



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
MANPOWER AND RESERVE AFFAIRS  
111 ARMY PENTAGON  
WASHINGTON, DC 20310-0111

20 SEP 2013

Special Counsel Carolyn N. Lerner  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

RE: Whistleblower Investigation -- Kenner Army  
Health Clinic, Fort Lee, Virginia (Office of  
Special Counsel File Number DI-13-1252)

Dear Ms. Lerner:

In accordance with Title 5, United States Code (USC), Section 1213(c) and (d), the enclosed report is submitted in response to your referral of information requesting an investigation of allegations and a report of findings in the above referenced case.

The Secretary of the Army (SA) has delegated his authority to me, as agency head, to review, sign, and submit to you the report required by Title 5, USC, Section 1213(c) and (d) [TAB A].

The Department of the Army (DA) has enclosed two versions of its Report. The first version of the Report contains the names and duty titles of military service members and civilian employees of the DA. This first version is for your official use only, as specified in Title 5, USC, Section 1213(e); we understand that, as required by that law, you will provide a copy of this first version of the Report to the whistleblower, the President of the United States, and the Senate and House Armed Services Committees for their review. Other releases of the first version of the Report may result in violations of the Privacy Act<sup>1</sup> and breaches of personal privacy interests.

The second version of the Report has been constructed to eliminate privacy-protected information and is suitable for general release. We request that only the second version of the Report be made available on your web-site, in your public library, or in any other forum in which it will be accessible to persons not expressly entitled by law to a copy of the Report.

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<sup>1</sup> The Privacy Act of 1974, Title 5, USC, Section 552a.

## INFORMATION INITIATING THE INVESTIGATION

By letter dated April 11, 2013, the Office of Special Counsel (OSC) referred to the SA specific allegations made by the whistleblower against Kenner Army Health Clinic (KAHC), Fort Lee, Virginia, which form the basis of this investigation and Report. Generally, the Whistleblower made the following three allegations:

OSC Referred Allegation 1: KAHC management improperly created an employer-employee relationship between the government and the psychometrist currently assigned to KAHC, a contract employee.

OSC Referred Allegation 2: KAHC management has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee.

OSC Referred Allegation 3: The improper relationship between the government and the contract psychometrist may violate the Federal Acquisition Regulation, the Anti-Deficiency Act, and other procurement guidelines.

OSC concluded that there is a substantial likelihood that the information that the Whistleblower provided disclosed a violation of law, rule, or regulation, under Title 5, USC, Section 1213.

## CONDUCT OF THE INVESTIGATION

On April 25, 2013, the SA forwarded the OSC referral to the Commander, U.S. Army Medical Command (MEDCOM), and directed her to conduct an investigation and undertake any corrective action deemed necessary. This referral was appropriate because MEDCOM provides healthcare oversight and control of all medical centers and medical treatment facilities and activities in the Army as provided in Army Regulation (AR) 40-1, *Composition, Mission, and Functions of the Army Medical Department*, retrievable at [http://www.apd.army.mil/pdf/r40\\_1.pdf](http://www.apd.army.mil/pdf/r40_1.pdf).

In addition, on April 25, 2013, the DA Office of General Counsel (OGC) forwarded the SA's directive to the MEDCOM Office of the Staff Judge Advocate (SJA)<sup>2</sup> to facilitate the Commander, MEDCOM's investigation and appropriate action in this case.

On May 13, 2013, the MEDCOM Chief of Staff, appointed an Investigating Officer (IO) [TAB 1], under the provisions of AR 15-6, *Procedures for Investigating Officers and Board of Officers*, retrievable at [http://www.apd.army.mil/pdf/r15\\_6.pdf](http://www.apd.army.mil/pdf/r15_6.pdf),<sup>3</sup> with a mandate to investigate the allegations referred by the OSC. Specifically, the IO was directed to investigate and determine the following:

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<sup>2</sup> A Staff Judge Advocate (SJA) is the senior military attorney for a command.

