

## NATIONAL VETERANS EMPLOYMENT & EDUCATION COMMISSION

### TOPIC 1: ECONOMY

#### U.S. JOBLESS CLAIMS EXTEND DECLINE TO NEW PANDEMIC LOW

Claims, a proxy for layoffs, edged lower to 406,000 in the week ended May 22, 2021



*Job seekers filling out applications during a job fair earlier this week in Tampa, Fla.*

*Photo: Octavio Jones/Getty Images*

Worker filings for jobless benefits fell again to a fresh pandemic low, extending a steady downward trend and adding to signs of a healing labor market as the economy opens more fully.

Initial unemployment claims for regular state programs, a proxy for layoffs, fell last week to 406,000 from 444,000 the prior week, the Labor Department said Thursday. That level represents the lowest levels of claims since the coronavirus pandemic's onset last year, and the fourth consecutive week, claims have reached a new pandemic low. Economists surveyed by The Wall Street Journal had forecast there were 425,000 new claims last week.

Separately, the Commerce Department reported that orders for durable goods—items designed to last at least three years—fell 1.3% in April, and U.S. gross domestic product in the first quarter grew at a 6.4% seasonally-adjusted annual rate, the same as initially estimated.

Taken together, the data point to a labor market that is gaining strength as Covid-19 cases steadily decrease, more Americans receive vaccines against the virus, and governments ease restrictions on businesses, although the broader economic recovery remains uneven.

“I think there’s still a lot of pain out there, but the good news is that it really looks like the economy is kicking into overdrive, and I do see positive signs for the job market,” said Beth Ann Bovino, chief U.S. economist at S&P Global Ratings.

Dr. Bovino noted that U.S. employment overall is down by more than eight million jobs compared with pre-pandemic levels. Meanwhile, initial jobless claims remain higher than before the pandemic. The number of Americans continuing to receive unemployment benefits through regular state programs fell in the week ended May 15, after rising the previous week.

As of early May, nearly 16 million Americans were continuing to claim benefits through all unemployment programs, including special programs designed to support workers through the pandemic. Some businesses and Republican lawmakers have recently expressed rising concern that one of those programs, which provides benefit recipients with a \$300 federal supplement, may be constraining employers’ ability to hire workers.

Surveys suggest the benefits are among several reasons many workers remain out of the job market, despite continued high unemployment. Other reasons include fears of contracting Covid-19, schools remaining closed or only partially reopened, and lack of skills needed for the available positions. The Labor Department reported employers added just 266,000 jobs last month, compared with the one million economists had expected.

Tim Bridges, owner of The Cleaning Authority in Troy, Mich., said demand for his company’s services has been picking up recently. He hasn’t been able to take on new customers quickly because of limited staff.

The company offers home-cleaning services, and new customers currently are waiting four to six weeks to begin appointments, compared with a one- or two-week wait pre-pandemic, Mr. Bridges said.

He said some workers who have turned down his job offers cited enhanced unemployment benefits. Mr. Bridges last year raised the company’s starting wage to \$15 an hour, and he said he recently changed company policies to offer staff more flexible schedules in an attempt to attract additional workers. He said he has hired five new workers over roughly the past two months, bringing his total number of staff to 28, but is still looking for more.

“It’s a more competitive marketplace to find employees. We’re doing everything we can,” he said.

Stephen Stanley, chief economist at Amherst Pierpont Securities, said constraints on the supply of labor should ease as enhanced unemployment benefits end—with some states soon phasing them out and with the program overall set to expire in early September—and as more people become vaccinated and schools reopen, potentially alleviating some Americans’ lingering health and child-care concerns.

“I think more and more people will get out there and search for jobs and that should help both alleviate stress in the job market and accelerate the pace of reported job gains,” he said.

Supply-chain disruptions are likely also limiting companies’ ability to hire, said Robert Frick, corporate economist at Navy Federal Credit Union. He said employers must also adjust to a hiring landscape that is fundamentally altered because many workers’ preferences and habits have changed over the course of the pandemic.

“When something crashes in the economy, it’s going to be built back differently. Right now, we’re in the process of figuring out what’s the same and what’s different,” Mr. Frick said. “People are figuring out, ‘Is my job gone for good?’ and may also be thinking, ‘Do I want to go back to my job?’”

HOUSEHOLD DATA						
Table A-5. Employment status of the civilian population 18 years and over by veteran status, period of service, and sex, not seasonally adjusted						
[Numbers in thousands]						
Employment status, veteran status, and period of service	Total		Men		Women	
	April 2020	April 2021	April 2020	April 2021	April 2020	April 2021
Unemployed	1,050	480	898	430	152	51
Unemployment rate	11.7	5.2	11.4	5.4	14.0	4.4

*The national unemployment rate is 6.1 percent (April 2021). Gulf War II veterans' unemployment rate is 5.1 percent. Currently, Gulf War II women veterans' unemployment rate is 5.7 percent (no change from February).*

In April 2021, the veteran unemployment rate was **4.6%**. The comparable non-veteran unemployment rate was **6.0%** in April.

## TOPIC 2: VIRTUAL MEETINGS & CONFERENCE CALLS

**On Monday, May 24**, the National Veterans Employment and Education Division had a conference call with National Association of State Approving Agencies (NASAA), EDCounsel, and Pilot State Approving Agencies (SAAs) on the Risk Based Survey (RBS) project; discussion of status, challenges and problems faced due to lingering Covid effects and beginning of evaluation and further preparation for national rollout.

**On Monday, May 24**, the National Veterans Employment and Education Division had a conference call with American Military University on potential collaborations in the future regarding potential scholarships and contributions to The American Legion.

**On Monday, May 24**, the National Veterans Employment and Education Division met with Student Veterans of America and VFW to discuss executive action related to the 90-10 rule. SVA is interested in setting up a meeting with the White House’s Domestic Policy Council to discuss additional actions that can be taken to expedite the enforcement of the closed loophole.

**On Tuesday, May 25**, the National Veterans Employment and Education Division met with American Military University to follow-up on the university’s interest in donating to The American Legion. AMU expressed interest in donating \$25,000 to The American Legion National Headquarters as well as up to 5 scholarships. AMU requested a response by the end of the week;

however VE&E was unsuccessful in connecting AMU to the Legion's Corporate Development team.

***On Tuesday, May 25,*** the National Veterans Employment and Education Division met with student interest groups and the NAACP to discuss recent Department of Education rulemaking actions. ED has announced public hearings on June 19th and June 24th to take public comment on borrower defense and gainful employment regulations.

***On Tuesday, May 25,*** the National Veterans Employment and Education Division continued to work with Enlisted Association of National Guard over GI Bill parity issues.

***On Wednesday, May 26,*** the National Veterans Employment and Education Division attended a VA Committee on Education Subcommittee on Distance Learning planning and next steps for the committee.

***On Wednesday, May 26,*** the National Veterans Employment and Education Division is drafting a letter to the White House and white paper for Congress in regards to the Troops to Teachers program.

***On Wednesday, May 26,*** the National Veterans Employment and Education Division had a conversation with House Veterans Affairs Committee (HVAC) staff on pending legislation and assistance with question on benefits.

***On Thursday, May 27,*** the National Veterans Employment and Education Division had a conversation with RBS Project Manager Woodall on the status of RBS pilot and the next steps for same.

***On Thursday, May 27,*** the National Veterans Employment and Education Division participated in a virtual Risk Based Survey (RBS) for the Virginia State Approving Agency (SAA); Also, further researched on higher education oversight.

***On Friday, May 28,*** the National Veterans Employment and Education Division attended a meeting with EdCounsel, Lumina Risk Based Survey Executive Team to discuss Risk Based Survey project, Pilot wrap up and next steps. Also, continued research on quality oversight of institutions.

