shall we say, not have some consultants, some part-time employees. We didn't need an extra office in Rome. So we cut back, and it saved about a million and a half dollars just from that in the first few months.

But now that we are in an entrenchment period, we feel that we can handle it and that we will be all right for a couple or 3 years pretty much at this level. Beyond that, I make no promises. We are handling it out of maintenance and infrastructure money, but we will be okay. We do have some new initiatives going on.

I am glad to be responsive to your questions, Mr. Chairman and members of the committee.

[The information follows:]

**WRITTEN STATEMENT
OF
MAX CLELAND
SECRETARY
AMERICAN BATTLE MONUMENTS COMMISSION
BEFORE
THE SUBCOMMITTEE
ON
MILITARY CONSTRUCTION AND VETERANS AFFAIRS
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
May 5, 2011**

Introduction

Mr. Chairman and Members of the Subcommittee...

Thank you for this opportunity to appear before you to discuss the American Battle Monuments Commission's Fiscal Year 2012 Appropriation Request.

Honoring our Nation's fallen has been the mission of our Commission since 1923. Our purpose was eloquently stated in 1934 by our first chairman, General of the Armies John J. Pershing, who promised that:

"Time will not dim the glory of their deeds."

We honor the fallen by commemorating the service, achievements and sacrifice of America's armed forces.

It is our responsibility to preserve for future generations the twenty-four cemeteries and twenty-five memorials, monuments and markers worldwide that have been entrusted to our care by the American people, to honor America's war dead, missing in action, and those that fought at their side.

We have an equally important responsibility to continue the historical narrative for those who created it—to tell their stories at each of our overseas cemeteries.

This imperative has never been more evident than over the past few months, when we lost Frank Buckles and Len Lomell to the passage of time.

Many have read the story of Frank Buckles. With his passing, at the age of 110, we lost our last Doughboy of World War I—our nation's living connection to the Great War.

Not as many Americans know of Len Lomell. I had the honor of meeting Len 16 months ago at his home in New Jersey. He exemplified the humble courage of our World War II generation, as he told me the story of Pointe du Hoc.

On D-Day—June 6th, 1944—Lomell was a first sergeant and acting platoon leader in D Company, 2nd Ranger Battalion. He climbed the 100-foot cliffs of Pointe du Hoc with his comrades, after already being wounded in the side by machine gun fire. Experiencing the death and wounding of many comrades, he continued to move forward.

Once at the top of the cliff, he began looking for the five 155-millimeter guns that could have decimated the American invasion forces on Omaha and Utah Beaches. The guns could not be found. Lomell and Jack Kuhn went looking for them.

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Approximately one mile down a sunken road Lomell spotted the guns concealed under camouflage in an orchard. German soldiers located 100 meters away did not see them coming.

Lomell used silent thermite grenades on two of the guns. The incendiary compound poured out of the grenades like solder, hardening like a weld around the gears. Running back to the platoon to get more grenades, Lomell and Kuhn returned to destroy the remaining guns.

Historian Stephen Ambrose said that other than General Eisenhower, Lomell contributed most to the success of D-Day. Len was discharged in December 1945. He died March 1 at the age of 91.

We had hoped to have Len with us at Pointe du Hoc this June—on the 67th anniversary of D-Day—when we rededicate the Pointe du Hoc Ranger Monument.

The monument and German Observation Bunker it sits upon had been closed to the public since 2001 because of cliff erosion. It was reopened in March following completion of a project to stabilize the cliff and preserve this iconic site.

I will never forget the story Len shared with me, told not with bravado but with the matter-of-factness so typical of those who fought and won the Second World War. He will be in my thoughts on June 6th.

Our mission—our noble purpose—is to honor the service, achievements and sacrifice of those, like Frank Buckles and Len Lomell, who have served overseas in the United States armed forces since our entry into the First World War.

We execute that mission in part by maintaining our overseas cemeteries to a standard of excellence unparalleled for sites of their kind around the world.

Those whom we honor deserve nothing less.

The men and women buried in our overseas cemeteries and memorialized on our walls of the missing served and sacrificed so that we—and others—might live in peace and freedom. And they continue to serve today, as sentinels giving silent testimony to citizens of the world, of the values and principles for which we stand.

Telling Their Story

Maintaining our cemeteries and memorials to the highest of standards will always be the Commission's top priority. But an increasingly important priority is to do a better job of preserving and telling the stories of those honored within them.

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We are making progress toward that end:

- We have projects underway to improve the interpretive and visitor services at Cambridge, Sicily-Rome, Meuse-Argonne and Flanders Field American Cemeteries.
- We are adding interpretive exhibits at Pointe du Hoc—our second most visited overseas site, surpassed only by Normandy American Cemetery—and Vietnam battle maps to the Honolulu Memorial.
- We are producing educational interactive programs on major U.S. campaigns of the world wars for our Web site.

Similar projects at our other cemeteries will follow as we adapt our visitor facilities, our Web site, and our message to the interests and demands of younger generations, for whom these important heritage sites and timeless lessons must remain relevant.

Our goal is to maintain the world's finest commemorative sites; and to provide our visitors, in person and online, the historical context for understanding why our overseas cemeteries were established, how and why those honored within them died, and the values and principles for which they died.

Appropriation Request

To execute this mission, our Fiscal Year 2012 request seeks \$61.1 million for our Salaries and Expenses Account and \$16.0 million to replenish our Foreign Currency Fluctuation Account.

The \$61.1 million we request for Salaries and Expenses supports Commission requirements for compensation and benefits; rent and utilities; maintenance, infrastructure, and capital improvements; contracting for services; procurement of supplies and materials; and replacement of equipment.

Our Salaries and Expenses request is nearly \$3 million below the funding provided for FY 2011. This decrease is achieved by a \$4.15 million reduction in our maintenance and infrastructure programs, driven by the FY 2011 funding of the Vietnam Battle Maps project. This reduction is partially offset by increases in areas such as contracted services, utilities, supplies, and personnel compensation, resulting in an overall net decrease of \$2.97 million.

To support this level of effort our staffing requirement remains at 409 Full-Time Equivalent positions.

Most of the Commission's facilities range in age from 49 to 95 years old, with the Mexico City National Cemetery being nearly 160 years old. Care and maintenance of

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these aging heritage sites requires exceptionally intensive labor. Not surprisingly, compensation and benefits consume nearly half of the Commission's appropriations request.

The \$16.0 million we need to replenish our Foreign Currency Fluctuation Account defrays losses resulting from changes in the value of foreign currencies against the U.S. Dollar, allowing us to maintain purchasing power in an uncertain financial environment—a critical factor when 70 percent of our annual appropriation is spent overseas.

In the summer of 2009 I began an initiative to simplify, streamline and support our mission operations. We have completed that transition. In the process we eliminated a redundant contract staff in our Washington headquarters, closed an unnecessary regional office in Rome, and centralized all overseas operations under a single administrative office in Paris.

Our agency is now streamlined into a Washington-based policy and support office and a Paris-based field operations center responsible for all overseas cemeteries and memorials. The new structure is standardizing operations at our 24 cemeteries, improving supervision of our cemeteries, providing new career growth opportunities for our superintendents, and positioning us for success in the 21st century.

And this summer we will implement a new Financial Management System that will enable us to more efficiently manage our financial resources.

Conclusion

The Commission's mission success hinges on our ability to perform three core functions: (1) keep the headstones white; (2) keep the grass green; and (3) tell the story of those we honor.

Our Fiscal Year 2012 request enables us to perform these core functions to a level of excellence that our war dead deserve and that the American people expect.

With the support of the Administration and the Congress, we do our part to meet the challenge posed by the words of the poet Archibald MacLeish:

“... We leave you our deaths: give them their meaning ...”

Mr. Chairman, Members of the Sub-Committee, we welcome your visits to our commemorative sites—to experience firsthand the inspiration they provide to all who walk those hallowed grounds.

Thank you again for allowing me to present this summary of our mission operations and our appropriation request. This concludes my prepared statement. I will be pleased to respond to your questions.

**The Honorable Max Cleland
Secretary
American Battle Monuments Commission**

Biography

A former United States Senator and youngest-ever Administrator of the U.S. Veterans Administration, Max Cleland has been a distinguished public servant for over 40 years.

Born and raised in Lithonia, Georgia, Cleland received the Atlanta Journal Cup as the most outstanding graduate in the class of 1960 at Lithonia High School. He later attended the Washington Semester Program at American University where he was inspired to enter public service. In 1964, he earned his B.A. degree from Stetson University and received a Second Lieutenant's Commission in the U.S. Army through its ROTC program. Cleland holds a Masters Degree in American history from Emory University. Both Stetson and Emory have awarded him honorary doctorate degrees.

In 1967, Cleland volunteered for service in the Vietnam War and was promoted to Army Captain. Seriously wounded in combat in 1968, he was awarded both the Bronze Star for meritorious service and the Silver Star for gallantry in action.

In 1970, Cleland was elected to the Georgia Senate where he was the youngest member of that body and the only Vietnam veteran. He was re-elected to the State Senate in 1972. There he authored and helped to enact into law legislation which for the first time made public facilities in Georgia accessible to the elderly and handicapped.

In 1974, Cleland lost his race for Lieutenant Governor of Georgia. The following year he was appointed to the staff of the U.S. Senate Veterans Affairs Committee, where he investigated hospitals in the Veterans Administration health care system and their treatment of wounded U.S. troops returning from Vietnam.

Appointed in 1977 by President Jimmy Carter to head the Veterans Administration, Cleland managed the largest health care system in the country. As the nation's youngest VA Administrator ever and the first Vietnam veteran to head the department, Cleland created the Vet Center counseling program. Today over 200 Vet Centers across America help veterans and their families deal with post-traumatic stress disorders and associated problems.

The Institute for Public Service, in 1977, awarded Cleland the Thomas Jefferson Award, which is given to an American under the age of 35 who makes the greatest contribution to public service. The following year Cleland received

the Neal Pike Prize from Boston University for his outstanding contributions to the rehabilitation of disabled veterans.

In 1982, Cleland won election as Georgia's youngest Secretary of State and served in that office for 12 years. In 1996, he was elected to succeed Sam Nunn in the United States Senate. Cleland held the seat on the Senate Armed Services Committee which was previously occupied by Nunn and Senator Richard Russell.

As a member of the Armed Services Committee, Cleland was a forceful advocate for veterans and for a strong national defense. He successfully fought to improve some of the Department of Defense's most pressing personnel needs, including recruiting and retention, pay and compensation, reform of the military retirement system and health care. Because of Max Cleland's efforts, servicemen and women who choose not to use their GI bill educational benefits can now pass those benefits on to their children. In 2000, Cleland was selected by the Reserve Officers Association to receive the group's Minute Man of the Year Award, which is presented annually to "the citizen who has contributed most to National Security during these times."

After his defeat for re-election in 2002, Cleland was appointed to the 9-11 Commission to study the circumstances surrounding the September 11, 2001 terrorist attacks and to recommend safeguards against future attacks. While a member of the Commission, Cleland served as an adjunct professor in Political Science on the Washington Semester Program at American University. In late 2003, he was appointed to be a member of the Board of Directors for the Export-Import Bank of the United States, where he served for three and a half years. On June 3, 2009, President Obama appointed Cleland as Secretary of the American Battle Monuments Commission, managing 24 cemeteries overseas where fallen American troops from World War I and World War II are memorialized.

Cleland is the author of three books: *Strong at the Broken Places*; *Going for the Max: 12 Principles for Living Life to the Fullest*; and *Heart of a Patriot*.

PREVALENT MAINTENANCE ISSUES

Mr. CULBERSON. Thank you very much, Mr. Secretary. I have a couple of questions. We are very pleased with your management of our cemeteries and battle monuments around the world. Of course, all of us strongly support what you are doing.

What in your mind are some of the most prevalent maintenance issues that you have to deal with at your 25 cemeteries under your management that this committee needs to know about?

Mr. CLELAND. We like to say that we have a three-legged stool upon which we stand. We try to do three things: keep the headstones white, the grass green, and tell the story.

We are heavily involved in telling the story. But the basic, fundamental aspect of us maintaining the gold standard that we are all proud of here in this country for our cemeteries and memorials has to do with keeping the headstones white and the grass green. That also has to do with the infrastructure, the equipment, the maintenance, the day-to-day caring of these incredible national and international shrines.

I would say that we have to postpone in the next couple or 3 years, if this budget stays intact, probably some irrigation projects, some equipment purchases.

By the way, there are no requests for salary increases here, pay increases for salary for any of us. But we will take a small hit if we are not careful in some equipment and in some irrigation projects and the like.

We will not allow our cemeteries to deteriorate. That is my commitment to you. But in some of the things that are not so visible, maybe something like a service area might have to be postponed. But basically we are on track, and we will be doing okay.

Mr. CULBERSON. I am glad to hear that with the reduction, you will still be able to do what you need to do.

Mr. CLELAND. Yes, sir.

Mr. CULBERSON. The success of the Normandy Interpretive Center leads me to ask you, where are you attempting to use that model elsewhere? And does the budget request for this year include funding for new interpretive centers?

Mr. CLELAND. We have that money in-house for about five additional interpretive center projects, places like Cambridge, Sicily-Rome, and some others. Manila, we want that to come on line after we do the master planning there.

We were targeting Cambridge for an interpretive center coming on board in 2012, along with the London Olympics there, because the visitation would probably lap over into us about 60 miles north of London. But that interpretive center probably won't be completed by the end of 2012, but we have clearance now for it.

We have to run all of our real changes like that, to any of the American cemeteries abroad, through the CFA, the Commission of Fine Arts. I am not a fine arts specialist, and so we always run that through the Commission of Fine Arts. That has been a requirement ever since the American Battle Monuments Commission was founded in 1923.

But we are clear to go with Cambridge. We are working on Sicily-Rome, which is the cemetery associated with the Anzio invasion

and the march to Rome and beyond. That cemetery holds those casualties of World War II, and we are going to put an interpretive center there to tell that story.

I would say 5 over the next 3 to 4 years. But more and more, we will try to tell our story on the Internet.

Mr. CULBERSON. Thank you very much.

Mr. BISHOP. Thank you very much, Mr. Chairman.

DELAYING CAPITAL PROGRAMS

Mr. Secretary, I was listening attentively, and I understand that your fiscal year 2012 request reflects delayed engineering work and capital expenditures. I was interested to really know what effect this delay will have on your overall capital program, and you addressed that to some extent. You mentioned some of the infrastructure and maintenance projects, under the chairman's questions, that were being delayed.

While delaying the projects may in the short term save money, is there any concern that by delaying them, you will ultimately increase the cost in the long run? If so, do you expect any additional future resources will be required because of having to postpone and delay this program? And if so, do you have an estimate of how much will be required in additional future resources?

Mr. CLELAND. Your question is well taken, Mr. Bishop. Any time you delay a contract, say, for an irrigation system, and you postpone that 2 or 3 years, or down the road, you are also risking the contractor coming back with a higher bid or a series of contractors coming back with a higher bid. So we risk that in every contract that we have agency-wide.

Secondly, certain costs will increase that have nothing to do with maintenance and infrastructure, like insurance costs for personnel and other costs.

Third, you have 14 different nations. There are certain things we can control about our budget, and you have given us the authority to go to the Treasury if the currency fluctuation is not in our favor. But there are other things principals of sovereign states may order regarding their citizens, and we employ well over 300 foreign nationals. We have a total budget authorization of about 409, and I would say well over 300 are foreign nationals, and they are governed by their own country and their own laws. So we are vulnerable to a certain extent in terms of increases there.

So there are a few unknowns here, even though we might manage our budget tightly. But any time you postpone a contract or a construction project, particularly in terms of the infrastructure and maintenance that we do or equipment purchases that we do, you are postponing something that may not be in your interest.

So postponement is not necessarily a great idea. We have done things that we think make us a little more efficient and a little more effective, but we can't continue this forever. It is not a good strategy for the long term.

FOREIGN CURRENCY FLUCTUATION

Mr. BISHOP. Thank you for that.

Can you help the subcommittee understand the foreign currency fluctuation and the foreign currency fluctuation account and how

that impacts your employees and your work at the Commission and how the account was arrived at? A number of the Members are new. I think it would be helpful if you could sort of briefly give us an overview of how that currency fluctuation impacts you and your budget.

Mr. CLELAND. Yes, sir. The committee has been farsighted a few years ago in giving the American Battle Monuments Commission the ability, since we have our presence in 14 different nations—the committee has given us the ability to in effect go to the Treasury up to the amount of \$16 million. But whenever we have a fluctuation abroad, we can, in effect, go to the bank. They are our bank, and they will meet our needs. The committee gave us that authority, and we do that. So with the fluctuation between the dollar and the euro in particular, and with us having so many cemeteries in France, Luxembourg, Belgium, the Netherlands and Italy, having that backstop, that available bank draft, having the Treasury as our bank of last resort is a great thing when it comes to currency fluctuation accounts, and we use that. And we have plenty of room to use it, and we do.

Mr. BISHOP. The failure to have that would cause a great fluctuation in the value of the salaries that your employees receive, and it would devalue their pay significantly because of the currency fluctuation; is that correct?

Mr. CLELAND. Yes, sir. And many times a year, I would have to come and sit on your desk and plead for help, because that budgetary guidance and some of that budgetary decisionmaking cannot be anticipated throughout the year. So that is why you have given us, with farsighted reason, the ability to go to the Treasury when we need it when the currency fluctuates, and we don't have to come back to this committee constantly for reauthorization or readjustment every month.