<sup>3</sup> AR 15-6 promulgates the procedures for Army administrative investigations. Army organizations frequently appoint investigating officers under provisions of AR 15-6 to investigate all manner of allegations and concerns.

- a. Whether KAHC officials have improperly created an employer-employee relationship between the government and the current psychometrist at KAHC, who is allegedly a contract employee.
- b. Whether Contract Psychometrist has been inappropriately treated with respect to any matters related to her performance, training opportunities, or her supervision.
- c. Whether management at KAHC has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee.
- d. If an improper employee-relationship has been created at KAHC, does this relationship between the government and the contract psychometrist violate the Federal Acquisition Regulation, Anti-Deficiency Act, or any other procurement guidelines?
- e. Whether there are other instances at KAHC of similar contractual improprieties have occurred with respect to the Video-teleconferencing coordinator and the KAHC Pharmacy Department?

On August 30, 2013, the IO completed the AR 15-6 Report of Investigation (ROI). In the course of the investigation, the IO interviewed the whistleblower and nine other witnesses germane to the matters referred.

## **BACKGROUND**

To facilitate a better understanding of the facts and circumstances associated with the whistleblower's allegations to the OSC, and to permit a more knowledgeable assessment of the testimonial and documentary evidence collected from all of the witnesses, it is important to understand MEDCOM's mission, its functional relationships with supporting organizations, and how it uses contractors to execute its mission.

### **MEDCOM Mission**

The U.S. Army Surgeon General (TSG) is dual-hatted as the Commander, MEDCOM. MEDCOM provides medical, dental, and veterinary capabilities to the Army and designated Department of Defense (DoD) activities. TSG is responsible for the development, policy direction, organization, and overall management of an integrated Army-wide health services system. [See AR 40-1, paragraph 1-6]. Among its many functions, MEDCOM provides medical and dental care to authorized beneficiaries worldwide; coordinates Army health services for Army, civilian, and Federal health care resources in a given health service area; and conducts health care education, training, and studies [AR 10-87, *Army Commands, Army Service Component Commands, and Direct Reporting Units*, paragraphs 15-2d and 15-3d, retrievable at [http://www.apd.army.mil/pdffiles/r10\\_87.pdf](http://www.apd.army.mil/pdffiles/r10_87.pdf)].

In her role as Commander, MEDCOM, TSG exercises oversight and control of all medical centers and medical treatment facilities and activities in the U.S. Army, with the

exception of units in the field. Directly subordinate to MEDCOM are the Regional Medical Commands, multi-state command and control headquarters that allocate resources, oversee day-to-day management, and promote readiness among military treatment facilities in their geographic areas of responsibility [See AR 10-87, Chapter 15]. KAHC<sup>4</sup> is an Army Health Clinic and is funded by, and receives operational oversight and guidance from, MEDCOM through the Northern Regional Medical Command.

### **Kenner Army Health Clinic**

KAHC is a Military Treatment Facility (MTF) currently staffed by 92 military personnel, 144 civilians, and 62 contract employees who provide primary care and ancillary services to meet the health care needs of the 30,000 Soldiers, family members, and retirees in the Fort Lee, Virginia and surrounding communities. KAHC has general radiology, laboratory, and pharmacy capabilities and offers certain specialty care. KAHC is fully accredited by the Joint Commission on Accreditation of Healthcare Organizations.

### **KAHC Mission and Utilization of the Tele-health Initiative**

The Commander, KAHC, oversees three main branches: Nursing, Clinical Services, and Administration, each of which operates under the direct supervision of a separate Deputy Commander. Under these three branches, there are seven outpatient clinics, nine specialty services, and three ancillary services, as well as four Preventive Medicine Programs. The Director of Clinical Services is responsible for the health services provided by the Division of Behavioral Health, which is, in turn, responsible for the services provided by the Psychology Department, led by Chief of Psychology. The Psychology Department is comprised of several sections, including the Psychometry section at issue in the OSC referred allegations, and is manned by five military personnel, five civilians, five contractor employees; three authorized positions are currently vacant. The Psychometry section is composed of only two individuals: the Whistleblower, a GS-11 Behavioral Sciences Coordinator; and Contract Psychometrist, a psychometrist contracted through Eagle Applied Sciences [TAB 2, Statement of Chief of Psychology, dated July 1, 2013].