***On Friday, May 28,*** the National Veterans Employment and Education Division followed up with Senator Testor to discuss VA USB position. Also, had a conversation with Department of Defense (DOD), National Association of State Approving Agencies (NASAA) and Education Counsel on Risk Based Survey (RBS) model; DOD continues to consider adoption of the RBS model.

***On Friday, May 28,*** the National Veterans Employment and Education Division met with representatives from American Military University (AMU). AMU is interested in donating funds towards the American Legion and potential sponsorship options for the National Convention.

## **GLOSSARY OF FREQUENTLY USED ABBREVIATIONS**

ACE: American Council on Education

ACP: American Corporate Partners, a veteran's support organization

ATLAS: Accessing Telehealth through Local Area Stations, a V.A. telehealth initiative

BLS: Labor Department's Bureau of Labor Statistics

C&P: V.A.'s Compensation and Pension exam  
CAVC: Court of Appeals for Veterans Claims  
CCME: Council of College and Military Educators  
COLA: Cost-of-living adjustment  
CSAAVE: California State Approving Agency for Veterans Education  
DIMO: Defense Security Cooperation Agency/Defense Institute for Medical Operations  
DOD: Department of Defense  
DOL-VETS: Department of Labor, Veterans Employment and Training Services  
EdCounsel: Higher education consulting firm  
EIDL program. SBA's Economic Injury Disaster Loans  
EIDL: Economic Injury Disaster Loan  
GAO: Government Accountability Office  
GPD: V.A.'s Grant and Per Diem Program for homeless veterans  
GWB: George W. Bush Higher Education Policy Work Group  
HEROES ACT of 2003: Higher Education Relief Opportunities for Students Act of 2003. Grants the Secretary of Education the authority to waive requirements that impede military borrowers' access to critical repayment protection during the war, military operation, or national emergency.  
HVAC: House Veterans Affairs Committee  
MCAI: American Legion's Military Credentialing Advancement Initiative  
MSLP: The Federal Reserve's Main Street Lending Program  
MSO: Military Support Organization  
NAICU: National Association of Independent Colleges & Universities  
NASAA: National Association of State Approving Agencies. Responsible for approving school funding for GI Bill  
NAVPA: National Association of Veterans Program Administrators  
NCA: V.A.'s National Cemetery Administration  
NDAA: National Defense Authorization Act  
NLD: American Legion's National Legislative Division  
OPM: Office of Personnel Management  
PPP: Paycheck Protection Program  
RBS: Risk-Based Survey Model  
RPIC: Rural Placemaking Innovation Challenge  
S2S: Service to School, a veteran's organization  
SAA: State Approving Agency, responsible for approving school funding for GI Bill  
SBA: Small Business Administration  
STEM: Science, Technology, Engineering, Medical  
SVA: Student Veterans of America, a veteran's organization  
SVAC Senate Veterans Affairs Committee  
TAPS: Transition Assistance Program for Survivors, a nonprofit for Gold Star Families  
TEAM Act: Senate Bill 4393, to improve the provision of health care for veterans who were exposed to toxic substances from burn pits  
TFA: American Legion's Temporary Financial Assistance program  
USAID: United States Agency for International Development  
USDA: United States Department of Agriculture  
USERRA: Uniformed Services Employment and Reemployment Rights Act  
VA&R: American Legion's Veterans Affairs and Rehabilitation Division  
VACO: Veterans Affairs Central Office  
VBA: V.A.'s Veterans Benefits Administration  
VE&E: Veterans Employment and Education Division  
VES: Veterans Education Success, a veteran's organization  
VSO: Veterans Service Organization

### TOPIC 3a: TRACKING LEGISLATION

**Recognizing Military Service in Public Service Loan Forgiveness (PSLF) Act:** Would allow service members who pause their student loan payments while deployed or on extended active duty orders to count that period of time toward their PSLF progress – which is currently not allowed.

**Status: Expected to be introduced within a month**

**H.R.1836 - Guard and Reserve GI Bill Parity Act of 2021:** Would expand eligibility for the Post-9/11 GI Bill to count every day that a servicemember is paid and in uniform toward benefit eligibility in order to achieve GI Bill parity for National Guard and Reserve members.

**Student Veterans Transparency and Protection Act:** Would improve veterans' access to information about higher education and allow the Department of Veterans Affairs (VA) to restore benefits that veterans use at schools subject to civil enforcement.

**GI Bill Repair Act of 2020:** To extend to black veterans of World War II, their surviving spouses, and direct descendants' eligibility for specific housing and educational assistance programs administered by the Secretary of Veterans Affairs

[Resolution No.: None on file](#)

**Status: Currently on hold, has not been introduced**

**Homeless Veteran Coronavirus Response Act:** The bill allows V.A. to use existing funds for a broader range of services; authorizes the Department to collaborate with outside organizations to facilitate shelters on its properties; loosens restrictions on Grant and Per Diem (GPD) payments and requires V.A. to ensure veterans participating in V.A. homeless programs have access to V.A. telehealth services.

[Resolution No. 326: Support Funding for Additional Housing for Homeless Veterans with Families](#)

**H.R.492:** To amend title 38, United States Code, make permanent the Secretary of Veterans Affairs's authority to provide financial assistance for supportive services for very low-income veteran families in permanent housing.

[Resolution No. 340: Support Permanent Authorization for the Supportive Services for Veteran Families \(SSVF\) Program](#)

**HR 1615:** The American Legion supports legislation that would streamline and improve the verification process for veteran-owned small businesses and veteran-owned small businesses.

**Status: Passed House Vote, received in the Senate, and referred to the Committee on Veterans Affairs. It did not pass by the end of the 116<sup>th</sup> Session, will need to be reintroduced.**

**HR 2224:** To direct the Secretary of Labor to prioritize services to homeless veterans with dependent children in carrying out homeless veterans' reintegration programs and for other purposes.

**Status: Did not pass by the end of the 116<sup>th</sup> Session.**

**HR 1196, Jobs for Veterans Act of 2019:** This bill allows an increased work opportunity tax credit for employers who hire veterans who have been certified as discharged or released from active duty

in the Armed Forces after September 11, 2001, and who begin working for the employer after December 31, 2019, and before January 1, 2024. This increased credit is in addition to any work opportunity tax credit allowed to a veteran with a service-connected disability.

[Resolution No. 354: Work Opportunity Tax Credit Program](#)

**HR 7010, Paycheck Protection Program Flexibility Act of 2020:** This bill significantly changes the PPP loans' terms to be more advantageous to small businesses. Including more flexibility in applying the loan to other expenses besides payroll and benefits and extending the time frame for expending the loan.

**Status: Became Public Law No: 116-142.**

**HR 4625:** To require education programs to be approved by the V.A. to abide by the Principles of Excellence to include a ban on deceptive or misleading recruiting, clear information about total costs and program requirements, accommodation for deployments, ensuring a point of contact for veterans, and not being under a punitive action by an accreditor.

[Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education](#)

**Status: Became Public Law No: 116-315**

**HR 6957:** To direct the Secretaries of Defense and Veterans Affairs to treat a period of full-time National Guard duty, performed in response to the national emergency declared on March 13, 2020, by the President concerning COVID-19, as not shorter than 90 days.

[Resolution No.: Currently studying for appropriate resolution.](#)

**HR 4920, Department of Veterans Affairs Contracting Preference Consistency Act of 2020:** This is a bill that would allow AbilityOne companies to keep their preferential treatment at the Department of Veteran Affairs after 2016 with some compromises. The Senate initially sent it back to the House after it was passed for changes. Those changes have been reconciled, and the bill cleared its last hurdle before it is sent to the White House.

**S. 2594:** To amend title 5, United States Code, to modify specific requirements concerning service and retirement for veterans' Preference for federal hiring.