Mr. BISHOP. Thank you, Mr. Secretary. I have far exceeded my time. I certainly want to yield so my colleagues will have an opportunity to ask any questions they might have.

Mr. CULBERSON. Thank you, Mr. Bishop.

Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman.

Max Cleland is a great man. He is doing a great job. The request is actually for about \$3 million less than last year. He has a reduction of \$4 million in his operations and maintenance account. I can't imagine what further we can ask from him, so I have no questions.

Thank you, Mr. Chairman.

Mr. CULBERSON. Thank you, Mr. Moran.

Mr. Farr.

EXPANDING MONUMENT SITES

Mr. FARR. Thank you very much.

Part of the Commission's mission is to preserve the sites and to tell the stories of those honored within them. I commend you for your work in preserving the 24 cemeteries and 25 memorials, monuments, and markers to our brave men and women in military service who are buried overseas.

Has there been any discussion within the Commission to expand or add additional battle monument sites or cemeteries within the United States?

Mr. CLELAND. Not for cemeteries, sir, but it is an excellent question.

Our authorizing legislation does authorize the American Battle Monuments Commission, should the Commission decide—and by the way, the line of authority goes President, American Battle Monuments Commission, and the Secretary. So we have 9 members on the Commission, but the law allows to us keep our eyes open for new opportunities out there to memorialize American service abroad. We are doing that.

The Commission has approved a memorial in Busan, Korea. At the 60th anniversary of the truce between North and South Korea, I was made aware of something I didn't understand or was not aware of, and that is that the United Nations runs a cemetery in Busan, Korea. I never knew that. It is the only U.N. cemetery that there is. In that cemetery, of the nations that fought the Korean War under U.N. auspices, most nations are represented by a memorial. We are not. We are addressing that.

The Commission has approved the expenditure of moneys to have a U.S. memorial in the U.N. cemetery in Busan, Korea. We are evaluating the artists at this point to create that memorial, and the Commission has already approved its establishment. And we will be putting one there in the next year or so.

Mr. FARR. How about on the domestic side? How about the base where all of the soldiers trained to go to Korea and Vietnam called Fort Ord, California? I am a salesperson. I am trying to get a cemetery memorial, trying to get anything I can. If your Commission is thinking about it, I want to put that in your thinking list.

Mr. CLELAND. Thank you.

Mr. FARR. I want to ask you, overseas I visited several monuments in Belgium, and I was really impressed. In fact, I think you could probably claim you were probably the holder of the most valuable real estate in the world owned by the United States, because if you look at where these cemeteries are located, particularly the one in Manila that I went to, it has got to be the most highly prized piece of real estate in the entire city of Manila. And it is a beautiful cemetery. I found a lot of relatives there.

Hasn't the American Battle Monuments Commission entered into partnerships with foreign governments or foreign companies?

Mr. CLELAND. Yes, sir. We are focused on World War I and World War II, by the way, Mr. Congressman. But we are set to do business with Waregem, Belgium. The city of Waregem, Belgium, is cranking up to honor, in about 3 years, the beginning of World War I; the centennial of World War I, the guns of August, 1914, fast forward to 2014.

So we are working in concert with the city of Waregem, Belgium, and they have some backing from the Belgian Government to put together an interpretive center at Flanders Field Cemetery, which we run. That is a World War I cemetery. Obviously the famous poem "In Flanders Field" comes from that time.

FOREIGN GOVERNMENT ASSISTANCE

Mr. FARR. Is that where foreign governments are investing their own resources into helping us?

Mr. CLELAND. I will say this, to that point. We now know also that President Sarkozy of France has told his government in effect to get with it for upgrading one of their memorials, called the Lafayette Escadrille Memorial. It is on French ground, and it is a French memorial, but there are some American servicemen from World War I from the Lafayette Escadrille buried there. We have been asked to take it over. We are not interested in taking it over because it is a very expensive project, and it is not our ground, and it is not our memorial. But the French are cranking up to upgrade the Lafayette Escadrille Memorial. There will be other European governments, I am sure, that get cracking because the Great War centennial coming up in 2014 is going to be big throughout Europe.

But we are in concert with the city of Waregrem, Belgium.

Mr. FARR. Thank you. I am pleased to hear that, because I think you are the perfect person to be in leadership. We are using these centennials and so on, and it allows us through sort of travel tourism to really use our assets overseas, these memorials and cemeteries, as assets for those countries to recognize, too. And where they get a free ride at least on the cost of maintaining it, that is our dollar. But they ought to do everything that they can to make sure that they are as attractive to visitors in their country as anything else. I am glad you are on top of that.

I have no other questions. I have to catch my plane. Thank you very much. Have a great weekend, and I will see you Tuesday.

Mr. CULBERSON. Thank you.

Ms. McCollum.

Ms. MCCOLLUM. I had the honor to be at the cemetery at Tunis. I was in Tunisia for 3 full days. I was traveling by myself, but we also had some Tunisian citizens with us from the U.S. Embassy. It was with great pride that they were sharing with me the history and the role of democracy of the United States in freeing Europe. And I have often thought back to the conversations I have had with the Tunisians who were part of our embassy staff what that cemetery invoked and meant to them. I thought of them during the recent uprising when the citizens of Tunisia took their country back.

So I think we serve as a reminder, as a teacher, as a beacon quite often with these monuments. We don't even know how they are affecting and touching the lives of the people in the countries in which they are, not just in Europe, but the other countries, Panama, Mexico City. With all of the trials and tribulations going on right now within the Mexican Government, that freedom is not easy, and freedom from drug cartels is not easy. I think you serve an interpretive role sometimes that I didn't even think about, but it touched me this past month.

Mr. CLELAND. In a strange way, we are the State Department's best asset in 14 nations because one cannot argue with the American commitment in that particular country where that cemetery is located.

In a practical way when we were putting together Pointe du Hoc, the French had their town meetings with their citizens and so

forth, and some of the citizens were a little upset that we were coming in there and making some major changes with land that is French land which has been deeded to us in perpetuity for the use of our memorials. But in this town hall, the speaker who took our side said to the French who were somewhat in arms about it, said: "What about 10,000 graves do you not understand?"

End of issue.

So there is a statement that has been made by the 125,000 graves around the world that is one that cannot be argued with.

When the American cemetery in Tunisia became in effect part of the battle for Tunisia recently, it is interesting that our Superintendent heard the tanks and the gunfire outside the gates, but our cemetery was never in play, never argued with, never invaded.

I will be going to Paris for a worldwide superintendents conference soon, and we are going to give the foreman, who is Tunisian, who stayed there throughout the entire conflict, and he paid all of our people as if nothing was going on throughout the entire Tunisian uprising. Our cemetery was never violated. Our foreman stayed on the job. All of our people were paid. They still were coming to work. Now we are going to give that foreman an award for heroism and courage because that is the loyalty, the level of loyalty that local citizens have toward our cemeteries abroad and the young men and women who have given their lives for this country that are still in those 10 nations. It is really, quite frankly, amazing.

UPGRADING INFRASTRUCTURE

Ms. MCCOLLUM. And to add to that, though, with what I witnessed in Normandy, and you—not only with upgrading the infrastructure of the cemetery, and Pointe du Hoc was still under a little bit of construction when I was there, and I look forward to seeing it completed—the way in which you changed the training for the interpreters, if you might speak to that a little bit.

They have kind of taken a book out of our national park page about sharing stories and telling stories. But having French citizens speak different languages, knowing the stories of the American servicemen who were there who gave up their lives, reinforces the long-standing—especially with France being a supporter of us during our Revolutionary War—really recements that in Europe at a time sometimes when we focus on our minute differences rather than our magnificent shared common interests.

So I really do believe that these cemeteries not only honor those who are deceased by a quiet, beautiful resting place, a place of reflection, but it also honors the deceased by moving forward those alliances with the living today.

If you could maybe speak to the committee a little bit about any added cost that it was well worth it to upgrade. I had not seen the former interpretation, but speaking to people who had been there before and the enthusiasm that these young French men and women had in telling America's story, and you can't fake that, and I watched them with other groups speaking in foreign languages and just saw their enthusiasm and the love there.

Mr. CLELAND. It is interesting that you mentioned the Park Service and the word "interpretation." In the Park Service, there is a

whole professional development, a career path for interpretive people. We stole one of their best people several years ago and made him head of our interpretive operation worldwide. He resides in Paris. That interpretation process is something we have ongoing worldwide. It is one that started with monuments and cemeteries in 1923. It is one that was expanded by the interpretative center at Normandy, for which we use as a copy for other cemeteries.

But we are now going to expand that interpretation concept to the Internet, the social media. We have a place on Facebook. All of this, interactive videos, virtual tourism of our cemeteries, that is where we want to go. So the Congress has been very helpful in us moving forward with our interpretive program.

But it is interesting that you mention the Park Service and interpretation. That phrase "interpretation" comes to us from the Park Service, and we stole one of their best guys and made him ours. Now he is ginning this up. We couldn't be more proud.

And if you really look at the role of the American Battle Monuments Commission, it is not any longer building memorials or putting together cemeteries or a place for grieving for mothers or spouses to come over. It more and more is about telling about the history of World War I and World War II. We are becoming the Nation's history tellers about World War I and World War II to anyone who will listen and anyone who wants to access our Web site. That powerful story, much of which is told in the 14 nations in which we are located, will be told worldwide now ultimately on the Internet.

Ms. MCCOLLUM. Thank you. Thank you for your service, both wearing the uniform and your public service without a uniform. Thank you very much.

Mr. Chairman, I really can't stress enough, any extra tooling that has gone into doing the interpretation, both—there was visual Internet interpretation within the facility that built on the stories that came out. So you are to be commended. And as a former social studies teacher, boy, I know I would have had you as part of my classroom plans.

Mr. CULBERSON. Thank you.

Any other questions, Mr. Secretary, will be submitted in writing.

We deeply appreciate your service to the Nation and your extraordinary service today in honoring our Nation's greatest heroes. Thank you very much for your testimony today.

The hearing is adjourned.

[Questions for the Record submitted by Chairman Culberson for Secretary Max Cleland follows:]

Interpretive Centers

Following the success of the Normandy Visitor Center, the Commission made a decision to expand the concept to other cemeteries. The FY 2010 appropriation request included funding for expansion of this program and the program was endorsed by the Congress.

Question 1. Are you continuing with the expansion of the program for other locations and what are those other locations?

Answer. The Commission has several visitor center projects in various stages of development at Cambridge American Cemetery, England; Sicily-Rome American Cemetery, Italy; Meuse-Argonne American Cemetery and Pointe du Hoc, France; and Flanders Field American Cemetery, Belgium. Each of these projects is a multi-year effort of architectural and exhibit design; historical research and script development; film and interactives production; facility construction or renovation; and exhibit fabrication and installation. Concurrently, we will produce 18 campaign interactive programs for our Web site over the next five years.

Question 2. Does your budget request for FY 2012 include funding for new interpretive centers? If so, how much is requested and where will the centers be located?

Answer. Our FY 2012 request includes \$5.0 million for the Commission's interpretive program. Most of that funding will be used to complete the construction and exhibit fabrication phases of the projects at Sicily-Rome, Meuse-Argonne, and Flanders Field American Cemeteries. We also will begin development of virtual cemetery tours for the agency Web site and, in partnership with the Department of Veterans Affairs, begin development of an interpretive center initiative at the Honolulu Memorial. The Honolulu Memorial is one of our most visited commemorative sites, and offers us the opportunity to "tell the story" of the World War II, Korean War, and Vietnam War missing-in-action commemorated within the Memorial's Courts of the Missing.

Funding Level for Maintenance

The fiscal year 2012 budget request indicates that funding for construction, improvement, and landscaping will decrease by \$4.5 million compared to the fiscal year 2011 program level. This is a reduction of almost 50%.

Question 3. Will you be able to adequately maintain all of your facilities with that level of funding reduction?

Answer. Yes, the Commission will be able to adequately maintain all of our facilities with the funding requested. In FY 2012, the Commission requests \$15.875 million in Maintenance and Infrastructure Program funding, which includes Engineering, Horticulture, Interpretation, and Logistics. This is a decrease of \$4.146 million, or 20 percent, from the FY 2011 appropriation, primarily offset from the funding received for the Vietnam Battle Maps project. Projects in FY 2012 include additional infrastructure projects at the Honolulu Memorial, annual headstone replacement efforts; water damage and drainage projects; service area renovations; a variety of cemetery and memorial repairs; and annual equipment replacement.

[Questions for the Record submitted by Congressman Young for Secretary Max Cleland follows:]

Monuments and Cemeteries

Question 1. What effects do our battle monuments and cemeteries have on our diplomatic relationships with our allies and other nations, specifically as a new generation of people who will not have relatives that survived World War I and II begin to shape their nation's engagement policies with the United States?

Answer. The overseas cemeteries and memorials maintained by the Commission on foreign soil are tangible representations of American values. These commemorative shrines instill patriotism in Americans, evoke gratitude, and teach important lessons of history to all who visit—foreign citizens and Americans. The cemeteries promote among visitors a better appreciation and understanding of American values and our Nation's willingness in two world wars to come to the defense of our own freedoms and the freedoms of others.

As we lose the generations that lived through the world wars, we have an important duty to perpetuate the stories of competence, courage and sacrifice that those we honor can no longer tell for themselves. Future generations must understand the significance of what our fellow Americans have done for us and others around the world. Visits to our cemeteries and memorials are inspirational and educational for all generations, providing opportunities for people from all nations to forge intellectual and emotional connections with the ideas and meanings inherent in these sites.

The purpose of ABMC's interpretive program is to provide visitors of all nations and younger visitors in particular the historical context for understanding why our overseas cemeteries were established, how and why those honored within them died, and the values and principles for which they died.



Established by Congress 1923

American Battle Monuments Commission
Fiscal Year 2012 Appropriation Request

Submitted to the
112th Congress of the United States, First Session

Senate Committee on Appropriations
Subcommittee on Military Construction, Veterans Affairs, and Related Agencies
and
House Committee on Appropriations
Subcommittee on Military Construction, Veterans Affairs, and Related Agencies

February 14, 2011

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EXECUTIVE SUMMARY

Total Budget Authority Requested for Fiscal Year 2012

The American Battle Monuments Commission (ABMC) requests \$77,100,000 in total budget authority for fiscal year (FY) 2012. The Commission's total budget request provides funding for salaries and expenses to perform its mission and funding to recapitalize its Foreign Currency Fluctuation Account. The details of this funding distribution are outlined below.

Salaries and Expenses Request

The Commission's FY 2012 budget request for salaries and expenses of \$61,100,000 fully supports the agency's mission requirements for compensation and benefits, rent, utilities, travel and transportation, printing and supplies, support contracts and service fees, equipment, and capital improvements to perform its mission. This request is \$1,575,000 below the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011. Adjustments to the Commission's budget request are shown below:

FY 2011 - Annualized Level under the		
Continuing Resolution		\$62,675,000
Adjustments:	<u>Notes</u>	
Salaries and Benefits	1	\$578,000
Utilities, Services and Cemetery Supplies	2	\$1,491,000
Maintenance and Infrastructure Programs	3	(\$3,644,000)
Total Adjustments		<u>(\$1,575,000)</u>
FY 2012 Budget Request		\$61,100,000

Notes:

- 1 Increase for Salaries and Benefits for the expenses of overseas employees; estimates include a pay freeze in effect for FY 2011 and FY 2012.
- 2 Net Increase for Utilities, Contractual Services and Cemetery Supplies offset by reductions in rent, travel, transportation, payments to the Department of State, etc.
- 3 Decrease in the Maintenance and Infrastructure Programs at ABMC cemeteries and monuments.

Foreign Currency Fluctuation Account Request

The Commission's FY 2012 budget request to replenish its Foreign Currency Fluctuation Account under "such sums as may be necessary" language is estimated to be \$16,000,000. This funding estimate is required to retain the Commission's buying power against currency losses, primarily against the European Euro.

FY 2011 Funding Request Summary

(\$ in thousands)	FY 2010 <u>Appropriation</u>	FY 2011 <u>Annualized CR</u>	FY 2012 <u>Request</u>	<u>Change</u>
Salaries & Expenses	\$62,675	\$62,675	\$61,100	(\$1,575)
Foreign Currency	<u>\$20,200</u>	<u>\$16,000</u>	<u>\$16,000</u>	<u>\$0</u>
Total	\$82,875	\$78,675	\$77,100	(\$1,575)
 FTE	 409	 409	 409	 0

Justification for changes to the Commission's Salaries & Expenses Account and Foreign Currency Fluctuation Account is contained in the remaining sections of this document.

PART 1: INTRODUCTION**Mission**

The Commission's mission statement communicates its essence to stakeholders and the public. We believe it is a full and inspirational expression of our purpose.

The American Battle Monuments Commission – guardian of America's overseas commemorative cemeteries and memorials – honors the competence, courage and sacrifice of United States armed forces.

Vision

Our vision statement originates from the words of our first Chairman, General of the Armies John J. Pershing. These words connect the very beginning of the Commission to our vision of the future.

Fulfill the promise that "time will not dim the glory of their deeds."

Values

Our values represent the Commission's priorities, culture, and how our team members act within the organization.

- Excellence – We strive for excellence in everything we do
- Integrity – We do what is right: legally, morally, and ethically
- Stewardship – We are careful and responsible guardians of the sacred mission entrusted to our care
- Commitment – We are dedicated to our mission, each other, and the public we serve
- Respect – We treat others with high regard and one another as valued members of our team

Who We Serve

Since ABMC was founded in 1923, the success of our mission has depended on the engagement of our stakeholders. Over time, our approach to accomplishing our mission has evolved to meet the changing needs of these various individuals. This section outlines the major groups that we have traditionally served and the types of activities we have provided.

