CONSTRUCTION CONUNDRUMS: A REVIEW OF CONTINUED DELAYS AND COST OVERRUNS AT THE REPLACEMENT AURORA, COLORADO, VAMC

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

TUESDAY, APRIL 22, 2014

Serial No. 113–65

Printed for the use of the Committee on Veterans' Affairs

Available via the World Wide Web: http://www.fdsys.gov

U.S. GOVERNMENT PUBLISHING OFFICE

87–678 WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
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CONSTRUCTION CONUNDRUMS: A REVIEW OF CONTINUED DELAYS AND COST OVERRUNS AT THE REPLACEMENT AURORA, COLORADO, VAMC

Tuesday, April 22, 2014

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:03 a.m., at Old Supreme Court Chambers, State Capitol Building, 200 East Colfax Avenue, Room 200, Denver, Colorado, Hon. Mike Coffman [chairman of the subcommittee] presiding.

Present: Representatives Coffman, Miller, Lamborn, and Kirkpatrick.

Also Present: Representative Gardner.

OPENING STATEMENT OF CHAIRMAN MIKE COFFMAN

Mr. COFFMAN. Good morning. This hearing will come to order. I want to welcome everyone to today's hearing, entitled, "Construction Conundrums: A Review of Continued Delays and Cost Overruns at the Replacement Aurora, Colorado, VAMC," or Veterans Administration Medical Center.

I would also like to ask unanimous consent that several of our Colorado colleagues be allowed to join us here on the dais to address issues very specific to their constituents.

Hearing no objection, so ordered.

I would also like to welcome House Veterans' Affairs Committee Chairman Jeff Miller from the State of Florida, who will be participating in today's discussions.

Thank you, Chairman Miller.

This hearing will address continued problems occurring in the construction of the Replacement Aurora, Colorado, VA Medical Center that have caused construction to become delayed by over 1 year and over budget by more than $470 million, according to GAO.

Further, it will address how VA's handling of the project has resulted in several lawsuits due to its failure to pay contractors.

The hearing will also support current legislation that, if enacted, will help get the Aurora facility and other delayed facilities operational as close to the initial completion date as possible.

The Aurora project contract required the VA to deliver a design to be built for $582.8 million. VA contracted with Kiewit-Turner to be prime contractor for the project.

In November 2011, the parties agreed to a firm target price of $604 million. According to a VA fact sheet issued in February 2014, VA estimates the cost of the facility to now be $800 million. Unfortunately, based on competitive subcontractor and supplier bids acknowledged by VA, the real estimated cost of this project exceeds $1 billion.

Many of the problems with the Aurora construction stem from faulty designs.

First, VA did not even hire a contractor until after its initial designs were made. Since the contractor was not involved in the initial design and was forced to formulate its bid based on a design that was not finalized, the project required changes that led to extensive delays and cost increases. Even when VA delivered their final designs 8 months late, internal emails from VA engineers show that the designs were not even complete.

The design issues also necessitated hundreds of change orders to get the project back on track. VA currently has more than 380 unresolved final change order requests worth over $350 million. Additional emails from VA show that change orders have sat on a desk in VA for between 1.5 to 2 years before any action was taken on them.

Once acted upon, only one person was assigned to assess the change orders, which considering how the backlog has almost reached 400, one person cannot be able to timely handle these requests.

VA's refusal to issue final decisions on change orders, inability to produce designs that could be built within budget, and failure to pay contractors for work completed, has led to 16 lawsuits currently pending before the U.S. Civilian Board of Contract Appeals.

Notably, the contractors who are parties to these suits have offered to mediate these claims with VA, but VA has declined to do so.

Considering these extensive problems with VA that are in no way limited to this one major construction project, recently, I, along with Ranking Member Kirkpatrick, introduced legislation that would require VA to engage the Army Corps of Engineers to act as a special project manager to help the numerous delayed and over budget VA major construction projects get completed closer to their initial cost and completion goals.

With that, I now recognize Ranking Member Kirkpatrick from the State of Arizona for an opening statement.

OPENING STATMENT OF ANN KIRKPATRICK, RANKING MEMBER

Ms. KIRKPATRICK. Thank you, Mr. Chairman.

Good morning and thank you all for being here today in support of this very important issue that we will be discussing. I want to thank all of the veterans here today for their service to our country.

Discussions for replacing the Denver facility began 15 years ago. With the congressional authorization in 2004, veterans in Denver and the surrounding area were able to finally point to a future date for when this new facility would be open.

After 9/11, and with the wars in Afghanistan and Iraq stretching to the ends of 2014, the need for this replacement facility was considerably magnified, and everyone recognized something needed to be done.

Today's hearing is the fourth in 2 years that the House Committee on Veterans' Affairs, to include this subcommittee, has held to review the VA's construction policies and procedures. Valuable lessons have been learned from our investigations of several VA construction projects throughout the country. Now is the time to use these lessons and move this project forward.

We all know that due to the ongoing litigation between the VA and Kiewit-Turner, this project is stalled until the Civilian Board of Contract Appeals issues its decision later this year. In the interim, there is still a great deal of planning and work needed to ensure this hospital will be ready to open its doors to veterans next year when the construction is complete.

When this dispute is resolved, I hope we will not linger on past actions or place blame, but instead get all hands on deck to complete this facility and serve the veterans who need it.

Our remaining troops in Afghanistan will return home at the end of this year. We have aging veterans who fought in World War II, Korea, and Vietnam. They all deserve access to world-class health care throughout the VA.

The VA and Congress must work together to ensure that the Veterans Health Administration and its hospitals and medical facilities are fully equipped, staffed, and ready to provide nothing less than the best health care to the men and women who have given so much for our country.

I am sure we would all agree that it is our obligation as a grateful Nation to do what needs to be done so that veterans' sacrifice and service will never be forgotten.

I look forward to the testimony today.

And with that, Mr. Chairman, I yield back the balance of my time.

Mr. COFFMAN. Thank you, Ranking Member Kirkpatrick.

I now recognize Veterans' Affairs Committee Chairman Jeff Miller for his opening statement.

OPENING STATEMENT OF HON. JEFF MILLER

The CHAIRMAN. I thank the chairman, Mr. Coffman, and the ranking member, Ms. Kirkpatrick, for inviting me here today to discuss this important issue, important not only to the State of Colorado and the veterans who will be served in this new facility, but all across the country.

This project and VA major construction, in general, have been important issues for our committee for some time, as the committee members well know, especially considering the problems here, as well as in Las Vegas, New Orleans, and Orlando.

The 2013 GAO report that addressed VA construction found these four facilities, on average, to be delayed by 35 months—not days, but months—and over budget by an average of $144 million. Now considering this report was from a year ago, and based on the evidence that we are going to see today, I am confident that these numbers are now much higher.

During the briefings from Glenn Haggstrom, principal executive director of VA's Office of Acquisition, Logistics, and Construction, I was assured that everything was fine. I was assured that these projects are well under control.

Stella Fiotes, executive director of VA's Office of Construction and Facilities Management, who is here today, as is Mr. Haggstrom, recently defended VA's major construction in this subcommittee's March 25 legislative hearing, where when questioned regarding the VA's belief of whether construction at the Vegas replacement facility was delivered on time and on budget, Ms. Fiotes responded: Yes, based on the way that we account for time and budget.

Notably, GAO substantiated Las Vegas was delayed by 74 months and over budget by $288 million.

Now the Aurora project represents everything that is questionable about how VA accounts for its construction projects. They initially, as you have already said, Mr. Chairman, asked for $800 million in appropriations to fund this project. They contracted with Kiewit-Turner to build the project for $604 million. Estimates now indicate that the Aurora construction will cost more than $1 billion, but VA maintains that it will only cost the $800 million that was originally appropriated.

And with that, I find it relatively disingenuous that VA claims to have not exceeded its budget because it asked for $800 million, when in fact it agreed to provide a design for nearly $200 million less than that amount.

That way of thinking provides no incentive to save the taxpayers money while providing every incentive to fix numbers to suit their specific interests.

This issue is made clear through a VA internal email that is going to be discussed today in which a senior resident engineer described how, between the spring of 2011 and the spring of 2012, the contracting officer of the project actually instructed employees to do nothing to answer proposed change orders so as not to affect the firm fixed-price.

The only way the committee is privy to this information is because VA is currently a party to 16 lawsuits for issues regarding, for example, failure to pay contractors, and this email was produced as part of the discovery.

The budgetary overruns, the equally questionable production delays occurring in Aurora are representative of the lack of transparency and accountability that currently plague the Department of Veterans Affairs.

The systematic issues that arise in VA major construction lead me to believe that VA is ill-equipped to handle them without outside guidance. And the Aurora construction is a perfect example of this.

I look forward to hearing from all the witnesses who are going to be here today to testify. And with that, I yield back, Mr. Chairman.

Mr. COFFMAN. Thank you.

I ask all members waive their opening remarks, as per this committee's customs.

With that, I invite the first panel to the witness table.

On this panel, we will hear from Ms. Lorelei St. James, director of physical infrastructure issues for the Government Accountability Office. Also on this panel will be Mr. Kirk Rosa, State commander of the Department of Colorado Veterans of Foreign Wars; Mr. Ralph Bozella, chairman of the Veterans Affairs and Rehabilitation Commission of the American Legion; Mr. Dave Davia, Executive Vice President and CEO of the Colorado Association of Mechanical and Plumbing Contractors; and Mr. Michael Gifford, president of the Associated General Contractors of Colorado.

Each of your complete written statements will be made part of the hearing record.

Ms. St. James, you are now recognized for 5 minutes.

STATEMENT OF LORELEI ST. JAMES

Ms. ST. JAMES. Thank you, Chairman Coffman, Chairman Miller, Ranking Member Kirkpatrick, and other members. I am pleased to be here today to discuss VA's construction of the Denver medical facility. My testimony today is based on our 2013 report that reviewed VA's overall construction management of its major medical facilities and includes our findings concerning the Denver facility.

In our report, we reviewed VA facilities over $10 million, including Denver, and we were concerned by the amount of time and the amount of cost increase from the time the project was initially designed and presented to Congress to the time it was expected to be completed.

In Denver, we reported that cost increased 144 percent over the initial cost and that the estimated time to complete would span more than a decade. VA has stated the medical center is expected to be completed in 2015, but recently reported issues between the contractor and VA could very well impact this delivery date.

In Denver, one of the reasons costs and time to complete increased was because VA changed from developing a shared facility to a standalone facility. In 1999, VA and the University of Colorado Hospital began discussing the possibility of a shared facility. However, in 2004, 5 years later, VA decided against this because of concerns over governance of a shared facility and space limitations.

In 2005, VA selected an A&E firm for a standalone project, but the firm's efforts were suspended in 2006 until VA acquired another site at the former Army base adjacent to the university medical center.

Design restarted in 2007 after land acquisition proceedings began, but the A&E firm's design were again suspended in January 2009 when VA reduced the project scope because of the lack of funding.

By this time, cost had increased by approximately $470 million and completion was delayed 14 months.

Unanticipated problems also impacted estimates in Denver. In pre-existing buildings, asbestos and faulty electrical systems needed to be addressed. And they also discovered and removed a buried swimming pool, and found a mineral-laden underground spring that forced them to continually treat and pump the water from the site.

We also found that VA changed the project delivery method, which may have contributed to delays. VA officials stated that Den-

ver was initiated as a design-bid-build project and later switched to an integrated design and construction method after the project had already begun.

The intent of the IDC method is to involve both the contractor and the A&E firm early in the process to ensure well-coordinated efforts in designing a project. However, VA did not hire the contractor for Denver until after the initial designs were completed.

Lastly, I want to mention the issues we found in VA's overall construction management that contributed to delays and cost increases, including here in Denver.

We found VA lacked clear guidance on the use of medical planners for large projects; did not have clear guidance on the roles and responsibilities of VA staff working with the A&E firm or the contractor; and had a slow, cumbersome change order process with some change orders taking weeks or even months to process.

We made recommendations to address these problems and VA has taken action. These include ensuring the use of a medical planner in Denver, and other appropriate locations; clarifying roles and responsibilities; and streamlining its change order process to include establishing time goals for processing them.

While we have not evaluated how these actions have impacted the Denver facility since our report was published, we are hopeful that these actions will improve the delivery of the Denver facility, as well as other medical facilities that VA is developing.

Mr. Chairman, this concludes my statement. I am happy to answer any questions you have.

[THE PREPARED STATEMENT OF LORELEI ST. JAMES APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Ms. St. James.

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

STATEMENT OF KIRK ROSA

Mr. ROSA. Thank you, Congressman Coffman. On behalf of the nearly two million men and women of the Veterans of Foreign Wars of the United States, our Auxiliary, and specifically the nearly 19,000 VFW members here in the State of Colorado, I would like to thank you for the opportunity to testify regarding the continued construction delays and cost overruns of the Aurora VA Medical Center replacement project.

The current VA Medical Center in Denver was built in 1948, and has outlived any reasonable lifecycle expectations. Over the past 66 years, health care technologies have improved and patient demands have changed, but our medical center has not kept pace.

Discussions for replacing the facility began in 1997, and in 2004, the Capital Asset Realignment for Enhanced Services, or CARES, put the Denver VA Medical Center as one of three facilities most in need of replacement.

Now on its fourth VA Secretary, the Denver VA Medical Center replacement project, in my opinion, is still a couple years away from its projected completion date of 2015. That is only provided there are no more delays.

Veterans in Colorado have waited long enough and deserve better. That is why I am pleased to say that VFW proudly supports

Congressman Coffman's bill, H.R. 3593. While this legislation will likely not have an immediate impact, it will benefit my fellow veterans.

The perception of total lack of accountability and leadership within the construction division of the Department of Veterans Affairs in dealing with the new Denver VA hospital is completely out of control.

A few examples are as follows. These are emails that were sent on various dates, the first one dated May 22, 2012. Both are with the Construction and Facilities Management.

Item number one states that it is obvious that JVT, which my understanding is they are architects, overdesigned the whole project and missed critical details.

Item two on that email, site investigation was very poor. We had survey problems, interior dimension problems for the CVS, many other problems with other dimensions and unforeseen conditions.

Number four, design full of mistakes.

Number five, 95 percent design is not even an 80 percent design that adds costs down the line and prevents us from controlling costs.

Item number seven on that one, JVT tried to dictate all processes. It needed to be controlled by the R.E. office.

Number eight, JVT doesn't understand construction. K.T. was brought in late and had less contribution to the construction process.

And the one that really gets us veterans upset, number nine on that email states design is based on appearance instead of functionality.

This email is listed as exhibit number 74. It also talks about JVT having a bad attitude toward Kiewit-Turner and about them insulting Kiewit-Turner in public.

Exhibit number 79 from the same individual of the Construction and Facilities Management on December 18, 2012, gives examples of problems that were not dealt with in a timely manner.

One is the pond, the groundwater problem they had. There was an issue with that.

Exhibit 81 is really interesting. This email, one statement in the fourth paragraph: Trial and error method for $600 million-plus project. We must be joking.

Another statement on the email: Well, the taste of a dish that is prepared by several chefs normally tastes terrible.

And: Do I sound like a bitter old man now? Have a nice holiday.

That is unacceptable.

A couple questions that I would like to get answered: At what point during all this do we finally say enough is enough, and we get the contractors paid and get the job done? Our veterans deserve it.

Why is it that we can approve funding for foreign countries, billions of dollars, millions of dollars, in a very short time, yet we seem to be unwilling or unable to get a team in place that is held accountable, has the authority to approve changes, and get the funding, and get this done?

The one question, who is the hospital being built for? Is it for the veterans? Or in military terms, is it a dog and pony show for other people?

And my last question, why is it that it seems to be, especially the last couple years, every time we veterans turn around, we veterans are in the news? People want to take away medical care or our earned benefits. Now it appears that the new VA Medical Center cannot even get done.

So again, the veterans are thrown to the back of the bus.

The hardships that veterans in Colorado have incurred due to the lack of an adequate VA Medical Center is wrong. The VA staff, both medical and administrative, are good people. They want to help the veterans. It is wrong to allow the VA staff to have to work in an outdated facility.

Our veterans have earned the right to have timely access to comprehensive medical care in a facility that has all the resources necessary to provide the best care available.

The United States military was sent in harm's way numerous times over many years. We did the job that was asked of us. Now we ask the Congress to do their job and get this job done. Thank you.

[THE PREPARED STATEMENT OF KIRK ROSA APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Mr. Rosa. Thank you for your service to our country.

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

STATEMENT OF RALPH BOZELLA

Mr. BOZELLA. Thank you, Mr. Chairman, Ranking Member Kirkpatrick, Chairman Miller, and members. On behalf of the National Commander of the American Legion, Dan Dillinger, and the 2.4 million members, I just want to say thank you to this committee for the scrutiny you are applying to sorting out this unfortunate and really unnecessary mess with VA construction projects.

As you have heard, this is one problem in Colorado, but it is more than that. Here in Colorado, we have waited for this hospital since the late 1990s. We have seen three previous VA Secretaries promise and fail to deliver. And under this current administration, we have been waiting for a half decade since ground was broken on this hospital in August 2009.

I have been tracking the problems of our hospital in Colorado for quite some time now. I get to act in another capacity with the American Legion as the chairman of the American Legion's Veterans Affairs and Rehabilitation Commission. I am active participant of our System Worth Saving Task Force, and this task force has been in existence for over a decade now, and this is the largest third-party evaluation system for VA's health care.

I have made seven visits across the country in this cycle thus far, and I have been able to see that VA has some problems, lots of problems, with accountability and transparency, largely communication issues. And these issues are hurting veterans' ability to access their health care.

There appear to be systemic problems with how the VA manages their large construction projects, if we look at the big four.

Here in Colorado, as you have heard, we are overdue and over budget. We have hundreds of millions of dollars locked up, and we feel like we are not getting anywhere. In Orlando, they are hundreds of millions of dollars over budget and miss deadline after deadline. The same applies to New Orleans. In Las Vegas, they opened the hospital, but they immediately needed millions of dollars in expansion because they couldn't meet the basic needs of a proper ramp for ambulances to drop off patients at the emergency room.

The GAO report referenced earlier here shows that these four projects were, on the average, 35 months over schedule, and that is an average. The average cost overrun, we have it as $366 million. And frankly, this is unacceptable and unconscionable.

Other agencies and private sector organizations continue to build hospitals right here in the Denver, Colorado, region and across the Nation. Yet the VA replacement hospital on the Fitzsimons campus continues to stagnate.

On behalf of all the veterans in the Western region, the American Legion calls for VA to complete this project, so veterans will no longer be required to use inadequate and substandard facilities.

The American people want a first-rate health care system for our veterans. You look at the internal planning process for the SCIP program, and you will see that VA is trying to meet the needs of an expanding population.

But the mismanagement is killing these projects, and nobody seems to be held accountable.

It is the same problem we have seen across the country. VA health care is a great health care system for veterans when they can access it. Between the ability to share information, the networking, and high-quality care, VA has some state-of-the-art medical options for our veterans, but veterans can't get that state-of-the-art health care if they can't get into a facility.

VA needs to take a long, hard look at how they are managing their construction projects, because the results are across-the-board unacceptable.

You have to put every option to fix all of these problems on the table. Steps need to be taken to ensure that future VA hospitals are planned, designed, and built within a transparent, accountable system that puts its veterans first.

You have four projects in the four States, and who knows how many more are needed as the VA expands to meet the future needs of the 21st century veterans.