### TOPIC 3b: ACTION TAKEN ON LEGISLATION

**Building Credit Access for Veterans Act:** A bill to require the Secretary of Veterans Affairs to carry out a pilot program to establish an automated process for obtaining alternative credit rating information and other purposes.

**Status: Draft Bill / Letter of Support submitted on October 13**

**HR 8426: Protecting Apprenticeship Training for Veterans Act:** Currently, veterans must meet a minimum number of apprenticeship hours to receive their Housing Allowance. Due to pandemic work shortages, veterans in those programs now face a reduction or suspension in their stipend. This would allow veteran apprentices who were laid off to roll over excess hours from a previous month to meet the hourly requirement.

[Resolution: Resolution No. 25: Support and Expand Apprenticeship Opportunities for Servicemembers](#)

**Status: Letter of Support drafted**

**HR 4941, Veteran Employment Transition Act” or the “VET Act”:** Was sponsored by Representative Andy Kim. The bill's last action was in the House on 12/02/2019; it was referred to the Subcommittee on Economic Opportunity. The bill's goal is to improve the Transition Assistance



Program. The bill would allow certain veterans' service organizations to contact veterans regarding benefits and better inform veterans of employment opportunities. The Service groups would inform veterans of the benefits and employment opportunities with the Federal, State, and local governments. The groups inform veterans of events in the area.

[Resolution No. 70: Improve Transition Assistance Program](#)

**Status: Letter of Support submitted**

**HR 7003:** Is a bill sponsored by Rep. Takano, Mark D-CA-41, and was introduced 05/22/2020. The bill would authorize a pilot program in the Department of Defense to enhance efforts to provide job placement assistance and related employment services directly to the National Guard, Reserves, and veterans of the Armed Forces. The last action on the bill was 05/22/2020 and referred to the Committee on Armed Services.

[Resolution No. 81: Transition Assistance Program Employment Workshops for National Guard and Reserve Members](#)

**Status: Pending Letter of Support**

**Draft Bill:** Veterans Educational Assistance Transparency and Accountability Improvement Act, improve the G.I. Bill Comparison Tool ensures veterans, servicemembers, and their families are better informed when choosing what educational institution is best for them.

**Status: Letter of Support submitted**

**H.R. 711, West Los Angeles VA Campus Improvement Act of 2021:** This legislation would direct the Department of Veterans Affairs (VA) West Los Angeles Medical Center campus to use revenues from leases and easements as a dedicated funding source to build additional housing for homeless veterans, offset the high costs of housing construction, and help fund the provision of supportive services for veterans in the community.

[Resolution No. 141: Department of Veterans Affairs Enhanced-Use Leasing](#)

**Status: This bill was submitted for the April 21, 2021 testimony.**

**H.R. 2082, VA Supply Chain Resiliency Act:** To make certain improvements relating to the supply chain of the Department of Veterans Affairs, and for other purposes.

[Resolution No. 13: Support "Buy American" Policy within the Federal Government to Create Opportunities for Veterans](#)

**Status: This bill was submitted for the April 21, 2021 testimony.**

## **TOPIC 4a: EMPLOYMENT**

An employment program for veterans that began in the days after 9/11 paid off last year when the COVID-19 pandemic rattled employment for vets across the country, an advocate told House lawmakers Wednesday.

"Communities in Arizona are no different than communities across the United States. We have seen the significant impact of the pandemic on service members, veterans, and their families," said Thomas Winkel, director of the Arizona Coalition for Military Families.

What is different in Arizona, Winkel said, is that public and private organizations have been working together for years now to establish "a robust and sustainable effort to assist veterans with securing meaningful employment."

Winkel was part of a panel testifying at a House Veterans' Affairs Committee hearing on veteran employment during the pandemic.



Like all other sectors, veteran unemployment rose sharply in 2020 – although it continued to be lower than jobless for the general population nationally. But witnesses said there is still room for improvement in government programs that are supposed to help soldiers transition from military to civilian life.



*Veterans as a whole are more likely to be employed and often in better jobs than the general population, government reports show. But even veteran joblessness rose during the COVID-19 pandemic shutdown, bringing calls for improved programs for transitioning to civilian life.*

*Photo: Capt. Jamie Padgett, Sgt. John L. Carkeet IV, 143d ESC/Creative Commons*

Chris Thorne, co-chair of the Military Affairs Advisory Council at the North San Diego Business Chamber, said employers are eager to hire vets; often enough, however, the transition process “does not adequately prepare transitioning service members for what comes next.”

“To put it quite simply, transitioning service members are walking into a foreign culture that speaks different languages, acts different ways and values different outcomes,” Thorne said in his written testimony. It’s not enough

to merely identify a job that requires a skill set learned in the military, he said.

The unemployment rate for veterans nationally jumped from an average of 3.1% in 2019 – with rates as low as 2.9% at one point during the year – to 6.5% over the course of 2020. Witnesses said the national veteran jobless rate got as high as 11.7% at the height of the pandemic.

Still, veterans did better than the overall workforce in those years. The Bureau of Labor Statistics said average unemployment rose from 3.6% for the general labor force in 2019 to 8.0% last year. But better national averages did not mean some vets were not suffering, Winkel said.

“Unemployment, underemployment and reduced hours have resulted in increases in food insecurity, as well as requests for assistance with housing, utilities, transportation and other essential needs,” he said.

## **TOPIC 4b: EMPLOYMENT**

### **COURT TAKES BROAD VIEW OF USERRA PROTECTIONS**

A federal appeals court has taken a broader view of federal workplace protections for veterans than was advocated by one of the military services, the Navy, in a dispute with an employee over his non-selection for a position he was seeking.

In case No. 19-1205, the Court of Appeals for the Federal Circuit overturned an MSPB decision in a case turning on the scope of protections under the Uniformed Services Employment and

Reemployment Rights Act, which bars personnel actions against current federal employees or job seekers because of their current or past military service.

The MSPB had found that the employee was the more highly qualified of the two who were considered for the vacancy and that a hiring official's "animus" toward his prior military service as a cook and chief petty officer—as below the level of responsibility the new position required—"was a motivating or substantial factor" in passing over him to hire the other candidate. However, the MSPB found that the other candidate would have been hired in any case.



*Yokosuka, Japan - March 2017: Sailors assigned to forward-deployed aircraft carrier, USS Ronald Reagan (CVN 76), prepare for a petty officer second class advancement exam at James D. Kelly Fleet Recreation Center. The court stressed that the USERRA law broadly protects individuals against negative employment decisions arising from their "performance of service" in the armed forces and makes no distinctions about rank.*

The court said there was conflicting evidence of whether the other candidate had been pre-selected for the position but that regardless, "When an employer couples unlawful discrimination with preselection to foreclose an applicant's access to employment, the employer cannot disentangle the discrimination from actions that would otherwise constitute benign preselection."

The Navy argued that USERRA does not extend to acts of discrimination against a service member based on military rank or status in the uniformed services. But the court stressed that the USERRA law broadly protects individuals against negative employment decisions arising from their "performance of service" in the armed forces and makes no distinctions about rank.

"An individual's commitment and obligation to, for example, provide health care (nurse), fly aircraft during armed conflict (fighter pilot), write legal briefs (Judge Advocate General's officer), or even cook meals for fellow service members ought not to diminish the significant contributions of that person's service in the armed forces" for purposes of the law's protections, it said.

The American Legion supports and urges Congress to adopt and enforce the provisions as outlined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) as well as the amending and strengthening of USERRA to ensure that National Guard and reservists receive the employment and reemployment rights afforded to them through their dedicated service to the country and as required under law as found in our ***Resolution No. 85: Support Employment and Reemployment Rights of National Guard and Reservists Returning from Deployment***

## **TOPIC 5a: EDUCATION**

The National Veterans Employment & Education Division is currently exploring what appears to be a severe loophole that deprives National Guard servicemembers of earned education benefits that requires congressional action to fix.