- Veterans, Family, and Friends Honored for Their Service or Their Loss – We honor the veterans, family members, and friends of United States military who have served our country or endured the loss of a loved one who served. This

group has the closest ties to our sites, and we strive to provide them with the most positive experience possible. For immediate family members who want to visit a family member's site, we provide letters authorizing fee-free passports for traveling overseas to visit the memorial site. We also provide color lithographs and headstone photographs to relatives of those interred or memorialized in our cemeteries and monuments. In addition, we offer a variety of other services, including placement of floral decorations on a grave or marker, information on an individual buried or honored, and escort services for relatives to grave and memorial sites within the cemetery.

- **Military and Public Officials** – We host a variety of special events and commemorations throughout the year, including Memorial Day and Veterans Day holidays, to honor the freedom preserved and restored and the lives lost. Host country and United States government officials, diplomats, and military attend these events with the public. In addition, military units hold ceremonies to their fallen comrades, and foreign host organizations pay tribute to those who died while liberating their regions.
- **Guests and Visitors** – We receive millions of American and foreign visitors of all generations at ABMC cemeteries and memorials, where they can learn and be inspired by the meticulous stewardship of the memorials and careful interpretation of the stories of our armed forces. We provide a variety of services to these visitors, including direction, advice on modes of transportation, and information on local accommodations.
- **ABMC Partners** – We support and provide information to our partners that help us further our mission, including other government agencies, historians and educators, the travel and tourism industry, and the media. Through these partnerships, we promote our mission, encourage visits to our commemorative sites, and help educate and inspire the public.

History and Background

Recognizing the need for a federal agency to be responsible for honoring the fallen members of American armed forces where they had served abroad and for controlling the construction of military monuments and markers on foreign soil, the Congress enacted legislation in 1923 creating the American Battle Monuments Commission.

The American Battle Monuments Commission is an independent agency of the Executive Branch of the U.S. federal government. It is responsible for commemorating the service, achievements, and sacrifice of American armed forces in the United States and where they have served overseas since April 6, 1917 (the date of U.S. entry into World War I), through the erection of suitable memorial shrines; for designing, constructing, operating, and maintaining permanent American military burial grounds in foreign countries; for controlling the design and construction of U.S. military monuments and markers in foreign countries by other U.S. citizens and organizations, both public and private; and for encouraging the maintenance of

such monuments and markers by their sponsors. In performing these functions, the Commission administers, operates and maintains twenty-four permanent American military burial grounds and twenty-two separate memorials, monuments and markers on foreign soil, and three memorials in the United States.

Cemeteries

Aisne-Marne, France	Manila, the Philippines
Ardennes, Belgium	Meuse-Argonne, France
Brittany, France	Mexico City, Mexico
Brookwood, England	Netherlands, the Netherlands
Cambridge, England	Normandy, France
Corozal, Panama	North Africa, Tunisia
Epinal, France	Oise-Aisne, France
Flanders Field, Belgium	Rhone, France
Florence, Italy	Sicily-Rome, Italy
Henri-Chapelle, Belgium	Somme, France
Lorraine, France	St. Mihiel, France
Luxembourg, Luxembourg	Suresnes, France

Memorials, Monuments and Markers

Audenarde Monument, Belgium	Montsec Monument, France
Belleau Wood Marine Monument, France	Pointe du Hoc Ranger Monument, France
Bellicourt Monument, France	Papua Marker, New Guinea
Brest Naval Monument, France	Saipan Monument, Northern Mariana Islands
Cabanatuan Memorial, the Philippines	Santiago Surrender Tree, Cuba
Cantigny Monument, France	Sommepy Monument, France
Chateau-Thierry Monument, France	Souilly Marker, France
Chaumont Marker, France	Tours Monument, France
East Coast Memorial, New York City	West Coast Memorial, San Francisco
Guadalcanal Memorial, Solomon Islands	Western Naval Task Force Marker, Morocco
Honolulu Memorial, Honolulu	World War I Naval Monument, Gibraltar
Kemmel Monument, Belgium	Utah Beach Monument, France
Montfaucon Monument, France	

As of the end of FY 2010, 124,907 U.S. war dead are interred in these 24 cemeteries: 30,921 of World War I; 93,236 of World War II; and 750 of the Mexican War. Additionally, 6,220 American veterans and others are interred in the Mexico

City National Cemetery and Corozal American Cemetery in Panama. Commemorated individually by name on tablets at the World War I and World War II cemeteries and three memorials on U.S. soil are 94,135 U.S. servicemen and women who are missing in action or were lost or buried at sea in their general regions during the world wars and the Korean and Vietnam Wars.

Each grave site in the permanent American World War I and World War II cemeteries on foreign soil is marked by a headstone of pristine white marble. Headstones of those of the Jewish faith are tapered shafts surmounted by a Star of David. Stylized Latin crosses mark all others. Annotated on the headstones of the World War I war dead who could not be identified is the phrase, "HERE RESTS IN HONORED GLORY AN AMERICAN SOLDIER KNOWN BUT TO GOD." In the World War II cemeteries, the words "AMERICAN SOLDIER" were replaced with the words "COMRADE IN ARMS".

The Commission's World War I, World War II, and Mexico City cemeteries are closed to future burials except for the remains of U.S. war dead found from time to time in the World War I and World War II battle areas. The Corozal American Cemetery outside Panama City, Panama, is the only active cemetery the Commission maintains.

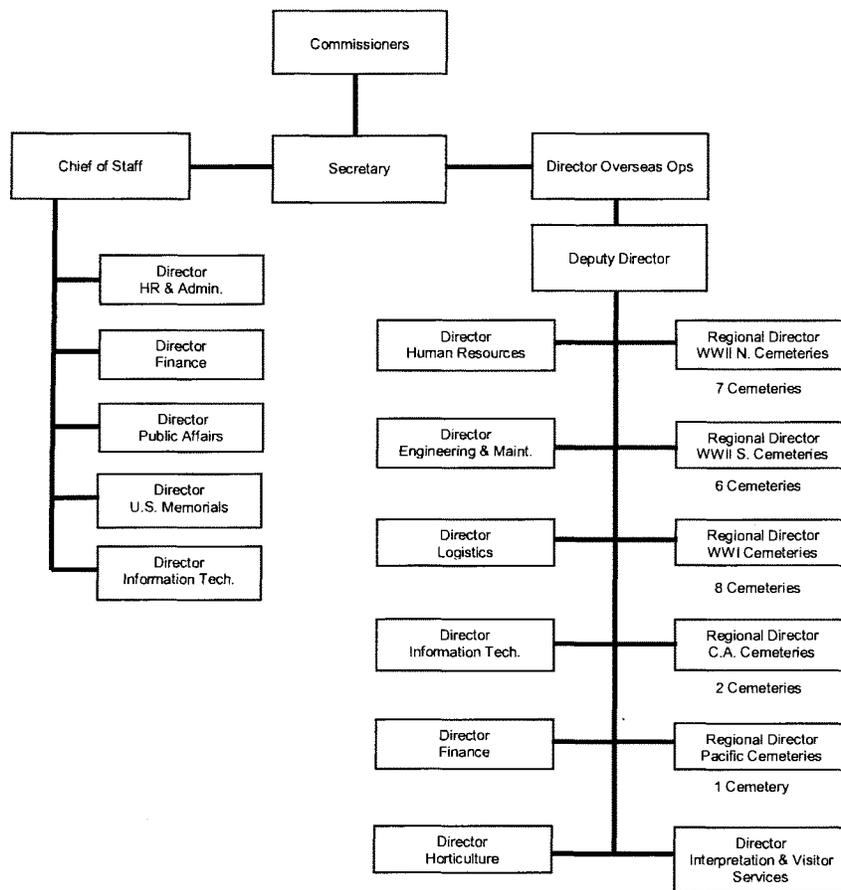
Organization

The authorizing legislation for the American Battle Monuments Commission (36 U.S.C., Chapter 21) specifies that the President will appoint not more than 11 members to the commission and an officer of the regular Army to serve as the Secretary. The Board of Commissioners constitutes the policy-making body of the Commission and consists of up to eleven members, who are appointed by the President of the United States for an indefinite term and serve without pay.

<u>Commissioners</u>	
Dr. Barbaralee Diamonstein-Spielvogel	Colonel Dick Klass, USAF (Ret)
Darrell Dorgan	General Merrill McPeak, USAF (Ret)
Sergeant Major John L. Estrada, USMC (Ret)	Ambassador Constance Morella
Brigadier General Pat Foote, USA (Ret)	Maura C. Sullivan
Rolland Kidder	

The Commissioners meet with the Secretary and professional staff of the Commission twice annually. They establish policy and ensure proper staff functioning for the Commission to carry out its mission. During inspections, they observe, inquire, comment upon, and make recommendations on any and all aspects of the Commission's operations. The Commission's daily operations are directed by the Secretary, an Executive Level appointment.

The Commission is staffed by 409 full-time equivalent (FTE) U.S. General Schedule and Foreign Service National civilian employees. In October 2009, the Secretary approved a plan to streamline the organization of the Commission to a Washington-based policy and support office and a Paris-based field operations center responsible for all overseas cemeteries and memorials. The organization plan is reflected in this FY 2012 funding request.



The Commission also administers trust funds to (1) build memorials authorized by Congress, but financed primarily from private contributions, commemorative coin proceeds, or investment earnings; (2) decorate grave sites with flowers from private contributions; and (3) maintain and repair nonfederal war memorials with private contributions.

Operations

The Commission's FY 2012 funding request focuses on providing the appropriate amount of funding for personnel costs, service fees, scheduled maintenance and repairs, supplies, materials, spare parts, replacement of uneconomically repairable equipment, and capital improvements enabling the Commission to perform its mission.

Most of the Commission's facilities range in age from 49 to 95 years old, with the Mexico City National Cemetery being nearly 160 years old. The permanent structures, grounds and plantings make the Commission's facilities among the most beautiful memorials in the world, yet their age requires a formidable annual program of maintenance and repair of facilities, equipment, and grounds.

Accordingly, the Commission prioritizes the use of its maintenance and engineering funds carefully to ensure the most effective and efficient utilization of its available resources. This care includes upkeep of more than 131,000 graves and headstones and 73 memorial structures (within and external to the cemeteries) on approximately 1,650 acres of land. Additionally, the Commission maintains 65 visitor facilities and quarters for assigned personnel; 67 miles of roads and paths; 911 acres of flowering plants, fine lawns, and meadows; 3 million square feet of shrubs and hedges; and 11,000 ornamental trees. All of the plantings, including the lawns and to some extent the meadows, must be cut and shaped, fertilized, and treated with insecticides and fungicides at regular intervals during the growing season. The plantings also must be replaced when their useful lives are exhausted or they receive major storm damage.

Care and maintenance of these resources requires exceptionally intensive labor at the Commission's cemeteries and memorials. Compensation and benefits consume approximately 47 percent of the Commission's FY 2012 request while the remaining 53 percent supports engineering, maintenance, logistics, services, supplies and other administrative costs critical to its operations.

Strategic Plan

The Commission's strategic plan complies with the provisions of the Commission's enabling legislation (36 U.S.C. Chapter 21) and the *Government Performance Results Act*. The plan ensures that the Commission's commemorative cemeteries and memorials continue to be shrines to this great nation's core values and history of serving as a beacon for liberty and freedom throughout the world. The Commission's FY 2010 - 2015 Strategic Plan was issued on December 22, 2009.

Strategic Goals

The Commission developed the following goals to help ensure that our commemorative cemeteries and memorials remain fitting shrines to those who have served our nation in uniform since America's entry into World War I:

- Provide an inspirational and educational visitor experience through effective outreach and interpretive programs.
- Develop, operate, maintain, and improve ABMC facilities as the world's best commemorative sites.
- Attract and retain quality employees through personal and professional investment and development.
- Continually improve business and resource management practices.

Together, our mission, vision, values and strategic goals serve as our guide for telling the story of those we honor, maintaining the facilities we administer, managing our workforce, and providing stewardship of our resources.

PART 2: FY 2012 BUDGET REQUEST**Overview of FY 2012 Request**

To support its operations in FY 2012, the Commission requests \$77,100,000 in total budget authority. The Commission's total budget request provides funding for salaries and expenses to perform its mission and funding to recapitalize its Foreign Currency Fluctuation Account. The details of this funding by account are outlined below.

(\$ in thousands)	FY 2010 Appropriation	FY 2011 Annualized CR	FY 2012 Request	Change
Salaries & Expenses	\$62,675	\$62,675	\$61,100	(\$1,575)
Foreign Currency	\$20,200	\$16,000	\$16,000	\$0
Total	\$82,875	\$78,675	\$77,100	(\$1,575)
 FTE	 409	 409	 409	 0

Salaries and Expenses

The Commission's FY 2012 budget request for salaries and expenses of \$61,100,000 fully supports the agency's mission requirements for compensation and benefits, rent, utilities, travel and transportation, printing and supplies, support contracts and service fees, equipment, and capital improvements to perform its mission. This request is \$1,575,000 below the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011.

FY 2011 - Annualized Level under the Continuing Resolution	\$62,675,000
Adjustments:	
Salaries and Benefits	\$578,000
Utilities, Services and Cemetery Supplies	\$1,491,000
Maintenance and Infrastructure Programs	(\$3,644,000)
Total Adjustments	<u>(\$1,575,000)</u>
FY 2012 Budget Request	\$61,100,000

Adjustments to the Annualized Funding Level

Salaries & Benefits (+ \$578,000)

This request provides funding to maintain current services level for Salaries & Benefits. This estimate will fund mandatory increases in personnel benefits for employees worldwide, including health insurance, social security, and other

allowances authorized for the Commission's U.S. workers and for its Foreign National workforce. This estimate also reflects the pay freeze in effect for FY 2011 and FY 2012. No increase in FTE is requested.

Utilities, Services and Cemetery Supplies (+ \$1,491,000)

A net increase of \$1,491,000 is requested to maintain current levels for Non-Salary funding lines. The Commission's request will decrease travel and transportation; maintenance contracts for cemetery buildings and structures; information technology equipment; and miscellaneous equipment funding. These decreases are offset by increases that will fund security requirements; licensing and service fees for the financial management system; and annual horticulture maintenance expenses related to mowing, tree trimming, and pest and disease treatment.

Maintenance and Infrastructure Programs (- \$3,644,000)

To maintain cemetery operations, the Commission will decrease funding for the Maintenance and Infrastructure Programs by \$3,644,000. The FY 2012 Maintenance and Infrastructure Programs request will fund, for example, the Interpretation Program; infrastructure projects at the Honolulu Memorial located within the National Memorial Cemetery of the Pacific; annual headstone replacement efforts; water damage and drainage projects at the Florence and Surensees cemeteries; service area renovations; a variety of cemetery and memorial repairs; and annual equipment replacements.

Foreign Currency Fluctuation Account

The Commission's FY 2012 Budget Request to replenish its Foreign Currency Fluctuation Account (FCFA) under "such sums as may be necessary" language is estimated to be \$16,000,000. This request reflects the current estimate needed to retain the Commission's buying power, primarily against the European Euro.

With nearly 60 percent of the Salaries and Expenses funding affected by foreign currency fluctuation, any significant drop in the value of the U.S. Dollar places the agency's mission at risk. The \$16,000,000 estimate is based on an exchange rate whereby \$1.40 U.S. Dollar equals €1.00 European Euro. The approach used by the Commission for estimating the amount required to replenish the Commission's FCFA has been endorsed by OMB and the Government Accountability Office (Report Number GAO-06-50R, dated October 20, 2005).

The Commission, with this budget request, is submitting an adjusted FY 2011 estimate. The budget submitted to Congress last year for the Foreign Currency Fluctuation Account was \$20,200,000. The Commission at that time estimated an exchange rate of \$1.49 U.S. Dollar equaling €1.00 European Euro. The daily rate of the U.S. Dollar to the European Euro has fluctuated to as high as \$1.51 to €1.00 since January 2009. However, since January 2010, the rate has averaged \$1.40 to

€1.00 and the Commission has reduced the funding estimate for this account appropriately.

Foreign Currency Exchange Rate Trend

In developing our FY 2012 funding request, the Commission developed a revised FY 2011 estimate from \$20,200,000 to \$16,000,000 using \$1.40 U.S. Dollar equals €1.00 European Euro.



Proposed Appropriations Language

General and Special Funds:

**Salaries and Expenses
Treasury Account ID: 74-0100-0**

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed \$7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, \$61,100,000, to remain available until expended.

Note.—A full-year 2011 appropriation for this account was not enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 111–242, as amended). The amounts included for 2011 reflect the annualized level provided by the continuing resolution.