Falling behind schedule is becoming the standard practice at VA, but you have to really think about what that means. Behind schedule means veterans have to drive farther and wait longer, and delay critical care until their facility can open. Behind schedule means pushing veterans out into the private sector where it is harder for their primary care providers to track the effects of specialty care because the private sector lacks the VA's VistA system of electronic health records. Behind schedule means that the veterans of Colorado and the veterans of America are not getting the health care that they need.

The American Legion thanks this committee for the close attention to the problems of the veterans of Colorado and the rest of America. We want you to know that the American Legion is working diligently and tirelessly to keep the focus on this issue so we can get the positive and necessary changes from VA to make sure that America's veterans, those who gave 100 percent for the defense of this Nation, do not have to face these problems in the future. After all, America's veterans deserve better.

Thank you, sir.

Mr. COFFMAN. Thank you, Mr. Bozella. And thank you also for your service to our country.

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

STATEMENT OF DAVE DAVIA

Mr. DAVIA. Thank you, Chairman Coffman, and members of the committee. Thank you for the invitation to participate in today's hearing and for your continued stewardship on behalf of our veterans. My name is Dave Davia and I am the executive vice president and CEO for the Mechanical Contractors Association of Colorado, or something I will refer to as MCA of Colorado.

We propose to this committee a more in-depth and technical analysis of the VA's construction program and a prime and subcontractor selection reform process be considered, which we contend will improve budget and schedule performance.

The MCA of Colorado is a trade association affiliated with the Colorado Association of Mechanical and Plumbing Contractors. There, we operate four different and unique trade associations that represent the heating, air-conditioning, refrigeration, plumbing, piping, and mechanical service industry here in Colorado. We represent hundreds of contractor members. In 2014, we are celebrating our 125th year of existence.

The MCA of Colorado is a chapter of the Mechanical Contractors Association of America that serves the unique needs of more than 2,500 member firms across the country and in Canada.

In 2013, MCAA will also celebrate its 125th year in existence, and our other national organization, the Plumbing-Heating-Cooling Contractors National Association, is 132 years old this year as well.

Our contracting firms operate in both public and private sectors, and in direct Federal construction projects like the VA hospital.

As you are aware, Colorado is home to many Federal installations, like NCAR, UCAR, NOAA, JILA, NIST, and many others. We also have six, or a half-dozen, military installations here in Colorado, all of which our members work on, those bases.

So it is fair to say that we operate both as first-tier prime contractors or subcontractors to general contractors, and you will hear from my colleague Michael Gifford here in just a moment.

By virtue of our view of direct Federal procurement issues that the VA and other civilian and defense agencies operate, it is fair to say we have a nonpartisan and single-industry biased market perspective, so our comments are offered in that manner.

Specialty contractor firms comprise about 64 percent of the industry, according to the Bureau of Labor Statistics, from an employment perspective. And in the mechanical, electrical, and

plumbing sector, we account for more than 30 percent of the overall project spend.

In balance and fairness, Congressman Coffman, our first request of this committee is to take the views of performing subcontractors in proper balance with the views of nonperforming prime contractors that may be offered.

Too often, direct Federal procurement policy forums outweigh the views of the prime contractors as compared to the subcontractors, and I am hopefully going to offer our comments and considerations here today to enlighten you in that regard.

It is our sincere request that we can count on this committee's continued leadership, and the subcontracting committee in the House Small Business Committee, to correct a longstanding and harmful bias we believe stems from greater political weight in policy forums.

The MCA of Colorado supports the mission of the Department of Veterans Affairs. And in fact, many of our company principles and the people we employ are veterans themselves.

We support the Helmets to Hardhats program. We also have an innovative program called the Veterans in Piping program—the third installation of its kind is housed at Fort Carson in Congressman Lamborn's district—where we take discharging veterans, give them 16-week welding training experience, and place them in direct entry into our apprentice programs, and help them, our returning veterans, directly make their way into employment, which you all know can be problematic at times.

The VA is a very large client of ours. We do work here in Denver, southern Colorado and western Colorado, in all the facilities, both in construction and in service. With those overlapping and intersecting public interests, we offer the following comments as constructive suggestions for improvements of the VA program.

The MCA of Colorado is well aware of the GAO's report that Ms. St. James referenced earlier. This report documents some significant problems with some VA facilities, primarily those in Denver, Orlando, New Orleans, and Las Vegas.

Many of the problems the GAO highlights stem from issues with acquisition planning, major equipment purchasing, conflicting roles, duties of the VA construction contract administration staffing, and consequent delays and cost overruns because of the volumes and delays in change order processing. This report also catalogs a significant number of recent past VA facility projects that were completed more successfully.

In perspective, this GAO report is one in a rather long line of analysis of problems in project acquisition and planning, going back many years to the 1980s.

In the interest of time and the fact that my comments are running a little over, I will skip right to what we would like to ask this committee to consider. A written version of my comments are available.

We would ask, in conclusion, that this committee would position in favor of amending 3593 to include the terms of the Quality Construction Act of 2013, H.R. 1942, which we believe has some fair and balanced contracting reform suggestions for this committee's consideration.

Thank you, Mr. Chairman, for the opportunity to testify on these important issues today. I am sorry for cutting my comments short and for extending my time. Thank you.

[THE PREPARED STATEMENT OF DAVE DAVIA APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Mr. Davia

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

STATEMENT OF MICHAEL GIFFORD

Mr. GIFFORD. Chairman Coffman, and committee members, thank you for inviting AGC Colorado to testify today. My name is Michael Gifford, and I am president and CEO of AGC. AGC has 400 member firms who are the State's leading general contractors, specialty contractors, and supplier firms in the State.

AGC and the construction industry have a deep commitment to veterans. Some AGC members are veteran-owned. AGC members also contract with veteran-owned firms. AGC and the construction industry also have a deep respect for the mission of the VA.

A number of the members of AGC are performing construction work for the VA on the Aurora project, so AGC has an interest in the success of the project and its impact on industry members. AGC would like to make the following observations based on conversations with contractors on the project.

The project design and schedule were not complete when the general contractor and subcontractors were directed to proceed and/or submit bids. Design changes occurred after this point. Schedules were delayed and lengthened.

These changes in design and schedule caused many contractors on the project to incur additional costs.

The system to deal with changes in design and the resulting increase in cost and schedule is a change order, which is the modification of a contract to incorporate a change in design, schedule, scope, or key terms. Changes are being ordered, but the formal change order paperwork is not being approved quickly enough, or, in some cases, at all.

The result is that businesses are paying for increased labor and/or materials costs, without compensation, and some are even at risk of failure, if this situation continues. This is a cash flow crisis for businesses on the project.

The April 2013 GAO report on the VA found many of the same issues on multiple large VA projects.

AGC works with a number of State and local agencies that do commercial construction, including hospitals, using the CMGC and design-build delivery models. We do not receive the same level of reports of problems with changes of schedule and/or change orders.

But change orders do happen. Therefore, AGC developed a way in Colorado to deal with those cases where change orders arise and there is a delay in payment. My written comments talk more about that.

Our request for action: While the VA may feel that they are making progress on the findings in the 2013 GAO report and earlier reports, the pace of improvement is not fast enough to help the contractors on the Aurora project.

The cash flow crisis is not fair to business, nor is it proper public policy. Some of these contractors have to wait a year or more for compensation on change orders, and the dollar amounts are in the millions of dollars.

AGC Colorado is in support of H.R. 3593, the VA Construction Assistance Act of 2013, because it would allow the Army Corps of Engineers, an experienced construction management agency, to make an independent assessment of the effective design changes to cost and schedule. Then the change order and cash flow problems reported by our members can be addressed.

I would like to emphasize that time is of the essence.

In conclusion, AGC Colorado would like to reiterate its commitment to veterans and veteran-owned businesses, and thank you for this opportunity to provide views of the Colorado construction industry on this important matter.

[THE PREPARED STATEMENT OF MICHAEL GIFFORD APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Mr. Gifford.

Ms. St. James, even though your report was issued about a year ago, do you think the estimated Denver facility completion date could be or will be extended?

Ms. ST. JAMES. In our opinion, based upon the work that we did, it could very well be extended. Their change order process seems continually to be overwhelmed. And with the disagreements now between VA and the contractor and the lawsuits, and required time for that, it is very likely that it could be extended.

Mr. COFFMAN. Ms. St. James, in your 2013 report, you mentioned that you talked to the architect, engineer, the contractor, and VA officials working on the project. What did they say were the problems, if you could summarize them?

Ms. ST. JAMES. I think what continually rose to the top was the change order process.

Once you get behind the eight ball with change orders coming in, and depending upon what the change order is, it can have a cascading effect down the road. One change order is not always equal to another. And once you get behind that eight ball, it just slows down and makes it hard then for the project to continue, for subcontractors to be paid, and for it to get more toward a final completion date.

Mr. COFFMAN. Do you think in any way that the slowness of the change order process is calculated to mask the true cost of the project?

Ms. ST. JAMES. I couldn't say that for a fact. I do know that VA had not constructed facilities of this size in about 13, 14 years prior to undertaking these large projects. And I just don't think they were organized and have the resources, which they came out and admitted in their own internal report. They didn't have the right resources to really undertake projects of this size. Simply, I don't think, based on our work, that they were ready.

Mr. COFFMAN. Mr. Rosa, in your testimony, you explain the importance of having the architect and engineer work together early on in the design process. Please explain how VA's failure to have

JVT, which is architect and engineer, and K.T. work together on designing this facility could have caused delays or extra cost.

Mr. ROSA. Congressman, I honestly think that had they got the construction company involved in the early design phases, not only would it have been much better for the VA as far as money goes, but the delays would have been much less than what they are right now.

You have a design architect company that, from everything I have read and the research I have done, is not familiar with a project of this size, to do what we are trying to do. You have a company, a construction company, that is, and they should have been working together from day 1, not from 8, 9 months down the road. Now we are going to get them together. It is not right.

Mr. COFFMAN. Any further comments, Mr. Bozella?

Mr. BOZELLA. It seems, as Commander Rosa is saying here, Mr. Chairman, that at the beginning, that the design-build process that was used here by the VA on a major project of this size, I don't believe that they have used that process in the past to this level. So they didn't hit the ground running because of it. There were problems right from the beginning.

And there was no communication. There was very little communication at first. There wasn't a contractor at first. And then once they had the contractor, there was very little communication, at least what we could see at meetings, meetings that I attended, between the contractor and the VA.

Mr. COFFMAN. Mr. Gifford, how does VA's handling of change orders and project management, in general, on the Aurora project compare with other Federal agencies you and AGC have worked with?

Mr. GIFFORD. Chairman Coffman, members of the committee, this is a higher amount than normal for other Federal agencies, or, I might add, State agencies and local agencies that we work with.

The change orders and specifically in two areas, the changing of the schedule, because time is money, and the change of the design and having to incorporate that in, both of those are more than our experience with other Federal agencies, and we have a number of those projects here in the State.

And then also, the same thing with some State agencies, including the building of hospitals and other highly technical, scientific type buildings on university campuses as well.

So our experience is, in a number of those cases, that design-build or CMGC is used as the delivery method versus the old low-bid or design-bid-build method. And so I don't think it is necessarily the fault of the delivery method. But the earlier comments about having the contractor come in earlier in the process, I believe, are very valid. That is one of the key things in design-build or CMGC, is that you get the prime contractor and the rest of the team, including the mechanical contractors, on board early, so that you can have the benefit of that experience during the design process.

Mr. COFFMAN. Mr. Davia, do you have any further comment on that?

Mr. DAVIA. No, I would just echo what Mr. Gifford has said, in so far as to say design-build is becoming more prevalent in our in-

dustry, especially on larger and more complex projects that require coordination of what could be upward of 20 to 30 different subcontractors, from a scheduling perspective and from a timing perspective, given the facility and the space requirements or confinements that exist on this particular installation.

Mr. COFFMAN. Thank you.

I would just make the announcement right now that I would like, when the panel is done, for them to remain. We are going to do a second round of questions after the VA testifies, for this panel.

Ms. Kirkpatrick.

Ms. KIRKPATRICK. Thank you, Mr. Chairman.

Mr. DAVIA. I understand that there have been difficulties with payments to the subcontractors on the job. One particular instance involved problems establishing and enforcing correct labor rates for certain trades.

How are these issues normally avoided? And what failed in this instance?

Mr. DAVIA. Ms. Kirkpatrick, I am not clear what subcontractor you might be referencing, so I am going to make some assumptions in my remarks back to you.

But in a typical project such as this, they will look to the Federal Davis-Bacon wage rate for the prevailing wage for the area in which the project is located. That is a point-in-time measurement of what the wage rates are at that point in time.

Now for that population of individuals that may be operating under a collective bargaining agreement, there may be scheduled increases that may be at play over the lifetime of a project of this size.

For the open shop, or merit contractors, keeping labor in place over a 3 or 4 year period and continuity is really, really important. So you as a contractor have to give some credence to, and understanding of, price increases from a labor perspective. And those are usually submitted on the front end with the contractor's bid.

This was a design-bid-build practice that was offered. We heard Ms. St. James reference that kind of design-build process later on. But by that time, it is kind of too late. And I don't mean to be glib about that. I just mean to say, if we are having pricing constraints part way through a project because of design, those really don't factor in the needs for labor increases to keep the job productive and people on the site.

I am not sure if that fully answered your question.

Ms. KIRKPATRICK. Thank you.

Mr. Gifford, I think everyone here would like to see this project move forward and be completed as quickly as possible. The backlog on change orders is a problem. And I would just like to know your suggestion on how we clear up that backlog, move this project forward, based on your experience with other Federal contracting.

Mr. GIFFORD. Chairman Coffman and Representative Kirkpatrick, the stark reality is that the budget is going to have to be adjusted and the change orders are going to have to be processed in a more timely fashion, if you want to complete the project on time.

The current process is not working, and it is going to take that stark recognition to get that done. Otherwise, if that is not done,

many of these issues are going to be going to some other—it is going to continue to slow, and they are going to go to some other type of process, like a claim process or something else that is going to drag out over a number of years. And it may end up costing the same amount of money but through a very painful process for everyone involved.

Ms. KIRKPATRICK. Do you believe, if the Army Corps of Engineers took over management of this project, they would be able to solve that claims backlog and move the project forward?

Mr. GIFFORD. Chairman Coffman and Representative Kirkpatrick, they would be able to solve the process part of it, but they would need an additional budget from the appropriate authority to then actually pay those change orders as well. So that would be something that I think would be out of their control. It would be in the control of Congress.

Ms. KIRKPATRICK. That leads me to my next question to Mr. Rosa.

You called on Congress to do whatever is necessary to complete that project. I just wonder if you would give us a little more detail about what that means.

Do you think that there should be a specific appropriation request that is passed out of Congress that includes adequate funding to complete this project? I would just like to know your thoughts about that.

Mr. ROSA. I think what it is going to take is for Congress to take a look at what is needed right now, money-wise. We know we are over budget already. At what point are we going to come to an agreement to say, "Okay, this is the bottom line. This is what has to be appropriated to build this hospital."

And if we get the construction folks together, get the architects together, get the VA together, and get a team in here, whether it is Army Corps of Engineers, the VA team, whatever, and tell them, "This is what we are going to approve. You are going to be held accountable for this amount. Now get this damn thing built." That is what it is going to take.

Ms. KIRKPATRICK. Thank you all very much for your testimony today. And I yield back the balance of my time.

Mr. COFFMAN. Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman, and thank you for your leadership on this issue. Over the last years, you have been really following this closely, and I compliment you for your dedication on making sure the right thing is done for our veterans.

There are major problems that the VA must address. The cost to taxpayers because of cost overruns is a big concern. But even more critical to me is the possible loss to veterans of critical health care access because of schedule delays.

So Ms. St. James and Mr. Bozella and Mr. Rosa, does the Government Accountability Office believe that the schedule delay at the Denver facility could result in a veteran in my district in southern Colorado being denied access to a procedure that is not available elsewhere in the region during the meantime?

Ms. ST. JAMES. I couldn't really answer that for sure. What we do know is that the major hospitals will sometimes tailor what is needed in the area, based upon VA's health care projections.

And in managing the money, if it is truly going to be over $1 billion versus $800 million, and if VA is expected to manage that $800 million, but it is really going to cost more, then what VA has to do is to reduce what it is going to offer. And that is the part I am not sure what they are working on to reduce and change some of the designs that could perhaps result in something not being offered.

Mr. LAMBORN. Would you be able to give me more information on that later?

Ms. ST. JAMES. Sure.

Mr. LAMBORN. Thank you.

Mr. Bozella and Mr. Rosa.

Mr. BOZELLA. Congressman Lamborn and Mr. Chairman, the System Worth Saving Task Force has one more site visit this year, and it is going to be in Denver, May 12, 13, 14. At the end of that visit, we will have a much better idea regarding access to Denver facilities, scheduling, the problems that the construction might have.

As you know, as you well know, the new facility in Colorado Springs is nearing completion. I think that is going to improve access for certain day surgeries and the clinic procedures there in Colorado Springs.

There are certain things that they can't schedule in Denver right now. And if they can't schedule them, they are fee-based out to the private providers, which are some of the remarks that I made. And we do have concerns anytime a veteran is not seen in veteran-centric care offered by VA.

There are problems with the private sector. For one thing, the private sector providers really don't know how to treat the whole veteran, people who are coming there with PTSD issues, perhaps TBI issues, hearing loss, a variety of things where the VA is honed in in their treatment to the whole veteran.

Then the other piece is the inability to share the electronic health record.

So if their care is fee-based out, then there is a problem with that. I know we will share our report with you at the end of the Denver visit mid-May. So then we will have a better idea of what that access is.

Mr. LAMBORN. I would like to work with you on that visit, to make sure it is as successful as possible.

Mr. BOZELLA. You will have an invitation.

Mr. LAMBORN. Okay, thank you.

Mr. Rosa, especially because you know the Colorado landscape very well.

Mr. ROSA. Well, what I would like to say is that Mr. Bozella said it very well. For me to sit here and say yes to that would be wrong.

For the most part, a lot of my members who go to the VA Medical Center, they talk about that they get the best care available to them right now. Whether they have been turned away or not, I can't tell you.

I can tell you of two instances I know for a fact—both of these are very good friends of mine who went to the VA Medical Center, and with what was done to them there, they went back a couple

weeks later and they were sent out to a civilian hospital to get it corrected.

As far as what actually happened, I would rather not talk about it, but the one gentleman's name is Terry Lyons. He is our post commander. He almost lost his leg.

Do I think it is because of the doctors or anything there? I think it is more that it is an outdated facility that doesn't have the capability to handle the load that is coming down the pike. That is what I think is the problem.

Mr. LAMBORN. All right, thank you all for your testimony.

Mr. COFFMAN. Thank you, Mr. Lamborn.

Chairman Miller.

The CHAIRMAN. Thank you, Mr. Chairman.

Ms. St. James, if you would, what was the biggest issue with VA that you saw as you were going through the review process that is preventing them from being able to get the job done?

Ms. ST. JAMES. Well, there have been a couple topics that have been mentioned here. The change in the type of contract, the change order process.

But when I stand back and look at it, it really does not matter what kind of delivery vehicle you have. It really comes down to leadership in the VA and to preserving and working toward a good relationship with the A&E firm, as well as with the contractor.