In 2011, an Ohio National Guard servicemember, SSG Owen (name changed to protect PII) deployed to Afghanistan and developed a severe lung condition that put him into a coma. He was released from Active Duty to his home station, underwent a medical evaluation board and was permanently medically retired.



When a servicemember suffers injury or illness in the line of duty that results in a medical discharge, our country provides them with 100% GI Bill entitlement. This is what SSG Owen was told, but when he applied to go to school the VA informed him that he did not earn 100%: VA would only award him the time he served on Active Duty up to his injury.

VE&E staff confronted VA about this decision, and they informed us that their hands were tied by statute: since SSG Owen was discharged from his National

Guard unit, it did not qualify as “Active Duty”. The exact statute defining 100% GI Bill entitlement, [Title 38 §3311\(b\)2a\(B\)](#), reads “*after completion of service described in subparagraph (A), is discharged or released **from active duty*** [Emphasis added] *in the Armed Forces for a service-connected disability.*”

VE&E shared the line-of-duty investigation that determined SSG Owens was evacuated from Afghanistan after developing Exercised Induced Anaphylaxis. VA said it didn’t matter.

VE&E shared the official Permanent Physical Disability Retirement paperwork from the Department of the Army finding his condition “duty-related”. VA said it didn’t matter.

Finally, VE&E shared his official NGB Form 22, which lists his discharge as “Placement on permanent disability retired list”. VA again said it did not matter.

Since SSG Owens was released from Active Duty (REFRAD) to his homestation and then subsequently discharged on National Guard status, he did not meet the VA’s standard for 100% GI Bill eligibility.

The ramifications and inequity of this is significant for our National Guard servicemembers. As a case in point, a National Guard servicemember suffers a back injury on deployment. After undergoing an evaluation, he is at a crossroads that he is likely not aware of: if he goes through with a Medical Evaluation Board and receive a medical discharge, he is placed on a medical retirement list and receives 100% GI Bill eligibility. However if he decides to tough it out, he may complete the deployment, and then back on National Guard status recognizes that the injury is too debilitating to continue serving. He undergoes the same standard medical evaluation board, is discharged on the same permanent retirement list, but since his discharge form is an NGB-22 instead of a DD214, he completely misses out on his GI Bill eligibility, and is likely only awarded the service time up to the injury.



Is this something that the National Guard makes its soldiers aware of? In SSG Owen's case, his chain of command led him into believing the opposite, that he had 100% GI Bill eligibility. VE&E does not prescribe this error to malicious intent; battalion-level transition counselors may not be aware of all the complexities related to Title 38 statutes.

But we might as well say the quiet part out loud: the National Guard writ-large has a vested interest for readiness and retention in keeping this fact quiet. If National Guardsmen knew they would be forsaking their GI Bill eligibility by "toughing out" injuries and illnesses on Active Duty, they would have to reconsider their commitment to serving.

And they have every right to. VE&E will continue to investigate statutory solutions to address this.

## TOPIC 5b: EDUCATION



The U.S. Department of Education's Office of Postsecondary Education announced today that it will hold virtual public hearings on June 21, 23, and 24 to receive stakeholder feedback on potential issues for future rulemaking sessions.

These issues include borrower defense to repayment for students harmed by their colleges'

misleading practices and gainful employment requirements to protect students and taxpayers from poor-performing programs. They also include loan repayment and improving the rules governing targeted student loan cancellation authorities for borrowers engaged in public service, with disabilities, or whose institutions close, among other topics.

This process of issuing new regulations reflects the Department's commitment to serving students and borrowers well and protecting them from harmful programs and practices that may derail their postsecondary and career goals.

"The Department of Education's primary responsibility is to serve students and borrowers," said Education Secretary Miguel Cardona. "That means taking a fresh look at a range of regulations to make sure they are not creating unnecessary barriers, but instead can ensure that institutions and programs serve our students well."

The Department is interested in comments on regulations that would address gaps in postsecondary outcomes, such as retention, completion, student loan repayment, and loan default. Specific consideration to disparate impacts by income, race/ethnicity, gender, and other demographic characteristics is encouraged.

Today's announcement is the first step in the process of issuing new regulations. Following the public hearings, the Department will solicit nominations for non-federal negotiators who can serve on the negotiated rulemaking committees, which will convene in late summer 2021.

The Department suggests the following topics for regulation in the hearing notice but invites comment on any regulatory issue that that can improve outcomes for students, especially borrowers. Potential topics may include:

- Ability to benefit
- Borrower defense to repayment
- Certification procedures for participation in federal financial aid programs
- Change of ownership and change in control of institutions of higher education
- Closed school discharges
- Discharges for borrowers with a total and permanent disability
- Discharges for false certification of student eligibility
- Financial responsibility for participating institutions of higher education, such as events that indicate heightened financial risk
- Gainful employment
- Income-contingent loan repayment plans
- Mandatory pre-dispute arbitration and prohibition of class action lawsuits provisions in institutions' enrollment agreements/li>
- Pell Grant eligibility for prison education programs
- Public service loan forgiveness
- Standards of administrative capability

The Department is aware of likely stakeholder interest in regulations in response to the Fiscal Year 2020 appropriations bill, which made changes to the 90/10 rule to require that private for-profit institutions derive at least 10 percent of their revenue from non-federal sources like the Department's federal financial aid programs and benefits for veterans and military servicemembers. By law, the Department may not begin regulatory activity on this provision until October 1, 2021.

The hearings will be held from 10:00 AM – 12:00 PM and 2:00 PM – 4:00 PM (EST) on June 21, 23, and 24. Individuals who would like to make comments at the public hearings must register by sending an email message to [negreghearing@ed.gov](mailto:negreghearing@ed.gov) no later than 12:00 PM (EST) on the business day prior to the public hearing at which they wish to speak. The message should include the name and email address of the speaker, the general topic(s) to be addressed, and at least two dates and times during which the individual would be available to speak.

The Department will attempt to accommodate each speaker's scheduling preference; however, if we are unable to do so, determinations will be made on a first- come first-served basis, based on the registration submission time and date. Participant's comments will be limited to three-to-five minutes. Individuals who wish to view the hearings without providing comment must [register](#) for each day they wish to observe.

Further information on the public hearings is available [here](#). More on the negotiated rulemaking process is available [here](#).

The American Legion supports oversight and legislation evaluating post-secondary education institutions on quality factors, such as, but not limited to, accreditation, transferability, cost, graduation rates, and acceptance in the job market as well as improving, but not limited to, the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage as found in our ***Resolution No. 327: Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education***

***Choices and Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education.***

**TOPIC 6: VETERAN HOUSING AND HOMELESSNESS**

The Department of Veterans Affairs is intensifying efforts to end veteran homelessness after three



years of no progress. But it could soon be overwhelmed by a tsunami of need as the full effects of a year-long pandemic and ending a moratorium on evictions become clear.

*The Department of Veterans Affairs is intensifying efforts to end veteran homelessness after three years of no progress.  
Photo: Debbie Helbing/Getty Images*

While no complete count has been made of the homeless population this year, Department of Housing and Urban Development Secretary Marcia Fudge said in a March statement that her department's 2020 report of 37,250 homeless veterans was "devastating" enough.

"We know the pandemic has only made the homelessness crisis worse," she added.

Fudge and VA Secretary Denis McDonough pledged improvements in the HUD-Veterans Affairs Supportive Housing, or HUD-VASH, program to provide vouchers for rental assistance and case management from the VA for homeless veterans.

More than 104,900 vouchers were issued between 2008 and 2019, according to HUD, but the program has been limited by the time-consuming process of verifying veterans' status and then determining their eligibility for the vouchers.

