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May 20, 2015

The Honorable Robert A. McDonald
 Secretary
 U.S. Department of Veterans Affairs
 810 Vermont Avenue, NW
 Washington, DC 20420

Dear Secretary McDonald,

I am writing you today to again raise my concerns with the manner in which VA is handling the problems it created with the replacement Denver VA medical center construction project. VA has attempted to portray this debacle as a situation in which the project will come to a halt if Congress does not act. Let me assure you that the opposite is true. This project will come to a halt if VA refuses to put forth a complete and acceptable plan to get the Denver project to the finish line. So far, you have failed to do that.

Right now, VA is essentially asking taxpayers to bail it out of a massive problem of the department's own creation. If that was not bad enough, VA's bailout request comes absent an explanation of what went wrong in Denver, without having held anyone accountable for the cost overruns, without a final price tag for the project, and without a specified completion date. That is not just a tough sell – it is a nearly impossible one.

VA created the mess in Denver, so the department must come up with a plan to fix it that does not add to the deficit and does not jeopardize the benefits and services of other veterans. The plan must fund the project through its completion – rather than keep it running on fumes for a few months until the next budgetary crisis. Previous VA proposals to use money from the Veterans Access, Choice and Accountability Act to cover cost overruns in Denver have been roundly rejected by Democrats and Republicans. So it is time for VA to find efficiencies in its existing budget to completely pay for the problems it created in Denver.

For years, this Committee has held hearings and written letters to VA explaining how the Denver project and many others were tremendously over budget. The Committee's efforts were substantiated by an April 2013 Government Accountability Office (GAO) audit of four major construction projects, Denver among them. For its part, VA maintained these projects were not over budget, claiming that GAO was incorrect. It was not until the December 2014 Civilian Board of Contract Appeals (CBCA) decision that VA attempted to take any ownership of its construction problems. But even after that decision, VA made no attempt to discipline former construction chief Glenn Haggstrom, who later retired with full benefits. Additionally, VA waited until January 2015 to convene an investigation into what went wrong in Denver – a

review that until recently didn't even include a construction expert. Such missteps create the appearance the department is not treating the situation in Denver with the seriousness it warrants.

So far, the plans VA has put forth to deal with the Denver debacle are no different from what occurred last December, when VA recklessly obligated more than \$200 million to continue the project absent any concrete plan to complete it with available resources. In essence, VA's current plan is to continue to kick the can down the road and hope for the best. Frankly, there is no way that plan will end well for American taxpayers or more importantly, the veterans the Denver facility is intended to serve. Allow me now to address some of the problems I see with VA's proposed plan.

First, the total cost to build this facility has been estimated at \$1.73 billion. Assuming that deferring completion of three buildings removes approximately \$60 million from the cost, as you have stated during our discussions, that still leaves an estimated total price of \$1.67 billion. To pay that sum, VA says it can make \$1.050 billion available, taking into account the approximately \$900 million of appropriated and reprogrammed funds combined with VA's proposed rescission of \$150 million of 2015 funds. What's missing from this approach is how to fund the remaining \$620 million gap between the total price and funds available. Without a plan to match available funding with the hospital price tag, I see little chance a stop-gap proposal can be approved by the Congress.

Second, suspending the assumption that the \$150 million rescission of 2015 funds is acceptable to the House and Senate appropriations committees, VA makes little mention of where those funds would come from, what the specific impact would be on VA operations and care to veterans, and whether those funds are, in fact, needed elsewhere. For instance, VA has identified a shortfall of \$400 million for Hepatitis C medications this year.

Third, we have repeatedly called for the VA officials responsible for creating the Denver mess to be held accountable but, to date, not a single person has been fired for this blatant waste of taxpayer money. To be clear, having the head of VA construction retire with full benefits is not a form of discipline, so I look forward to hearing what specific employees VA will hold accountable and what their punishments will be. I would also expect some of these disciplinary actions to apply to the VA lawyers who urged department leaders to get involved in the legal quagmire before the CBCA. Until it lost on all counts before the CBCA, VA maintained its legal position to the end, even in the face of congressional scrutiny in the years leading up to the decision.

Fourth, an option that VA consistently ignores is to temporarily stop work on the project to reassess options moving forward. Admittedly, there will be a delay and some cost associated with the stoppage, but it would permit a detailed review of options for completion within an existing and re-prioritized budget, instead of the poorly designed stop-gap schemes VA has offered so far. This option was available to VA back in December after the first work stoppage, but rather than pausing to consult with Congress on a way forward, VA decision-makers unilaterally committed nearly a quarter of a billion more dollars.

Fifth, similar to the previous point, I must also remind you that there already is a hospital serving the area, and VA retains the ability to pay for non-VA care for veterans in need under VA's

existing budgetary authorities. As such, with or without this facility, veterans who need medical care in Denver will continue to receive it unless VA chooses otherwise.

Sixth, considering VA has found \$150 million in the last two weeks to re-prioritize toward the Denver project – even though VA officials previously said no additional funds were available – I call on you to commit to finding the remaining sums necessary within appropriated resources for this year and/or for 2016. If completing this project is a priority, then making tough decisions within a \$170 billion budget is the route you must take.

I understand this is likely not the message you were hoping to hear, but I think it is the message you need to hear. Congress has already authorized and appropriated \$800 million for the Denver project, and VA has found an additional \$99.8 million in appropriated dollars through internal reprogramming actions. VA's job was to build a hospital within a budget, and VA officials repeatedly testified before Congress that would be the case. Those assertions were patently false, yet the VA employees who peddled them have either retired with full benefits or remain firmly entrenched within VA's bureaucracy. VA has often called the situation in Denver "unacceptable." But, by vying for a bailout without presenting a viable plan for finishing the hospital, you are asking the American public to accept what you've already labeled unacceptable. This is a recipe for disaster that would be nearly impossible to support in good faith.

With all due respect, Mr. Secretary, go back to the drawing board. Come up with a plan that completes the hospital in a deficit neutral way without jeopardizing the benefits and services of other veterans and includes a final price tag and construction end date. Then, we can talk about the way forward in Denver.

I look forward to our continued discussion on how best to proceed with this project. If you have any questions, please contact Mr. Jon Towers, Majority Staff Director of the House Committee on Veterans' Affairs, at (202) 225-3527.

Sincerely,



JEFF MILLER
Chairman

JM/jh

cc: Corrine Brown, Ranking Member