When those types of things break down, then you will see those problems being reflected in a process, and specifically in the change order process.

And again, VA, I think it was overwhelmed to build these large facilities and not having the resources to really do it in a way that could have been better.

The CHAIRMAN. And when you say resources, do you mean financial resources or personnel resources or experience resources?

Ms. ST. JAMES. I would think all the above, particularly I think noted was that they didn't have the people with the right background to know how to go about starting projects of this size.

And again, they recognized it in their internal review, but that was back in 2012. So I think it is time that they either get the resources and ask Congress for what it is they need, rather than having the hospitals that are taking longer to complete.

The CHAIRMAN. And this is a good segue over to Mr. Rosa.

The Congress has given VA every dollar that they have asked for, for any project, for any facility. They have given them every personnel who they have asked for, every piece of equipment that they have asked for.

And so I would like to kind of modify your statement just a little, where you said that Congress should do their job and finish the facility. It is VA's job to finish the facility. They are the contracting agency.

We gave them every dollar that they asked for. In fact, they have the money right now to pay the people who have done the work.

And so I think it is very hard, from an oversight standpoint for our committee, the biggest stick we have is the power of the purse. The only thing we can do is either give money or take money away. We are not going to take any money away.

Our job is to make sure that we fulfill the needs of the Department of Veterans Affairs. So I would just ask that we put a little bit of pressure on the VA, because, again, if we give them $1 billion tomorrow, if they choose not to give it to the contractor, not to approve the change orders, it doesn't change where we are today.

And we are going to have an opportunity, because of your testimony and some of the questions that have been asked, to ask VA, "Why are we in this mess?" You know, the interesting thing to me is this is not just in Colorado. It is in Orlando.

And the VA cannot be spending $1 billion for facilities that probably should have cost $600 million. That is not appropriate use of funds that should be going to veterans' health care, not for sticks and bricks, not for mistakes that are being made in the early stage.

So your comments are well-spoken and well-taken, and rest assured that the committee will continue to keep the pressure on, as you would like, on the VA.

What I would like to ask Mr. Davia about are change orders, and I know they are not all the same. But how long should it take for a change order to be either approved or denied?

Mr. DAVIA. I would respond to that, Mr. Miller, with what would be considered in a traditional sense, when you start stacking a building, and when you start adding a lot more zeroes to the project, the procedural process for which a change order gets processed is quite long.

So I would tell you that as a comparative, we, the construction industry, work with the City and County of Denver. The City and County of Denver reportedly had some issues in processing construction change orders and a whole lot of other things.

And we came to a point where we found there was a 21 step process that was linear, and we helped them reengineer their process to a two-step process, which is at the same time, in parallel, to expedite that.

The result of that is that we were seeing processing of change orders go from weeks, months, and considerably longer periods of time, to 30 to 45 days.

An optimal change order would get processed very, very quickly. If it is a matter of changing the color of the wall, that is pretty simple. If it is a matter of delivering a different environment for respiratory issues, and you require a whole lot different equipment, that could take longer periods of time because you need lead time to get the equipment in place and get it engineered and get, structurally, it be able to be set.

So I would tell you, from my perspective, 30 to 45 days is, at the outset, the longest. But I have known owners who have taken the serious nature of their projects like Denver and put them into a parallel process to expedite that kind of approval process.

The CHAIRMAN. Thank you very much.

My time since has expired, but let me say thank you to each of you for being here, for being willing to testify.

Commander, thank you for your service.

Mr. Bozella, thank you as well.

We are honored to have you here today testifying before the committee.

I look forward to a second round of questions, Mr. Chairman.

Mr. COFFMAN. Thank you, Mr. Chairman.

Mr. Gardner.

Mr. GARDNER. Thank you, Mr. Chairman, for holding this hearing today.

Thank you, Chairman Miller, for being here today to address this important issue, what should rightfully be an incredible pride of the Rocky Mountain State, a new VA hospital to serve the needs of our veterans. And hopefully, we can get through this and make that happen, and make sure that it does, indeed, become the pride that we know it will be.

I am struck by, Mr. Bozella, I think you had said that we have watched other facilities, other hospitals, being built in Colorado. You can go, during the time it has taken to build this project, to move forward, to be completed, to be on a path to completion. I think if you look at Poudre, if you look at Banner, if you look at Sky Ridge, we have seen major, major investments that have been completed, that are well on their way to be completed. And yet, we wait, as the VA works through significant challenges here.

And so I want to thank you for your diligence, for your time in being here today, but also your commitment to seeing this through, because as Chairman Miller mentioned, for every $1 million that we are over project costs, for every $100 million that we are over, whether it is Florida, Colorado, or Nevada, how many veterans have gone unserved, and many needs have gone unmet, many promises have been unfulfilled, because that money is being used somewhere else when it could go directly to meet the promises that we have made and need to keep.

Mr. Davia, just a couple questions for you. In your testimony, you explain your support for the Common Sense Construction Contracting Act of 2014, which would ban and address the use of reverse auctions for direct Federal construction prime contractor selection.

Can you talk a little bit about that, and the basis of that statement?

Mr. DAVIA. Sure. Chairman Coffman, Congressman Gardner, thank you for the question.

The act that we referenced with respect to reverse auctions, we believe that it is a procurement process that is a race to the bottom, and it is not in the best interest of the Federal Government. It is not a good policy to, as I start with, let's just say $1 million, and the clock starts ticking, and it is going to stop ticking at some point in time. And every moment that goes by, there is an opportunity to lower the number.

And our profit margins, on a national basis, are 2 percent to 3 percent. So when we are talking about dropping hundreds of thousands of dollars, it is a process that we believe is fraught with difficulty, at best.

And the other piece of that piece of legislation is what we call bid listing. It is a practice that existed well into the 1980s, and for some reason in the Reagan administration, it was changed.

It is simple in that it requires the prime contractor, whether that be us or the general contractor, to say, "Here are my subcontractors," at the time of submittal. And that says, "This is my team."

So we have talked a lot about design-build. Now there are ways to switch out people on the team, but what the practice is, the same $1 million example, if I feel like I need to make up numbers somewhere else, then we start bid shopping, or bid peddling is what it is also known as. And we believe that those two pieces that exist in kind of Federal procurement could possibly lead to examples of what we are seeing today.

And so those are those two pieces of legislation. I am happy to answer more questions or give you more details.

Mr. GARDNER. In your testimony, you spoke about this a little bit in your opening statement. In your testimony, you spoke of the need to improve project planning and acquisition within the VA. Could you further elaborate on some of those things you may not have had time to get to during your statement, ways, improvements, that you would suggest the VA undertake to improve its major construction?

Mr. DAVIA. I would. The most simple of which is Congressman Coffman's proposal to remove the oversight of construction from where it sits today and move it into the Army Corps of Engineers. The Army Corps of Engineers is a pretty decorated project management delivery mechanism.

We understand it as contractors. We know the process. It seems to be fairer and consistent and transparent. And we would support the moving of that piece of legislation forward.

Mr. GARDNER. Thank you, Mr. Davia.

And, Mr. Rosa, what do you believe are the causes for the incredible delay and cost overruns that have occurred during the Aurora VA Medical Center construction project?

Mr. ROSA. Congressman Gardner, from the research I have been doing, and all I did was go online, and I got into this one office. I brought supporting documents with me.

But when I sit there and I look at stuff that went on back in 2009, 2010, that shows before we even started building this thing that there were already going to be cost overruns, that the Construction and Facility Management folks from the VA already knew it then.

And now we are sitting here trying to determine what caused it, but yet they knew it then.

You hit groundwater, when the construction folks knew they were going to hit it, but the VA wants to say no. And what happens? They hit it.

That is just the tip of the iceberg.

That is where your cost overruns come from, people not paying attention, people not being accountable, people not doing what they are supposed to be doing and doing it the right way. There is a scope of work out there, and this is where you go back to the design folks, the construction folks, getting them all together in the beginning to try to eliminate these cost overruns, and build it for what it was bid for.

Mr. GARDNER. Mr. Chairman, my time is expired. I yield back.

Mr. COFFMAN. Our thanks to the panel. You are now excused. But please, if you could just wait in the area, that will be the last panel. You will come up, after VA, if there are any additional questions by the members.

I now invite the second panel to the witness table. On our second panel, we will hear from Mr. Glenn Haggstrom, principal executive director of the Office of Acquisition, Logistics, and Construction for the Department of Veterans Affairs. He is accompanied by Ms. Stella Fiotes, executive director.

Mr. Haggstrom, your complete written statement will be made part of the hearing record, and you are now recognized for 5 minutes.

STATEMENT OF GLENN HAGGSTROM

Mr. HAGGSTROM. Thank you, Mr. Chairman. Good morning, Mr. Chairman, Ranking Member Kirkpatrick, and other members of the subcommittee. Thank you for the opportunity to update the committee on the construction of the Denver replacement medical center.

Joining me today is Ms. Stella Fiotes, executive director of the Office of Construction and Facilities Management.

In the past 2 years, VA has undertaken a comprehensive review of our entire major construction program and has numerous actions to strengthen and improve our ability to deliver major facilities for our veterans. With the implementation, acceptance, and closure of the recommendations in the April 2013 Government Accountability Office report, and from the VA Construction Review Council, VA has changed the way it conducts its construction business.

With regard to the Denver project, VA and our prime contractor on this project, Kiewit-Turner Joint Venture, or K.T. is how I refer to them, is committed to successfully delivering the replacement facility.

In achieving this, there are three key milestones that set the stage for where we are now.

First, as part of the fiscal year 2010 appropriation, Congress authorized $800 million that established the total budget for this project.

Second, in August 2010, K.T. signed a contract with the VA for preconstruction services, which included their close involvement with the project design going forward. At that time, the project was at 35 percent design, and K.T. submitted their offer for the 1.2 million square foot facility at $519 million.

Third, K.T., after 16 months of involvement with this project that provided them access to design and construction drawings and specifications, on November 11, 2011, signed a supplemental contract agreement for the construction of the project, which established a firm target price of $604 million and a not-to-exceed ceiling of $610 million, with a contract completion date of April 2015.

As we look at the total project today, almost 44 percent complete, the project scope remains essentially the same as it was in 2010 when K.T. first became involved in the project. With the progression of the design to the full 100 percent documents, and with construction underway, there have been and will continue to be some changes to the project, something not uncommon for a project of this magnitude and complexity.

As these changes have been identified and documented, VA has and will compensate the contractor accordingly, and has to date increased the contract target price to $630 million.

But clearly, there has been no change in the project scope or complexity dramatic enough to justify the contractor's alleged cost of over $1 billion, nor has the contractor provided the required supporting documentation to VA to justify their estimated cost increase.

Despite the cloud of litigation that hangs over this project, fortunately, a work stoppage has not taken place, allowing progress to continue.

VA continues to work with the contractor to keep the project moving forward and has taken specific actions to ensure it does.

In an effort to assess K.T.'s entitlement to the requested cost adjustments, VA entered into negotiations with the contractor. Despite fundamental disagreements regarding entitlement level and completeness of the documentation required from the contractor to justify additional payments, VA started processing supplemental agreements in the amounts that it considered justified, which K.T. refused to sign.

Nonetheless, in an effort to ensure funding is available to K.T. and subsequently to its subcontractors, VA has issued unilateral modifications to allow K.T. to bill for the permitted amounts.

Further, although K.T. is responsible for their cash flow and for paying their subcontractors for work approved and completed, in a good faith effort, VA has allowed for billing adjustments totaling up to $30 million. VA is proceeding cautiously with these adjustments due to the inherent risks to project completion, if K.T. is unable or unwilling to finish the project.

The VA remains focused on managing successfully this project. Our goals are simple. We want to complete the project, pay K.T. what they have earned, abide by the requisite contracting rules and regulations, and act as prudent stewards of the resources entrusted to us by American taxpayers.

Although there may be additional changes in cost and schedule, based on all pertinent information currently available to us today, VA has the funds necessary to complete this project. VA remains committed to meeting the current and future challenges necessary to finishing this long-awaited project for our veterans in the most judicious, cost-efficient, and timely manner.

Thank you, Mr. Chairman.

[THE PREPARED STATEMENT OF GLENN HAGGSTROM APPEARS IN THE APPENDIX]

Mr. COFFMAN. Thank you, Mr. Haggstrom.

Mr. Haggstrom, I think when we met before, you gave me the $604 million figure as the figure that this hospital could be built for. Can you reflect on that?

Mr. HAGGSTROM. We did. And as I recall, Mr. Chairman, we met almost a year ago in May onsite when we had the opportunity, both Ms. Fiotes and I, to personally brief you on the contract, where we stood with that, and how that contract worked.

The contract that was signed has a target price of $604 million with a ceiling price of $610 million, at that point in time.

Since then, there have been numerous change orders and adjustments to the contract, which now bring it up to $630 million as the target price.

Mr. COFFMAN. Are you familiar with a letter—is there a copy of the letter that Mr. Haggstrom can be given?—a letter dated January 23, 2013, from Thaddeus Willoughby?

And the letter states this: The current design exceeds the estimated cost of construction at award (ECCA) of $582,840,000 by an estimated—so they are saying that $199,160,000 in accordance with the contract clause.

It essentially goes on to recommending that there be changes in accordance with the contract clause, design within funding limitations.

Are you aware of this letter?

Mr. HAGGSTROM. I am, Mr. Chairman.

Mr. COFFMAN. Do you disagree with this letter?

Mr. HAGGSTROM. I believe you have to take that letter in context. And that letter was the result of a contract management firm that we commissioned to be a part of our team, and results in that cost estimate that they performed.

And no point in time was this cost estimate ever accepted as an independent Government cost estimate. It was strictly the estimate of the firm and how they chose to look at the project.

What Mr. Willoughby was responding to was notification to our A&E contracting firm that this is what those costs were, and to execute planning. It was nothing but planning. We never followed through on that. There was never a redesign or schedule adjustment that resulted from this letter.

Mr. COFFMAN. Mr. Haggstrom, Mr. Chang, a resident engineer on the project, wrote a series of emails explaining the project's management issues. In one, he stated, "The scope, schedule and budget were not managed." He said: No leadership, no knowledge and experience in this business, not following the handbook.

What is FAR OPM?

Mr. HAGGSTROM. I believe that would stand for Federal Acquisition Regulation.

Mr. COFFMAN. Okay, he references that.

Not as to the handbook, FAR OPM, et cetera, and no skill in organization.

As a result of these issues, when and what was done to try to correct the VA's management and leadership shortcomings on the Denver project?

Mr. HAGGSTROM. To be honest with you, Mr. Chairman, I am not aware of the email. I don't know Mr. Chang personally. Those apparently reflect his view of the project. They do not necessarily reflect the view of the rest of the Department of Veterans Affairs.

Mr. COFFMAN. There was also internal correspondence directing the individual working on change orders not to process any change orders for a period of time, so change orders have gone 2 years unresolved.

Is that simply incompetence from a bureaucratic standpoint? Or is that calculated to mask the true cost of this hospital?

Mr. HAGGSTROM. I believe it is neither, Mr. Chairman. I have been involved in this project on a recurring basis since early 2012, first on a quarterly basis when we had executive partnering sessions, and then in the summer going to monthly meetings here.

I have been down in Denver or——

Mr. COFFMAN. Excuse me for a second. Do you think 1.5 to 2 years is normal for the process of a change order?

Mr. HAGGSTROM. No, and I would ask Ms. Fiotes to comment on that. That was part of the process that we agreed with GAO on. We changed our change order process. GAO accepted those changes. And I think if you look at them, they very much align with the Corps of Engineers.

But I would ask her to comment, if you will, on those processes and our changes.

Ms. FIOTES. Mr. Chairman, clearly, that——

Mr. COFFMAN. Can you please start with how many change orders are pending right now?

Ms. FIOTES. Currently, we have, in our books, about 120 change orders that are in review, either by the contractor or by ourselves.

Mr. COFFMAN. Ranking Member Kirkpatrick?

Ms. KIRKPATRICK. Thank you, Mr. Chairman.

Everyone here wants this to be completed, because it is really about providing services for our veterans. With your completion now at 44 percent, do you think a completion date of April of next year, 2015, is achievable?

Mr. HAGGSTROM. Congresswoman, the initial completion date on the contract when it was initially signed was in fact April 2015. Just recently, we have issued an extension that now adjusts the extended legal completion date of this project to May 2015.

It is the responsibility of the prime contractor to comply with those agreements and ensure that they staff and manage this project accordingly to meet those completion dates.

Ms. KIRKPATRICK. What is your plan to make sure that happens? You heard the first panel suggest that a team be brought in to look over this, oversee it, make sure that things happen on target, on time, in budget.

Do you agree with that approach? And if you don't, what is your plan?

Mr. HAGGSTROM. I don't. And I would ask the committee to allow Ms. Fiotes to put forth our position as she testified before the committee in late March on the view of the involvement of the Corps of Engineers with this project.

Ms. KIRKPATRICK. Ms. Fiotes.

Ms. FIOTES. Congresswoman, thank you.

As I stated earlier in my remarks, testimony, we believe that the assignment of a special project manager will not help the project, but in fact could hurt and complicate the project.

Management oversight, an additional layer of management and oversight, doesn't solve or resolve project issues.

There are questions of authorities, questions of contracting. The VA has a contract with K.T.; the Corps of Engineers does not. We can't just, with a single assignment of a special project manager, give up our responsibilities to manage the project and the funds associated with that project.

In fact, the Corps of Engineers, and we have been meeting with the Corps of Engineers, because we have reached out to them to see what other avenues of support they could provide us. They provided us with support on the project early on. In fact, they reviewed our contract, and at the time, established that the project

and the contract were being managed in accordance with the Federal Acquisition Regulations.

So we have been working with the Corps to see what other avenues, and what other types of support they could provide us. We have talked with them about what they call a major design-construct evaluation, which is another method they use on their own projects.

But on the issue of the special project manager, they have in fact stated that where they have used that in the past, it was unsuccessful, and it resulted in an adverse impact to the project. And they cited a specific example with another agency. Therefore, they did not recommend that we pursue that.

We do continue discussions with them on the possibility of a review of the project or specific aspects of our project management that could continue to improve our management of the process. And that is ongoing. Those discussions are ongoing.

Ms. KIRKPATRICK. So it sounds like the funding is adequate. You have a good plan to complete the project.

I heard the first panel talk about how important relationships are in having a successful project. And so I am concerned about the fact that the monthly meetings between the VA and K.T. have been terminated.

Is that a concern of yours? Is there an effort to reestablish those monthly meetings? I really think that a good relationship is essential, again, to completing this project.

Mr. HAGGSTROM. Those monthly meetings were terminated at the request of Kiewit-Turner.

Ms. KIRKPATRICK. And did they give you any reason for that?

Mr. HAGGSTROM. I believe they felt that the investment of their time and effort was not warranted based on what they perceived the results of those meetings were. So in February, I was advised that they would no longer attend monthly meetings.

However, I still do communicate regularly with Mr. Scott Cassels, who is a principal executive within Kiewit, on a monthly basis to discuss ongoing issues.

Ms. KIRKPATRICK. I just want to express my concern about that, having managed major building projects, and knowing how important that line of communication is. I hope that that would be reestablished.

Mr. HAGGSTROM. I reassure you, ma'am, on a day-to-day basis, those teams are right across the hall. We are on the same floor, in the same building. And those discussions continue on a daily basis, to ensure that we do make progress. And where possible, we overcome those issues in those daily discussions and reviews that are continually ongoing.