In a joint statement issued April 12, McDonough and Fudge said that one of their "new approaches to serving veterans for whom prior efforts may have fallen short" will be to expand voucher eligibility to those with less-than-honorable discharges and speed the process with a new digitized system.

The secretaries also made a markedly candid admission about the failure of their efforts to date, saying "progress towards ending veteran homelessness has stalled" despite the work of multiple federal agencies, cities, states and more than 1,200 nonprofits since 2010. It's a far cry from the confidence with which then-President Barack Obama and VA Secretary Eric Shinseki announced in 2009 they planned to end veterans homelessness entirely by 2015.

The question remains: Will new efforts make a difference in light of a homelessness epidemic expected to balloon as the pandemic ends?

An annual survey overseen by HUD estimated there were 37,000-plus homeless veterans, out of a total homeless population of about 580,000, each year from 2018 to 2020. The 2021 survey was cut short by pandemic restrictions.

HUD estimates that 37,878 veterans were either living on the streets or in emergency shelters in 2018; 37,085 in 2019; and 37,252 in 2020.

The VA and HUD secretaries also pointedly noted that the 37,000-plus figure "does not account for the impact of the COVID-19 pandemic, which has added to the nation's housing challenges."

Veterans who have experienced homelessness told Military.com that getting off the streets and into permanent housing is a long-lasting struggle that requires personal resolve and a range of support services to get past the panhandling and dumpster diving that many use to survive.

Former Air Force Sgt. Keven Kinsey and former Marine Corps Cpl. Jeff Stout count themselves among the lucky ones who got off the street before the pandemic hit.

Kinsey had scrounged a tent and was living in a Los Angeles alleyway, where police mainly gave him a pass as a harmless alcoholic.

"Nobody wanted to deal with 'Drunk Kevin' [as he was known on the street]. He was a fool," Kinsey said of his former self.

In Rochester, New York, drugs took over Stout's life. Bad problems that began in the service led to surgeries, job loss, a failed marriage and then what he called a "downward spiral" from painkillers to heroin and cocaine use.

He lived where he could. "Sometimes under a bridge; sometimes in somebody's car. Sometimes, somebody let me spend the night someplace. Just poppin' all over the place, man," he said.

Kinsey and Stout were among several current or formerly homeless veterans who spoke to Military.com on the homeless veteran issue -- which three previous administrations and now the Biden administration have pledged to eliminate. Some gave their full names, while others spoke on a first name-only basis.

Both Kinsey and Stout eventually kicked their drug habits and got off the street with some help before the pandemic took hold in early 2020. It brought on an economic downturn that officials and advocacy groups fear has led to a major surge in homelessness nationwide, although there currently are no reliable estimates on the scope of the problem.

However, the VA signaled in May 2020 just how bad the situation had become during the pandemic by issuing a plea for public donations to assist homeless veterans.

Despite its own budget of more than \$240 billion, the department asked the public to write checks, donate food and contribute mobile phones to help homeless veterans and those at risk of eviction during the pandemic.

Then-VA Secretary Robert Wilkie said, "These donations can make a critical difference in the department's ability to protect and serve vulnerable veterans during this public health emergency."



## HOUSING FIRST, EVERYTHING ELSE LATER

In their April 12 statement, McDonough and Fudge announced a series of initiatives to tackle veteran homelessness, with an emphasis on a "Housing First" policy to move vets into apartments or shelters quickly and deal later with the underlying issues of unemployment, addiction and mental health through supportive services.



The \$1.9 trillion COVID relief package, known as the American Rescue Plan, signed into law by President Joe Biden on March 12 includes \$10 billion in funding for the homeless or those at risk of homelessness, they said.

Biden's proposed American Jobs Plan "would invest \$213 billion to produce, preserve, and retrofit more than two million affordable homes," the secretaries said, although passage of the bill is problematic in a deeply divided Congress.

Even if the money becomes available, the Government Accountability Office, or GAO, has warned that the VA may lack the continuing supportive services necessary to keep veterans housed and to overcome the reluctance of landlords to rent to those who may have addiction or mental health issues.

In a May 2020 report, the GAO said, "Shortages in VA case managers may limit the number of veterans they are able to serve. ... High housing costs and limited stock make it difficult to find affordable housing for homeless veterans."

HUD attempted again this year to get a grasp on the scope of the homeless problem through its Annual Homeless Assessment Report, a point-in-time survey conducted each January mainly by volunteers and community groups, but the effort was severely limited by the pandemic. A number of cities, including New York and San Francisco, declined to participate because of COVID-19 restrictions.

As a result, HUD and the VA have no reliable current estimates or projections on the number of homeless veterans, or a breakdown on those counted as "sheltered" and "unsheltered."

The agencies classify sheltered veterans as those living in emergency shelters provided by cities and community groups, while the unsheltered are in places "not fit for human habitation," such as cars, parks, sidewalks, abandoned buildings or the squalid tent cities that pop up nationwide.

"HUD does not have projections on the impact of COVID-19 on veteran homelessness at this time," a HUD spokesperson said in a May 10 statement to Military.com. The lack of data is more pronounced for unsheltered veterans.

In the statement, a HUD spokesperson said, "We don't have good data on the number of veterans who have not been served by HUD-VASH due to discharge status" in the past. Last year, Congress expanded HUD rental voucher eligibility to those with other-than-honorable discharges.

Only about one-third of the communities that normally participate in annual assessment "conducted some form of an unsheltered count" this year because of COVID safety concerns, the HUD statement said.

### **A LOOMING EVICTIONS CRISIS**

Christine Pietryga, chief operating officer of Pittsburgh-area nonprofit Veterans Leadership Program, said the organization had seen "something of a surge" in evictions during the pandemic despite the federal eviction moratorium enacted by the Centers of Disease Control and Prevention.

"We try to be proactive in getting [veterans] up-to-date on rent," she said. But some individuals "have fallen significantly behind on rent during COVID."

Landlords currently are restricted from giving eviction notices to those who have fallen behind on rent, Pietryga said. But there is concern that evictions will skyrocket with the moratorium due to expire June 30.

In a May 5 ruling on a lawsuit brought by landlords from several states, Judge Dabney Friedrich in federal district court in the District of Columbia vacated the CDC's moratorium order on May 5. The CDC's administrative action exceeded its authority, she said in her ruling.

"The question for the court is a narrow one: Does the Public Health Service Act grant the CDC the legal authority to impose a nationwide eviction moratorium? It does not," Friedrich said.

On May 14, Friedrich stayed her ruling to allow for an appeal, but the prospect still looms that millions of Americans nationwide who have fallen behind on their rent could face eviction. Two vets helped by the Veterans Leadership Program could be among them.

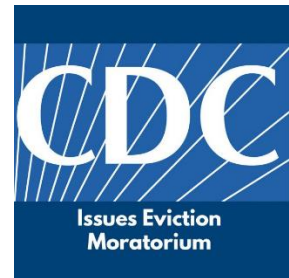
Former Army Spc. 4 Gerald, from a small town north of Philadelphia, met the demanding standards of the service's "Old Guard," the 3rd U.S. Infantry Regiment, during his time in the military. He said he was one of the sentinels assigned to guard the Tomb of the Unknown Soldier at Arlington National Cemetery, and also served in firing parties, casket carrying and flag foldings at funerals and at White House and Pentagon ceremonies.

"It was a high-pressure unit, with all the spit and shine and that," Gerald said. "I just couldn't take it anymore. I figured I'd do my time and then get out." But, he said, "I just didn't adjust to civilian life."

"I was living with my parents, drinking, taking Dilantin [an anticonvulsant]. I started blacking out," he recalled.

When one of the blackouts turned violent, "Mom called the staties on me," Gerald said, adding that he ended up serving 13 years in prison for aggravated assault and firearms possession.

When he got out in early 2020, "I thought, 'This is not the world I left behind.' This pandemic has screwed up everything," he said. He lived in a motel until he ran out of money but insisted that he was never on the street.