**Foreign Currency Fluctuation Account
Treasury Account ID: 74-0101-0**

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

Statement of Personnel

The table below presents a profile of ABMC's personnel requirements:

	2010	2011	2012
	<u>Actual</u>	<u>Estimate</u>	<u>Request</u>
Total Number of Full-Time Permanent Positions	409	409	409
Total Compensable Work Years (FTE)	409	409	409
Average GS Grade/Step (including Locality Pay)	13/7	13/7	13/7
Average Salary of 72 GS Positions	86,611	86,611	86,611
Average Salary of 337 FSN Positions	34,635	34,635	34,635

Statement of Increases And Decreases By Activity

(\$ in thousands)

	Domestic Administration and U.S. Memorials	Overseas Cemeteries and Memorials	Totals
FY 2010 Obligations (Actual)			
Salaries and Expenses	10,964	44,420	55,384
FCFA	0	11,537	11,537
FY 2010 Total	10,964	55,957	66,921
FY 2011 Obligations (Est.)			
Salaries and Expenses	17,627	45,048	62,675
FCFA	0	16,000	16,000
FY 2011 Total	17,627	61,048	78,675
S&E Changes from FY 2010	6,663	628	7,291
FCFA Changes from FY 2010	0	4,463	4,463
Total Change from FY 2010	6,663	5,091	11,754
FY 2012 Obligations (Request)			
Salaries and Expenses	17,100	44,000	61,100
FCFA	0	16,000	16,000
FY 2012 Total	17,100	60,000	77,100
S&E Changes from FY 2011	(527)	(1,048)	(1,575)
FCFA Changes from FY 2011	0	0	0
Total Change from FY 2011	(527)	(1,048)	(1,575)

Changes by Activity

The FY 2012 appropriation request of \$61,100,000 supports the Commission's requirements for salaries and expenses for administration, operation, maintenance, and supervision for 24 memorial cemeteries, 25 separate Federal monuments, memorials, markers and offices around the world. This amount represents an decrease of \$1,575,000 from the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011.

The Commission's FY 2012 Budget Request to replenish its Foreign Currency Fluctuation Account under "such sums as may be necessary" language is estimated to be \$16,000,000. This request reflects the current estimate and represents the amount of additional funds needed to retain the Commission's buying power primarily against the European Euro.

The amount listed under each object class reflects the Commission's funding requirements before making adjustments for foreign currency fluctuations.

Administration and U.S. Memorials

The Commission requests \$17,100,000 to support operations of the Commission's Washington Office (located in Arlington, Virginia) - a decrease of \$527,000 from the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011. This request enables the Washington Office to administer the agency, to provide policy and support to overseas operations, to fund infrastructure projects at the Honolulu Memorial located within the National Memorial Cemetery of the Pacific, and to maintain 2 other memorials in the United States. Funding is also included - \$7,500 (not to exceed) - for official reception and representation expenses.

Overseas Cemeteries and Memorials

The Commission requests \$44,000,000 for overseas cemeteries and memorials - a decrease of \$1,048,000 from the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011. The decrease reflects the funding required to maintain the Commission's 24 memorial cemeteries and 22 separate Federal monuments, memorials, markers; and a reduced level of prioritized engineering projects and equipment replacement. This request enables the Commission's Paris Office (located outside Paris in Garches, France) to administer, supervise, operate, and maintain 24 cemeteries and 22 memorials at dispersed locations around the world.

Fiscal Year 2012 Appropriation Request
American Battle Monuments Commission

Statement of Increases and Decreases By Object Classification
(\$ in thousands)

Object Classes:	11	12	13	21	22	23	24	25	26	31	32	42	Total
FY 2010 Obligations (Actual)													
Salaries and Expenses	17,156	8,595	289	1,243	416	3,881	130	14,135	2,453	2,333	4,752	1	55,384
FCFA	3,789	1,735	94	75	46	252	16	2,800	654	523	1,553	0	11,537
FY 2010 Total	20,945	10,330	383	1,318	462	4,133	146	16,935	3,107	2,856	6,305	1	66,921
FY 2011 Obligations (Est.)													
Salaries and Expenses	18,904	8,833	343	1,587	241	3,896	344	13,672	2,811	1,798	10,246	0	62,675
FCFA	6,000	2,000	100	100	50	200	50	2,800	700	400	3,600	0	16,000
FY 2011 Total	24,904	10,833	443	1,687	291	4,096	394	16,472	3,511	2,198	13,846	0	78,675
S&E Change from 2010	1,748	238	54	344	(175)	15	214	(463)	358	(535)	5,494	(1)	7,291
FCFA Change from 2010	2,211	265	6	25	4	(52)	34	0	46	(123)	2,047	0	4,463
Total Change from 2010	3,959	503	60	369	(171)	(37)	248	(463)	404	(658)	7,541	(1)	11,754
FY 2012 Obligations (Request)													
Salaries and Expenses	18,937	9,508	213	1,511	152	3,896	344	15,973	3,023	1,798	5,745	0	61,100
FCFA	6,000	2,000	100	100	0	300	50	3,700	800	400	2,550	0	16,000
FY 2012 Total	24,937	11,508	313	1,611	152	4,196	394	19,673	3,823	2,198	8,295	0	77,100
S&E Change from 2011	33	675	(130)	(76)	(89)	0	0	2,301	212	0	(4,501)	0	(1,575)
FCFA Change from 2011	0	0	0	0	(50)	100	0	900	100	0	(1,050)	0	0
Total Change from 2011	33	675	(130)	(76)	(139)	100	0	3,201	312	0	(5,551)	0	(1,575)

Changes by Object Classification

The FY 2012 appropriation request of \$61,100,000 supports the Commission's requirements for salaries and expenses for administration, operation, maintenance, and supervision for 24 burial grounds and 25 separate federal monuments, memorials, markers and offices around the world. This amount represents a decrease of \$1,575,000 from the annualized funding provided by the current Continuing Resolution (P.L. 111-242, as amended) for FY 2011.

The FY 2012 Budget Request to replenish its Foreign Currency Fluctuation Account is estimated to be \$16,000,000. The request represents the amount of additional

funds needed to retain the Commission's buying power primarily against the European Euro.

The amount listed under each object class reflects the Commission's funding requirements before making adjustments for foreign currency fluctuations.

Object Class 11 – Personnel Compensation

The Commission requests \$18,937,000, a \$33,000 increase. This funding level will support 409 Full-Time Equivalent (FTE) positions (72 U.S. civilian and 337 Foreign National employees) – the same employment level as in FY 2011. This estimate reflects the pay freeze in effect for FY 2011 and FY 2012 and the mandatory compensation requirements for Foreign National employees. No increase in FTE is requested.

Object Class 12 – Personnel Benefits

The Commission requests \$9,508,000 for personnel benefits for employees worldwide, including health insurance, social security, and other allowances authorized for the Commission's U.S. workers and for its Foreign National workforce. Personnel benefits vary by country and the Commission has little discretion in controlling these costs despite the pay freeze.

Object Class 13 – Benefits for Former Personnel

The Commission requests a decrease of \$130,000 to fund payments for unemployment compensation and severance pay for its U.S. and Foreign National workforce. Expenses in this line item also vary by country and the Commission estimates a decrease below the FY 2011 estimate.

Object Class 21 – Travel and Transportation of Persons

The Commission requests a \$76,000 decrease for travel and transportation requirements for U.S. and Foreign National workers for operational purposes. This funding level supports U.S. employees and dependents traveling on permanent change of station, U.S. student dependents traveling to or from school, and travel by the Commissioners appointed by the President who are charged with oversight of Commission operations.

Object Class 22 – Transportation of Things

The Commission requests \$152,000 for transportation of supplies, materials, spare parts, vehicles and equipment utilized in the operation, maintenance, and repair of the Commission's facilities and for the transportation of household goods in connection with permanent change of station. A decrease of \$89,000 is requested.

Object Class 23 – Rent, Communications, and Utilities

The Commission requests \$3,896,000 for rent; water, gas and electricity; and postal, telephone, and internet services. This funding line item also includes payments to the Department of State for International Cooperative Administrative Support Service (ICASS) and Capital Security Cost Share Program (CSCSP) fees. For FY 2012, no increase is requested.

Object Class 24 – Printing and Reproduction

The Commission requests \$344,000 for the printing of cemetery booklets, visitor brochures, photographs, general information pamphlets, and reports. No increase for FY 2012 is requested.

Object Class 25 – Other Services

The Commission requests \$15,973,000 for contractual services which consist of engineering and technical services; Interpretation Program requirements; professional support services; horticulture contracts; operation, maintenance, and repair of equipment; information technology services; interagency service agreements; maintenance and repairs of vehicles; and employee training. These funds also support the Commission's Maintenance and Infrastructure Program requirements. Finally, this request includes \$7,500 (not to exceed) for official reception and representation expenses. This request is an increase of \$2,301,000 that will fund security requirements; licensing and service fees for the financial management system; and annual horticulture maintenance expenses related to mowing, tree trimming, and pest and disease treatment.

Object Class 26 – Supplies and Materials

The Commission requests an increase of \$212,000 to replace headstones; replenish its stock of plantings and seeds; horticultural, repair, utility, and custodial supplies; petroleum, oils and lubricants; information technology supplies; and spare replacement parts for vehicles and equipment.

Object Class 31 – Equipment

The Commission requests \$1,798,000 to replace worn-out and uneconomically repairable vehicles, maintenance equipment, tools, and information technology equipment and software. No increase in Equipment is requested.

Object Class 32 – Land and Structures

The Commission requests \$5,745,000, a decrease of \$4,501,000, for construction, improvement, and landscaping projects in support of the Commission's Maintenance and Infrastructure Programs. This request will fund infrastructure projects at the Honolulu Memorial located within the National Memorial Cemetery of the Pacific;

water damage and drainage projects at the Florence and Surenses cemeteries;
service area renovations; and variety of cemetery and memorial improvements.

Object Class 42 – Claims and Reserves

No funding is requested for Claims and Reserves.

Outside Witnesses

The following testimony was submitted to the Subcommittee by interested outside organizations.

Testimony of

**Wayne J. Riley, M.D., M.P.H., MBA, MACP
President and Chief Executive Officer
Meharry Medical College
Nashville, Tennessee**

On behalf of the

**ASSOCIATION OF MINORITY HEALTH PROFESSIONS
SCHOOLS**

Before the

**Military Construction, Veterans Affairs, and Related Agencies Subcommittee
Committee on Appropriations
United States House of Representatives**

“Addressing Healthcare Workforce Issues in the VA Healthcare System”

Friday, May 20th, 2011

Chairman Culberson, Ranking Member Bishop, and members of the Subcommittee, thank you for the opportunity to present the views of the Association of Minority Health Professions Schools (AMHPS) regarding our collaborative efforts with health care facilities of the Department of Veterans Affairs (VA). My name is Dr. Wayne Riley, president of Meharry Medical College and chairman of the Board of Directors for the Association of Minority Health Professions Schools (AMHPS).

AMHPS is a consortium of our nation's twelve (12) historically black health professions training institutions, spanning the disciplines of medicine, dentistry, pharmacy, and veterinary science. Historically, the AMHPS institutions have collectively trained 50 per cent of the African American physicians and dentists, 60 per cent of its African American pharmacists, and 75 percent of its African American veterinarians. We occupy a unique niche among the nation's array of academic health centers and are a vital component of the American healthcare system, supporting the national goal to create a healthier America by diversifying the health care workforce.

Ensuring that the supply of physicians, dentist and other health professionals' keeps pace with the disease-specific needs of the country, in particular its military personnel, is the one of most critical issues facing our nation. Many national studies project a critical shortage of the health workforce, including estimates of a projected shortage of 90,000 physicians by 2020.ⁱ This looming shortage of health professionals is exacerbated by a lack of diversity.ⁱⁱ

Equally important to the aggregate supply of physicians, dentists, and other health professionals is its composition, including racial and ethnic diversity. Although underrepresented minorities (URM) are the fastest growing segment of the U.S. population, our national demographics are not reflected in the classrooms of health profession schools. At a time when more than 86% of existing medical schools have started enrollment expansion to respond to the nation's physician shortage, many programs specifically designed to attract minority students to the profession are shutting down. While minority groups comprise 30 percent of the total U.S. population, ethnically and culturally they are represented by less than 10 percent of all U.S. physicians. According to the Sullivan Commission Report and other studies, this underrepresentation extends to dentist, nurses, pharmacist, veterinarians, and other health profession disciplines.

There is little left to discover or dispute with respect to the benefits of achieving greater racial and ethnic diversity of the nation's health professionals – the attention has once again shifted to identifying the most effective and sustainable methods to do so. Considering their legacy of contributions and mission focus AMHPS institutions are naturally best suited to lead the way in helping to ensure diversity in the health workforce and eliminating racial and ethnic-based health disparities. To do so, however, we must overcome a number of challenges directly related to our community-based mission, primary care focus, and orientation toward generalist medical education. Where the prevailing model for an academic medical center is one in which the clinical system cross-subsidizes the academic and research missions AMHPS institutions are less

able to leverage surplus-generating sub-specialty clinical services and/or inpatient revenue streams through hospitals. Moreover, our clinical programs are almost exclusively affiliated with safety-net hospitals and targeted toward improving access to uninsured and underinsured populations.

Unfortunately, the mission related challenges of the AMHPS institutions have been exacerbated as the result of our limited access to U.S. Department of Veterans Affairs (VA) medical facilities. Now, I will highlight in this testimony the successes our institutions are seeing by way of increased collaboration with the VA. However, I will underscore that the major hurdle is a proper working relationship with the large VA hospitals geographically closest to many of our institutions. This restriction (implicit or explicit) to the larger VA facilities limits the clinical training experiences of students and residents and places a greater funding burden on AMPHS medical schools for resident and faculty salaries. Furthermore, these less than optimal arrangements have severely limited opportunities for faculty to participate in VA-funded research projects.

Mr. Chairman, the legacy of unequal access to VA facilities for AMHPS institutions spans decades. Our leaders were previously told that the VA had a policy which instructed its satellite hospitals and facilities to have only one academic affiliation per VA facility. In other words, the Morehouse School of Medicine, for instance, could not have a relationship with the Atlanta VA because of its existing relationship with Emory University School of Medicine. As a result, MSM, based in Atlanta, Georgia, was forced to forge a relationship with the Tuskegee, Alabama VA some two and a half hours away. In addition to the two and half hours commute, MSM had to provide housing for the residents while they trained in Tuskegee, Alabama. This was and continues to be an additional cost and burden for the medical school.

The MSM experience is a microcosm of the experiences our minority serving institutions have had with the VA and hopefully provides the committee with the context behind our concerns and the basis for our continuing quest towards an equitable relationship with the VA.

The VA is among the very few opportunities that exist to expand funded resident positions for medical schools in urban areas, and urban areas are where our institutions tend to reside. Combined with the reality that our nation's veterans represent a highly diverse population, we stand ready to play a key role in the process of helping to expose our residents to health care and training opportunities, and in the process, serve the heroes of our nation. As the VA seeks to train more health professionals of color, we are poised to respond.

Mr. Chairman, this year, our recommendation will be that we gather VA officials, especially on the local level, and HBCU health professions school leaders in one room in an effort to work better for the benefit of all. [Our recommended report language for FY 2012 is](#)

“Medical School Affiliations with VA Healthcare Facilities.—The Committee has heard repeated testimony on the need for VA to increase affiliations with the historically black health

professions schools. Though progress has been made to increase these affiliations, there is still much progress required on the local level to achieve full affiliation. Therefore, the Committee suggests VA convene a symposium of VA health leaders and historically black health professions schools leaders to pursue the next steps required to strengthen the relationships with the graduate health professions schools at historically black health professions institution.”

Just to review, the AMHPS institutions have had some success increasing collaborative activities with the VA, including:

MSM boasting a new graduate medical education (GME) rotation in internal medicine to start July 2010, the GME rotation in psychiatry continuing as a valuable educational experience for MSM psychiatry residents, MSM continuing to use CBOCs for GME clinical rotations, plans to work with the VA on a strategic partnership for homeless veterans, the addition of the first MSM research faculty member at the Atlanta VA, the Atlanta VA planning to open a new women’s health clinic in the next two years, and Atlanta VA moving to acquire Army Medical Clinic at Fort McPherson.

Since 2007, collaborative efforts with Meharry Medical College and the VA include 3 clinics: the VA Primary Care Clinic at Meharry, which serves the primary health care needs of more than 6,000 veterans in the Nashville metropolitan area; the VA Women’s Comprehensive Health Center, which serves the health care needs of more than 2,500 women veterans; and the VA Primary Care Clinic at Meharry, which serves the primary health care needs of more than 6,000 veterans.

Recent budget constraints are currently holding up several additional collaborative projects, which include: the VA Mental Health Clinic at the Elam Center (2011); the Compensation and Pension Clinic (2010); and the VA Dental Clinic at Meharry (2011).

The relationship with the VA can be enhanced with a stronger approach to allow MMC access to VA research dollars, programs and infrastructure. Additionally, expanded inpatient opportunities at the Nashville VA campus and other clinical service opportunities would strengthen the relationship.

Local VA leadership is increasingly inclusive and cooperative, which fosters an effective partnership. However, this recent pleasant reality is tempered by the fact that MMC and other minority academic health centers are working with the VA to ameliorate 60 plus years of “arrested development”. Thus, more should and can be done to enhance our contributions to caring for these cherished Americans – our nation’s veterans.

Charles Drew University of Medicine and Science in Los Angeles has started discussions with the VA to provide residency training positions and serve as a site for clinical rotations—which are much needed there.

Howard University has a unique position, with more affiliations with the large DC VA geographically closest to our institution.

AMHPS institutions want to serve our nation's men and women whom have worn our country's uniform. The military professionals have risked their lives for us, and our institutions are prepared to deliver their expertise and cultural sensitivity to assist the VA system. AMHPS institutions seek equal opportunity in resident and research positions at VA facilities. We are pleased with the expansion opportunities recently we see on the horizon. However these opportunities have been primarily at smaller satellite facilities. We are hopeful that our expanding relationships, quite frankly due in large part from this Subcommittee's active oversight, will continue to improve, eventually including equal access to residency training in medicine and surgery, increased resident and faculty funding, and full integration into the landmark VA hospital facilities located in the same cities where our institutions are located.