Ms. KIRKPATRICK. Thank you, Mr. Chairman. I yield back.

Mr. COFFMAN. Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman.

First, on a positive note, I want to compliment the VA on the progress of the super-clinic in Colorado Springs, which is anticipated to open later this year. And veterans in southern Colorado are really looking forward to that completion, so thank you for your work on that.

Mr. Haggstrom, my concern, as I stated earlier, is that schedule delays might result in a veteran in southern Colorado, or anywhere else in the region, for that matter, currently being denied access to the high level of care that they will ultimately be able to have when the Denver project is completed.

Can you address my concern?

Mr. HAGGSTROM. Certainly, Mr. Lamborn. I am not a clinician, and I wouldn't pretend to be. We manage the construction of the project.

But I can assure you that we have recurring meetings with the VISN director and the medical center director with regard to this project. And certainly, I am not aware of any veteran who is enrolled in the Eastern Colorado Health Care System who has been denied care as a result of this project.

Mr. LAMBORN. So there are backstops with commercial hospitals, other hospitals?

Mr. HAGGSTROM. I believe that Ms. Roff, who is the medical center director, has taken every avenue, be it through fee basis or with other VA Medical Centers or clinics, to assure that no veteran goes unserved.

Mr. LAMBORN. Okay, I appreciate your answer.

Do you still believe that the completion date for the Denver project will be April of next year?

Mr. HAGGSTROM. Sir, as I just spoke with Ms. Kirkpatrick, we have issued a contract extension, a modification. That extended contract completion date is now May 2015.

Mr. LAMBORN. Okay, one month later. Okay, thank you for that clarification.

And that is in spite of the 16 pending lawsuits and all the other change order issues that we discussed?

Mr. HAGGSTROM. There is still an obligation of Kiewit-Turner to perform on this project, notwithstanding the litigation that is ongoing before the Civilian Board of Contract Appeals.

Mr. LAMBORN. Mr. Haggstrom, what action, in a general sense, is the VA taking to address the increases of estimated cost or the delays? I know we have addressed specifics here, but can you just give us a little more of an overview?

Mr. HAGGSTROM. I would be pleased to do that.

First of all, I think I would like to make it very clear that, in fiscal year 2010, Congress authorized $800 million to complete this medical center project. This was an all-encompassing cost to include land acquisition, design, construction management services, and actual construction.

And as we have gone through this whole process, we have made adjustments in management through management processes and in our change order. And there are two tracks that we have tried to take on this to ensure that both the subcontractors and the prime contractors are being paid. It is not the intent, and never will be the intent, of this department to have subcontractors or the prime contractors fund and finance the project.

However, what has to be realized with regard to this is that this project does not contain a clause that allows for an economic price adjustment. Those adjustments that come to this cannot just be be-

cause, "Well, our low bid was this," or, "The market now says the cost is this." That is not allowed in this contract.

I would like to ask Ms. Fiotes—we have taken two tracks, through an equitable adjustment track and a change order track—to give you a sense on where we are, what we have provided to the contractor, in terms of additional payments.

Mr. LAMBORN. Now, before we do that, and I would like that, but first let me ask, the fact that this is also happening in other places around the country, like Orlando, Las Vegas, and other places, does that point to a systemic issue with the VA not having the processes completely in order?

Mr. HAGGSTROM. There was an issue, admittedly, in Orlando years ago, in terms of the quality of the design and construction drawings. We resolved that. There continues to be issues in terms of the performance of the prime contractor to complete the work.

But we keep talking about cost estimates. Are you aware that, actually, in Orlando, the department down-funded that project from the original authorization to a lesser authorization, and used those savings to perform another project in New Orleans?

So we talk about cost estimates, but these are not necessarily the case. We are operating within the appropriation and the authorization that Congress gave us to do these projects. And we are allowed to expend those resources accordingly.

Mr. LAMBORN. My time is up. I yield back, Mr. Chairman.

Mr. COFFMAN. Thank you, Mr. Lamborn.

Mr. Miller.

The CHAIRMAN. Mr. Haggstrom, help me reconcile the numbers. Everybody is focusing on $604 million or $620 million, or whatever that number happens to be, as the cost of the hospital. But you asked for $800 million, and that includes, as you said, the cost of the land and I guess management.

Mr. HAGGSTROM. Management, contingency fees, construction management services, design.

The CHAIRMAN. You don't consider that as part of the cost of the facility, so you don't think $800 million is the cost of the facility?

Mr. HAGGSTROM. It is the cost of the overall medical center to construct. Where we have this particular type of contract, the brick-and-mortar piece of it is $604 million.

The CHAIRMAN. I guess if you were trying to explain to a layman how much this medical center cost, and they are looking at the building and the land and the roads and all the infrastructure that was put in there, wouldn't most people say that it is $800 million, not $620 million?

Mr. HAGGSTROM. That would be correct. It is the total cost to construct, not only the steel, the bricks and mortar, but all the other services that predate that.

The CHAIRMAN. Just as there are startup costs and costs that are not even associated, I don't believe, even in the $800 million, are they?

Mr. HAGGSTROM. That is correct.

The CHAIRMAN. So even if we agree that $800 million is the number, you know that number is going to be more than $800 million?

Mr. HAGGSTROM. There were additional funds that are spent in what Congress authorized in what they call the advanced planning

funds. And in those advanced planning funds, we have authorization to do those initial site investigations, those types of things.

The CHAIRMAN. But I am talking about the startup of the hospital. It doesn't just start up by itself.

Mr. HAGGSTROM. Oh, I see, the activation, you mean, Mr. Chairman? Yes, absolutely.

The activation costs are separate and apart from the construction costs.

The CHAIRMAN. Do we know what the activation costs are going to be for this?

Mr. HAGGSTROM. I am sorry, Mr. Chairman, I do not know. Those are out of the medical——

The CHAIRMAN. They would be over on the health side.

Mr. HAGGSTROM. Right, through VA.

The CHAIRMAN. I mean, again, we are dickering, supposedly, about a $1 billion number. You keep driving it back to $600 million. But $1 billion is probably pretty close to accurate, even if you don't factor in any of the change orders that are on the table today.

So we could be talking about over that, correct?

Mr. HAGGSTROM. Again, if you are looking at the cost of construction, that is established at $630 million, plus whatever activation, potentially, that cost.

The CHAIRMAN. Plus infrastructure and the acquisition of the land.

Mr. HAGGSTROM. Yes.

The CHAIRMAN. Okay, all right.

Ms. Fiotes, you said there was no way that you could assign this contract to the Corps of Engineers? Is that what you said?

Ms. FIOTES. Assign the entire contract over to the Corps of Engineers?

The CHAIRMAN. I think that is what you said. I think if we go back to the transcript, it would say you said we could not.

My question is, is it you could not or you will not?

Ms. FIOTES. Well, I was responding to the actual proposal in the bill, which is the assignment of a special project manager from the Corps of Engineers to oversee the construction, not necessarily to take over the contract.

The CHAIRMAN. Well, okay.

Ms. FIOTES. So I was responding to the special project manager and saying that would probably not work well.

The CHAIRMAN. How about responding to this: What if Congress mandated that the Corps of Engineers take the project over? You could then assign that to the Corps of Engineers, could you not?

Ms. FIOTES. I am not sure how to answer that, Congressman.

The CHAIRMAN. Yes or no?

Ms. FIOTES. If Congress mandated that we assign the contract to the Corps of Engineers, I guess we would have to assign the contract to the Corps of Engineers. I am not——

The CHAIRMAN. It is a very simple question.

Ms. FIOTES. I am just not clear on what the details of that would entail. That is all.

The CHAIRMAN. You are the only people that are defending the debacle that exists today in all the major construction projects. And all we are trying to do is to get a handle on what is going on.

Again, as I told the commander just a minute ago, we have given every dollar that has been asked for, haven't we?

Mr. HAGGSTROM. To my knowledge, you have, sir.

The CHAIRMAN. We have given every FTE or personnel that has been asked for, every piece of the most modern equipment.

I mean, I have been told the Orlando hospital has been delayed because we want to put in the latest and the greatest. And that is great, that we should be able to do that. But when you are talking about replacing a facility that was built in 1947, or whatever the date was, anything is the latest and greatest, I would suspect.

I think you are the only people who have confidence in what is going on. We are looking to you to help instill what you feel to us and to the contractors.

I mean, if I am to believe what you say, then you have the worst record of picking general contractors of anybody in this country, because you are picking bad ones everywhere you go, because they can't build on time, they can't build on budget. I don't think that is the case.

There is a problem. Let's find it. Let's fix it.

I yield back.

Mr. COFFMAN. Thank you, Mr. Chairman.

Mr. Gardner.

Mr. GARDNER. Thank you, Mr. Chairman.

Mr. Haggstrom, in terms of the budget, we have seen on the Civilian Board of Contract Appeals Web site that throughout 2012 and 2013, K.T. was notifying the VA that the design was turning higher and higher, and is now over $1 billion.

Why didn't the VA share this information with the committee and Congress, rather than telling us that the project was within budget, as it continues to do so today?

Mr. HAGGSTROM. Mr. Gardner, the contract that K.T. signed was for $604 million. Interestingly enough, we always try to reach a firm fixed-price contract.

So in March 2013, K.T. provided to the department a firm fixed-price proposal of $898 million. With that proposal, we did the evaluation and we rejected it. And we rejected it because there was no supporting documentation that accompanied it that justified the increase in price.

Interestingly enough, those proposals were based on 100 percent design drawings, and they had complete access.

Today, after those 100 percent design drawings, that firm fixed-price proposal, now, I believe, K.T. is saying this cost is over $1 billion.

Well, what has changed? That is what we are asking K.T. to tell us. What has changed in terms of the project scope on this, that even after they had access to this information, provided a firm fixed-price contract, now a year later, it is again grown over $200 million.

So based on the facts, and, Mr. Gardner, that is all I can go on, are the facts. I can't go on conjecture of somebody just saying it is going to happen. I have to have the facts in front of me to understand what those changes are.

Mr. GARDNER. What is the VA's belief for the percentage of completion of the project at this point?

Mr. HAGGSTROM. Approximately 44 percent.

Mr. GARDNER. And that is not the same as the prime contractor?

Mr. HAGGSTROM. It may not be.

Mr. GARDNER. Do you know what the prime contractor believes it to be?

Mr. HAGGSTROM. I do not.

Mr. GARDNER. You haven't talked to the prime contractor about where they are with completion?

Mr. HAGGSTROM. I don't——

Mr. GARDNER. At least what they think they are?

Mr. HAGGSTROM. No, I have not, in several months, to my recollection.

Mr. GARDNER. Is there anybody who has talked to the prime contractor about where they believe they are?

Mr. HAGGSTROM. I would have to ask my project team.

Mr. GARDNER. The project team doesn't share that with you?

Mr. HAGGSTROM. Mr. Gardner, they have not.

Mr. GARDNER. Isn't that something that you should know?

Mr. HAGGSTROM. Mr. Gardner, we base our completion dates on how we have paid out, and that is 44 percent.

Mr. GARDNER. But not on actual progress?

Mr. HAGGSTROM. It is related to the actual project and the cost of the project that we authorize payment against the total cost.

Mr. GARDNER. Why was the firm target price of $604 million arrived at without regard to any design documents?

Mr. HAGGSTROM. Well, as I said earlier, I find that very interesting, in that Kiewit-Turner was conducting preconstruction services on a contract that was awarded in August 2010. Sixteen months they were on this contract. They had access to these documents. And they signed. We didn't twist their arm. We didn't demand that they sign.

They signed the contract for $604 million, as did we.

Mr. GARDNER. But there were no design documents, at that point?

Mr. HAGGSTROM. We believe there were.

Mr. GARDNER. The contractor, I believe, has made numerous requests to meet with the Secretary to try to resolve these issues outside of the legal process. Has that meeting taken place? And if not, why not?

Mr. HAGGSTROM. It has not. The Secretary has invested the authority within me to make this project happen. I have told K.T. that. And I cannot see, nor does the department see, any benefit at this point in time in terms of that meeting.

K.T. has chosen to go to litigation. It is now in the courts, and those decisions will be made in the courts.

Mr. GARDNER. So the Secretary has refused to meet with the contractor on this?

Mr. HAGGSTROM. That is correct. The Secretary has not met with the contractor, nor do we recommend that the Secretary meet with the contractor.

Mr. GARDNER. I understand there are claims filed, but when there are disputes that arise, isn't that a natural thing, a requirement to file a claim at that point?

Mr. HAGGSTROM. It is.

Mr. GARDNER. So why has the Secretary refused to meet with the contractor?

Mr. HAGGSTROM. There is nothing that is going to change with regard to the claims that have been put forth by Kiewit-Turner.

This is a legal interpretation of the contract, and the courts need to decide. We have a position, as does K.T.

And mediation is not going to resolve that difference in our views. And that is exactly why it is in the board of appeals to make resolution on.

Mr. GARDNER. So there is an active contract——

Mr. HAGGSTROM. There is.

Mr. GARDNER [continuing]. Of a VA hospital somewhere between $600 million and over $1 billion that has not been built, and the Secretary of the VA and the contractor have not met.

Mr. HAGGSTROM. I meet with the contractor. I represent the Secretary. He has given me authority to do so.

Mr. GARDNER. Well, may I suggest that perhaps we need somebody else in the room, like the Secretary?

Mr. HAGGSTROM. I will, certainly, relay that to him.

Mr. GARDNER. I yield back.

Mr. COFFMAN. Ms. Kirkpatrick.

Ms. KIRKPATRICK. Thank you, Mr. Chairman.

You said that this is a firm fixed-price contract, yet that doesn't preclude change orders, does it?

Mr. HAGGSTROM. This is not a firm fixed-price contract at this time.

Ms. KIRKPATRICK. Okay, I misunderstood.

Mr. HAGGSTROM. The goal is to get to a firm fixed-price contract. And even in a firm fixed-price contract, there is still the potential for change orders.

Ms. KIRKPATRICK. Okay, so I am just a little unclear on why you want to move it to a firm fixed-price contract from what it is now.

And will you tell us again what it is now?

Mr. HAGGSTROM. What this is, is a firm target-priced contract.

Ms. KIRKPATRICK. And how is that different, a target-priced contract different from a firm fixed-price?

Mr. HAGGSTROM. When you go into a firm fixed-price, many of the issues are included in that firm fixed-price that may potentially not be included in a firm target price.

So what this is, is we are working with the contractor to try to establish a firm fixed-price, and then that would mandate what that final cost is of the project.

Ms. KIRKPATRICK. When you get to the firm fixed-price contract, will that include the change orders that have now been issued that are being in the process of being resolved?

Mr. HAGGSTROM. It would. And those adjustments have already been made within the contracting vehicle that we are using, in that we have adjusted that firm target price to $630 million.

Ms. KIRKPATRICK. Okay, thank you for that clarification.

I yield back.

Mr. COFFMAN. Thank you so much for your testimony today.

I just want to say, as a veteran, before you are excused, I just think that the mission of the VA is really to provide health care benefits to those who have served this country. And what you have

demonstrated, I think, today, or what has been demonstrated today in testimony, certainly, by the GAO, is that you have problems on every project, not just this project. And every project has different contractors.

And what that leads me to believe is, clearly, the VA is not a construction entity. It is not your core competency. And I think that is, certainly, demonstrated here today.

Thank you so much for your testimony.

Mr. HAGGSTROM. Thank you, Mr. Chairman.

Mr. COFFMAN. I would like to bring the first panel back for a final round.

Thank you so much for returning. This is the final round, and we will conclude the hearing following this round.

Mr. Gifford and Mr. Davia I think from a contracting point of view, what is concerning to me is the extraordinary length of time that it is taking to do these change orders. And I have to think it is so long that it is calculated.

And I think that there is evidence, certainly, that has been disclosed in internal documents that say it is calculated.

From your perspective, I would like to hear your view on why this change order process is so slow, and is it there to mask the true cost of this facility?

Mr. Gifford.

Mr. GIFFORD. Mr. Chairman, members of the committee, I can't sit here and speculate as to intent, on why change orders would take so long.

However, I do know that the GAO's report documents that this has taken place on a number of projects, regardless of delivery method. We have talked a lot about that. So it does seem to be a pattern.

There has been recognition in the VA's own testimony that they were slow in processing change orders and were needing to make improvements and are trying to do so.

However, I will say that the true cost of a project is a simple mathematical formula, which is the budgeted cost, sometimes it has been called a firm fixed-price. In State contracting here, it is called a guaranteed maximum price, a GMP.

But then you are going to have some change orders that I talked about before, that could be only scheduled related, just a change in schedule. It could be a change in design. It could be conditions that are encountered, a change in scope. Maybe you want to move somebody into the fourth floor of an individual building faster than you originally thought. Just that speeding up of a schedule, over time, different things.

You have to add those pieces into the mathematical calculation to get to the final true cost. And the slower it takes to lay another change order on the table, then you are not adding that to the final numbers.

Mr. COFFMAN. And it gives the appearance of a lower number, does it not? At that point in time?

Mr. GIFFORD. At that point, it would appear lower than what the final cost is going to be, because you haven't laid some of those other change orders on the table yet.

Until they are an official change order—remember, I said a change order is a change to the contract—it is just a field directive or a change directive. "Go do this, and we will count that up later." Until you add that in, the cost of the project has not risen.

Mr. COFFMAN. Mr. Davia

Mr. DAVIA. I would only add that, in construction, we consider the cost to build something to be inclusive of land, the cost of materials, the people to build it, the commissioning, everything it takes, so that we deliver to the owner a fixed-price project for X dollars.

And in layering items in different buckets, or calling them different things, whether it is $600 million, or $1 billion, you need to derive at what it costs Congress and the taxpayers to arrive at, "This is how much this building will cost."

And I would echo Mr. Gifford's comments and only add one more thing. In an environment like today, most projects are being fast-tracked. We do something called building information modeling, which is we build a building on the computer before we dig a ditch.

And why that is important is it avoids collisions and other things that maybe the steel erectors put a wall here, and we have to drive our pipe or duct through it, and now all of a sudden, we are cutting it out and redoing it, which lends itself back to the original comments that I made, which is that it is really nice to have the entire design team involved long before we start kind of finalizing contracts and values. It would lend itself to avoid situations much like you are hearing today.

Mr. COFFMAN. Are there smaller employers, either one of you, that may very well go under as a result of this mismanagement, in terms of the change order process?

Mr. DAVIA. I will take a turn at that first. Two things, number one, I talked about the cash flow crisis, and yes, it is very possible that one or more especially smaller companies could cease to exist if they are starved of the extra cash long enough.

And we are at a point now where I have a concern that that could happen on this project. I am not saying it will happen, but I have a concern. And there are two reasons for that. Number one, construction is a cash flow business, so you need cash flow to continue to work and keep your people working on other projects. And if you have receivables that are over 90 days, if you have a lack of cash on your balance sheet, you can't go and bond for the next job.

So if you can't continue to do work, and you are owed money that you didn't anticipate a change, an additional cost, they can really get you into a bad spot. Now, maybe you can go get some other work that doesn't require bonding and try to make up the difference, but it really can impair your ability to go forward.

And if you stop moving as a construction company, and you are smaller, the real possibility exists that you can no longer be in business.

Mr. COFFMAN. My time has expired.

Ms. Kirkpatrick.