On September 30, 2009, the U.S. Army Medical Research Acquisition Activity, Fort Detrick, Maryland, and Eagle Applied Sciences of San Antonio, Texas, entered into Contract W81XWH-09-C-0168 for Eagle to provide personnel to assist KAHC in implementing a new Army “Tele-health” initiative. This initiative would allow “. . . the Army to offer clinical services across the largest geographic area of any tele-health system in the world.”<sup>5</sup> The

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<sup>4</sup> On 16 April 1962, Kenner Army Hospital was dedicated in memory of Major General Albert W. Kenner, Medical Corps, a veteran of World Wars I and II.

<sup>5</sup> As described in Annex A, OPOD 13-38, *the Army Medicine 2020 Campaign Plan Governance*, “a. Army Tele-health is a global leader in providing innovative and comprehensive tele-health services, offering clinical services across the largest geographic area of any tele-health system in the world. As of 01 May 13, outreach spans 19 time zones in over 30 countries and territories at over 70 sites across all five Regional Medical Commands (RMCs) and over 90 sites in the operational environment. More than 20 specialties in Army Medicine use tele-health for the provision of care to beneficiaries. b. Overall, Army Medicine can increase access to care, reduce cost, and alleviate quality and readiness challenges through the appropriate and selective use of tele-health. Further information on the Tele-health initiative is provided in two articles that discuss this innovative approach to providing medical care.” [TABS 24a and 24b].

Contract Performance Work Statement (PWS) explained the scope of the contract and described the performance required of the contractor, as follows:

"1. Scope: This award provides for services to support the Tele-Healthcare Program. This program will provide the personnel and management support for an Army Medical Department (AMEDD) global Tele-Healthcare Program. This personnel support will provide the necessary infrastructure, management oversight, clinical and technical consultation, and healthcare services to build and sustain a global AMEDD Tele-Healthcare Program.

2. Background: The Office of The Surgeon General (OTSG) and the Medical Command (MEDCOM) Headquarters, also known as One-Staff, is undertaking efforts to establish an AMEDD global personnel and hardware infrastructure required to conduct Tele-Healthcare Program operations. The Tele-Healthcare Program personnel in this document will work at a Regional Medical Command Headquarters or in a Medical Treatment Facility and will support designated specialties and related programs within and among the Regional Medical Commands.

3. Objectives: The objective of this [statement of work] is to secure services in order to implement Phase II of the Army Tele-health program in a geographically dispersed manner.

**4. Personal and Non-Personal Services: This contract incorporates the use of personal and non-personal services... (emphasis added).**

...

6. Tasks: The contractor shall provide personnel support for the AMEDD in program execution of its Global Tele-health initiative by coordinating the personnel resources for the program. Tele-health initiative is the use of technology in the scheduled interaction between a health care provider and patient (provider-patient) and/or the interaction between two or more health care providers (provider-provider). All policies, procedures and guidelines used in treatment as usual, face-to-face interactions between healthcare provider and patient were adopted for the Tele-Healthcare Program." [TAB 3, Excerpts from Contract W81XWH-09-C-0168, September 30, 2009 with modification P0001, December 10, 2009].

When the government awarded Contract W81XWH-09-C-0168 in September 2009, the contract listed the following positions/duties in the **personal services** category table/matrix: Physician, Clinical Advisor (RN), Clinical Coordinator (LPN), Neurologist, Neuropsychologist, Occupational Therapist, Psychiatric Nurse, Psychology Technician, **Psychometrist**, Research Psychologist, Speech and Language Pathologist, TBI [traumatic brain injury]-Physician Assistant, and Clinical Psychologist (emphasis added).