Gerald said he hooked up with the Veterans Leadership Program through a friend last November. Through VLP, he recently moved into an apartment with a roommate in Altoona, Pennsylvania, and said he is looking forward to "getting my life back together. I always look to the future."

Former Petty Officer 2nd Class William came to the VLP by a different route, which took him through several states after serving 10 years in the Navy, with deployments aboard the amphibious transport docks La Salle and Nashville, and the amphibious command ship Mount Whitney.

"I had thought about making [the Navy] a career, but life kinda got in the way," William said. He was married with a child while in the service. "They couldn't always deal with that, so I got out. I kinda wish I had stuck it out, but it wasn't in the cards."

He left the Navy in 1996, and then his marriage fell apart.

"I guess you could say I was homeless for probably four years. I wasn't on [the] street all those years, maybe staying here and there with family. But as far as a stable place to live -- nothing."

He said his main problem was "probably alcoholism, maybe PTSD a little bit."

"I ended up on the street, stayed in Norfolk [Virginia] for a while, moved to Maryland with my sister, moved to Florida for a little while, then Louisiana. Then moved to Pittsburgh in 1998," William said. "For a little while then, my Mom took me in, helped me get on my feet. [I] got an apartment on my own two years later." He landed a union job.

Then, his second marriage broke up about two years ago. "I guess you could say I found myself homeless again," William said. Then, he was laid off from his job when COVID hit.

His sister referred him to the VLP. He managed to find an apartment and get assistance from the HUD-VASH program.

"I didn't know those things existed," he said. "So technically, I wasn't homeless." HUD-VASH helped with utilities.

"They've been paying my rent, I think, going on five months now," William said. VLP aides also "dropped off some food a couple of times, boxes of food. They've been really helpful."

"I feel the homeless situation has gotten worse since COVID," he said. "We had the eviction moratorium, but some people fell through the cracks on that."

"I'm fortunate because I have a really compassionate landlord" and the assistance of the Veterans Leadership Program, William said. "I'm really not sure where I would be right now if it wasn't for that. I might be one of those people [out on the street again]. That could very well be my situation."

## **AN ACCURATE COUNT**

To speed the process, the VA has digitized its Status Query and Response System, or SQUARES, program for getting online information on a veteran's status and eligibility for vouchers and other benefits to the more than 1,200 authorized homeless service organizations nationwide who work with the VA and HUD.

Previously, the organizations had to go through a cumbersome paperwork process to establish the veteran's identity and eligibility for HUD-VASH and other benefits with the DD-214 form, the record of a service member's time in the military and discharge status.

The new system also takes the onus off the veteran for providing verification, said Monica Diaz, executive director of the Veterans Health Administration Homeless Program Office.

"It's a significant change," she said. Homeless veterans often will not have their DD-214 or other required paperwork, or know how to get it. But with the new system, providers can access the information directly, she explained.

"The veteran will not have to be carrying around the paperwork," Diaz said. "That's a big difference" in getting veterans the benefits and services they rate.



SQUARES has already won praise from organizations working with the VA and HUD to assist homeless veterans.

"This has really solved a big problem. This can let us know in minutes [the veteran's status and eligibility]," said Ken Leslie, founder of Veterans Matter, an organization that helps make up the difference when a veteran comes up short for rent or deposit.

### **HARD TIMES FROM NEW YORK TO LA**

"We're probably going to see a huge spike" in the number of homeless veterans when the eviction moratorium ends and unemployment benefits run out, said Laura Stradley, a former Army staff sergeant and executive director of the Veterans Outreach Center in Rochester, New York. "Our major concern is on the flip side of the moratorium."

She said an "odd phenomenon was at play" during the harsh winter months that helped keep homeless veterans off the streets.

Families tend to be more willing to allow relatives dealing with unemployment or mental health issues to stay with them in the winter, but they lose patience as the weather warms, Stradley said.

"We're kind of all bracing for this onslaught on needs that will be present that we may or may not be able to meet. It's going to be, I think, a pretty heavy lift," she said. "If we have an onslaught of people coming in that are in great need -- will we be able to provide that level of care and service to each person that comes in when the time comes? I mean, we'll do everything in our power to make that happen, but it's going to be a challenge."

Stout, the former Marine, has been staying at the Richards House shelter in Rochester, run by the Veterans Outreach Center, since he kicked the drug habit on his own after hitting bottom.

"I thought I was OK, but the drugs kept getting really bad to the point that I was done. That led me to the Richards House," Stout said. He now receives 80% disability pay from the VA and is looking forward to moving into an apartment on his own.

"That place saved my life, man, they really did," he said of the Richards House. The staff made him feel "like I wasn't out there all by myself. It's hard coming out of the service. I felt lost everywhere, like I just didn't connect with anything."

"People didn't understand, of course. How would they understand? Unless you've been in and gone through it, you don't get it," Stout said. "Richards House really helped." He said it made him realize "I'm not in this alone. I can't say enough about the staff there. They saved my life. I love those people."

The plight of the homeless in Rochester is mirrored in Washington, D.C., where even Federal Reserve Board Chairman Jerome Powell has taken notice of the tent cities that pop up around the District and has pledged to get involved.

Powell said he was stunned last month while driving to work past 30 to 40 tents that sprang up on the sidewalk near Federal Reserve headquarters off Constitution Avenue on the National Mall.

He later mentioned the homeless problem and what it might mean for the country's economic recovery in a "60 Minutes" interview and at an International Monetary Fund panel.

The tent city near the Federal Reserve was gone a few days after Powell took notice, but he said at an April 28 news conference on monetary policy that he planned to meet with the homeless.

"I have met with homeless people many times ... and I think it's always good to talk to people and hear what's going on in their lives," he said. "It's an important thing to engage in, and we bring that understanding into our lives and, frankly, into our work."

Across the country in Los Angeles, there's a federal district judge who goes a step further than Powell by meeting with the homeless at their encampments on the city's "Skid Row" and pressing the city and state to expand affordable housing programs through his rulings on lawsuits brought by advocacy groups.

The VA and HUD have been forced to desperate measures in California, where HUD estimates that one in four homeless veterans now resides.

On a visit to the West Los Angeles VA Medical Center in May 2019, then-VA Secretary Robert Wilkie watched in amazement as cars pulled into the parking lot on the facility's sprawling grounds to spend the night there with the permission of the hospital.

"It was the saddest sight I have ever seen," Wilkie said a year later in an address to the National Coalition of Homeless Veterans. "I watched at dusk cars come into that wonderful, wonderful facility, and veterans did not get out of the cars."

"I was told that they all had jobs. They were contributing to the tax base and the prosperity of America's second-largest city, but because of government policy, there was no place for them to afford a decent living," Wilkie said.

The West LA VAMC has since expanded its parking program to allow a tent city for veterans on the grounds. And it provides services aimed at getting them apartments in LA's tight housing market.

In a recent interview, Stephen Peck, president and CEO of the nonprofit U.S. Veterans Initiative, said about 40 to 50 veterans are living in tents on the grounds of the West LA VAMC. His group is leading efforts to build permanent housing for 1,600 veterans on the West LA VAMC grounds.

"We're part of the principal development team" for the permanent housing, said Peck, a former Marine lieutenant who served with an artillery unit in Vietnam.

"We started construction last September, [but] we don't know where all the money is coming from [to complete the project]," he added.

"We all expect a surge" in the number of homeless veterans from the pandemic and the end of the rent moratorium, Peck said.

Advocacy groups face an additional problem: Veterans can sometimes be choosy about where they'll agree to stay.

"Veterans don't want to come off the street into congregate living," Peck explained. "In transitional housing programs, there are two or three to a room. They don't want to do that. They're either staying out on the street or taking advantage of additional funding to be put in hotels."