Ms. KIRKPATRICK. Mr. Davia on fast-tracking, whether or not the VA or the Army Corps has that capability, I don't really know. But in your experience, isn't it typically the contractor who has that capability to fast-track?

Mr. DAVIA. Ms. Kirkpatrick, it is. It is issued by the owner to say the date is the date, and we need you to make that. And we would come back to them and say that may require two or three crews, it may require graveyards, weekends, things that weren't part of our original pricing because in a panacea, we work 5 days a week, start at 7, end at 3. But when you get into that kind of environment, it does cost the owner more, and we as construction professionals, we work for the owner.

So if that is what they say we need to do, we do it, but it does come at a price.

Ms. KIRKPATRICK. Do you see that as a possibility for this project in Aurora, or do you see it as necessary to meet that target completion date of May 2015?

Mr. DAVIA. We heard today from the two gentlemen to my right and your left about access of a facility of this nature. I would say to you that the construction community always finds a way to rally behind things. All you have to do is look to Northwest Colorado to the floods we experienced.

We can move mountains and do great things in a very condensed period of time. We just need the owner to say yes and have assurances that the funding is available, because if we move without that approval process, then we as the contractors are at risk. It is our livelihood that is at risk, not the owners' or the veterans'.

Clearly, in this case, we could do that if we were given the assurances and the green light to go.

Ms. KIRKPATRICK. Can a fixed-price contract be fast-tracked?

Mr. DAVIA. I don't know the terms of this particular agreement. But I would offer the following comments, maybe a little naively, to say I heard there is a desire to get to a fixed-price contract for this project, but it is currently not a fixed-price contract.

Therefore, I can only assume that we can fast-track or the VA can make necessary arrangements to authorize the fast-tracking of this contract. But again, I think price will be the factor, if it is not already.

Ms. KIRKPATRICK. Mr. Gifford, I am concerned about the number of contractors who might be affected in this particular project, because, as you know, you testified or Mr. Davia that the profit margin is between 2 percent and 3 percent, and very few contractors have the ability to carry huge amounts of money for a long time, and especially in the current economic climate.

Do you have any idea how many contractors on this particular job are facing that possibility?

Mr. GIFFORD. Representative Kirkpatrick, I don't have a firm number, because that would be going into some pretty minute detail in each financial situation. But it is not uncommon to have anywhere from 20, 30, 50, or even more subcontractors or pieces of a commercial building of this size. And all of them, to my knowledge, have a piece of any change in schedule, which is a huge one on this project, just to change the schedule and design. And so that goes to the financial wherewithal of each of those companies.

But I wouldn't be surprised if you were looking at 10 or more companies that could be in a serious category, just based on different ones that I have talked to.

Ms. KIRKPATRICK. Thank you. And again, I thank the panel for testifying, and thank you for your service to our country.

Mr. COFFMAN. Thank you, Ms. Kirkpatrick.

Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman.

Mr. Bozella, transparency is a problem that you cited in your testimony, and that is one where the VA suffers what appear to me to be systemic issues and problems.

What can the VA do to improve transparency in major construction projects like the Denver project?

Mr. BOZELLA. Mr. Lamborn, Mr. Chairman, first, let me preface that by saying, in our work in the System Worth Saving Task Force, the biggest problem we see in VA is not the fact that they have problems. Every health care system has problems. It is what they do about the problem.

And what they do is a very slow process of enabling the local administration of that hospital to be able to get out in front of it, tell the public what is going on, and what they are going to do to fix it, once we understand they have a problem.

The Legionella issue in Pittsburgh, where six veterans died from Legionella disease—I know Chairman Miller is well-aware of that whole process.

In South Carolina, and the backlog of G.I. consults, and four veterans ended up with cancer because they weren't diagnosed in time.

But the process to fix that goes through a long line up the chain of command to the central office to finally approve a press release. The same thing happens with the construction processes.

This local administration was told they weren't allowed to talk to us, the veterans, about what is going on in hospital. I have sat in meetings, the last one that comes to mind is June 2011, where the contracting officer sat in one corner of the room, the other contracting officer ran the meeting. The room was full of VA staff members. And nobody is asking questions.

I was invited to the meeting as a veterans' representative. I was the only person asking questions. And when the meeting was over, one of the senior hospital medical staff came to me and said, "You keep doing this. We are not allowed to say anything here."

So it seems to me the communication has closed up. And I believe that is where a different perspective on the change order process—it is like nobody is talking about what is wrong with the hospital. They, certainly, don't want to talk to us.

And I did challenge the VA with that, yesterday. And I want to credit Mr. Haggstrom and his team. They met with eight of us at the hospital yesterday, and that was the first time that we heard information of what the VA is thinking about this project, a lot of what you heard this morning. And it was good to hear that.

The point is, you should tell us what is wrong, tell us what you are going to do to fix it. Don't be afraid of bad information.

In fact, instead of us crafting your message, you craft your message and we can be become your greatest ally to resolve it.

Mr. LAMBORN. And, Commander Rosa, I appreciate your work here in Colorado, and it has been great to work with you over the years. My office enjoys working with you and the folks at the VFW.

Do you have anything that you would like to respond to, having heard the VA's testimony?

Mr. ROSA. Mr. Lamborn, I sat here and I listened to it. And I will be honest with you, I come from an old school in the Navy. I am an old Navy Chief. And I think it would probably be better if I didn't comment, because some of the things I heard——

[Laughter.]

Mr. ROSA. I think we have a term for it in the Navy, and I refuse to do that here, out of respect.

But I do think that some of the things I have read in my research, dealing with these litigations and the lawsuits and everything, I am still trying to figure out how we can still have a date of May 2015 when we have constant delays. We have litigation going on. We have lawsuits going on. But we are going to complete this thing in May 2015?

I am sorry, I am a realist. I am not a dreamer. Thank you.

Mr. LAMBORN. Thank you.

And I will just conclude by saying I do appreciate what the VA is doing in Colorado Springs with the super-clinic down there. They are doubling the current space available for local treatment of health care for veterans. And that means that people all over southern Colorado won't have to make the trip to Denver that is sometimes very difficult, especially if there is a health issue.

So what they are doing appears to be on time, on budget. And I applaud that. And I thank them for that good work. And I look forward to that opening later this year.

I just hope we can get this facility in Denver fixed.

Mr. Chairman, I yield back.

Mr. COFFMAN. Thank you, Mr. Lamborn. That is Aurora.

[Laughter.]

Mr. COFFMAN. Mr. Miller.

The CHAIRMAN. Mr. Gifford, these are pretty general in nature, but does a contractor or a subcontractor do work before the change order is authorized or approved, as a general rule?

Mr. GIFFORD. Representative Miller, that is a very good question. There are situations where the contract requires that when the owner directs additional work, that that work commence, even if there is not a signed change order.

The CHAIRMAN. But they have been directed by the owner to make that change. So they are not just going out and doing this work, I would not assume, unless somebody had approved. But what they are saying is, we need to do this change, and this is what it is going to cost to make the change.

Mr. GIFFORD. And to be clear, there is a chain of command, so the owner would direct the prime or the general contractor. Only the prime or general contractor would direct the subcontractor.

The CHAIRMAN. And the other question is, when a contractor bids, when the prime bids a project, he is relying on documents and designs that are provided by the owner, correct?

Mr. GIFFORD. That is correct. There are nuances in the different delivery methods, whether it is design-bid-build or——

The CHAIRMAN. So if there is a flaw in the design, or some type of groundwater problem exists, or there is dewatering that needs

to be done, or piles that need to be set, that wasn't apparent from the design and the documents, who bears that cost?

Mr. GIFFORD. Again, that is a fairly——

The CHAIRMAN. Especially if we have a firm target-price contract.

Mr. GIFFORD. It would go back to the type of contract that you have. But you are describing maybe a condition that wasn't known. It could be asbestos in a building, or it could be groundwater.

The CHAIRMAN. Wasn't known to the contractor.

Mr. GIFFORD. Right.

The CHAIRMAN. It may have been known to the owner?

Mr. GIFFORD. In some cases, that, certainly, can be the case, that it can be known, and there could be other kind of design changes, where it just says, why do we have a curved wall when we can have a straight wall?

The CHAIRMAN. And I am not implying at all that that it is what has occurred here. But I am definitely aware of instances at New Orleans, where the owner knew certain things existed and did not inform the contractor. And that is not right.

Mr. GIFFORD. I would agree. In most cases, that is why the change order vehicle or tool exists, to adjust for those types of situations.

The CHAIRMAN. And I am just trying to help the committee understand that I don't believe the contractor is going out arbitrarily, throwing change orders at the owner in order to get their price jacked up.

I mean, I find it very difficult and, unfortunately, because of the litigation, we can't invite the prime contractor on this project to testify, but I can't believe that they have submitted change orders and no documentation.

Is that normal?

Mr. GIFFORD. No, that is not normal.

The CHAIRMAN. I yield back.

Mr. COFFMAN. Mr. Gardner.

Mr. GARDNER. Thank you, Mr. Chairman.

Mr. DAVIA. I just would like you to respond to some of the comments made by Mr. Haggstrom.

Mr. DAVIA. Thank you, Congressman Gardner.

It felt like to me, from listening to the testimony, that there is an assertion that the general construction community may be filled with some bad actors or folks who just don't get it right in every market, maybe specifically here in Aurora. Kiewit-Turner, to be in full disclosure, is not a member of mine, but I feel compelled to defend them a little bit.

They are great contractors. My members enjoy working for them. If they were not good contractors, we sell a service, and if we can't sell that service and perform to the owner's expectations over a period of time, we would be out of business. Those are just the pure factors of the market and the dynamics we live in.

We are not in the legal profession. We are in the profession of building items. And so it is not in our general interest, nor is it our desire, to end up in court, nor position a project to do that.

You only get so many opportunities to do that before an owner says, "I am never going to hire that so and so again." And that is unfortunate.

Ninety percent of construction firms in Colorado employee 20 or fewer people. This is a small-business issue. This isn't about some behemoth financing some project, or trying to play chicken, if you will, with an owner.

I have to tell you that we specialize in building buildings. We have teams that specialize in building certain kinds of applications just by nature.

I too would offer, and this may sound trite, and I apologize, but I stopped believing in the tooth fairy a long time ago. I think the date of May 2015 is problematic, given the fact that you have this much before the legal system to interpret and sort out.

And so I would just ask that this committee take a look at, real hard and fast, the proposal Chairman Coffman has, and try and find a way to support that.

The Army Corps of Engineers does an outstanding job, in our opinion, of being stewards of taxpayer dollars and administering construction projects.

So I would conclude my comments, unless you have something else you would like to ask.

Mr. GARDNER. I just want to thank the panelists.

And thank you, Mr. Chairman, for your leadership on this issue. Thank you.

Mr. COFFMAN. Thank you, Mr. Gardner.

Ms. Kirkpatrick.

Ms. KIRKPATRICK. Mr. Chairman, I have some statements for the record, from Senators Udall and Bennet, and from Representatives Polis and Perlmutter, that I would like to submit for the record.

Mr. COFFMAN. Is there any objection?

So ordered.

Mr. COFFMAN. Thank you, panel. You are now free to leave. Thank you so much for your testimony today.

Mr. Bozella, thank you so much for your service to our country.

Chief Rosa, from my Marine Corps days, thank you for your service as well.

Today, we have had a chance to hear about many problems occurring with VA's major construction projects, particularly with regard to extensive delays and cost overruns occurring at the replacement Aurora VA Medical Center.

As such, this hearing was necessary to accomplish a number of goals: first, to assess the extent of delays and amount over budget for the current project; second, to require an explanation from VA on how the project has been allowed to suffer these pervasive problems; and third, to determine what measures can be taken to get the project back on track, so local veterans can begin receiving necessary care.

I remain unconvinced that VA can fix these problems without outside intervention, so I encourage my colleagues to support our bipartisan bill, H.R. 3593, the VA Construction Assistance Act.

I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous material.

Without objection, so ordered.

Mr. COFFMAN. I would like to once again thank all of our witnesses and the audience members for joining us in today's conversation.

With that, this hearing is adjourned.

[Whereupon, at 11:11 a.m., the subcommittee was adjourned.]

APPENDIX

United States Government Accountability Office

Testimony Before the Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs, House of Representatives

For Release on Delivery
Expected at 9 a.m. MT
Tuesday, April 22, 2014,
In Denver, Colorado

VA CONSTRUCTION

VA's Actions to Address Cost Increases and Schedule Delays at Denver and Other Major Medical-Facility Projects

Statement of Lorelei St. James,
Director, Physical Infrastructure Issues

GAO-14-548T

Chairman Coffman, Ranking Member Kirkpatrick, and Members of the Subcommittee:

I am pleased to be here today to discuss information regarding the construction of the new major medical facility in Denver from our April 2013 report; which examined VA's actions to address cost increases and schedule delays at the Department of Veterans Affairs' (VA) Denver and other major medical-facility construction projects.[1] At the time of our review, from April 2012 to April 2013, VA had 50 major medical-facility projects[2] under way, including new construction and renovation of existing medical facilities, at a cost of more than $12 billion. Among these projects was the facility in Denver that was initially estimated to cost $328 million as of June 2004.

My statement today discusses VA construction management issues, specifically (1) the extent to which the cost, schedule, and scope for selected new medical-facility projects changed for the Denver project since this information was first submitted to VA's authorizing committees[3] and the reasons for these changes, (2) actions VA has taken since 2012 to improve its construction management practices, and (3) VA's response to opportunities we identified in our report for it to further improve its management of the costs, schedule, and scope of these construction projects. This testimony is based on our April 2013 report and includes selected updates on actions VA has taken to address our recommendations from that report. GAO shared the new information on updates it used to prepare this statement with VA, however, officials did not provide comments. For this testimony, we summarized the cost and schedule issues concerning the Denver facility that we identified and

[1]GAO, *VA Construction: Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects*, GAO-13-302 (Washington, D.C.: April 4, 2013).

[2]The term "major medical-facility project" means a project for the construction, alteration, or acquisition of a medical facility involving the total expenditure of more than $10 million. See 38 U.S.C. § 8104. While these projects cost at least $10 million, some cost in the hundreds of millions of dollars. The project types include new construction, renovation of existing structures, expansion, or a combination of types. The total number of major VA medical-facility projects is based on agency data from November 2012.

[3]No funds may be used for any major medical facility construction project over $10 million unless funds have been specifically authorized by law, and VA is required to submit a prospectus to the House and Senate Committees on Veterans' Affairs that contains information about each planned medical facility project. See 38 U.S.C. § 8104.

discussed in our 2013 report. We updated information for this testimony as appropriate by reviewing documents outlining actions VA took to address our recommendations and on the current status of the Denver project. For a more detailed explanation of our scope and methodology, see the April 2013 report. We conducted the work for this statement in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives

Cost Increases and Schedule Delays at the Denver Facility Occurred Because of Scope Changes and Other Reasons

Cost Increases and Schedule Delays

We reported in April 2013 that of the four largest medical-facility construction projects VA had underway, Denver had the highest cost increase and the longest estimated years to complete. We reported that the estimated cost increased from $328 million in June 2004 to $800 million, as of November 2012. Further, VA's initial estimated completion date for the project was February 2014, subsequently VA estimated the project would be completed in May 2015. However, VA's primary contractor on the project has expressed concerns that the project will ultimately cost more to complete and that a completion date of May 2015 is no longer realistic based on schedule delays.

In our April 2013 report, we stated that costs increased and schedules were delayed considerably for all four of VA's largest medical-facility construction projects, when comparing November 2012 construction project data with the cost and schedule estimates first submitted to

Congress. Cost increases ranged from 59 percent to 144 percent,[4] representing a total cost increase of nearly $1.5 billion and an average increase of approximately $366 million per project. The schedule delays ranged from 14 to 74 months with an average delay of 35 months per project.

In commenting on a draft of our April 2013 report, VA stated that using the initial completion date from the construction contract would be more accurate than using the initial completion date provided to Congress; however, using the initial completion date from the construction contract would not account for how VA managed these projects before it awarded the construction contract. Cost estimates at this earlier stage should be as accurate and credible as possible because Congress uses these initial estimates to consider authorizations and make appropriations decisions. We used a similar methodology to estimate changes to cost and schedule of construction projects in a previous report issued in 2009 on VA construction projects.[5] We believe that the methodology we used in our April 2013 and December 2009 report on VA construction provides an accurate depiction of how cost and schedules for construction projects can change from the time they are first submitted to Congress. It is at this time that expectations are set among stakeholders, including the veterans' community, for when projects will be completed and at what cost. In our April 2013 report, we made recommendations to VA to help address these cost and schedule delays which are discussed later in this statement.

[4]According to the Office of Management and Budget (OMB), federal agencies should keep a contingency fund of 10 to 30 percent above total estimated costs to address increased costs on construction projects. OMB Circular No. A–11, Appendix 8 (2012). However, this guidance applies after construction has begun, and many of the cost increases we observed occurred before that time. The construction contractor is generally responsible for cost increases and schedule overruns under the terms of the fixed-price contract.

[5]GAO, *VA Construction: VA is Working to Improve Initial Project Cost Estimates, but Should Analyze Cost and Schedule Risks*, GAO-10-189 (Washington, D.C: Dec. 14, 2009).

Scope Modifications and Other Reasons for Cost Increases and Schedule Delays at Denver

For the Denver facility, we identified two primary factors that contributed to cost increases and schedule delays: (1) decisions to change plans from a shared university/VA medical center to a stand-alone VA medical center and (2) unanticipated events.

- **Decision to change plans from a shared university/VA medical center to a stand-alone VA medical center.** VA revised its original plans for shared facilities with a local university to stand-alone facilities after proposals for a shared facility could not be finalized. Plans went through numerous changes after the prospectus was first submitted to Congress in 2004. In 1999, VA officials and the University of Colorado Hospital began discussing the possibility of a shared facility on the former Fitzsimons Army base in Aurora, Colorado.[6] Negotiations continued until late 2004, at which time VA decided against a shared facility with the University of Colorado Hospital because of VA concerns over the governance of a shared facility. In 2005, VA selected an architectural and engineering firm for a stand-alone project, but VA officials told us that the firm's efforts were suspended in 2006 until VA acquired another site at the former Army base adjacent to the new university medical center. Design restarted in 2007 before suspending again in January 2009, when VA reduced the project's scope because of lack of funding. By this time, the project's costs had increased by approximately $470 million, and the project's completion was delayed by 14 months. The cost increases and delays occurred because the costs to construct operating rooms and other specialized sections of the facility were now borne solely by VA, and the change to a stand-alone facility also required extensive redesign.

- **Unanticipated events.** VA officials at the Denver project site discovered they needed to eradicate asbestos and replace faulty electrical systems from pre-existing buildings. They also discovered and removed a buried swimming pool and found a mineral-laden underground spring that forced them to continually treat and pump the water from the site, which impacted plans to build an underground parking structure.

[6] Fitzsimmons Army base was closed in 1999 as part of the Department of Defense's base realignment and closure process.

VA Has Taken Steps to Improve Its Construction Management Practices

In our April 2013 report we stated that VA had taken steps to improve its management of major medical-facility construction projects, including creating a construction-management review council. In April 2012, the Secretary of Veterans Affairs established the Construction Review Council to serve as the single point of oversight and performance accountability for the planning, budgeting, executing, and delivering of VA's real property capital-asset program.[7] The council issued an internal report in November 2012 that contained findings and recommendations that resulted from meetings it held from April to July 2012.[8] The report revealed that the challenges identified on a project-by-project basis were not isolated incidents but were indicative of systemic problems facing VA.