The contract listed the following positions/duties in the *non-personal services* category: Administrative Assistant, Appointing Clerks, Coder, Data (Analyst, QM, Research), Portal Manager and Tele-health Technician.

[TAB 3, pages 12-13].

As originally awarded in September 2009, the contract identified the psychometrist<sup>6</sup> position in the *personal services* category of the matrix. The contract included a detailed description of the psychometrist's position/duties in paragraph 19, together with descriptions of all other positions/duties listed in the contract as falling in the personal services category (the positions/duties listed in the non-personal services portion of the contract were detailed in a similar format in paragraph 20 of the contract). The contract described the duties and responsibilities of a psychometrist as follows:

“A Psychometrist is responsible for the administration and scoring of psychological and neuropsychological tests under the supervision of a clinical psychologist or clinical neuropsychologist. Additionally, a Psychometrist will also make note of behavioral observations during the course of the assessment that may be used by the psychologist to aid in test interpretation. The Psychometrist may also be responsible for collecting demographic information from a patient. Will use Tele-health systems when possible.

19.9.1. Administer and score psychological tests as defined in competencies for a Psychometrist I.

19.9.2. Score tests administered, including objective personality tests administered by Psychologist.

19.9.3. Provide a written summary of the patient's behavior during testing, including any interactions with the patient's parents or peers that may be observed incidentally.

19.9.4. Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.

19.9.15. Recommending and implementing modifications to standard procedures for individual patients.

19.9.16. Appropriately managing patients manifesting behavioral or emotional disturbances and communication and consultation with supervising licensed psychologists, attending psychiatrists, and nursing staff.

[TAB 3, pages 27-28].

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<sup>6</sup> The National Association of Psychometrists describes the duties of a psychometrist, stating: “[a] Psychometrist is responsible for the administration and scoring of psychological and neuropsychological tests under the supervision of a clinical psychologist or clinical neuropsychologist. Psychometrist training should have emphasis on accuracy, validity, and standardization in administration, as well as accurately scoring assessments with appropriate norms and providing detailed behavioral observation of the examinee that may be used by the psychologist to aid in test interpretation. The Psychometrist may also be responsible for collecting demographic information from a patient. . . . Psychometrists have been utilized by psychologists and neuropsychologists since the 1930s.” [TAB 23].

Modification P0001 to Contract W81XWH-09-C-0168 was executed on December 10, 2009 [TAB 3, page 1]. Among other matters,<sup>7</sup> this modification changed the psychometrist position/duties to the non-personal services category [See TAB 3, page 7] “due to the fact that less than 45% of their time is in direct patient care.” [See TAB 3, page 33]. When interviewed by the AR 15-6 IO, the Contracting Officer’s Representative (COR) responsible for the Tele-health contract explained that the psychometrist positions were changed to the non-personal services category because the psychometrists were responsible for administering tests and procedures ordered by others, but were not themselves diagnosing patients or prescribing tests and/or procedures. However, although the P0001 contract modification category and matrix moved psychometrist positions/duties to the non-personal services category, no corresponding change was made to remove the detailed description of a psychometrist position and its duties and responsibilities from paragraph 19, the personal services section, of the original contract to paragraph 20, the non-personal services section of the original contract, where it properly belonged after the modification. Rather, the detailed description of psychometrist positions/duties remained in the section of the original contract in which personal services positions/duties were enumerated. In short, the base Tele-health contract was not conformed to the contract modification that had changed all psychometrist positions/duties to non-personal services contract employees.