Peck has been aided in his efforts by Kinsey, the former Air Force sergeant, who now works for the U.S. Veterans Initiative after kicking his alcoholism.

"You have to make the decision on what you want to do and stick to it. For me, I had to go cold turkey so I could start receiving some instructions on how to live," Kinsey said. "For me, my step was to stop using, do what those who I trusted told me to do, follow some instructions. Once I did that, I received employment." He said he worked at Kmart and then at a center for at-risk youth before coming to the U.S. Veterans Initiative.

One of his tasks now is to work with incarcerated veterans, he said.

"A lot of veterans are in county jails. A lot of veterans go to jail from homelessness, so we go down there and try to provide them with an opportunity to do something different when they get out of the situation they're in," Kinsey said. "We provide letters for courts. We have alcohol and drug programs if a guy has that issue. Then, we start working on housing goals and employment goals."

Both Kinsey and Peck lauded Judge David O. Carter for holding the city and state to account on addressing the homelessness issue.

"He's a no-nonsense guy," Peck said of Carter, a Vietnam veteran who earned a Bronze Star with combat "V" and a Purple Heart as lieutenant with the 1st Battalion, Ninth Marines, in the 1968 battle of Khe Sanh.

"[Carter] really feels this to his core. What he's doing is acting as the conscience of homeless people in LA, ordering LA to do what it has avoided doing for many years," Peck said.

In a scathing 110-page ruling last month on a lawsuit brought by the L.A. Alliance for Human Rights, Carter ordered the city and county to house all of the homeless on "Skid Row" in central Los Angeles, believed to be the nation's largest homeless encampment.

"All of the rhetoric, promises, plans, and budgeting cannot obscure the shameful reality of this crisis -- that year after year, there are more homeless Angelenos, and year after year, more homeless Angelenos die on the streets," Carter wrote. Los Angeles County quickly filed a notice of appeal on the ruling.

In his ruling, Carter also ordered Los Angeles Mayor Eric Garcetti to come back to him with a detailed accounting of how he plans to spend about \$1 billion in available funding to address homelessness in the city.

Carter laced his ruling with numerous historical references, citing the Gettysburg Address, in which Abraham Lincoln spoke of the "last full measure of devotion" given by those who died on the battlefield and the "unfinished work" the nation faced in the cause of freedom.

"Virtually every citizen of Los Angeles has borne the impacts of the city and county's continued failure to meaningfully confront the crisis of homelessness," Carter wrote. "The time has come to redress these wrongs and finish another measure of our nation's unfinished work.

"There can be no defense to the indefensible," he added. "For all the declarations of success that we are fed, citizens themselves see the heartbreaking misery of the homeless and the degradation of their city and county.

"Like Abraham Lincoln's call to action in his Gettysburg Address, it is for us 'to be dedicated here to the unfinished work which they who fought here have thus far nobly advanced,' Carter said in the ruling. "Let us pick up that flag, and have the courage of those who fought so long ago, to act so that we can become a better nation and people."

## TOPIC 7: SMALL BUSINESS

### CLAIMS COURT WANTS VA MEDICAL SUPPLY DEAL TRANSFER STOPPED



*Further Actions Are Needed to Improve VA Acquisition Management, Says GAO*

A medical equipment supplier has urged the U.S. Court of Federal Claims to block the U.S. Department of Veterans Affairs from moving billions of dollars of medical supply requirements currently covered by VA contracts to Defense Logistics Agency contracts, saying the agencies acted unlawfully and unethically.

The VA has arbitrarily and unlawfully sought to use DLA contracts to fulfill its requirements for medical and surgical supplies, rather than its own similar Medical/Surgical Prime

Vendor, or MSPV, contracts, Concordance Healthcare Solutions LLC said in a May 14 motion for judgment unsealed on Thursday.

"DLA and VA, in a display of bravado the likes of which has never been seen before, propose to give a multi-billion dollar scope of work to two contractors without competition and in complete



disregard for procurement regulations and well-established government contracting norms. ... While intriguing for their sheer boldness, the acts of DLA and VA cannot be condoned," Concordance said.

The VA's MSPV contracts cover the distribution and supply of medical and surgical equipment across the department's medical service networks. Its solicitation for its most recent MSPV contract, MSPV 2.0, indicated those contracts would be worth between \$10 billion and \$27 billion through up to nine years, according to Concordance.

The VA indicated in October 2020 that it would award MSPV 2.0 deals to Medline Industries Inc., which has also protested, and Cardinal Health 200 LLC. Concordance protested its exclusion from the deal and the U.S. Government Accountability Office advised that it would sustain the protest, so the VA agreed to take corrective action, the company said.

But the department, which had previously conducted a pilot program to consider if it could use the DLA contracts for its medical supply needs at some point in the future, had been secretly planning even before awarding the MSPV 2.0 contracts to transfer much of that work to the DLA's similar MSPV contracts with Cardinal and Owens & Minor Distribution Inc., which were used to supply U.S. Department of Defense hospitals, Concordance said.

The VA announced the transfer plan "out of the blue" this March, with the transfer currently set to be completed by June 2022, Concordance said.

As part of the transfer, the agencies did not give other potential vendors a chance to compete for that work, nor any justification as to why they did not engage in full and open competition, violating the Competition in Contracting Act, the company said.

That is one of several CICA violations by the agencies, which also include making substantial changes to the scope of the DLA contracts, Concordance claimed. The DLA deals as originally written cover neither the geographic regions nor the supplies that the VA program does — for example, they exclude prosthetics, which are a major part of the VA program — nor do they have the same customers, the company said. They also have a distinct ordering system, according to the company.

Documents in the sealed record underpinning the case, short excerpts of which were included in the motion, showed that VA procurement and legal officers knew that transferring the MSPV 2.0 work would violate CICA, and they raised concerns that the move was unethical, but the agency pushed ahead anyway, Concordance said.

The transfer plan also violates the Economy Act, which allows agencies to purchase goods and services on behalf of other agencies, but "does not allow for the wholesale movement of one contract to another contract," as well as the implied duty to bidders to act "fairly, honestly and in good faith," because the VA never had any intent to follow through with the full solicited scope of the MSPV 2.0 program, Concordance said.

The VA should be made to adjust its MSPV 2.0 solicitation to reflect that it is now only a "temporary transition vehicle," and the DLA should be required to issue a new, competitive procurement process that is open to competition, according to Concordance.

A representative for the VA declined to comment on Friday, saying that it is unable to comment on pending litigation. A representative for the DLA did not immediately respond to a request for comment.