In our 2013 report we stated that VA had taken steps to implement a new project delivery method—called Integrated Design and Construction (IDC) method.[9] In response to the construction industry's concerns that VA and other federal agencies did not involve the construction contractor early in the design process, VA and the Army Corps of Engineers began working to establish a project delivery model that would allow for earlier contractor involvement in a construction project, as is often done in the private sector. However, in Denver, VA did not implement IDC early enough to garner the full benefits.

VA officials stated that Denver was initiated as design-bid-build project and later switched to IDC after the project had already begun. According to VA officials, the IDC method was very popular with industry, and VA wanted to see if this approach would effectively deliver a timely medical facility project. Thus, while the intent of the IDC method is to involve both the project contractor and architectural and engineering firm early in the process to ensure a well coordinated effort in designing and planning a

[7]The Construction Review Council was comprised of officials from the VA, including the secretary, deputy secretary, chief of staff, under secretaries, and assistant secretaries, as well as key leaders across the department. The Secretary of VA chaired nine meetings from April 18 through June 15, 2012, to review the VA construction program and identify challenges that led to changes in scope, cost over-runs, and scheduling delays of major projects.

[8]VA, *The Construction Review Council Activity Report* (Washington, D.C.: November 2012).

[9] The Integrated and Design Construction method allows the construction contractor to be involved in the project from design to completion. VA believes this can help identify any potential issues early and speed the construction process. IDC is similar to a private sector approach called Construction Management At-Risk.

project, VA did not hire the contractor for Denver until after the initial designs were completed. According to VA, because the contractor was not involved in the design of the projects and formulated its bids based on a design which had not been finalized, these projects required changes that increased costs and led to schedule delays. VA staff responsible for managing the project said it would have been better to maintain the design-bid-build model throughout the entire process rather than changing mid-project because VA did not receive the value of having contractor input at the design phase, as the IDC method is supposed to provide. For example, according to Denver VA officials, the architectural design called for curved walls rather than less expensive straight walls along the hospital's main corridor. The officials said that had the contractor been involved in the design process, the contractor could have helped VA weigh the aesthetic advantages of curved walls against the lower cost of straight walls.

VA Implemented GAO Recommendations

In our April 2013 report we identified systemic reasons that contributed to overall schedule delays and cost increases, and we recommended VA take actions to improve its construction management of major medical facilities: including (1) developing guidance on the use of medical equipment planners;[10] (2) sharing information on the roles and responsibilities of VA construction project management staff; and (3) streamlining the change order process.[11] Our recommendations were aimed at addressing issues we identified at one or more of the four sites we visited during our review. VA implemented our recommendations; however, the impact of these actions may take time to show improvements, especially for ongoing construction projects, depending on several issues, including the relationship between VA and the contractor. Since completing our April 2013 report, we have not reviewed the extent to which these actions are being employed for or have affected the

[10]Given the complexity and sometimes rapidly evolving nature of medical technology, many health care organizations employ medical equipment planners to help match the medical equipment needed in the facility to the construction of the facility.

[11]Most construction projects require some degree of change to the facility design as the project progresses, and typically, organizations have a process to initiate and implement these changes through change orders. VA requires multiple levels of review for many of VA's change orders, which can be another factor that can increase the time it takes to finalize them. According to VA, these reviews are necessary to ensure that VA is in accordance with its regulations and reduce the risk that changes will result in unwarranted costs to the government.

Denver project or other projects, or the extent to which these actions may have helped to avoid the cost overruns and delays that occurred on that specific project.

Using Medical Equipment Planners

On August 30, 2013, VA issued a policy memorandum providing guidance on the assignment of medical equipment planners to major medical construction projects. The memorandum states that all VA major construction projects involving the procurement of medical equipment to be installed in the construction will retain the services of a Medical Equipment Specialist to be procured through the project's architectural engineering firm.

Earlier, VA officials emphasized that they need the flexibility to change their heath care processes in response to new technologies, equipment, and advances in medicine.[12] Given the complexity and sometimes rapidly evolving nature of medical technology, many health care organizations employ medical equipment planners to help match the medical equipment needed in the facility to the construction of the facility. Federal and private sector stakeholders during our review reported that medical equipment planners have helped avoid schedule delays. VA officials told us that they sometimes hire a medical equipment planner as part of the architectural and engineering firm services to address medical equipment planning. However, we found that for costly and complex facilities, VA did not have guidance for how to involve medical equipment planners during each construction stage of a major hospital and has sometimes relied on local Veterans Health Administration (VHA) staff with limited experience in procuring medical equipment to make medical equipment planning decisions. Thus, in our April 2013 report, we recommended that the Secretary of VA develop and implement agency guidance to assign medical equipment planners to major medical construction projects. As mentioned earlier, in August 2013, VA issued such guidance.

[12]VA, *Strategic Plan Refresh: FY2011–FY2015*, (Washington, D.C).

Sharing Information on the Roles and Responsibilities of VA's Construction-Management Staff

In September 2013, in response to our recommendation, VA put procedures in place to communicate to contractors the roles and responsibilities of VA officials that manage major medical facility construction projects, including the change order process. Among these procedures is a Project Management Plan that requires the creation of a communications plan and matrix to assure clear and consistent communications with all parties.

Construction of large medical facilities involves numerous staff from multiple VA organizations. Officials from the Office of Construction and Facilities Management (CFM) stated that during the construction process, effective communication is essential and must be continuous and involve an open exchange of information among VA staff and other key stakeholders.[13] However, in our April 2013 report, we found that the roles and responsibilities of CFM and VHA staff were not always well communicated and that it was not always clear to general contracting firms which VA officials hold the authority for making construction decisions. This can cause confusion for contractors and architectural and engineering firms, ultimately affecting the relationship between VA and the general contractor. Participants from VA's 2011 industry forum also reported that VA roles and responsibilities for contracting officials were not always clear and made several recommendations to VA to address this issue. Therefore, in our 2013 report, we recommended that VA develop and disseminate procedures for communicating—to contractors—clearly defined roles and responsibilities of the VA officials who manage major medical-facility projects, particularly those in the change-order process. As discussed earlier in this statement, VA disseminated such procedures in September 2013.

Streamlining the Change-Order Process

On August 29, 2013, VA issued a handbook for construction contract modification (change-order) processing which includes milestones for completing processing of modifications based on their dollar value. In addition, as of September 2013, VA had also hired four additional attorneys and assigned on-site contracting officers to the New Orleans, Denver, Orlando, Manhattan and Palo Alto major construction projects to expedite the processing and review of construction contract modifications. By taking steps to streamline the change order process, VA can better

[13]VA, *Construction Primer* (Washington, D.C.: January 2013).

ensure that change orders are approved in a prompt manner to avoid project delays.

Most construction projects require, to varying degrees, changes to the facility design as the project progresses, and organizations typically have a process to initiate and implement these changes through change orders. Federal regulations[14] and agency guidance[15] state that change orders must be made promptly, and agency guidance states in addition that there be sufficient time allotted for the government and contractor to agree on an equitable contract adjustment. VA officials at the sites we visited, including Denver, stated that change orders that take more than a month from when they are initiated to when they are approved can result in schedule delays, and officials at two federal agencies that also construct large medical projects told us that it should not take more than a few weeks to a month to issue most change orders.[16] Processing delays may be caused by the difficulty involved in VA's and contractors' coming to agreement on the costs of changes and the multiple levels of review required for many of VA's change orders. By taking steps to streamline the change order process, VA can better ensure that change orders are approved in a prompt manner to avoid project delays.

Chairman Coffman and Ranking Member Kirkpatrick, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

Contacts and Acknowledgments

If you have any questions about this testimony, please contact Lorelei St. James at (202) 512-2834 or stjamesl@gao.gov. Other key contributors to this testimony include are Ed Laughlin (Assistant Director), Nelsie Alcoser, George Depaoli, Raymond Griffith, Colin Fallon, Amy Rosewarne, and Crystal Wesco.

[14]48 C.F.R. § 43.201

[15]VA, VA *Resident Engineer Handbook,* "Chapter 3: Major Construction: Contract Changes" (3.24) (Washington, D.C.)

[16]Specifically, we interviewed the U.S. Army Corps of Engineers and Naval Facilities Engineering Command. We recognize that the Department of Veterans Affairs serve different populations in the defense community—active duty military personnel and veterans, respectively. However, these organizations construct similar medical facilities, in addition to abiding by federal government regulations for construction projects.

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PREPARED STATEMENT OF KIRK ROSA

Mr. Chairman and Members of the Subcommittee:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW), our Auxiliaries, and specifically the nearly 19,000 VFW members living in Colorado today, I would like to thank you for the opportunity to testify regarding the continued construction delays and cost overruns of the Aurora Veterans Affairs Medical Center (VAMC) replacement project.

The current VAMC in Denver was built in 1948 and has outlived any reasonable lifecycle expectations. Over the past 66 years, health care technologies have improved and patient demands have changed, but our medical center has not kept pace. Discussions for replacing the facility began in 1997, and in 2004 the Capital Asset Realignment for Enhanced Services or CARES put the Denver VAMC as one of the three facilities most in need of replacement. Now on its forth Secretary, the Denver VAMC replacement project is still a year away from its projected completion date.

Veterans in Colorado have waited long enough. The Government Accountability Office (GAO) reported last year that the total estimated time to complete this facility will be 10.5 years. In contrast, the Naval Facilities Engineering Command reports that they take approximately four years to build a medical facility from design to completion. This shows there are more efficient ways for federal agencies to contract and build facilities.

The Department of Veterans Affairs (VA) has taken steps to improve their major construction practices. In April 2012, the Secretary established the Construction Review Council to conduct oversight and performance accountability for planning, budgeting and executing VA's capital asset management process. The Council identified five areas that contributed to VA's construction cost overruns and delivery delays.

VA identified that placing project development in front of authorization and appropriations in the capital investment program process will reduce the number of project unknowns and provide a more reliable cost and time estimate. Then the Council recommended four other actions that should improve VA's real property capital program. The recommendations start with requiring VA to have the more complete design of a project before submitting for funding, and to conduct master planning in coordination with the Strategic Capital Investment Plan (SCIP). It then calls on VA to improve the design review process, better coordinate the SCIP process with the budget process to improve funding recommendations, and design a program management process that will be used while the facility is being built to improve communication within VA and between VA and the general contractor.

These and other initiatives VA has undertaken to improve their real property capital planning are noble, but with access and utilization gaps in major construction that will cost more than $20 billion to close, more must be done.

That is why the VFW supports Chairman Coffman's bill, HR. 3593, the "VA Construction Assistance Act of 2013." This bill will codify many of the recommendations of the Construction Review Council and GAO by:

- Using medical equipment planners from the onset of a major medical facility construction project.
- Developing and using a project management plans to improve communication among all parties involved.
- Place construction projects under peer excellence review.
- Developing a metrics to monitor change-order processing times and ensure that process meets other federal department and agency best-practices.

By placing these provisions in code, there will not be any ambiguity at the project management level on what is required while a facility is under construction. This will lead to better communication between VA and general contractors, reducing the number of change orders and reducing the number of disputes between the two parties, and in the end ensure that facilities are built on time and on budget.

The bill will also require VA to use the design-build process when possible. This process places the architectural/engineering company and the prime construction contractor under one contract. This method can save VA up to six months of time by putting the design phase and the construction performance metric together. Placing the architect as the lead from start to finish, and having the prime contractor work side-by-side with the architect allows the architect to be an advocate for VA. Also, the architect and the prime contractor can work together early on in the design phase to reduce the number of design errors, and it also allows them to identify and modify the building plans throughout the project. This is a common sense solution to more efficiently and effectively build major construction projects.

The last provision is for the Army Corps of Engineers to provide a special project manager to conduct oversight of the construction operations regarding compliance with acquisition regulations, and monitor the relationship of VA and the prime contractor. It will also authorize the Corps to assist in construction related activities, such as change-order requests, and provide guidance on developing best practices in overall project operations.

The VFW supports this provision, but it should be seen as a stop-gap measure to help VA to quickly complete these three outstanding major construction projects, and systems must be put in place to ensure VA can function under similar guidance without the assistance of the Corps on future projects.

It is important for VA to become more efficient at facility construction. Veterans have expectations that medical facilities will be available when VA first states what the completion date will be. It is obvious by looking at the number of delays and cost overruns that the contracting and building procedures that VA currently uses are antiquated and are costing VA millions of dollars more for each project; and causing five to six year delays in much needed medical facilities. By passing this legislation, VA will gain better oversight, cost controls and more efficient procedures for future construction projects.

Mr. Chairman, this concludes my remarks and I look forward to any questions you or the Committee may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2013, nor has it received any federal grants in the two previous Fiscal Years.

Mr. Dave Davis

Statement on the record

Mechanical Contractors Association of Colorado

to the

House Committee on Veterans' Affairs
Subcommittee on Oversight & Investigations

Committee on Veterans' Affairs
U.S. House of Representatives
For the field hearing on

"Construction Conundrums: A Review of Continued Delays and Cost Overruns at the Replacement Aurora Colorado VAMC"

MCA of Colorado Recommends a More In-Depth Technical Analysis of VA Construction Program and Prime Contractor and Subcontractor Selection Reforms to Improve Budget and Schedule Performance

April 22, 2014

Old Supreme Court Chambers
State Capitol Building
Room 200
200 East Colfax Avenue
Denver, CO 80203

The Mechanical Contractors Association of Colorado

1114 West 7th Avenue ▪ Suite 250 ▪ Denver, Colorado 80204 ▪ (303) 757-3956 ▪ (303) 757-4313 – fax

Good morning Congressman Coffman and members of the committee. My name is Dave Davia, and I am the Executive Vice President and Chief Operating Officer of the Mechanical Contractors Association of Colorado (MCA of Colorado). ***We propose to the Committee a more in-depth technical analysis of VA's Construction Program and Prime Contractor and Subcontractor Selection reform be considered which we contend would improve budget and schedule performance.***

The MCA of Colorado is a trade association affiliated with the Colorado Association of Mechanical & Plumbing Contractors. We operate four different and unique trade associations that represent the heating, air conditioning, refrigeration, plumbing, piping, and mechanical service industry in Colorado. Collectively we represent 180 member firms, employing 6,000 to 7,000 workers in Colorado. The MCA of Colorado is a chapter and affiliate of Mechanical Contractors Association of America that serves the needs of more than 2,500 member firms in the US and Canada. MCA Colorado member firms operate in the public and private sector, and direct federal construction projects are a big part of the market for many of the MCA of Colorado firms. As you all are aware Colorado is home to many federal facilities like NCAR, UCAR, NOAA, JILA, NIST, NREL, and approximately 20 others, not to mention half dozen military installations in Colorado. Suffice it to say, MCA of Colorado member firms are familiar with and experienced in working with the federal government and its varied contracting practices.

MCA Colorado members operate as both prime contractors, first tier and even lower tier subcontractors on various direct federal projects. By virtue of this, our view of direct federal procurement issues at the VA and other civilian and defense agencies is well rounded – and not partisan from any single industry biased market perspective.

Our views are responsive to all industry market sectors, not just those of general contractors or construction managers, which is a minority perspective in any event. Specialty construction firms, such as mechanical, electrical, sheet metal, and other specialty trades are the preponderance of the industry judged by any measure. For example, specialty firms comprise some 64% of industry employment in the building sector of the industry, according to Bureau of Labor Statistics data. In the heavy industrial sector, general contractors are more apt to employ direct labor rather than subcontract to specialty skilled firms. Moreover, building industry specialty firms put in place the vast majority of dollar volume of work on building projects of significant scope, such as VA facilities. Increasingly, construction managers and general contractors are subcontracting out ever greater dollar amounts of sophisticated building projects. In most cases, non-performing construction managers/general contractors sub out 70% or more of every project.

In balance and fairness, Chairman Coffman, our first request of the committee is to take the views of the performing subcontractors in proper balance with the views of the minority of non-performing prime contractors. Too often, direct federal procurement policy forums overweigh the views of the prime contractors and construction managers than the specialty firms that install the majority of the project. Chairman Coffman, it is our sincere request and hope MCA Colorado can count on your continued leadership on this committee, and with the Contracting Subcommittee of the House

Small Business Committee, to correct a longstanding and harmful policy bias that stems from greater political weight in policy forums – not unbiased analysis of project administration practices.

MCA Colorado supports the mission of the Department of Veterans Affairs. In fact, many MCA Colorado company principals are veterans themselves. They employ veterans in their workforces, routinely, and as a matter of government mandate, under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 and related statutes and regulations (78 Federal Register 58614, Sept. 24, 2013; effective March 24, 2014). MCA Colorado also is a key supporter of the leading veteran recruiting and training programs in the construction industry, the Building and Construction Trades Department's Helmets-to-Hardhats veteran recruiting program into industry apprenticeship programs, and the United Association Veteran in Piping (UA VIP) accelerated training program for military personnel for jobs in the heavy industrial welding and building equipment technician service occupations. The UA VIP program provides transitioning military personnel with on-base training, referral for jobs nationwide and advanced placement in UA and MCAA apprenticeship programs nationwide. The UA VIP program is sponsored by the United Association of Plumbers and Pipefitters (UA) and the mechanical construction firms participating in the jointly administered International Training Fund (ITF). MCA Colorado firms are directly participating in the UA VIP program currently in place at Fort Carson in Colorado. Recently the second 16-week training program commenced with attendees due to graduate in July 2014, many of which we hope will remain in Colorado and work for our Colorado contractors.

In addition, the VA is a large client firm for our industry in Colorado for mechanical contracting firms across the country. As local businesses, in many cases small businesses, as veterans and family members of veterans, and as taxpayers, we all have a direct stake in a high performing VA construction program. It is critical to the VA's mission to serve its beneficiaries and for the welfare of taxpayers as a whole.

With these overlapping and intersecting public interests in mind we offer the following comments as constructive suggestions for improvement of the VA construction program. MCA Colorado is well aware of recent General Accountability Office (GAO) reports suggesting a significant need for improvement in VA major construction project planning and contract administration practices. The report documents some significant problems with some VA major facility projects (primarily those in Denver, CO, Orlando, FL, New Orleans, LA and Las Vegas NV). Many of the problems the GAO identifies stem from issues with acquisition planning, major equipment purchasing, conflicting roles and duties of VA construction contract administration staffing, and the consequent delays and cost overruns because of the volume and delays in change order processing. The report also catalogs a significant number of recent past VA major facility projects that were completed more successfully. (***VA Construction: Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical Facility Projects***, GAO-13-302, April 2013).

In perspective, this recent GAO report is one in a rather long line of GAO assessments analyzing problems in project acquisition, planning and contract administration at the VA going back many years, some even to the early 1980's where the bureaucratic misalignment of planning and project execution

between the VA's department of medicine and office of construction were analyzed as the basic problems in many projects, with delays and cost overruns stemming from excessive change orders.

Over time, MCA Colorado is aware some remedial proposals have centered on improving the VA's acquisition and planning function, better coordination with the departments of medicine in facility planning and equipment purchasing, and overall improvement in the construction department's post-award contract administration functions. Also MCA Colorado is aware as some have suggested, even more fundamentally, having the VA outsource its project construction function to the U.S. Army Corps of Engineers (USACE) is generally regarded as more effective in post-award construction project contract administration. Without backing the specifics of that recommendation, MCA Colorado would first focus remedial discussion on the need to improve project planning and acquisition within the VA; as it is not clear how the USACE could not take responsibility for that function.