Mr. Chairman, thank you for the opportunity to engage you and the Subcommittee on this important topic.

ⁱ American Association of Medical Colleges: AAMC Statement on the Physician Workforce, 2006

ⁱⁱ 2001 American Association of Medical Colleges: *Recent Studies and Reports on Physician Shortages in the U.S.*; Washington DC 2007



Testimony of the
The American Thoracic Society
Before the House Department of Defense Appropriations Subcommittee
Regarding the
Fiscal Year 2012 Budget
On
June 22, 2011

The American Thoracic Society appreciates the opportunity to testify before the House Department of Defense Appropriations Subcommittee regarding the fiscal year 2012 budget.

The American Thoracic Society is a medical professional society of over 15,000 members who are dedicated to the prevention, detection, treatment and cure of respiratory, sleep and critical care related illnesses. Our physicians, nurses, respiratory therapists and basic scientists are engaged in research, education and advocacy to reduce the worldwide burden of respiratory diseases.

Many members of the American Thoracic Society service as researchers and clinicians in the U.S. military and at VA medical centers. As such, we deeply concerned about the respiratory health of U.S. military personal.

And there is cause for concern.

A surprising number of returning service men and women from Iraq and Afghanistan are experiencing moderate to server respiratory diseases. There are several anecdotes of military personal who were marathon runners before deployment are no longer able to complete the 2 mile physical readiness run. Even more puzzling, is in many cases, these have normal pulmonary function text values. Despite having normal pulmonary function test values, these service members severely de-saturate during exercise.

Physicians have described a new disease called Iraq-Afghanistan War lung injury (IAW-LI), among soldiers deployed to these countries as part of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn. Not only do soldiers deployed to Iraq and Afghanistan suffer serious respiratory problems at a rate seven times that of soldiers deployed elsewhere, but the respiratory issues they present with show a unique pattern of fixed obstruction in half of cases, while most of the rest are clinically-reversible new-onset asthma, in addition to the rare interstitial lung disease called nonspecific interstitial pneumonitis associated with inhalation of titanium and iron."

Iraq and Afghanistan veterans are faced with a barrage of respiratory insults, including: 1) dust from the sand, 2) smoke from the burn pits, 3) aerosolized metals and chemicals from exploded IEDs, associated with 4) blast overpressure or shock waves to the lung, 5) outdoor aeroallergens such as date pollen, and 6) indoor aeroallergens such as mold aspergillus. Researchers have experimentally exposed mouse models to samples of the dust taken from Iraq and Afghanistan and found that it produces extreme histological responses, underscoring the severe exposures that these soldiers undergo.

A case series study was recently presented at the American Thoracic Society international conference by Robert Miller, MD, of Vanderbilt University. Dr. Miller discussed a cohort of patients with constrictive bronchiolitis who were deployed in Iraq.

While clinicians and researcher have defined the condition, there is much we don't know. There are uncertainties regarding the number of service men and women who are experiencing deployment related respiratory illnesses. Complicating both clinical and research efforts is that fact that deployed troops do not receive pre- and post deployment pulmonary function tests – in this case a simple spirometry test – that would help doctors know the extent of lung damage.

Further challenges include the spectrum of possible lung diseases that may be occurring from Southwest Asia exposures, such as asthma, constrictive bronchiolitis, acute eosinophilic pneumonia and rhinosinusitis, and the variability in exposures that may confer risk, including particulate matter from desert dusts, burn pits, vehicle exhaust and tobacco smoke.

Clinicians face a different set of challenges with this patient population, including the role of targeted medical surveillance in determining need for further respiratory diagnostic evaluation, and, importantly, the role of surgical lung biopsy in clinical diagnosis of post-deployment lung disease.

Attention is needed to address the respiratory illnesses suffered by returning service men and women. The ATS recommends the Department of Defense and the Department of Veterans Affairs take the following steps:

- The American Thoracic Society recommends all military personnel deployed in combat receive a pre- and post-deployment pulmonary function test.
- Support projects to establish more comprehensive normative pulmonary function test values for military men and women.
- The Department of Defense and the Department of Veterans Affairs jointly create and fund a program to study respiratory exposures of servicemen and women deployed in Iraq and Afghanistan. Potential goals of this joint research program could include:
 - Identify likely agents responsible for respiratory illnesses of returning OEF and OIF personnel
 - Consider potential population based and individual interventions to prevent or reduce exposure to causative agents
 - Support research into improved prevention, detection and treatments for deployment-related respiratory disease
- Establish Centers of Excellence to facilitate improved research and clinical treatment of service men and women experiencing severe deployment-related respiratory illnesses.
- The Department of Defense and the Department of Veterans Affairs consider administrative standardized approaches to determining respiratory disability for deployment related respiratory illnesses.

The American Thoracic Society appreciates the opportunity to testify before the House Department of Defense Appropriations Subcommittee. We would be happy to answer any questions or provide follow up information.

**STATEMENT FOR THE RECORD OF
PARALYZED VETERANS OF AMERICA
FOR THE
HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON MILITARY CONSTRUCTION AND
VETERANS' AFFAIRS
CONCERNING
THE INDEPENDENT BUDGET
AND THE DEPARTMENT OF VETERANS AFFAIRS BUDGET
FOR FISCAL YEAR 2012**

MAY 13, 2011

Chairman Culberson, Ranking Member Bishop, and members of the Subcommittee, as one of the four co-authors of *The Independent Budget* (IB), Paralyzed Veterans of America (PVA) is pleased to present the views of *The Independent Budget* regarding the funding requirements for the Department of Veterans Affairs (VA) health care system for FY 2012.

As the 112th Congress has now started moving forward with the current budget process, it is important to once again review and assess the efforts of the 111th Congress to provide sufficient, timely, and predictable funding for the Department of Veterans Affairs (VA), particularly the VA health-care system. The first session of the 111th Congress laid the groundwork for a historic year in 2010. In 2009 the President signed Public Law 111-81, the "Veterans Health Care Budget Reform and Transparency Act," which required the President's budget submission to include estimates of appropriations for the Medical Care accounts for fiscal year (FY) 2012 and thereafter (advance appropriations) and the VA Secretary to provide detailed estimates of the funds necessary for these accounts in budget documents submitted to Congress.

The Independent Budget veterans service organizations (IBVSOs) were pleased to see that in February 2010 the Administration released a detailed estimation of its FY 2011 funding needs as well as a blueprint for the advance funding needed for the Medical Care accounts of VA for FY 2012. It is important to note

that last year was the first year that the budget documents included advance appropriations estimates. Unfortunately, due to differences in interpretation of the language of Public Law 111-81, the GAO did not provide an examination of the budget submission to analyze its consistency with VA's Enrollee Health Care Projection Model. *The Independent Budget* was informed that the GAO was not obligated to report on the advance appropriations projections of VA until at least 2011. We are pleased that the GAO is moving forward with its report this year, and it is anticipated that the report will be released around June 14, 2011.

For FY 2011, Congress provided historic funding levels for VA in the House and Senate versions of the Military Construction and Veterans Affairs appropriations bill that matched, and in some cases exceeded, the recommendations of *The Independent Budget*. Unfortunately, as has become the disappointing and recurring process, the Military Construction and Veterans Affairs appropriations bill was not completed even as the new fiscal year began on October 1, 2010. Although the House passed the bill in the summer, the Senate failed to enact the bill in a timely manner. This fact serves as a continuing reminder that, despite excellent funding levels provided over the past few years, the larger appropriations process continues to break down over matters unrelated to VA's budget due to partisan political gridlock.

Fortunately, this year, the enactment of advance appropriations shielded the VA health-care system from this political wrangling and legislative deadlock. However, the larger VA system is still negatively affected by incomplete appropriations work. VA still faces the daunting task of meeting ever-increasing health-care demand as well as demand for benefits and other services.

In February 2010, the President released a preliminary budget submission for VA for FY 2011. The Administration recommended an overall funding authority of \$60.3 billion for VA, approximately \$4.3 billion above the FY 2010 appropriated level but approximately \$1.2 billion less than *The Independent Budget* recommended. The Administration's recommendation included approximately \$51.5 billion in total medical care funding for FY 2011. This amount included \$48.1 billion in appropriated funding and nearly \$3.4 billion in medical care collections. The budget also included \$590 million in funding for Medical and Prosthetic Research, an increase of \$9 million over the FY 2010 appropriated level.

For FY 2011, *The Independent Budget* recommended that the Administration and Congress provide \$61.5 billion to VA, an increase of \$5.5 billion above the FY 2010 operating budget level, to adequately meet veterans' health-care and benefits needs. Our recommendations included \$52 billion for health care and \$700 million for medical and prosthetic research.

Funding for FY 2012

Last year the Administration recommended an advance appropriation for FY 2012 of approximately \$50.6 billion in discretionary funding for VA medical care. We were generally pleased that Congress supported this recommendation with the advance appropriations levels provided by P.L. 112-10. When combined with the \$3.7 billion Administration projection for medical care collections, the total available operating budget recommended for FY 2012 is approximately \$54.3 billion. However, included in the President's Budget Request for FY 2012 (released in February), the Administration revised the estimates for Medical Care down by \$713 million due to the proposed federal pay freeze (a factor not included in P.L. 112-10).

Moreover, recent actions by VA suggest that the FY 2011 advance appropriations funding levels (which were affirmed in the President's budget request) may not have been sufficient to support the health-care programs managed by VA. In a letter sent to Congress on July 30, 2010, VA Secretary Eric Shinseki explained that he believes the advance appropriations levels provided for FY 2011 were insufficient to meet the health-care demand that VA will face this year. He also emphasized that the passage of Public Law 111-163, the "Caregivers and Veterans Omnibus Health Services Act," and Public Law 111-148, the

“Patient Protection and Affordable Care Act,” will increase workloads for VA. Unfortunately, P.L. 112-10, the “Department of Defense and Full Year Continuing Appropriations Act for FY 2011,” did not fully address this projected current year demand. While we appreciate the funding levels that were provided by P.L. 112-10, we believe that the Secretary’s letter sends a clear message that, absent some unclear “management action” by VA, more funding will be needed to address these issues.

Additionally, of particular concern to *The Independent Budget* is an ill-defined contingency fund that would provide \$953 million more for Medical Services for FY 2012. Moreover, we are especially concerned that the VA presumes “management improvements” of approximately \$1.1 billion to be directed towards FY 2012 and FY 2013; and yet, the VA does not define the relationship between the contingency fund and the “management improvements” that it proposes. “Management improvements” or efficiencies that were commonly used by previous administrations that were often never realized leaving the VA short of necessary funding to address ever-growing demand on the health care system. We believe that is unacceptable for the VA to once again build a budget proposal on false assumptions. Additionally, we are concerned about the revised estimate in Medical Care Collections from the originally projected \$3.7 billion to now only \$3.1 billion. Ultimately, the VA seems to recommend a revised decrease to approximately \$53.9 billion for Medical Care for FY 2012.

The Independent Budget appreciates the increases that the Administration has recommended for FY 2012 in its Medical Care budget request. Moreover, we believe that the projected funding outlined for the VA health care system in the FY 2012 Military Construction and Veterans Affairs appropriations bill is generally good. However, we note that in the legislative language for the proposed FY 2012 Military Construction and Veterans Affairs appropriations bill, the Subcommittee seems to fence approximately \$664 million as a contingency fund for the VA. We have serious concerns about this practice. We believe that full funding, including the \$664 million, is needed to adequately meet demand on the health care system. Moreover, if the VA does not receive that directed funding, then it will be placed in a situation where demand will have to be reduced or services will have to be curtailed.

For FY 2012, *The Independent Budget* recommends approximately \$55.0 billion for total medical care, an increase of \$3.4 billion over the FY 2011 operating budget level provided by P.L. 112-10. The medical care appropriation includes three separate accounts—Medical Services, Medical Support and Compliance, and Medical Facilities—that comprise the total VA health care funding level. For FY 2012, *The Independent Budget* recommends approximately \$43.8 billion for Medical Services. Our Medical Services recommendation includes the following recommendations:

Current Services Estimate.....	\$41,274,505,000
Increase in Patient Workload.....	\$1,495,631,000
Additional Medical Care Program Costs.....	\$1,010,000,000
Total FY 2012 Medical Services.....	\$43,780,136,000

Our growth in patient workload is based on a projected increase of approximately 126,000 new unique patients—Priority Group 1-8 veterans and covered non-veterans. We estimate the cost of these new unique patients to be approximately \$1.0 billion. The increase in patient workload also includes a projected increase of 87,500 new Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) veterans at a cost of approximately \$306 million.

Finally, our increase in workload includes the projected enrollment of new Priority Group 8 veterans who will use the VA health care system as a result of the Administration’s continued efforts to incrementally increase the enrollment of Priority Group 8 veterans by 500,000 enrollments by FY 2013. We estimate that as a result of this policy decision, the number of new Priority Group 8 veterans who will enroll in the

VA should increase by 125,000 between FY 2010 and FY 2013. Based on the Priority Group 8 empirical utilization rate of 25 percent, we estimate that approximately 31,250 of these new enrollees will become users of the system. This translates to a cost of approximately \$148 million.

Lastly, *The Independent Budget* believes that there are additional projected funding needs for the VA. Specifically, we believe there is real funding needed to restore the VA's long-term care capacity (for which a reasonable cost estimate can be determined based on the actual capacity shortfall of the VA), to provide additional centralized prosthetics funding (based on actual expenditures and projections from the VA's prosthetics service), and to meet the new projected demand associated with the provisions of P.L. 111-163, the "Caregivers and Veterans Omnibus Health Services Act." In order to restore the VA's long-term care average daily census (ADC) to the level mandated by P.L. 106-117, the "Veterans Millennium Health Care Act," we recommend \$375 million. In order to meet the increase in demand for prosthetics, the *IB* recommends an additional \$250 million. This increase in prosthetics funding reflects the significant increase in expenditures from FY 2010 to FY 2011 (explained in the section on Centralized Prosthetics Funding) and the expected continued growth in expenditures for FY 2012.

Finally, we believe that there will be a significant funding need in order for the VA to address the provisions of P.L. 111-163, specifically as it relates to the caregiver provisions of the law. During consideration of the legislation, the costs were estimated to be approximately \$1.6 billion between FY 2010 and FY 2015. This included approximately \$60 million identified for FY 2010 and approximately \$1.54 billion between FY 2011 and FY 2015. However, no funding was provided in FY 2011 to address this need. As a result, the VA will have an even greater need for funding to support P.L. 111-163 between FY 2012 and FY 2015 in order to fully implement these provisions. While the Administration claims to have provided an additional \$208 million for implementation of P.L. 111-163, we remain concerned about the lack of action by the VA thus far to actually implement the law. Moreover, it is not clear where that additional funding is included in the FY 2012 Medical Care budget request. With this in mind, *The Independent Budget* recommends approximately \$385 million to fund the provisions of P.L. 111-163 in FY 2012.

For Medical Support and Compliance, *The Independent Budget* recommends approximately \$5.4 billion, approximately \$50 million above the FY 2011 appropriated level. Finally, for Medical Facilities, *The Independent Budget* recommends approximately \$5.9 billion, approximately \$160 million above the FY 2011 appropriated level. While our recommendation does not include an additional increase for non-recurring maintenance (NRM), it does reflect a FY 2012 baseline of approximately \$1.1 billion. While we appreciate the significant increases in the NRM baseline over the last couple of years, total NRM funding still lags behind the recommended two to four percent of plant replacement value. In fact, the VA should actually be receiving at least \$1.7 billion annually for NRM (Refer to Construction section article "Increase Spending on Nonrecurring Maintenance").

For Medical and Prosthetic Research, *The Independent Budget* recommends \$620 million. This would represent a \$39 million increase over the FY 2011 appropriated level. While we have been particularly pleased that Congress has recognized the critical need for additional funding in the Medical and Prosthetic Research account over the past couple of years, we are concerned that the Administration's request for FY 2012 would actually reduce research funding by the amount of \$72 million—the largest one-year reduction in that program's 85-year history. This loss of funding would create extraordinary challenges for research program management, producing negative effects on thousands of ongoing VA-funded research projects and cancellations of numerous meritorious proposals. Research is a vital part of veterans' health care, an essential mission of our national health care system, and an established high priority of this Administration and the US Government in general. In the midst of war, this is not the time to scale back VA biomedical and health services research projects that are focused solely on restoring the lives of American combat veterans. We believe a healthy increase in this appropriation is warranted and

can be easily justified, and urge the Subcommittee to restore these funds to our recommended level as it considers overall funding for the VA health care system in FY 2012.

Advance Appropriations for FY 2013

As explained previously, P.L. 111-81 required the President's budget submission to include estimates of appropriations for the medical care accounts for FY 2012 and subsequent fiscal years. With this in mind, the VA Secretary is required to update the advance appropriations projections for the upcoming fiscal year (FY 2012) and provide detailed estimates of the funds necessary for the medical care accounts for FY 2013. Moreover, the law also requires a thorough analysis and public report of the Administration's advance appropriations projections by the Government Accountability Office (GAO) to determine if that information is sound and accurately reflects expected demand and costs.

The Independent Budget is pleased to see that the Administration has proposed an increase in the Medical Care accounts for FY 2013. We simply urge Congress to remain vigilant to ensure that the proposed funding levels for FY 2013 are in fact sufficient to meet the continued growth in demand on the health care system. Moreover, it is important to note that this is the first year that the GAO will examine the budget submission to analyze its consistency with VA's Enrollee Health Care Projection Model. *The Independent Budget* looks forward to examining all of this new information and incorporating it into future budget estimates.