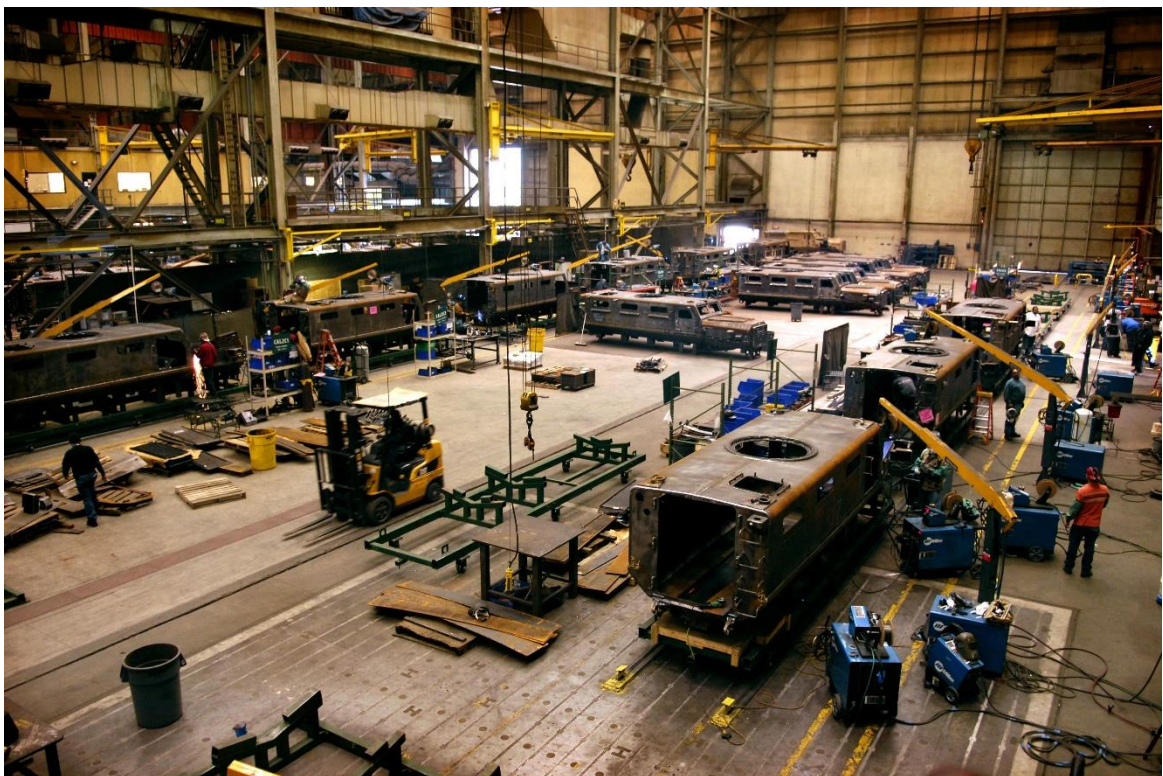
Concordance is represented by Aron C. Beezley, Patrick R. Quigley, Lisa A. Markman, Nathaniel J. Greeson and Sarah S. Osborne of Bradley Arant Boult Cummings LLP.

The government is represented by Claudia Burke and Mollie L. Finnan of the U.S. Department of Justice's Civil Division, Jason A.M. Fragoso of the U.S. Department of Veterans Affairs, and Katherine McCulloch of the Defense Logistics Agency.

The case is Concordance Healthcare Solutions LLC et al. v. U.S. et al., case number 1:21-cv-01174, in the U.S. Court of Federal Claims.

## **TOPIC 7: SMALL BUSINESS**

### **H.R. 2082 - VA SUPPLY CHAIN RESILIENCY ACT**



*COVID-19 Response Sparks Efforts to Strengthen Supply Chain*

The COVID-19 pandemic presented innumerable challenges to Department of Veterans Affairs (VA) as it struggled to maintain the fidelity of its supply chain. Obtaining critical medical supplies in the early phases of the pandemic became especially difficult for many VA medical facilities as global supply chains constricted and manufacturers shut down. Additionally, dependence on foreign sources for essential medical and safety equipment became problematic as countries limited exports to meet increased domestic demand.<sup>1</sup>

VA became abruptly aware of the vulnerabilities and lack of resiliency built into its supply chain as it struggled to acquire critical medical supplies throughout the pandemic. The lack of a comprehensive strategy for its supply chain management modernization efforts and inefficient acquisition management procedures were primarily responsible for the lack of resiliency. Additionally, the nation's healthcare systems dependence on foreign sources for critical medical and safety equipment served to further exacerbate the issue.

An effective medical supply chain that can deliver the correct item, at the right time, to the right place, in a time of crisis requires a comprehensive approach. VA has multiple interrelated supply chain modernization initiatives underway that are intended to improve its acquisition management. However, without a comprehensive strategy that communicates how each interrelated initiative will move VA forward, VA risks wasting resources and missing opportunities to build resiliency into its supply chain. To ensure that VA is able to deliver critical items in the face of future national emergencies will require a comprehensive and multifaceted approach.

The *VA Supply Chain Resiliency Act* requires VA to identify critical supply items and anticipate the needs of the VA medical system in the event of future public health or national emergencies. Additionally, it requires VA to participate in the Department of Defense Warstopper program and thereby “ensure the maintenance and stability of items that are identified as critical.” Furthermore, this legislation mandates that VA partners with manufacturers and distributors to secure a supply of critical items rather than holding physical inventories.

This comprehensive, multi-faceted, and forward-looking strategy ensures that VA is better prepared to provide essential life-saving care to veterans in the face of the next national emergency. The American Legion supports efforts to expand contracts and agreements with producers to ensure the availability of critical items and encourages VA to partner with domestic veteran-owned business to ensure increased supply chain resiliency. Through Resolution No. 13: *Support “Buy American” Policy within the Federal Government to Create Opportunities for Veterans*, The American Legion supports legislation and policy that incentivizes the return of manufacturing from overseas and the creation of more domestic manufacturers. The federal government through its collective purchasing power, can programmatically incentivize the return of domestic manufacturing of emergency supplies to prevent supply chain breakdowns in future national emergencies.

**The American Legion supports this draft legislation *as currently written*.**

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<sup>1</sup> During a hearing before the U.S.-China Economic and Security Review Commission July 31, 2019, in testimony provided by the Hastings Center, it was pointed out that “If China Shut the Door on Exports of Medicines and Their Key Ingredients and Raw Materials, U.S. Hospitals and Military Hospital and Clinics Would Cease to Function Within Months, If Not Days. A natural disaster, global health crisis, or adverse foreign government action could disrupt the supply of medicinal ingredients and finished drugs. Surgeries could not be performed at Walter Reed National Military Medical Center” and other hospital systems, which would include VA.

## TOPIC 8: CAREER FAIRS

### Virtual Job Fair

June 24, 2021, 1pm - 3pm

#### **VIRTUAL HIRING EVENT: RETAIL & HOSPITALITY**

1-3pm: Military community job seekers from around the globe will meet, network, and interview with retail & hospitality industry employers at this interactive virtual hiring event.

*Presented by [Hiring Our Heroes](#)*

[More information](#)

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### Virtual Job Fair

June 10, 2021, 10am - 3pm

#### **VIRTUAL CAREER FAIR**

10-11am CDT: Honoring **women veterans** with a 1-hour early entry

11am-3pm CDT: Open to all transitioning servicemembers, veterans, military spouses and their dependents

*Presented by [American Legion Department of Texas](#), [Texas Veterans Commission](#), and [Texas Workforce Commission](#)*

[More information](#)

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### Virtual Job Fair

June 17, 2021, 1pm - 5pm

#### **RECRUITMENT FOCUS: VIRGINIA**

1-3pm: Reserved for job seekers with active security clearances

3-5pm: Open to all job seekers

*Presented by [JobZone](#)*

[More information](#)

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### Virtual Job Fair

June 17, 2021, 1pm - 3pm

#### **VIRTUAL HIRING EVENT: TELECOMMUNICATIONS**

1-3pm: Military community job seekers from around the globe will meet, network, and interview with telecommunications industry employers at this interactive virtual hiring event.

*Presented by [Hiring Our Heroes](#)*

[More information](#)






# THE AMERICAN LEGION VIRTUAL CAREER FAIR



## JUNE 10, 2021

 **10am - 11am Central:** Honoring Women Veterans with a 1 hour early entry  
**11am - 3pm Central:** Open to all Transitioning Service Members, Veterans, Military Spouses and their dependents.

**Job Seeker Registration:**  
<https://tinyurl.com/3j5td23a>



**Employer Registration:**  
<https://tinyurl.com/recshb>





*The American Legion's National Veterans Employment & Education Commission's Mission is to take actions that affect veterans' economic well-being, including issues relating to veterans' education, employment, home loans, vocational rehabilitation, homelessness, and small business.*

**Joseph C. Sharpe, Jr., Director**  
**Veterans Employment & Education Division**  
**202.861.2700 ext. 2989**  
**Week Ending: 5/28/2021**