Moreover, we would point this committee to a more in-depth review of the VA construction program contracting practices overall. For example, the GAO report aforementioned shows the VA still relies on traditional Design-Bid-Build (DBB) low-bid prime contractor selection procedures (Federal Acquisitions Regulation Part 14 low-bid selection procedures) far more heavily than might be expected given other federal agency procurement trends. We submit a comparative analysis with other large Federal agency construction programs (i.e. the USACE, the Naval Facilities Engineering Command (NAVFAC), and the General Services Administration (GSA)) would show the VA uses low-bid procedures to a much greater degree than either the USACE, NAVFAC or GSA. A comparative analysis might explore the reasons and effects of those various contracting procedure choices on project outcomes.

To review the VA contractor selection procedures, we looked at the GAO report cited above. ***Appendix II: Changes in Cost for Department of Veterans Affairs Major Facility Projects*** lists 50 major projects ongoing in 2012 (project of $10 million or more). The list shows 23 projects experiencing $3 billion in cost overruns or 77% above the estimated project cost; the list shows 21 projects holding firm to the original cost estimate; and, five projects that came in $72 million under the original estimate, or a 17% improvement over original estimates.

The appendix referred to above also shows the project type, which refers to the prime contract award procedure – DBB (design-bid-build, traditional low-bid, sealed bid selection under FAR Part 14 procedures). Fully 21 of the 23 projects with cost overruns were awarded under low-bid selection procedures. The remaining two of the 23 cost overrun projects were awarded under IDC (Integrated Design and Construction contracts – a negotiated contract selection procedure under FAR PART 15 competitive negotiation) selection procedures. Of the 21 projects experiencing no cost overruns, 17 were awarded under low-bid design-bid-build selection; two were awarded under design-build competitive negotiations procedures; one was awarded as an Integrated Design and Construction project; and one other was a hybrid design-bid-build/design build procurement.

The same basic contractor selection procedure breakdown follows in ***Appendix III, Changes in Schedule for Department of Veterans Affairs Major Medical Facility Projects.*** The report shows 24 major projects with schedule overruns. Among these, fully 18 were DBB low-bid awards, three were

design-build negotiated selection projects; and three were integrated design and construction contract awards. Among the 26 projects reporting no schedule delays, fully 24 were low-bid awards, only one was design-build competitive negotiations, and the last was a hybrid DB/DBB award.

Mr. Chairman, MCA Colorado submits this pattern of VA contractor selection procedures warrants further in-depth analysis. To that end, MCA Colorado notes last November, Missouri Senator Claire McCaskill, Chairman of the Subcommittee of Financial and Contracting Oversight of the Senate Committee on Homeland Security and Government Affairs sent a request to GAO to reopen their study referenced above to examine the extent to which the VA's prime contractor and subcontractor selection procedures may be contributing to unsuccessful project outcomes. To date, that GAO study has not been released. Mr. Chairman, MCA Colorado, and our national association, the Mechanical Contractors Association of America (MCAA) would be eager to work with you on further analysis should you or the committee warrant it necessary.

We note Mr. Chairman you have taken the lead in examining another GAO report of VA contracting practices pertaining to the VA's inefficient use of internet reverse auction procurement procedures for goods and services (***Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings***, GAO-14-108, December 2013). We also note, Mr. Chairman, your colleagues Congressman Richard Hanna and Congresswoman Grace Meng on the Contracting Subcommittee of the House Small Business Committee have introduced a bill, ***H.R. 2751, the Common Sense Construction Contracting Act of 2014***, which would ban the use of internet reverse auction for direct federal construction prime contractor selection. This measure is in line with the long-standing industry consensus, backed by the USACE, and virtually all industry groups, that the use of internet reverse auctions for low-bid prime contractor bid shopping auctions for selecting prime contractors is against the public interest for prudent and successful bidding procedures and sound project delivery outcomes. We commend that bill to your leadership, and hopefully your co-sponsorship.

Along those very same lines, we hope to rely on your continued support this year and next to expand that measure by adding a parallel measure banning bid shopping at the subcontractor selection level as well. We specifically request you seek to append ***H.R. 1942, the Construction Quality Assurance Act of 2013*** to any similar measure as it moves through the House Small Business or Oversight and Government Reform Committees. The federal policy interests sought to be achieved by both measures – H.R. 2751 and H.R. 1942 together – are identical, sound, prudent, and fairly serve both prime contractor and subcontractor selection procedures to benefit agency construction programs, their overall mission, and the taxpayers as a whole. Again, H.R. 1942 would only require transparent subcontractor selections as low-bidders or offerors in either low-bid or low-price/technically acceptable (LPTA) negotiated selection procedures would have to list the major subcontractors used in compiling their price proposal and award to those subcontractors after prime contract award unless there is good cause for a substitution granted by the contracting officer.

As with the internet reverse auction measure, virtually the entire construction industry attests in the ***Guidelines for a Successful Construction Project*** that post-award subcontractor bid shopping by the prime contractor who is the successful offeror, which would be barred under H.R 1942, is an extremely

harmful practice that impairs successful project performance and the taxpayers' interest in on-time, on-budget projects. The remedy H.R 1942 seeks is to prevent the practice of sub bid shopping by the successful prime contractor, who after being awarded the prime contract, subsequently shops the subcontractors' bids after initial negotiations and submission in the price proposal, and takes the subsequent cost savings for itself, without benefit to the project. As a consequence the agency suffers all the added risk of this post-award price chiseling. The time for open and transparent competition is pre-award, not after. As stated at the outset, Mr. Chairman, MCA Colorado looks to your continued leadership, and request this Committee contemplate authorizing a more in-depth technical analysis of the VA's Construction Program and Prime Contractor and Subcontractor Selection reforms be considered which we believe would improve budget and schedule performance. We believe these are key and well-rounded procurement reforms to make sure the taxpayer interest in balanced and fair overall procurement reforms aren't subordinated to the self-interest of any one particular private industry interest.

In conclusion MCA Colorado, in conjunction with a broad national specialty construction contractor coalition including the Mechanical Contractors Association of America and the associated quality construction Alliance groups, recommends that the Committee continue its analysis with an in-depth examination of VA procurement policies, including prime contractor and subcontractor selection procedures to improve across the board on- time schedule and budget performance.

Thank you, Mr. Chairman, for the opportunity to testify on these important issues today. I will address any questions you may have.

##

Statement of

Michael Gifford, President/CEO

Associated General Contractors of Colorado

A Chapter of The Associated General Contractors of America

to the

Subcommittee on Oversight and Investigations

Committee on Veteran's Affairs

U.S. House of Representatives

For a hearing on

"Construction Conundrums, A Review of Continued Delays and Cost Overruns at the Replacement Aurora, Colorado VAMC"

April 22, 2014

The Associated General Contractors of Colorado is the largest and oldest commercial building construction trade association in Colorado. AGC Colorado represents 400 firms, including Colorado's leading general contractors and specialty contractor firms.

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The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 25,000 firms, including America's leading general contractors and specialty-contracting firms.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
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Statement of Michael Gifford, President/CEO
Associated General Contractors of Colorado
Subcommittee on Oversight and Investigations
Committee on Veteran's Affairs
U.S. House of Representatives
April 22, 2014

Chairman Coffman and Committee Members, thank you for inviting the Associated General Contractors of Colorado (AGC) to testify before the Subcommittee on Oversight and Investigations on the Replacement Aurora, Colorado VAMC. My name is Michael Gifford and I am the President and CEO of AGC Colorado.

AGC Colorado is the largest and oldest commercial building construction association in Colorado, with 400 member firms who are the state's leading general contractors and specialty contractors. All of our members are also members of AGC America, the country's largest and oldest construction trade association with more than 25,000 members.

AGC and the construction industry have a deep commitment to veterans. Our members include many veterans, AGC Colorado members hire veterans as employees, and sub-contract with veteran owned and or service disabled veteran-owned firms. AGC and the construction industry have a deep respect for the VA and its mission.

Replacement Aurora, Colorado VAMC
A number of the members of AGC Colorado are performing construction work for the VA on the Replacement Aurora VAMC. So AGC has an interest in the success of the project and its impact on industry members.

AGC Colorado would like to make the following observations about the project based on conservations and discussions with construction firms working on the project:

1. The project design and schedule were not complete when the general contractor and sub-contractors were directed to proceed and/or submit bids;

2. Design changes occurred after this point;

3. Schedules were delayed and lengthened;

4. These changes in design and schedule caused many contractors on the project to incur additional costs;

5. The system to deal with changes in design and the resulting increase in cost and schedule is a "change order" which is the modification of a contract to incorporate a change in design, schedule, scope, or key terms;

6. Change are being ordered but the formal "change order" paperwork are being approved slowly or in some cases not at all;

7. The result is that businesses are paying for increased labor and/or materials costs without compensation, and some are even at risk of failure if the situation continues. <u>This is a cash flow crisis for businesses on the project, and quite frankly not a risk that contractors working for a federal agency should have to worry about so they do not have to price anticipated late payments into their initial bids.</u>

GAO Report

The GAO Report "VA CONSTRUCTION - Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects" April 2013 covers many of the same issues on multiple VA projects, that AGC members have experienced on the Replacement Aurora, Colorado VAMC project. Specifically:

- Delays in schedule
- Implementing the Integrated Design and Construction project delivery method midstream (losing the opportunity for contractor input on design and causing late changes in design)
- Problems with the Change Order Process
- Delays in processing change orders

AGC agrees with several other points that are outlined in the report:

- Rapid changes in medical technology make planning difficult
- Unanticipated events can add to schedule delays and cost overruns

However, these conditions are not the fault of the contractors on the project and should not cause the VA to delay change orders or payments to contractors for work performed.

AGC Request for Action

AGC Colorado is in SUPPORT of H.R. 3593 "The VA Construction Assistance Act of 2013" because a special project manager from the Army Corps of Engineers would:

(1) conduct oversight of all construction-related operations at the project, including with respect to -

(A) the performance of the Department of Veterans Affairs involving the prime contractors; and

(B) the compliance of the Department with the Federal Acquisition Regulation, including the VA Acquisition Regulation;

(2) advise and assist the Department in any construction-related activity at the project, including the approval of change-order requests for the purpose of achieving a timely completion of the project; and

(3) recommend to the Department best construction practices to improve operations for the project.

H.R. 3593 will also allow the Army Corps of Engineers (an experienced construction management agency) to make an independent assessment of the effect of design changes to cost and schedule. Then the change order and cash flow problems reported by our members can be addressed in an orderly fashion.

While the VA may feel that they are making progress on the findings in the GAO report, the pace of improvement is not fast enough to help the contractors on the Replacement Aurora VAMC project. They are providing labor and materials over and above the plans that were available at time of bid, submitting their formal change order requests, getting little to no timely response from the VA, and the resulting cash flow crisis is not fair to business nor is it proper public policy. Some of these contractors have to wait a year or more for compensation on change orders and the dollar amounts are in the millions of dollars.

Best Practices

H.R. 3593 addresses the issue of best practices at other agencies. AGC Colorado has collaborated with other owners including the State of Colorado and City and County of Denver on Project Delivery Methods and Payment Processes/Change Orders. Most of the projects delivered by Colorado state universities and other state agencies now use the Integrated Project Delivery statute supported by AGC and approved by the state legislature in 2007. The delivery method most often chosen by the state universities and other state agencies is either CM/GC (also called CM at Risk) or Design-Build GMP and we do not have our members report the same problems that are contained in the GAO report (schedule delays and change order delays). There were some sporadic reports of change order delays, but in 2010

AGC and worked with public owners and the legislature to approve SB10-116, which requires periodic payments on change directives until a formal change order is completed. This statute change ensures that contractors receive some cash flow for extra work while an agency is processing a change order.

AGC also worked with the City and County of Denver to reduce their payment approval process from a linear 21-step process to a concurrent 2-step process, reducing the time it takes to process a pay application. However, there were also industry complaints about the change order process with this owner agency. SB10-116 also requires the City and County of Denver to make periodic payments on change directives until a change order is processed. So the contractor cash flow issue is addressed with this agency as well.

The purpose of including this discussion on best practices is to show how contracting conditions can be improved by working with an experienced trade association like AGC and an experienced agency like the Army Corps of Engineers, or the State of Colorado or the City and County of Denver.

Conclusion

In conclusion, AGC Colorado would like to reiterate its commitment to veterans and veteran owned businesses, and to working with the VA on our shared goal of service to our nation's veterans.

AGC SUPPORTS H.R. 3593 as a way to help contractors in the near term on the Aurora Replacement VAMC project, and AGC commits to continuing discussion and dialogue with the VA on process improvements for future hospital and medical facility projects.

Thank you for this opportunity to provide the views of the Colorado construction industry on this important matter.

PREPARED STATEMENT OF MR. GLENN D. HAGGSTROM

Good morning, Mr. Chairman and Members of the Committee. I am pleased to appear here this morning to update the Committee on the status of the construction of the replacement medical center in Denver. Joining me today is Stella Fiotes, Executive Director for Construction and Facilities Management.

I would like to take a few moments to highlight two of VA's most recent projects that have been completed to serve Colorado Veterans. Valor Point Homeless Domiciliary, which opened in May 2013, is a 40-bed facility with a two-fold mission: 1) To identify homeless and at-risk Veterans who need residential treatment to overcome homelessness; and 2) To provide these Veterans transitional, recovery-focused treatment that increases their independent living skills so that they can obtain and maintain housing upon graduation. The new Golden VA Clinic, which opened in February 2014, is a two-story, 40,000 square foot facility, with a Silver LEED energy efficiency rating, that replaced the 2,000 square foot Lakewood VA Clinic at the Denver VA Regional Office. Serving 12,000 Veterans, the Golden VA clinic has been outfitted with additional radiology, laboratory and mental health staff to increase access for Veterans. To date, over 6,000 Veterans have switched their primary care site to this clinic over other facilities in the Denver metropolitan area.

The Office of Acquisition, Logistics and Construction (OALC), is currently managing the major construction project to replace the existing Denver VA Medical Center in the VA Eastern Colorado Health Care System (ECHCS) with a new medical center complex at the Fitzsimons campus in Aurora, Colorado and is actively engaged in the execution of 46 additional major medical and cemetery projects that are either in active planning, design, or construction. This year, VA plans to deliver five medical and two cemetery projects for Veteran use

The Denver VA replacement medical center project will include 182 inpatient beds, an outpatient clinic, a 30-bed community living center, a 30-bed spinal cord injury center and a 4-bed blind rehabilitation unit. To date, construction has been completed on three phases, bringing the total project to 44 percent complete. This project will also allow continued collaboration between the Denver VA Medical Center and the University of Colorado Hospital, which relocated to the Fitzsimons campus, and with the U.S. Air Force, for which OALC completed construction and delivered the outpatient clinic currently in operation. VA currently serves over 78,000 Veterans through these facilities, with 170,000 Veterans enrolled.

VA is under contract with Kiewit-Turner (KT), as prime contractor, to provide pre-construction services and to build the new facility within a 40-month construction schedule. Both the VA Secretary and Deputy Secretary are briefed monthly on the status of this project as part of our Construction Review Council (CRC) meetings. The primary purpose of the CRC, which was established by the Secretary in 2012, is to serve as a single point of oversight and performance accountability for VA's major construction program, and the regular meetings serve to ensure that VA leadership has visibility and oversight of the VA construction program—to include program requirements development and major changes. To date, VA is still in litigation with the contractor regarding the interpretation of the integrated design construct contract. As of March 2014, the contractor has filed a total of 23 complaints seeking monetary relief for approximately $13.3 million and has made it clear that it will continue to file additional complaints with the Civilian Board of Contract Appeals (CBCA) if KT is not compensated in the exact amount requested for changes or contract modifications. On February 28, 2014, VA filed a motion to dismiss KT's initial complaint, and KT filed its response with CBCA on March 31, 2014. VA filed its reply on April 14, 2014 which CBCA will take under advisement.

Accordingly, I ask for the Chairman's and the Committee's understanding since VA will be unable to respond to the matters at issue in the litigation as it may compromise the Government's legal position. However, regardless of the litigation, construction is ongoing.

Regarding the cost of the project, VA received the final appropriation of the $800 million total project cost as part of the FY 2012 VA budget. VA signed a contract with KT to provide pre-construction services on August 2010 and to build the new facility for $604 million with a firm ceiling price of $610 million. As of March 2014, VA has paid KT $254.9 million for work performed, and supported by required documentation, under the contract agreement. The original contract amount has been revised to $616.6 million (not to exceed $630 million), to reflect approved contract modifications. In a good faith effort and to assist the contractor in making payments for work performed, VA has allowed the contractor to bill for work performed later in the project up to $30 million.

As part of its schedule reviews, VA will extend the contract completion date to adjust for delays that were not the responsibility of the contractor. The first extension was offered in February 2014, and VA awaits a response from the contractor. VA will continue to monitor the schedule during its reviews and work to mitigate further delays in the completion date. However, VA is concerned that KT continues to fall behind their proposed schedule based on monthly evaluations of schedules provided to VA.

In the Spring of 2013, VA initiated monthly meetings with KT to facilitate open communication amongst senior executives to ensure that the project continued apace in spite of the ongoing litigation. It was very disappointing that the contractor made the decision to discontinue these meetings. However, VA staff continue to work with the contractor to ensure the construction of the medical center moves forward and is still operating within the appropriation. The local respective project teams also continue to meet to address any issue that may arise during the normal course of construction. Additionally, Glenn Haggstrom, Principal Executive Director for the VA Office of Acquisition, Logistics and Construction, meets monthly with Mr. Scott Cassels, of Kiewit Corporation, to discuss issues of concern.

VA appreciates the Committee's interest and support to ensure that VA major construction projects, and more specifically the Denver replacement facility, are delivered successfully. While there have been challenges with this project, we have undertaken a comprehensive review of the major construction program and have taken numerous actions to strengthen and improve our execution of VA's ongoing major construction projects. With the acceptance and closure of the April 13, 2013, Government Accountability Office report recommendations and implementation of CRC recommendations, VA has changed the way it conducts business, significantly.

Change orders are not unusual during the construction of any large, complex project, such as the Denver replacement medical center; however, VA recognized that our process was too lengthy and too cumbersome resulting in delays in the execution of change orders. We addressed those challenges by establishing new policies and metrics for change orders, by adding staff and legal counsel to help with the review of change orders and by bringing online a real-time, information technology tool to accept and track change orders. As a result, we are in a much better position now and are processing change orders at a much faster rate than in the past. Although the total number of changes in progress is in constant flux, our goal is to process all change orders within 60 days. Other areas identified for review and improvement include the design-review process and steps to streamline procedures, while at the same time ensuring that decisions are made at the appropriate levels within the Department. We will keep the Committee informed of our progress in these areas.

Discussions continue with our Federal and industry partners, including the U.S. Army Corps of Engineers (USACE), on collaboration with VA on various aspects of our major construction program. VA and USACE have a long history of working together to advance VA facility construction and share best practices. Recent collaboration includes involvement in contract reviews for this construction project and the New Orleans construction project. Current discussions are a logical evolution of that relationship, and we will continue work with our Federal and private partners to drive the successful delivery of these facilities.