In the end, it is easy to forget, that the people who are ultimately affected by wrangling over the budget are the men and women who have served and sacrificed so much for this nation. We hope that you will consider these men and women when you develop your budget views and estimates, and we ask that you join us in adopting the recommendations of *The Independent Budget*.

This concludes our statement for the record. We would be happy to address any additional questions that you may have for the record.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— \$300,000 (estimated).

Fiscal Year 2010

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program— \$287,992.

Fiscal Year 2009

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— \$296,687.

**STATEMENT FOR THE RECORD
JOSEPH A. VIOLANTE
NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
ON BEHALF OF THE INDEPENDENT BUDGET
SUBMITTED TO THE
HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON MILITARY CONSTRUCTION
AND VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 16, 2011**

Chairman Culberson, Ranking Member Bishop and Members of the Committee:

On behalf of the Disabled American Veterans and our 1.2 million members, all of whom are wartime disabled veterans, I am pleased to submit the recommendations of *The Independent Budget* for the fiscal year 2012 budget in the area of veterans' benefits. As you know, *The Independent Budget* is a collaboration amongst the DAV, AMVETS, Paralyzed Veterans of America and Veterans of Foreign Wars.

SUFFICIENT STAFFING FOR THE VETERANS BENEFITS ADMINISTRATION

For fiscal year 2012, *The Independent Budget* recommends only modest increases in personnel levels for the Veterans Benefits Administration (VBA), and those increases are targeted at Vocational Rehabilitation and Employment (VR&E) and the Board of Veterans Appeals (BVA). Over the past couple of years, with strong support from Congress, VBA's Compensation and Pension (C&P) Service has seen a significant increase in personnel to address the rapidly rising workload they face. It is important to note that this large increase in claims processors could actually result in a short-term net decrease in productivity, due to experienced personnel being taken out of production to conduct training, and the length of time it takes for new employees to become fully productive. While we do not recommend additional staffing increases at this time, we do recommend that VBA conduct a study on how to determine the proper number of full-time employees necessary to manage its growing claims inventory so that claims are decided accurately and in a timely manner.

The Independent Budget does, however, recommend that Congress authorize at least 160 additional full-time employees for the VR&E Service for fiscal year (FY) 2012, primarily to reduce current case manager workload. A 2009 study by the Government Accountability Office (GAO) found that 54 percent of Department of Veterans Affairs Regional Offices (VAROs) reported they had fewer counselors than they needed and 40 percent said they had too few employment coordinators. VR&E officials indicated that the current caseload target is 1 counselor for every 125 veterans, but that ratio is reported to be as high as 1 to 160 in the field. An increase of 100 new counselors would address that gap. Given its increased reliance on contract services, VR&E also needs an additional 50 full-time employee equivalents (FTEE) dedicated to management and oversight of contract counselors and rehabilitation and

employment service providers. In addition, VR&E has requested at least 10 FTEE in FY 2012 to expand its college program --"Veteran Success on Campus," and we support that request.

With the number of claims for benefits increasing over the past several years, so too is the number of appeals to the BVA. On average, BVA receives appeals on five percent of all claims, a rate that has been consistent over the past decade. With the number of claims projected to rise significantly in the coming years, so too will the workload at BVA, and thus the need for additional personnel. Funding for the BVA must rise at a rate commensurate with its increasing workload so it is properly staffed to decide veterans' appeals in an accurate and timely manner.

CLAIMS PROCESSING REFORM: GET IT RIGHT THE FIRST TIME

The VBA is at a critical juncture in its efforts to reform an outdated, inefficient, and overwhelmed claims-processing system. After struggling for decades to provide timely and accurate decisions on claims for veterans' benefits, the VBA over the past year has started down a path that may finally lead to essential transformation and modernization, but only if it has the leadership necessary to undergo a cultural shift in how it approaches the work of adjudicating claims for veterans benefits.

The number of new claims for disability compensation has risen to more than one million per year and the complexity of claims have also increased as complicated new medical conditions, such as traumatic brain injury, have become more prevalent. To meet rising workload demands, *The Independent Budget* has recommended, and Congress has provided, significant new resources to the VBA over the past several years in order to increase their personnel levels. Yet despite the hiring of thousands of new employees, the number of pending claims for benefits, often referred to as the backlog, continues to grow.

As of May 9, 2011, there were 830,991 pending claims for disability compensation and pensions awaiting rating decisions by the VBA, an increase of more than 300,000 from one year ago. About 33 percent of that increase is the result of the Secretary's decision to add three new presumptive conditions for Agent Orange (AO) exposure: ischemic heart disease, B-cell leukemia, and Parkinson's disease. Even discounting those new AO-related claims, the number of claims pending rose by over 200,000, a 38 percent increase of pending claims over just the past year. Overall, there are 477,790 claims that have been pending greater than VA's target of 125 days, which is an increase of 287,150, up more than 150 percent in the past year. Not counting the new AO-related, over 65 percent of all pending claims for compensation or pension are now past the 125-day target set by the VBA.

Worse, by the VBA's own measurement, the accuracy of disability compensation rating decisions continues to trend downward, with their quality assurance program, known as the Systematic Technical Accuracy Review (STAR) reporting only an 83 percent accuracy rate for the 12-month period ending May 31, 2010. Moreover, VA's Office of Inspector General found additional undetected or unreported errors that increased the error rate to 22 percent. Complicating the Department's problems is its reliance on an outdated, paper-centric processing system, which now includes more than 4.2 million claims folders.

Faced with all of these problems, VA Secretary Shinseki last year set an extremely ambitious long-term goal of zero claims pending more than 125 days and all claims completed to a 98 percent accuracy standard. Throughout the year he repeatedly made clear his intention to “break the back of the backlog” as his top priority. While we welcome his intention and applaud his ambition, we would caution that eliminating the backlog is not necessarily the same goal as reforming the claims-processing system, nor does it guarantee that veterans are better served.

The backlog is not the problem, nor even the cause of the problem; rather, it is only one symptom, albeit a very severe one, of a much larger problem: too many veterans waiting too long to get decisions on claims for benefits that are too often wrong. If the VBA focuses simply on getting the backlog number down, it can certainly achieve numeric success in the near term, but it will not necessarily have addressed the underlying problems nor taken steps to prevent the backlog from eventually returning. To achieve real success, the VBA must focus on creating a veterans’ benefits claims-processing system designed to “get each claim done right the first time.” Such a system would be based upon a modern, paperless information technology and workflow system focused on quality, accuracy, efficiency, and accountability.

Recognizing all of the problems and challenges discussed above, we have seen some positive and hopeful signs of change. VBA leadership has been refreshingly open and candid in recent statements on the problems and need for reform. Over the past year, dozens of new pilots and initiatives have been launched, including a major new IT system that is now being field-tested. The VBA has shared information with the veterans service organizations (VSOs) about its ongoing initiatives and sought feedback on these initiatives. These are all positive developments.

To achieve the goal of “getting it right the first time”, VBA must change how it measures success and rewards performance. Unfortunately, most of the measures that the VBA employs today, whether for the organization as a whole, or for regional offices or employees, are based primarily on measures of production, which reinforces the goal of ending the backlog. VBA must also continue to review employee performance standards to ensure that it creates incentives and accountability to achieve quality and accuracy, not just increased speed or production.

Two longstanding weaknesses of VBA’s claims adjudication process are training and quality control, which should be linked to create a single continuous improvement program, both for employees and for the claims process itself. Quality control programs can identify areas and subjects that require new or additional training for VBA employees and better training programs for employees and managers should improve the overall quality of the VBA’s work. VBA must place greater emphasis on training by implementing stricter monitoring mechanisms for all VAROs and ensuring that they are held accountable for failure to meet this minimal standard.

Undoubtedly the most important new initiative underway at the VBA is the Veterans Benefits Management System (VBMS), which is designed to provide the VBA with a comprehensive, paperless, and ultimately rules-based method of processing and awarding claims for VA benefits, particularly disability compensation and pension. Following initial design work, the VBMS had its first phase of development in Baltimore last year where a prototype system was tested in a virtual regional office environment. The first actual pilot of the VBMS

system was begun in November 2010 at the Providence, Rhode Island Regional Office and a second six-month pilot is expected to begin soon at the Salt Lake City Regional Office.

Although the development and deployment of a modern information technology (IT) system to process claims in a paperless environment is long overdue, we have concerns about whether the VBMS is being rushed to meet self-imposed deadlines in order to show progress toward "breaking the back of the backlog." While we have long believed that the VBA's IT infrastructure was insufficient, outdated, and constantly falling further behind modern software, Web, and cloud-based technology standards, we would be equally concerned about a rushed solution that ultimately produces an insufficiently robust IT system.

Given the highly technical nature of modern IT development, we would urge Congress to fully explore these issues with the VBA and consider engaging an independent, expert review of the VBMS system while it is still early enough in the development phase to make course corrections, should they be necessary. Congress must also continue to provide aggressive oversight of the VBA's myriad ongoing pilots and initiatives to ensure that practices adopted and integrated into a cohesive new claims process are judged first and foremost on their ability to help VA get claims "done right the first time."

DISABILITY COMPENSATION AND QUALITY OF LIFE

In 2007, the Institute of Medicine (IOM) Committee on Medical Evaluation of Veterans for Disability Compensation recommended, "...that the current VA disability compensation system be expanded to include compensation for nonwork disability (also referred to as noneconomic loss) and loss of quality of life." The congressionally-mandated Veterans Disability Benefits Commission (VDBC), established by the National Defense Authorization Act of 2004 (Public Law 108-136), spent more than two years examining how the rating schedule might be modernized and updated. Reflecting the recommendations of the IOM study, the VDBC in its final report issued in 2007 also recommended that the, "... veterans disability compensation program should compensate for three consequences of service-connected injuries and diseases: work disability, loss of ability to engage in usual life activities other than work, and loss of quality of life."

The IOM Report, the VDBC (and an associated Center for Naval Analysis study) and the Dole-Shalala Commission (President's Commission on Care for America's Returning Wounded Warriors) all agreed that the current benefits system should be reformed to include noneconomic loss and quality of life as a factor in compensation. *The Independent Budget* recommends that Congress finally address this deficiency by clarifying that disability compensation, in addition to providing compensation to service-connected disabled veterans for their average loss of earnings capacity, must also include compensation for their noneconomic loss and for loss of their quality of life. Congress and VA should then determine the most practical and equitable manner in which to provide compensation for noneconomic loss and loss of quality of life and then move expeditiously to implement this updated disability compensation program.

ELIMINATION OF CONCURRENT RECEIPT FOR ALL DISABLED VETERANS

Many veterans retired from the armed forces based on longevity of service must forfeit a portion of their retired pay, earned through faithful performance of military service, before they receive VA compensation for service-connected disabilities. This is inequitable—military retired pay is earned by virtue of a veteran's career of service on behalf of the nation, careers of usually more than 20 years. Entitlement to compensation, on the other hand, is paid solely because of disability resulting from military service, regardless of the length of service. A disabled veteran who does not retire from military service but elects instead to pursue a civilian career after completing a service obligation can receive full VA compensation and full civilian retired pay—including retirement from any federal civil service. A veteran who honorably served and retired for 20 or more years and suffers from service-connected disabilities due to disability should have that same right. Congress should enact legislation to repeal the inequitable requirement that veterans' military longevity retired pay be offset by an amount equal to their rightfully earned VA disability compensation if rated less than 50 percent.

REPEAL OF OFFSET AGAINST SURVIVOR BENEFIT PLAN

When a disabled veteran dies of service-connected causes, or following a substantial period of total disability from service-connected causes, eligible survivors or dependents receive Dependency and Indemnity Compensation (DIC) from VA. This benefit indemnifies survivors, in part, for the losses associated with the veteran's death from service-connected causes or after a period of time when the veteran was unable, because of total disability, to accumulate an estate for inheritance by survivors.

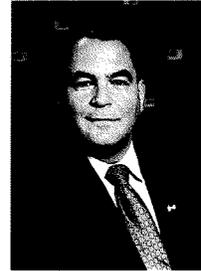
Career members of the armed forces earn entitlement to retired pay after 20 or more years' service. Unlike many retirement plans in the private sector, survivors have no entitlement to any portion of the member's retired pay after his or her death. Under the Survivor Benefit Program (SBP), deductions are made from the member's retired pay to purchase a survivors' annuity. Upon the veteran's death, the annuity is paid monthly to eligible beneficiaries under the plan. If the veteran died of other than service-connected causes or was not totally disabled by service-connected disability for the required time preceding death, beneficiaries receive full SBP payments. However, if the veteran's death was a result of his or her military service or followed from the requisite period of total service-connected disability, the SBP annuity is reduced by an amount equal to the DIC payment. Where the monthly DIC rate is equal to or greater than the monthly SBP annuity, beneficiaries lose all entitlement to the SBP annuity.

We note that surviving spouses of federal civilian retirees who are veterans are eligible for dependency and indemnity compensation without losing any of their purchased federal civilian survivor benefits. The offset penalizes survivors of military retired veterans whose deaths are under circumstances warranting indemnification from the government separate from the annuity funded by premiums paid by the veteran from his or her retired pay. Congress should repeal the offset between DIC and the SBP. In addition, Congress should lower the age from 57 to 55 for survivors of veterans who died from service-connected disabilities who remarry to be eligible for restoration of dependency and indemnity compensation to conform with the requirements of other federal programs.

FACT SHEET

BIOGRAPHICAL INFORMATION

JOSEPH A. VIOLANTE
 National Legislative Director
 Disabled American Veterans



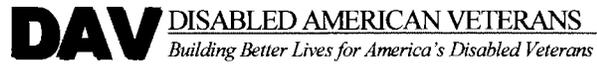
Joseph A. Violante, a disabled Vietnam veteran, was appointed National Legislative Director of the 1.2 million member Disabled American Veterans (DAV) in July 1997. He is employed at the organization's National Service and Legislative Headquarters in Washington, D.C.

A New Jersey native, Mr. Violante joined the Marine Corps in 1969. He served with the 2nd Battalion, 4th Marines and Battalion Landing Team 2/4 in Southeast Asia, and was discharged in 1972 with the rank of sergeant. He attended the University of New Mexico and received a bachelor's degree in history and political science, and earned his law degree from San Fernando Valley, College of Law, in California. Mr. Violante was a practicing attorney in Thousand Oaks, Calif., before moving to Washington, D.C., to work as a Staff Attorney at the Department of Veterans Affairs' Board of Veterans' Appeals in 1985.

Mr. Violante joined the DAV's professional staff as Staff Counsel/Judicial Appeals Representative at the Court of Veterans Appeals Office in 1990. He was Legislative Counsel for the DAV in 1992 and was later promoted to Deputy National Legislative Director in 1996, prior to his current appointment.

Mr. Violante joined the DAV as a life member in 1982 and has been a member of Omaha Beach Chapter 7 in Bowie, Md., since 1987. He served as Chapter Commander in 1989-90, and on the Department of Maryland Executive Committee from 1988 to 1991, as well as serving many years on the Department of Maryland's legislative committee.

Mr. Violante's involvement with veterans' issues reaches beyond the DAV. He was a member of the Board of the National Foundation for Women Legislators from 2001-09 and a member of the Board of Governors of the Federal Circuit Bar Association from 2001-04. He produced legislative articles for *Tommy*, a quarterly publication of the Veterans Law Committee, and is a life member of the Veterans of Foreign Wars and 3rd Marine Division Association. Additionally, Mr. Violante co-hosted "Veteran's Forum," a local cable television program dedicated to veteran's issues from 1991 to 1994; previously chaired the Veterans Appeals Committee and Legislative Committee of the Federal Circuit Bar Association from 1992 to 1996 and 1997 to 2001, respectively; was vice-chair of the Veterans Benefits Committee of the American Bar Association from 1991 to 1994; and was an at-large member of the board of governors of the Veterans Law Committee of the Federal Bar Association from 1992 to 1993.



DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Disabled American Veterans (DAV) does not currently receive any money from any federal grant or contract.

During fiscal year (FY) 1995, DAV received \$55,252.56 from Court of Veterans Appeals appropriated funds provided to the Legal Service Corporation for services provided by DAV to the Veterans Consortium Pro Bono Program. In FY 1996, DAV received \$8,448.12 for services provided to the Consortium. Since June 1996, DAV has provided its services to the Consortium at no cost to the Consortium.

RAYMOND C. KELLEY, DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

FOR THE RECORD

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON MILITARY CONSTRUCTION AND VA
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

VA'S BUDGET FOR FISCAL YEAR 2012

WASHINGTON, D.C.

May 5, 2011

CHAIRMAN CULBERTSON, RANKING MEMBER BISHOP AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the 2.1 million men and women of the Veterans of Foreign Wars of the U.S. (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify today. The VFW works alongside the other members of the Independent Budget (IB) – AMVETS, Disabled American Veterans and Paralyzed Veterans of America – to produce a set of policy and budget recommendations that reflect what we believe would meet the needs of America's veterans. The VFW is responsible for the construction portion of the IB, so I will limit my remarks to that portion of the budget.

The Department of Veterans Affairs (VA) manages a wide portfolio of capital assets throughout the nationwide system of health-care facilities. According to the latest VA Capital Asset Plan, VA owns 5,405 buildings and almost 33,000 acres of land. It is a vast network of facilities that requires much time and attention from VA's capital asset managers. Unfortunately, VA's infrastructure is aging rapidly. Although Congress has funded a significant number of new facilities in recent years, the vast majority of existing VA medical centers and other associated buildings are on average more than 60 years old.

