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United States Senate

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May 29, 2024

The Honorable Denis R. McDonough
Secretary of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

Dear Secretary McDonough,

We write today regarding the Department of Veterans Affairs' (VA) misuse of the critical skill incentive (CSI) authority for senior executives at VA central office (VACO). The CSI program was established in the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 (P.L. 117-168) to strengthen VA's ability to deliver health care and benefits to veterans by providing monetary incentives to retain highly skilled, rank-and-file employees across the Department. The use of this important authority to instead increase the salaries of executives in VACO is unethical, a violation of VA policy, and in direct opposition to the intent of Congress.

The VA Office of Inspector General's (OIG) May 9, 2024 report found that, from August 2023 through early September 2023, VA improperly awarded CSI payments totaling \$10.8 million to 182 executives at VA Central Office, including 148 executives working for the Veterans Health Administration (VHA) and 34 executives working for the Veterans Benefits Administration (VBA). On average, VACO senior executives received CSIs totaling \$59,464, nearly six times the \$8,169 average CSI payment awarded to non-executive occupations such as human resources staff, police officers, and housekeepers in VA medical centers and regional offices across the country. In fact, some CSI payments made to executives exceed many VA employees' entire annual salaries. The OIG further found that VHA and VBA's awards to their senior executives in VACO were maxed out without sufficient supporting evidence. In particular, the OIG found VHA failed to show the skills provided by these executives were in high-demand based on market data, as required by existing VA guidance, while VBA's justification was based on insupportable assumptions that equated every VBA senior executive with private sector Chief Executive Officers.

In addition to the failure to act in accordance with the PACT Act and VA policy, the OIG's analysis further illustrated challenges highlighted in many past oversight reports: VA lacks sufficient internal safeguards and controls to reliably prevent intentional or unintentional mismanagement of resources. An essential component of any high-reliability organization is fostering a culture and expectation where subject matter experts, regardless of rank, are able and comfortable speaking truth to power – and creating that culture starts at the top. This report must serve as the beginning of the end of these inconsistent management and oversight structures and an opportunity to strengthen the Department.

Troublingly, the OIG also found that some CSI executive recipients within VBA and VHA were involved in the decision-making processes that led to the awards. Under section 208, of title 18, United States Code, a criminal conflict of interest statute, federal employees are prohibited from participating personally and substantially in government matters in which they have a financial interest. The OIG referred nine senior executives to the U.S. Attorney's office for the District of Columbia, which declined to open a criminal investigation as of the time of the report. We remain seriously concerned about even the appearance of ethical indiscretions in this matter. VA must seek a determination from the Office of General Counsel Ethics Specialty Team as to whether individuals involved in these circumstances were free of any actual or apparent conflicts of interest and ensure those involved have no such conflicts going forward.

VA's flagrant misuse of recruitment and retention incentives intended to improve the provision of health care and benefits for veterans by bolstering VA's front-line workforce is unacceptable and deeply concerning. We share many concerns expressed by the OIG and the senior officials who initially raised the alarm about this issue and strongly disagree with the justifications provided for awarding amounts equivalent to the cost of additional full-time employees to an unspecific group of senior executives based in Washington, D.C.

The OIG recommended you take appropriate administrative actions related to all personnel involved in the process for granting CSI awards to VACO executives without proper justification and we encourage you to do so without delay. Following through on this recommendation is not only crucial to building and maintaining high-reliability and risk management, but also to show that acting in opposition to Congressional intent and Department policy is not acceptable within VA.

However, complying swiftly with the OIG recommendation related to accountability is just the first step towards righting this wrong and preventing similar wrongdoing in the future. There is more work to be done to regain the trust of veterans, VA's broader workforce, Congress, and the public. As such, we request you immediately implement all of the OIG's recommendations in their entirety and provide Congress regular status updates until all recommendations are fully implemented. In addition, we ask that you also provide the Senate Committee on Veterans' Affairs with:


- Regular updates – not less frequently than monthly – on investigations and administrative actions considered and taken against VA officials related to this failure;
- the recoupment status of all improperly awarded CSIs;
- a breakdown of all CSI payments to date across the VA enterprise broken down by VACO, Veterans Integrated Service Network, VBA District, VA Regional Office, VA Medical Center, and field operations levels by position;
- and the justification paperwork for CSI awards for groups of employees larger than 15 or for amounts greater than \$30,000, to include the seven senior executive leaders who received CSIs of more than \$100,000 each.


We also ask that you develop, and submit to this Committee, a plan with specific action items and timelines, for how you will work to transform the management and leadership structure at VACO to create more accountable, ethical, conscientious, and effective VA leaders that not only better adhere to laws and policies, but make a concerted effort to create and establish better ones.

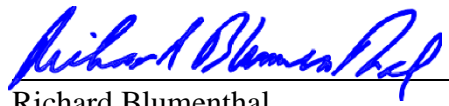
While Congress will continue to conduct vigorous oversight and enforce Congressional intent in these and all matters, accountable leadership cannot be legislated. In an effort to regain the public's trust, VA must take aggressive steps to ensure transparency and accountability throughout the enterprise. We appreciate your attention to our request and look forward to working with you to ensure VA provides the highest-quality health care and benefits possible to our nation's veterans and their families, caregivers, and survivors.

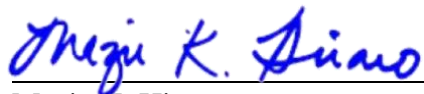
Sincerely,



Jon Tester
Chairman



Patty Murray
United States Senator

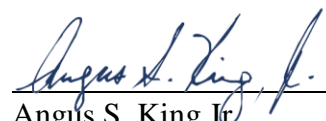

Sherrod Brown
United States Senator

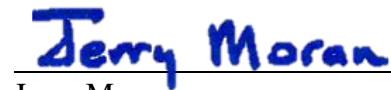

Richard Blumenthal
United States Senator


Mazie K. Hirono
United States Senator

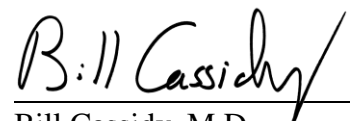

Joe Manchin III
United States Senator


Kyrsten Sinema
United States Senator

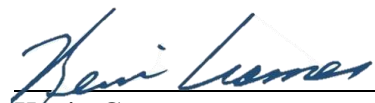

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