In closing, each day, VA is moving toward its goal of improving and streamlining our processes to increase access to our Veterans and their families. To that end, to help ensure previous challenges are not repeated and to lead improvements in the management and execution of our capital asset program as we move forward, we will continue to focus on:

- Ensuring well-defined requirements and costs are provided to Congress when seeking appropriations for construction projects;
- Ensuring appropriate staffing levels are met to ensure timely project and contract administration;
- Continuing open dialogue at every level that includes VA and construction and design contractors;
- Ensuring early involvement of the medical equipment planning and procurement teams; and
- Applying the acquisition program management framework to our projects.

VA continually seeks innovative ways to further improve our ability to design and construct state-of-the-art facilities. VA is fully committed to this goal, and we have demonstrated great efforts to work together with our Federal and private partners to achieve VA's goal of being a people-centric, results-driven, and forward-looking organization, which ultimately enables us to better serve Veterans and their families.

This committee has been a strong and supportive advocate for Veterans' health care, and VA will continue to ensure transparency during the construction of the Denver replacement facility.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to testify before the Committee today. My colleagues and I would be pleased to respond to questions from you and Members of the Committee.

FOR THE RECORD

STATEMENT FOR THE RECORD

STATEMENT OF THE HON. ED PERLMUTTER (CO–7)

Chairman Coffman, Ranking Member Kirkpatrick, thank you for your efforts regarding the new stand-alone U.S. Department of Veterans Affairs Denver replacement medical center at the Fitzsimons medical campus in Aurora, Colorado.

This hospital has been one of my top priorities for seven years, for six of those the project was in my congressional district, only to be removed in the redistricting process. This hospital has been promised to our veterans for nearly fifteen years. The project has gone through a number of iterations over the years under two Presidents and four Secretaries of the VA. The hospital is well underway and I appreciate the Committee's interest in it, but the time has come to focus our efforts on ensuring the completion of this hospital. Our veterans deserve nothing less and the people of Colorado and our nation expect it.

Once completed, this medical center will serve hundreds of thousands of veterans across the Rocky Mountain West. The 182-bed facility will include a full range of medical, laboratory, research and counseling services, a 30-bed spinal cord injury unit, a 30-bed community living center and a PTSD rehabilitation clinic.

The original design called for an approximately $1.1 billion state-of-the-art medical center, but Congress authorized and appropriated $800 million for acquisition of approximately 40 acres of land and several buildings, as well as design and construction. The original design appears not to have significantly changed, and consequently a funding gap exists between the authorized amount for the contract and the overall cost of the project. This dispute is leaving the sub-contractors who are small businesses left footing the bill as they are required to continue construction without the guarantee of getting paid for work completed. The contract dispute will be heard next month by the U.S. Civilian Board of Contract Appeals.

Completely separate from the decision by the U.S. Civilian Board of Contract Appeals, the project would immediately benefit from insights provided by independent, external experts regarding the VA's construction policies and procedures going forward. I have urged the VA to work with the U.S. Army Corps of Engineers (Army Corps) which has decades of technical and managerial experience in hospital construction, as well as a remarkable track record for completing major construction projects on time and on budget. The VA has the authority to enter into an Interagency Agreement as soon as practicable to allow the Army Corps to conduct a Design-Construction Evaluation (DCE) on this project. This evaluation is a common practice to provide the VA with a full review of the procurement, engineering, construction and project management processes to identify problems and recommend solutions the VA can implement. The Army Corps regularly completes DCEs on its own projects at major milestones or when potential funding or schedule delays arise.

The Army Corps has also worked with other federal agencies on a number of occasions to conduct evaluations on their construction practices to improve project management and timely project completion. The VA has a strong history of collaboration with the Army Corps on construction projects, and discussions are ongoing for the use of these DCEs on major construction projects, including the Aurora medical center. This approach can be done today, without any congressional action, and I continue to urge the VA to enter into this agreement as quickly as possible.

Our veterans deserve the best hospital possible built at the best price as quickly as possible. They should not be forced to wait even a day longer than necessary for the timely, world-class care this medical center will provide. The U.S. Army Corps of Engineers has the expertise to assist the VA in fulfilling this promise to Rocky Mountain veterans.

I look forward to continuing to work with the VA on this critical project to ensure our veterans receive the health care they earned.

STATEMENT OF HON. MICHAEL BENNET (CO)

Chairman Coffman and Ranking Member Kirkpatrick:

Today's hearing on the status of the Department of Veterans Affairs (VA) Regional Medical Facility in Aurora, Colorado, is critically important, not only to western region Veterans, but to the American taxpayer. When complete, this facility will provide world-class care to generations of Veterans and their families. However, the VA has struggled to keep this project on time and on budget, and we welcome continued scrutiny and oversight of this venture.

As a Congressional delegation, we have attempted to maintain an open dialogue with the VA throughout this process. We have met with officials at the highest levels to identify and correct the systemic flaws plaguing this construction project. Although we have worked closely with VA officials over the last several months, our most pressing questions remain unanswered, and our concerns continue to grow regarding the management of the payment process to sub-contractors. The VA claims to have streamlined the change order system, yet sub-contractors remain unpaid. It is unconscionable that Colorado small businesses should bear the burden of the VA's inability to competently manage this endeavor.

Additionally, the fact that the VA and the prime contractor Kiewit-Turner (KT) have been unable to resolve fundamental contract disputes and have instead entered into litigation has increased frustration with this project and added unacceptable levels of uncertainty for Veterans. For months, the Congressional delegation has worked to find avenues for the VA and KT to resolve these contract disagreements. Unfortunately, entrenched interests prevented both sides from coming together to act in the best interests of the people. However, I firmly believe we cannot allow the litigation process to hold back much-needed progress. The VA does not need Congressional approval or additional funding to take advantage of available best-practice standards and resources available through other government partners.

The need for action is why I, along with Senator Udall and Representative Perlmutter, have called for the VA to enter into a Memorandum of Understanding with the U.S. Army Corps of Engineers (USACE). The USACE has the technical and managerial experience with major construction projects, as well as a successful track record for completing hospital construction on time and within budget. The USACE and the VA have the ability to enter into an interagency agreement to conduct a Design-Construction Evaluation (DCE) on this project to ensure completion. This evaluation is common practice in the construction community and will provide the VA with a full review of construction and project management processes to identify problems and recommend solutions going forward. The USACE routinely uses the DCE process on its own projects, and the VA will benefit greatly from this independent assessment.

Again, I thank Chairman Coffman and Ranking Member Kirkpatrick for their attention to this important issue. The delays and cost overruns plaguing this project are deeply disturbing and represent a disservice to our nation's veterans and the American taxpayer. Veterans and Colorado small business deserve straightforward answers from the VA about how it will put this project back on track.

Sincerely,

STATEMENT OF SENATOR MARK UDALL

Chairman Coffman and Ranking Member Kirkpatrick, the subject of today's hearing is of great importance to Colorado and veterans from throughout the Rocky Mountain west. When completed, the VA Medical Center currently under construction on the Fitzsimons campus in Aurora will provide the world-class medical care and facilities that our veterans have earned, and your attention to the project is appreciated.

The demand for an on-time, on-budget completion of this critical project has united the Colorado veteran community and our congressional delegation. It is important that Congress continue to exercise its oversight authority to ensure that taxpayers and veterans receive the best possible facility for their tax dollars.

We must also continue to identify and correct the systemic issues that have led to significantly delayed payments for many of the small businesses employed as subcontractors on this project. While there is no doubt that significant disagreements exist between VA and the prime contractor, it is not acceptable to delay payment to subcontractors for work already completed. VA and its contractors must take immediate steps to establish management practices and contract agreements that provide for far quicker review of change order requests. As I have stated repeatedly,

VA should adopt standards and best practices long used by other federal agencies such as the Government Services Administration and the Army Corps of Engineers (USACE) to streamline the change order approval process. Those actions do not require congressional authority and should be taken by VA as soon as practicable.

While the contract dispute between VA and the prime contractor is still pending review and adjudication in the U.S. Civilian Board of Contract Appeals, there are other immediate steps VA can take to ensure that best practices are being followed during the construction of the Aurora hospital and other major VA projects. USACE has significant experience and expertise in the management and construction of large military medical centers—as well as a record of delivering on-time, on-budget major medical facilities to the Department of Defense. In light of that fact, I—along with Senator Michael Bennet and Rep. Ed Perlmutter—wrote to VA Secretary Shinseki in March of this year urging VA to allow USACE to conduct a Design-Construction Evaluation, or DCE on the Aurora project.

DCEs are a common practice used to provide construction managers with a full review of the procurement, engineering, construction and project management processes in order to identify problems and recommend solutions going forward. The Army Corps regularly completes DCEs on its own projects and has worked with other federal agencies—including VA—to conduct evaluations of construction practices that improve project management and increase the likelihood of on-time completion. Such an evaluation would only look at the project going forward and would have no effect on the pending litigation. A DCE does not require a congressional mandate and could be underway in a matter of weeks. I would once again urge VA to take this common-sense, practical step as soon as practicable for the good of this project, Colorado veterans, and taxpayers.

Again, I thank Chairman Coffman and Ranking Member Kirkpatrick for their attention to this important issue, and I appreciate the willingness of the witnesses to provide their important perspectives regarding this matter. As evidenced by the collaboration and united efforts of our veterans, state and local leaders, and the Colorado congressional delegation, the on-time, on-schedule completion of the replacement medical center is of extreme importance to all of us. We will not ask our veterans to wait any longer than absolutely necessary for this hospital. Through their service and sacrifice, they've earned the best medical care our country can offer, and every effort must be taken to deliver that care as promised. Anything less is simply not acceptable.

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NANCY DOLAN
DEMOCRATIC STAFF DIRECTOR

May 9, 2014

The Honorable Eric K. Shinseki
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Mr. Secretary:

Please provide written responses to the attached questions for the record regarding the Oversight and Investigations Subcommittee hearing "Construction Conundrums: A Review of Continued Delays and Cost Overruns at the Replacement Aurora, Colorado VAMC" that took place on April 22, 2014.

In responding to these questions for the record, please answer each question in order using single space formatting. Please also restate each question in its entirety before each answer. Your submission is expected by the close of business on Friday, June 6, 2014, and should be sent to Ms. Bernadine Dotson at bernadine.dotson@mail.house.gov.

If you have any questions, please call Mr. Eric Hannel, Majority Staff Director of the Oversight & Investigations Subcommittee, at 202-225-3527.

Sincerely,

Mike Coffman

MIKE COFFMAN
Chairman
Subcommittee on Oversight & Investigations

MC/jh

Questions for the Record
House Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations
Oversight Hearing

"Construction Conundrums: A Review of Continued Delays and Cost Overruns at the Replacement Aurora, Colorado VAMC"

Questions for the Record from Subcommittee Chairman Mike Coffman

1. During questioning at the hearing, Mr. Haggstrom stated that the total cost of the facility, including land acquisition, infrastructure logistics, and construction, is over $1 billion. Please provide a total itemized cost of the Aurora project as of the date of this letter.

2. Considering the total cost of the project is over $1 billion, when will VA seek additional appropriations for this project and how much additional funding will it request?

3. Why did the project contracting officer, Thaddeus Willoughby, tell VA employees on the Aurora construction project to not answer change orders from the Spring of 2011 and the Spring of 2012, as referenced in emails sent by the Senior Resident Engineer?

4. Surely the VA understands that by halting the processing of change orders would have a devastating impact on payments and cash flow to small business contractors. What has the VA leadership done to make sure this does not happen again and to hold those involved accountable for this unwarranted suspension?

5. The CFM's Project Management Plan from September 2011 highlights high risk of the project being over budget, the architect not believing it is over budget, and the design being inconsistent with VA's budget. What efforts were made to reign in the architect and ensure the design could be built for the originally agreed-upon cost of $604 million?

6. A September 2011 report from the Army Corps of Engineers (USACE) on the Aurora and New Orleans projects states serious concerns about VA's estimating practices for project budgets, its management controls for projects such as this one, its onsite project staffing, and even the selection of the type of contract for the Aurora project. Who from the VA requested the USACE's evaluation?

7. What, if anything, was done to address USACE's evaluation, because it looks as if no steps were taken in a timely manner to address any of those concerns?

8. In Mr. Haggstrom's testimony, he stated that "KT continues to fall behind their proposed schedule based on monthly evaluations of schedules provided to VA." How would VA respond to the GAO report, and in fact emails from its own engineers, which cite mismanagement on the part of VA, for construction delays?

9. How much money of the $800 million appropriated for the Aurora facility has not yet been spent or obligated?

Questions for the Record
House Committee on Veterans' Affairs Subcommittee on Oversight and Investigations Oversight April 22, 2014Hearing

"Construction Conundrums: A Review of Continued Delays and Cost Overruns at the Replacement Aurora, Colorado VAMC"

Questions for the Record from Subcommittee Chairman Mike Coffman

1. During questioning at the hearing, Mr. Haggstrom stated that the total cost of the facility, including land acquisition, infrastructure logistics, and construction, is over $1 billion. Please provide a total itemized cost of the Aurora project as of the date of this letter.

VA Response: Chairman Miller raised the issue of a $1 billion cost, which includes the facility activation amount. Mr. Haggstrom agreed that it may be the case if other variables, including activations costs, which are not part of the construction appropriation, are considered.

The current construction project budget is $815,979,251 ($800 million appropriation plus Physical Security and Asbestos funds). As of April 16, 2014, the cost breakdown is as follows:

A. Site Acquisition		$60,406,926
B. Design/Construction Management/Other Consultants		$52,136,557
C. Prior Phase – Demolition and Abatement		$1,236,257
D. Integrated Design and Construction (IDc) Contract – Preconstruction (KT)		$3,400,000
E. IDc Contract – Construction Options (KT)		$604,087,179
F. IDc Contract Modifications (KT)		$23,605,303
	Total:	$744, 872, 222

VA has an IDc contract with Kiewitt Turner (KT) for the physical construction of the project for $627,692,482 (shown in lines E and F in the table above). This contract is in addition to the base IDc contract for preconstruction services (line D). The contractor has alleged that its direct construction costs will exceed $1 billion. To date, VA has not received the necessary supporting documentation to justify their estimated increased cost.

2. Considering the total cost of the project is over $1 billion, when will VA seek additional appropriations for this project and how much additional funding will it request?

VA Response: VA does not agree that the total cost of construction for the Aurora, Colorado, replacement VAMC is over $1 billion, nor has the contractor provided required justification to increase the contract to that amount.

3. Why did the project contracting officer, Thaddeus Willoughby, tell VA employees on the Aurora construction project to not answer change orders from the Spring of 2011 and the Spring of 2012, as referenced in emails sent by the Senior Resident Engineer?

VA Response: The email that is being referenced is taken out of context. The Contracting Officer's intent was to expedite work, not to stop the change order process. The Contracting Officer was engaged in Firm Target Price (FTP) negotiations with the Contractor. To facilitate the Contractor's ability to build, the Contracting Officer authorized additional work on "proceed-while-pricing" letters and Requests for Proposals instead of waiting for a change order. This process allowed the Contractor to accomplish the same result as with a change order, but take less time to finalize and still allow the Contractor to bill for, and get paid for, the work in advance of the formal change order which followed.

4. Surely the VA understands that by halting the processing of change orders would have a devastating impact on payments and cash flow to small business contractors. What has the VA leadership done to make sure this does not happen again and to hold those involved accountable for this unwarranted suspension?

VA Response: There was no "unwarranted suspension" of processing change orders. As described in VA's response to question 3, the email that is being referenced is taken out of context. The Contracting Officer's intent was to expedite work, not to stop the change order process. The Contracting Officer was engaged in FTP negotiations with the Contractor. To facilitate the Contractor's ability to build, the Contracting Officer authorized additional work on "proceed-while-pricing" letters and Requests for Proposals instead of waiting for a change order. This process allowed the Contractor to accomplish the same result as with a change order, but take less time to finalize and still allow the Contractor to bill for, and get paid for, the work in advance of the formal change order which followed.

5. The CFM's Project Management Plan from September 2011 highlights high risk of the project being over budget, the architect not believing it is over budget, and the design being inconsistent with VA's budget. What efforts were made to reign in the architect and ensure the design could be built for the originally agreed-upon

cost of $604 million?

VA Response: VA has, and continues to, work aggressively to mitigate all risks associated with the delivery of the Denver replacement facility. Three examples of the efforts undertaken by VA include:

a. Held weekly meetings with KT in their capacity of providing preconstruction support services the designer (a joint venture team (JVT), consisting of architects H&L and Skidmore Owings and Merrill, and engineers CRM and SAM), and the construction management consultant (Jacobs), organized around the various engineering disciplines, to focus on effective design solutions. This effort led to 242 value engineering ideas with a total cost savings to date of $55.3 million.
b. Facilitated an extensive exercise to reconcile the difference between the JVT's estimate and KT's estimate at the 65 percent design stage. This effort verified that the direct cost between the two estimates were within 1 percent of each other.
c. Commissioned a third party peer review to evaluate the programmatic space requirements between the 65 percent design and the 95 percent design. This effort further verified that there was very little change in programmatic space requirements

6. A September 2011 report from the Army Corps of Engineers (USACE) on the Aurora and New Orleans projects states serious concerns about VA's estimating practices for project budgets, its management controls for projects such as this one, its onsite project staffing, and even the selection of the type of contract for the Aurora project. Who from the VA requested the USACE's evaluation?

VA Response: The review was requested by Mr. Glenn Haggstrom, Principal Executive Director, Office of Acquisitions, Logistics, and Construction.

7. What, if anything, was done to address USACE's evaluation, because it looks as if no steps were taken in a timely manner to address any of those concerns?

VA Response: In response to the U.S. Army Corps of Engineers (USACE) report, general actions included increased staff and management oversight of the project and increased training for onsite staff. Additionally, VA senior staff continues to hold monthly management reviews onsite as well as weekly progress update calls.

Specifically, the USACE report noted that the project staffing and capability should undergo evaluation to ensure that the project configuration aligns with the procurement methodology and with best practices for cost management. Based upon this observation, VA engaged a construction management firm (Jacobs), which continues to provide additional staff for schedule support, change order

management, and project control functions to include document control and inspection of the completed work.

The report also noted that the estimates for project budgets appear to have limitations in the generation of initial program cost estimates that could be improved to produce more accurate funding level estimates. Due to this observation and efforts taken to through VA's Construction Review Council, VA has changed its estimating policy. VA will now prepare construction estimates at 35 percent design completion for budget submission. This increases the accuracy and accounts for local materials, local labor environment and addresses risk to cost and schedule.

8. In Mr. Haggstrom's testimony, he stated that "KT continues to fall behind their proposed schedule based on monthly evaluations of schedules provided to VA." How would VA respond to the GAO report, and in fact emails from its own engineers, which cite mismanagement on the part of VA, for construction delays?

VA Response: VA has, and continues to, monitor and if necessary take appropriate actions to mitigate its actions that have contributed delays in the project. In addition to internal mitigations, VA must also hold KT accountable to its performance requirements. VA's earned value analysis indicates that KT is currently 13 percent behind their baseline schedule. This is primarily due to the fact that KT is manning at 80 percent, at most, of what they state should be their effort level. Additionally, weather delays account for approximately 3 percent of the schedule delays.

9. How much money of the $800 million appropriated for the Aurora facility has not yet been spent or obligated?

Proposed VA Response: Of the $800 million appropriated, as of May 22, 2014, $60 million remains unobligated for the replacement facility.

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