A vast, growing and aging infrastructure continues to create a burden on VA's overall construction and maintenance requirements. These facilities are the instruments that are used to deliver the care to our injured and ill veterans. Every effort must be made to ensure these facilities are safe and sufficient environments to deliver that care. A VA budget that does not adequately fund facility maintenance and construction will reduce the timeliness and quality of care for our veterans. That is why the IB partners are recommending an overall construction budget of \$2.8 billion, \$2.2 billion for the major construction accounts, and \$585 million for the minor construction accounts.

Last fall, VA provided the IB partners with an overview of the new Strategic Capital Investment Plan (SCIP). After the briefing and upon reviewing the VA FY2012 budget submission, the IB partners are pleased with the improved transparency of their capital planning. VA has advised the IB partners that SCIP is intended to identify capital acquisition needs, ranging from Non-recurring maintenance and leasing to minor and major construction projects to close the currently identified performance gaps. All

told, these gaps will require between \$53 and \$65 billion in funding over a ten year period. However, at the Administration's requested funding level, it will take between 18 and 22 years to complete the current 10-year plan. Underfunding VA's capital plan in its infancy will only exacerbate their ongoing construction and maintenance needs.

We are happy to see that in VA's FY2012 budget request, the medical facilities in New Orleans and Denver along with three other major construction projects will be fully funded. However, only seven of the 23 partially funded major construction projects will continue to be funded in FY2012, leaving well over \$4 billion remaining in partially funded projects dating back to FY07. These projects include improving seismic deficiencies, providing spinal cord injury centers, completing a Poly-trauma/blind rehab and research facility as well as expanding mental health facilities. These projects have a purpose and should be funded as quickly as possible to fulfill the promise of care to our wounded and ill veterans. VA is requesting approximately \$545 million dollars to continue construction on the seven existing projects and to being work on four new projects. At this pace, VA will not reach its Strategic Capital Investment 10-year plan. Therefore, the IB partners request that Congress provide funding of \$1.85 billion for VHA major construction accounts. This will allow VA to complete all current, partially funded major construction projects within five years, begin providing funding for 15 new projects, and fund the four current partially funded seismic correction projects at a level that will have them completed in three years.

The IB partners are pleased with VA's funding request for VHA minor construction account. This level of funding will allow VA to fully fund more than 75 projects.

The Administration's request for NCA construction projects totals nearly \$80 million. The IB is requesting \$161 million. This will allow NCA to complete nearly all of its minor construction projects and begin three major projects, expanding veterans' access to cemeteries in Hawaii, Florida and Colorado.

The IB partners are also requesting an increase for funding of research facilities. Funding at a level of \$150 million will allow work to begin on the five highest priority research facility projects.

Again, it is critical to the care of our veterans that we fully fund VA construction.

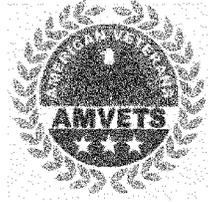
Below you will find the Independent Budget partner's budget recommendations for FY2012:

Category	Recommendation (\$ in Thousands)
Major Medical Facility Construction	\$1,850,000
NCA Construction	\$ 61,000
Advance Planning	\$45,000
Master Planning	\$15,000
Historic Preservation	\$20,000
Medical Research Infrastructure	\$150,000
Miscellaneous Accounts	<u>\$ 60,000</u>
TOTAL	\$2,201,000

MINOR CONSTRUCTION

Category	Funding (\$ in Thousands)
Veterans Health Administration	\$450,000
National Cemetery Administration	\$100,000
Veterans Benefits Administration	\$20,000
<u>Staff Offices</u>	<u>\$15,000</u>
TOTAL	\$585,000

Mr. Chairman, thank you again for inviting VFW to provide testimony regarding VA budget needs, and I will be happy to answer any question you may have.



STATEMENT OF CHRISTINA M. ROOF

BEFORE THE

HOUSE APPROPRIATIONS COMMITTEE

SUBCOMMITTEE ON MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES

CONCERNING

THE INDEPENDENT BUDGET'S RECOMMENDATIONS FOR FISCAL YEAR 2012

Chairman Culberson, Ranking Member Bishop and distinguished members of the committee, on behalf of AMVETS I would like to thank you for allowing myself and representatives of the other member organization authors of the *Independent Budget* to share with you our recommendations on the Department of Veterans Affairs Fiscal Year 2012 budget, in what we believe to be the most fiscally responsible way of ensuring the quality and integrity of the care and benefits our veterans community receive.

AMVETS is honored to join our fellow Veterans' Service Organizations in presenting the *Independent Budget's* recommendations on the Fiscal Year 2012 Department of Veterans Affairs Budget Request. AMVETS testifies before you as a co-author of The FY 2012 Independent Budget. This is the 25th year AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America and the Veterans of Foreign Wars have combined our expertise, experiences and resources to produce this unique and in-depth document; one that has stood the test of time.

In developing the *Independent Budget* we are always guided by the same set of principles. These principles include, first, our belief that veterans should not have to wait for the benefits to which they are entitled through their service to our country. Second, every veteran must be ensured access to the highest quality medical care available. Third, specialized care must remain a top priority and focus of the Department of Veterans Affairs (VA). Furthermore, we believe veterans must be guaranteed timely access to the full continuum of health care services, including, but not limited to, long-term care. Finally, veterans must be assured accessible burial in a state or national cemetery regardless of their location.

As a partner of the Independent Budget, AMVETS devotes a majority of our time to the concerns and matters of the Department of Veterans Affairs National Cemetery Administration (NCA). Today I will be speaking directly to these two issues.

By way of background, the stated mission of The National Cemetery Administration (NCA) is to honor veterans with final resting places in national shrines and with lasting tributes that commemorate their service to our nation. Their vision is to serve all veterans and their families with the utmost dignity, respect, and compassion and ensure that every national cemetery will be a place that inspires visitors to understand and appreciate the service and sacrifice of our nation's veterans. Furthermore, many states have established state veterans cemeteries. Eligibility is similar to that of the Department of Veterans Affairs (VA) national cemeteries, but may include residency requirements. Even though they may have been established or improved with government funds through VA's State Cemetery Grants Program, state veterans cemeteries are run solely by the states.

As of late 2010 the Department of Veterans Affairs National Cemetery Administration (NCA) maintained more than three million graves at 131 national cemeteries in 39 states and Puerto Rico. Of these cemeteries, 71 are open to all interment; 19 will accept only cremated remains and family members of those already interred; and 41 will only perform interments of family members in the same gravesite as a previously deceased family member.⁽¹⁾

VA estimates nearly 23 million veterans are living today. They include veterans from World Wars I and II, the Korean War, the Vietnam War, the Gulf War, the conflicts in Afghanistan and Iraq, the Global War on Terrorism, as well as peacetime veterans. With the anticipated opening of the newly planned national cemeteries, annual interments are projected to increase to approximately 116,000 in 2013, and are projected to maintain that level through 2015. Historically, only 12 percent of veterans opt for burial in a state or national cemetery, although these numbers are rising.

The most important obligation of the NCA is to honor the memory of America's brave men and women who served in the armed forces. Therefore, the purpose of these cemeteries as national shrines is one of NCA's top priorities. Many of the individual cemeteries within the system are steeped in history and the monuments, markers, grounds and related memorial tributes represent the very foundation of the United States. With this understanding, the grounds, including monuments and individual sites of interment, represent a national treasure that must be protected, respected and cherished.

The Independent Budget Veterans Service Organizations (IBVSOs) would like to acknowledge the dedication and commitment of the NCA staff who continue to provide the highest quality of service to veterans and their families. We call on the Administration and Congress to provide the resources needed to meet the changing and critical nature of NCA's mission and fulfill the nation's commitment to all veterans who have served their country honorably and faithfully.

In FY 2010, \$250 million was appropriated for the operations and maintenance of NCA, with approximately \$2 million in carryover. NCA awarded 47 of its 50 minor construction projects that were

¹ <http://www.cem.va.gov/cem/cems/listcem.asp>

in the operating plan. Additionally, the State Cemetery Grants Service (SCGS) awarded \$48.5 million in grants for 12 projects.

NCA has done an exceptional job of providing burial options for the nearly 91 percent, about 170,000, of veterans who fall within a 75-mile radius threshold model. However, the NCA realized that, without adjusting this model, only one area, St. Louis, would qualify for a cemetery within the next five years and that the five highest veteran population concentrated areas of the country would never qualify if the threshold remained unchanged.

In 2010, the IBVSOs recommended several new threshold models for NCA to consider in an effort to best serve a veterans population declining in number. The IBVSOs are pleased to see that NCA has adjusted its model and will begin factoring in 80,000 veterans within a 75-mile radius for future cemetery placement. This modification will allow NCA to continue to provide burial options for veterans who would otherwise be limited geographically for this benefit.

National Cemetery Administration (NCA) Accounts

The Independent Budget recommends an operations budget of \$275 million for NCA for fiscal year 2012 so it can meet the increasing demands of interments, gravesite maintenance and related essential elements of cemetery operations.

NCA is responsible for five primary missions: (1) to inter, upon request, the remains of eligible veterans and family members and to permanently maintain gravesites; (2) to mark graves of eligible persons in national, state, or private cemeteries upon appropriate application; (3) to administer the state grant program in the establishment, expansion, or improvement of state veterans cemeteries; (4) to award a presidential certificate and furnish a United States flag to deceased veterans; and (5) to maintain national cemeteries as national shrines sacred to the honor and memory of those interred or memorialized.

However, the national cemetery system continues to face serious challenges. Though there has been significant progress made over recent years, NCA is still struggling to remove decades of blemishes and scars from military burial grounds across the country. Visitors to national cemeteries are still likely to encounter sunken graves, misaligned and dirty grave markers, deteriorating roads, spotty turf and other patches of decay that have been accumulating for decades. If 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 all our national cemeteries.

NCA has worked tirelessly to improve the appearance of our national cemeteries, investing \$45 million in the National Shrine Initiative in FY 2010 and approximately \$25 million per year for the three previous years. NCA has done an outstanding job thus far in improving the appearance of our national cemeteries, but we have a long way to go to get us where we need to be. In 2006 only 67 percent of headstones and markers in national cemeteries were at the proper height and alignment. By 2009 proper height and alignment increased to 76 percent. NCA is on target to reach 82 percent this fiscal year. To ensure that NCA has the resources to reach its strategic goal of 90 percent, the IBVSOs recommend that

NCA's operations and maintenance budget be increased by \$20 million per year until the operational standards and measures goals are reached.

In addition to the management of national cemeteries, NCA is responsible for the Memorial Program Service. The Memorial Program Service provides lasting memorials for the graves of eligible veterans and honors their service through Presidential Memorial Certificates. Public Laws 107-103 and 107-330 allow for a headstone or marker for the graves of veterans buried in private cemeteries who died on or after September 11, 2001. Prior to this change, NCA could provide this service only to those buried in national or state cemeteries or to unmarked graves in private cemeteries. Public Law 110-157 gives VA authority to provide a medallion to be attached to the headstone or marker of veterans who are buried in a private cemetery. This benefit is available to veterans in lieu of a government-furnished headstone or marker.

The State Cemetery Grants Program

The State Cemeteries Grant Program (SCGP) faces the challenge of meeting a growing interest from states to provide burial services in areas that are not currently served. The intent of the SCGP is to develop a true compliment to, not a replacement for, our federal system of national cemeteries. With the enactment of the Veterans Benefits Improvements Act of 1998, the NCA has been able to strengthen its partnership with states and increase burial service to veterans, especially those living in less densely populated areas not currently served by a national cemetery. Currently there are 48 state and tribal government matching grants for cemetery projects.

The Independent Budget recommends Congress appropriate \$51 million for SCGP for FY 2012. This funding level would allow SCGP to establish new state cemeteries at their current rate that will provide burial options for veterans who live in regions that currently has no reasonably accessible state or national cemeteries.

Burial Benefits

Burial allowance was first introduced in 1917 to prevent veterans from being buried in potter's fields. In 1923 the allowance was modified. The benefit was determined by a means test, and then in 1936 the means test was removed. In its early history the burial allowance was paid to all veterans, regardless of their service connectivity of death. In 1973 the allowance was modified to reflect the status of service connection. The plot allowance was introduced in 1973 as an attempt to provide a plot benefit for veterans who did not have reasonable access to a national cemetery.

In 1973, NCA established a burial allowance that provided partial reimbursements for eligible funeral and burial costs. The current payment is \$2,000 for burial expenses for service-connected (SC) death, \$300 for non-service-connected (NSC) deaths, and \$300 for plot allowance. At its inception, the payout covered 72 percent of the funeral cost for a service-connected death, 22 percent for a non-service-connected death, and 54 percent of the burial plot cost. In 2007 these benefits eroded to 23 percent, 4 percent, and 14 percent respectively. It is time to restore the original value of the benefit.

The IBVSOs are pleased that the last Congress acted to improve the benefits, raising the plot allowance to \$700 as of October 1, 2011. However, there is still a serious deficit in original value of the benefit when compared to the current value.

While the cost of a funeral has increased by nearly 700 percent, the burial benefit has only increased by 250 percent. To restore both the burial allowance and plot allowance back to their 1973 values, the SC benefit payment should be \$6,160, the NSC benefit value payment should be \$1,918, and the plot allowance should increase to \$1,150.

Based on accessibility and the need to provide quality burial benefits, The Independent Budget recommends that VA separate burial benefits into two categories: veterans who live inside the VA accessibility threshold model, and those who live outside the threshold. For those veterans who live outside the threshold, the SC burial benefit should be increased to \$6,160, NSC veteran's burial benefit should be increased to \$1,918, and plot allowance should increase to \$1,150 to match the original value of the benefit. For veterans who live within reasonable accessibility to a state or national cemetery that is able to accommodate burial needs, but the veteran would rather be buried in a private cemetery, the burial benefit should be adjusted. These veterans' burial benefits will be based on the average cost for VA to conduct a funeral. The benefit for a SC burial should be \$2,793, the amount provided for a NSC burial should be \$854, and the plot allowance should be \$1,150. This will provide a burial benefit at equal percentages, but based on the average cost for a VA funeral and not on the private funeral cost that will be provided for those veterans who do not have access to a state or national cemetery.

In addition to the recommendations we have mentioned, the IBVSOs also believe that Congress should enact legislation to adjust these burial benefits for inflation annually.

The IBVSOs call on the Administration and Congress to provide the resources required to meet the critical nature of the NCA mission and fulfill the nation's commitment to all veterans who have served their country so honorably and faithfully.

NCA honors veterans with a final resting place that commemorates their service to this nation. More than 3 million servicemembers who died in every war and conflict are honored through interment 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.

Again, Chairman Culberson, Ranking Member Bishop and distinguished members of the subcommittee, we thank you for inviting us to share with you our recommendations and stand ready to answer any questions you may have.

Leslie Stevens, Senior Government Relations Associate, SWHR, Leslie@swhr.org, 202-496-5003

**Before the House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies
05/5/2011
Submitted for the Record**

The Society for Women's Health Research (SWHR), is pleased to submit testimony in support of **increased funding for women's health care and sex differences research within the Department of Veterans Affairs (VA)**. With the increasing number of women's veterans, the impact of appropriate funding will be immediate and widespread: personalized care resulting in more effective care options offered for both women and men; expanded access for women to seek care in VA medical facilities; better targeted interventions for traumatic events care—among many others.

SWHR, a national non-profit organization based in Washington DC, is widely recognized as the thought leader in research on sex differences and is dedicated to improving women's health through advocacy, education, and research. SWHR was founded in 1990 by a group of physicians, medical researchers and health advocates who wanted to bring attention to the myriad of diseases and conditions that affect women uniquely.

SWHR is committed to advancing the health of all women through the discovery of new, targeted scientific knowledge. To achieve this on behalf of our women veterans, SWHR is advocating for more resources for not only the VA's Health Services Research & Development but also for other VA Offices of Research & Development (ORD), including Biomedical/Laboratory, Clinical Sciences, and Rehabilitation.

HSR&D has been transforming efforts on health care quality, access, continuity of care, coordination, chronic disease care, prevention, utilization among many others but still has tremendous needs to achieve what is possible to ensure the best in care for women veterans. SWHR applauds their efforts to advance the research on women's health issues and wants to support efforts for new research to include exploration into sex based differences. Such research is essential if we are ever to advance medical science to provide the most appropriate care/treatment at the right time, in right place, for the right patient.

SWHR fights for sustained funding for biomedical and women's health research programs conducted and supported across all the federal agencies, not only within the VA, because it is absolutely essential if we are to meet the health needs of women and men, and advance the nation's research capability and impact. For VA-based research and care specifically, women who have served in the military need unique consideration in health needs and treatment. The remote and distinct locations where a woman on active duty may have served, the distinct occupational exposures, as well as the gear

and specialized equipment, may all contribute to health conditions and needs separate from those of civilian women. Such distinctions further make the case for inclusion of women in VA-based research and analysis of sex-based differences among veteran populations.

Increase in Funding for Women's Health Leading to Personalize Care

The largest group of women ever to serve has been part of Operation Enduring Freedom (OEF) & Operation Iraqi Freedom (OIF). VA projects that the number of women that will be seen within the VA system will double in just the next two years. Women have distinct medical needs, different from their male counterparts, and women veterans need to have available specific medical programs tailored to those needs. The VA needs to continue preparations for the ongoing evolution in patient demographics resulting in a younger, and more female, patient base.

The VA is uniquely situated to be able to study the health needs of former military members, both men and women. Research into women's health and sex differences research will result in better science and more personalized care options, improving the likelihood of getting the correct treatment the first time, for women and men. SWHR believes that we will not transform medical practice until there is more research into personalized care, inclusive of sex as a biological variable, which better informs care decisions, saves money and produces better outcomes with less trial-and-error approaches to medicine.

As of 2010, the top two diagnoses among women veterans in the VA system were depression and hypertension, implying that both mental and physical care are critical to complete health care for returning veterans. Delivering comprehensive and evidence-based care to women veterans is an obligation that our government has committed to and the VA system must be enabled to follow through on this promise.

By expanding women's health services, the VA health system will have a powerful impact on women veterans. During this difficult budget cycle, VA health care system must grow efficiently and change responsibly to meet an ever increasing number of veterans, women and men, who will be eligible for care in the VA and who deserve the best evidence-based care. We support VA and its need for an appropriate level of resources to meet these differing medical needs.

Expanding Access

Accessibility is a huge obstacle for all women in all health care settings, including in the VA system. Often, women serve as primary caregiver for minor children and aging parents, and balance this role with taking care of themselves. According to the Department of Defense, in 2008 there were 73,000 single parents in active-duty which is about 5.3% of the total force. As these active duty personnel transition to veteran status, childcare should be considered in order to facilitate easy access of VA health services to all veteran parent. With the growing numbers of women veterans returning

from war who are well under the age of 40, there will likely be an increase in the number of women veterans also mothers.

As current regulations prevent VA funding from going towards childcare, proposed pilot programs and funding for public-private ventures in this area may be the best possible solution. Childcare at VA medical facilities is currently only available through private and public partnerships in 23 states, including the District of Columbia. While not unique to the VA setting, already many women veterans have cited a lack of childcare as a major obstacle to going to necessary doctor appointments at VA facilities.

In 2010, a two year pilot program was included as a part of the “Caregivers and Veterans Omnibus Health Services Act of 2010” (P.L 111-163) to assess the feasibility and advisability of childcare at VA health facilities for veterans who are the primary caregiver of the children. It is our hope that this important study will proceed and provide helpful information on ways to offer this service; however, this Act has not been fully funded, putting this program and others in jeopardy.

In addition to childcare barriers reducing access, living rurally, as many veterans do, also decreases utilization and access to VA services. Timely access to screenings and evidence based care is essential for quality health care. Rural veterans need access to the same quality screenings and the same preventive care that is available at the major VA facilities in typically urban areas. Over 36% of veterans live in rural areas including 39% of veterans returning from Iraq and Afghanistan, according to data from this year. To achieve sufficient access capabilities, the VA will require increased funding for the Office of Rural Health to provide for more mobile clinics and rural outreach efforts in order to provide services to the entire population of women veterans in our country.

Sex Differences in Responses to Traumatic Events

Many women veterans have experienced a traumatic event in their lifetime, either before enlisting, while serving our country, or both. A trauma’s physical and mental health impacts must be addressed in an environment where the woman feels safe and has easy access to evidence-based care. A higher percentage of women veterans have experienced a traumatic event, including sexual assault, compared to men—some estimates as high as 3:1. Following a traumatic event, targeted medical and mental health care is needed to assess and improve the woman’s wellbeing. To do this, SWHR believes strongly that it is necessary that the VA has funding to create environments in their facilities to address gender-specific PTSD and sexual trauma needs.

Many women who have served during the current conflicts have served attached to units facing combat, and the risks for physical trauma from accidents, explosions, etc can be the same for females as males. However, the response to combat can be much different. Women are more than twice as likely to develop PTSD as men: about 10% of women compared to only 4% of men. Further, women are also four times more likely to develop chronic PTSD than men. Additionally, it has been found that sexual assault is

more likely to cause PTSD than any other event and nearly one in five women veterans spanning all generations accessing VA care report that they have been a victim of MST. Increased funding for research into appropriate, sex-based prevention and treatment options for women is critical to achieving success in serving women veterans appropriately.

Funding the Caregivers Act and FY2012 Budget

The Caregivers and Veterans Omnibus Health Services Act of 2010 (P.L 111-163) to date remains an unfunded mandate from the 111th Congress – the result of which is depriving the VA Medical Centers the ability to help those coordinating care and the veterans who access them from very needed resources. The \$36 million designated within the Act for women’s health, including: research on the effects of war on women’s reproductive, physical and mental health; training of mental health professionals specifically caring for women surviving sexual trauma; and pilot projects on childcare provision. This Act must be funded in full so that men and women trying to care for our veterans are provided appropriate resources to do their job. The bill passed with broad bipartisan support in 2010 must remain a priority in 2011.

Summary

In light of rising numbers of women veterans and growing knowledge of the impact of sex based differences, increased funding for women’s health care and sex differences research is the key to expanding appropriate services to women veterans in the VA. Women veterans’ distinct needs must be addressed in terms of biological sex differences and gender specific care. Provider visits, preventive screenings and evidence based treatments that can be strategically implemented, not just to improve health outcomes but to decrease costly trial-and-error medicine, using techniques/procedures/medicines studied in men as a one-size-fits-all model for all.

This Congress can help women veterans access the best care by:

- (1) Appropriately funding VA women’s health and sex differences research
- (2) Supporting effort to expand access to VA Medical Centers
- (3) Funding studies, training, and treatments for target care following traumatic events
- (4) Fully funding the Caregivers and Veterans Omnibus Health Services Act of 2010 (P.L 111-163)



Statement of
The Fleet Reserve Association

Submitted to

Committee on Appropriations
Subcommittee on Military Construction and
Veterans Affairs
U.S. House of Representatives

By

Master Chief Joseph L. Barnes, USN (Ret.)
National Executive Director
Fleet Reserve Association

May 20, 2011

THE FRA

The Fleet Reserve Association (FRA) is a leading advocate on Capitol Hill for enlisted active duty, Reserve, retired and veterans of the Navy, Marine Corps, and Coast Guard. It is Congressionally Chartered, recognized by the Department of Veterans' Affairs (VA) as an accrediting Veteran Service Organization (VSO) for claim representation and entrusted to serve all veterans who seek its help. In 2007, FRA was selected for full membership on the National Veterans' Day Committee.

FRA was established in 1924 and its name is derived from the Navy's program for personnel transferring to the Fleet Reserve or Fleet Marine Corps Reserve after 20 or more years of active duty, but less than 30 years for retirement purposes. During the required period of service in the Fleet Reserve, assigned personnel earn retainer pay and are subject to recall by the Secretary of the Navy.

FRA's mission is to act as the premier "watch dog" organization in maintaining and improving the quality of life for Sea Service personnel and their families. The Association also sponsors a National Americanism Essay Program and other recognition and relief programs. In addition, the newly established FRA Education Foundation oversees the Association's scholarship program that presented awards totaling nearly \$120,000 to deserving students last year.

The Association is also a founding member of The Military Coalition (TMC), a 33-member consortium of military and veteran's organizations. FRA hosts most TMC meetings and members of its staff serve in a number of TMC leadership roles.

FRA's motto is: "Loyalty, Protection, and Service."

**CERTIFICATION OF NON-RECEIPT
OF FEDERAL FUNDS**

Pursuant to the requirements of House Rule XI, the Fleet Reserve Association has not received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

INTRODUCTION

Mr. Chairman and other distinguished Members of the Subcommittee: The Fleet Reserve Association (FRA) appreciates the opportunity to present its recommendations regarding the FY 2012 Budget. The Association also appreciates your leadership and strong support in conjunction with the support of advanced funding for the Department of Veterans Affairs health care accounts, the gradual re-opening of access to VA health care services for Priority Group 8 veterans, the Department's acknowledgment of Agent Orange exposure for veterans on ships that entered inland "brown water" waterways in Vietnam, expansion of Agent Orange presumption for some Korean veterans, and authorization of a service-connection for those who have B cell leukemia, Parkinson's disease or ischemic heart disease. As an Association comprised primarily of career Navy enlisted personnel, the Agent Orange claims controversy for the so-called "blue water" veterans is a very high priority.

FRA also welcomes efforts to streamline claims processing for veterans with post traumatic stress (PTS) and appreciates the recent House Veterans' Affairs Committee oversight hearing on the Servicemembers Civil Relief Act (SCRA) which raised awareness regarding financial institutions who are not complying with the Act.

THE 2012 VA BUDGET

The proposed FY 2012 Department of Veterans Affairs (VA) budget is three percent higher than the enacted 2011 budget. Related to the proposal is the FY 2012 Independent Budget (IB) which was released by AMVETS, Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA) and the Veterans of Foreign Wars (VFW). The IB provides detailed funding analysis of the proposed VA budget and is intended to serve as a guide to policy makers to make necessary adjustments to meet the challenges of serving America's veterans.

The IB for FY 2012 recommends an eight percent increase over the 2011 VA budget. The Administration's FY 2012 VA budget and the IB call for increased funding for medical services, women veterans programs, mental health services, expanded caregiver assistance, and helping homeless veterans. The IB notes that the proposed FY 2012 budget cuts various VA programs that include construction, information technology, and medical and prosthetic research. The annual IB is strongly supported by FRA and other veteran service organizations and has served as a guide for VA funding for 25 years.

FRA is troubled by the level of funding recommended for construction projects (reduced 6.6%) and information technology (reduced 4.3 %). The IB notes that the past decade of the construction budget for VA has been underfunded and now is not the time to reduce this critical funding. Likewise, there are a number of important information technology initiatives, such as Joint Virtual Lifetime Electronic Record (VLER) that need to be adequately funded. In addition, the Association notes that the Subcommittee mark reduces funding by \$25 million for the Court of Appeals for Veterans Claims that was for construction of a new courthouse. In conjunction with this, the Association remains concerned about any initiatives which may further aggravate the chronic and continuing backlog of disability claims.

FRA appreciates the Subcommittee's support for \$52.6 billion appropriations in advanced funding for VA health care accounts for FY 2013. Due to the advanced funding law the VA health care program has been able to continue to function even in years when spending bills are delayed.

AGENT ORANGE REFORM

The Department of Veterans Affairs (VA) presumes exposure for those who had "boots on the ground" or served on Vietnam's inland waterways, but the department doesn't presume service connection for those who served offshore. As a result, these "blue water" retirees and veterans are not eligible to claim disability benefits related to Agent Orange exposure. Revising the VA's definition of Vietnam service to include those who served off Vietnam's coast is one of FRA's top legislative priorities for the 112th Congress. The Institute of Medicine (IOM) is expected to release research indicating that the so-called "Blue Water" Navy Vietnam veterans experienced exposed a comparable exposure to herbicides as the "Brown Water" Navy. Many "Blue Water" Navy veterans now have health problems commonly associated with herbicide exposure and have endured lengthy legal struggles to prove these problems are service-related. FRA hopes that the soon to be released IOM report will confirm the Association's position.

MEDICAL AND PROSTHETIC RESEARCH

The VA's research should focus on improving treatments for conditions that are unique to veterans. Medical and prosthetic research is one of the most successful aspects of all VA medical programs. That is why FRA is concerned that there is a decrease from \$581 million in FY 2011 to \$508 million in FY 2012 in medical and prosthetic research budget. The Association, supports the recommendation of the IB to increase funding to \$620 million (6.3% increase) in FY 2012.

DISABILITY CLAIMS BACKLOG

FRA strongly believes that the cost of war should include treating the nation's wounded warriors, and is deeply concerned about the backlog of claims at the Department of Veterans Affairs (VA).

The Association appreciates the thousands of additional claims adjusters hired since January 2007. Despite the additional resources and manpower the backlog of disability claims continues to increase. It is becoming clear that the VA must not only have adequate numbers of trained staff and personnel but also automation of the disability rating system.

FRA believes there is strong bi-partisan support to reform the system and that lawmakers have made clear that they want to improve the antiquated paper claims process to eliminate bureaucratic delays and ensure more uniformity between branches of the military and the VA in how they rate disabilities. The VA has an overriding responsibility to maintain an effective delivery system, taking decisive and appropriate action to correct deficiencies and improve processes. The Integrated Disability Evaluation System (IDES) has been a noticeable improvement over the DES since it requires only one physical exam and only one rating and is currently deployed at 73 sites and is scheduled to be fully deployed in September 2011. The IDES also continues to allow

the claimant to receive pay and other benefits and has reduced processing time. A recent GAO report indicates that the system shows promise but has experienced challenges that include staffing shortages, and inadequate IT solutions.

FRA strongly supports the Administration's efforts to create a Joint Virtual Lifetime Electronic Record (VLER). A VLER for every service member would be a major step towards the Association's long-standing goal of a truly seamless transition from military to veteran status for all service members and would permit a DoD, VA, or private health care provider immediate access to a veteran's health data. There is some sharing now between DoD and VA, but information in the private sector is invisible to VA. The VLER strategy would utilize secure messaging standards, similar to that which is used for email, to securely relay information between sources. The VLER working group is collaborating with VBA and its paperless processes and while being HIPPA (Health Insurance Portability and Protection Act) compliant, there are legislative hurdles to overcome, similar to that which the VBA is facing with its paperless process.

A 2010 Government Accountability Office (GAO) report (GAO-10-450T, February 10, 2010) cites gaps in the Benefits Delivery at Discharge (BDD) program management, accountability, and access. The BDD is a pilot program that involves VA and DoD partnering to streamline access to veteran's disability benefits by allowing some current service members to file a VA disability claim and undergo a single collaborative exam process up to 180 days prior to being discharged. The report also indicates that VA's Quick Start initiative designed to streamline the claims process for members of the Reserve Component could not be verified by VA data, and that the VA was ineffective in its efforts to increase awareness of the program in Reserve Component communities.

VA can promptly deliver benefits to veterans only if it has modern technology, adequate resources and staffing. FRA strongly supports the development of an advanced technological delivery structure, using a "paperless" claims system which will also help achieve the goal of a seamless transition for disabled veterans.

WOUNDED WARRIOR AND CAREGIVER SUPPORT

The recently implemented (May 9, 2011) Family Caregiver Program of the Caregivers and Veterans Omnibus Health Services Act of 2010 will be of enormous benefit to those caring for wounded warriors. FRA believes this assistance is critical in supporting wounded warrior caregivers. A recent *Navy Times* survey (November 29, 2010) indicates that 77 percent of wounded warrior caregivers reported they have no life of their own; 72 percent feel isolated; and 63 percent suffer from depression. The improvements will help caregivers, however, the enactment of legislation is only the first step and jurisdictional challenges notwithstanding, effective oversight and adequate sustained funding are essential to success of this program.

The creation of the Federal Recovery Coordinators (FRC) to help veterans and their families navigate the disability bureaucracy has not lived up to expectations and may have simply created another layer of bureaucracy. Both DoD and VA have care coordinators resulting in duplication of efforts.

ACCESS TO VA CARE

FRA appreciates the lifting of the “temporary” 2003 ban on enrolling Priority Group 8 veterans, and is encouraged that the VA opened enrollment for some of these beneficiaries. The ban significantly limited access to care and more than 260,000 veterans have been impacted by the policy. Our Nation made a commitment to all veterans for their service and limiting enrollment conveys the wrong message to our service personnel currently serving in Iraq and Afghanistan and those who have served in the past.

Expanding access to VA Hospitals and Clinics for TRICARE Prime beneficiaries is important and FRA supports funding to expand DoD/VA joint facilities demonstration projects such as combining the VA Hospital and the Naval Hospital at Great Lakes Naval Base, Illinois, and ensuring that military retirees are not required to pay beyond TRICARE fees for care in VA facilities. (Currently 151 of the 153 VA medical centers accept TRICARE Prime beneficiaries.)

MEDICARE SUBVENTION

FRA believes authorization of Medicare subvention for eligible veterans would improve access for Medicare-eligible veterans and enhance health care funding for the Department of Veterans Affairs (VA). Under current law, VA hospitals are not reimbursed for care provided to Medicare-eligible veterans who must choose between receiving veterans-centric specialized care at a VA hospital without benefiting from Medicare coverage and reimbursement to the facility, or seeing an outside Medicare provider his/her office or at a non-VA hospital.

MILITARY CONSTRUCTION

FRA understands that the FY 2012 military construction budget request is significantly less when compared to the past four years due to declining needs of Base Realignment and Closure (BRAC). The Association also notes and supports funding for military schools to improve conditions at 15 schools. FRA also appreciates the funding (\$1.1 billion) for the construction of 16 hospitals and clinics and \$1.7 billion to fund construction, operation and maintenance of family housing in FY 2012.

The Navy will add 7,000 new child care spaces, reducing waiting time to three months for access to military child care facilities and the Marine Corps increased child care capabilities from 64 to 73 percent of USMC families, with a projection to meet a goal of 80 percent by FY 2012. The Navy and Marine Corps child care programs are highly valued benefits for military families and are a critical element in maintaining adequate retention numbers. The Navy has also made significant progress in improving bachelor housing with its Homeport Ashore program that, after repeated delays, is now scheduled to eliminate substandard bachelor housing by 2016. The Marine Corps will focus on improving existing family housing and is also requesting \$59 million for additional family housing. It is often said that the individual enlists but it’s the family that re-enlists.

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ARFH

FRA appreciates support for funding to rebuild the Armed Forces Retirement Home in Gulfport, Miss. Many FRA members, who were residents at the Home were forced to relocate due to damage caused by Hurricane Katrina in 2005, have returned home to a new facility that re-opened last October. FRA thanks this distinguished Subcommittee for its supporting this important project.

CONCLUSION

Mister Chairman, FRA sincerely appreciates all that you and members of your distinguished Subcommittee – and your outstanding staff do to support our magnificent service members and veterans. Thanks again for the opportunity to present the Association’s recommendations for your consideration.

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