It should be noted that the Whistleblower’s first assignment with the KAHC Psychology Department began in January 2010. The Whistleblower was then a contract employee of Eagle Applied Sciences [TAB 4, Statement of the Whistleblower, dated May 17, 2013; TAB 2, Statement of Chief of Psychology, dated July 1, 2013] assigned by Eagle to perform the duties associated with the Tele-health contract’s psychometrist position. Thus, the Whistleblower’s service at KAHC began **after** the 2009 modification to the Tele-health contract that changed all psychometrist positions/duties to non-personal services.

After the Whistleblower began her duties as the contractor employee hired for the KAHC psychometrist position under the Tele-health contract, the management of the KAHC Division of Behavioral Health created a DA civilian GS-0101-11 position, Behavioral Sciences Coordinator, to assist in properly managing the increased workload that now justified a requirement for two psychometrists at Kenner. A condition of employment associated with this position was that the incumbent was required to be a Certified Specialist of Psychometry (CSP) through the Board of Certified Psychometrists and to be a member in good standing of the National Association of Psychometrists [TAB 5, Position Description, Behavioral Sciences Coordinator].<sup>8</sup> The

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<sup>7</sup> The contract modification included a new provision under paragraph 19 that addressed the differences between the performance of a personal services contract position and a non-personal services position, stating as follows: “PERSONAL SERVICES. This contract is in part a personal services contract and is intended to create an employer-employee relationship between the Government and the individual contract health care providers only to the extent necessary for providing the healthcare services required under this contract. The performance of healthcare services by the individual contract health care providers under a personal services contract are subject to day-to-day supervision and control by healthcare facility personnel comparable to that exercised over military and civil service health care providers engaged in comparable healthcare services. . . .The authority for this contract is 10 United States Code 1089 and 10 United States Code 1091.”

<sup>8</sup> The Tele-health contract contained NO requirement that the contractor employee psychometrist be either a Certified Specialist of Psychometry (CSP) through the Board of Certified Psychometrists or a member in good standing of the National Association of Psychometrists.

Whistleblower was hired into the GS-11 civilian position in February 2012. Almost concurrently, Eagle Applied Sciences hired a new contractor employee, to perform the psychometrist duties and responsibilities required by the Tele-health contract [TAB 4, Statement of the Whistleblower, dated May 17, 2013; TAB 2, Statement of Chief of Psychology, dated July 1, 2013]. Like the Whistleblower, Contract Psychometrist served at all times under the terms of the modified Tele-health contract that defined the position/duties of the psychometrist as non-personal services.

As a GS-0101-11, Behavior Sciences Coordinator, the Whistleblower's duties and responsibilities included the following:

“The incumbent provides screening, psychological, and neurological testing, and psycho-diagnostic evaluation for service members and other qualified beneficiaries with a variety of problems that can affect the ability of patients to function competently at work, home, school and/or in other situations. Assignments include the initial screening and evaluation of patients with all degrees of severity, some of whom may be uncooperative or hostile, providing psycho-diagnostic services, making preliminary interpretations of the data, developing recommended courses of action, and consultation with other professionals and commands. . . . The incumbent functions as a relatively autonomous psychometrician in administering and scoring psychological and neurological test batteries, interprets validity and significance of data collected, prepares written reports as directed by the Chief of Psychology or positionally equivalent authority that integrate the patient's psychosocial history and test data; makes recommendations for and coordinates further actions. The incumbent is responsible for the development and operation of the psychology and neuropsychology testing labs. In this role, is responsible for using a standardized scheduling system, equitably and efficiently assigning neuropsychological assessment cases to staff psychologists, trainees and other psychometrists based on workload, difficulty of assignment, and capabilities of the personnel involved; conducting quality assurance reviews of the test administration, scoring, and data entry of Psychology staff, trainees, and other psychometrists, assisting in developing performance plans and quality assurance of other psychometrists; and assisting in the recruitment of other competent individuals for available psychometrist positions.” [TAB 5, Position Description, Behavioral Sciences Coordinator].

### **KAHC Awards, Recognition and Acknowledgements Program**

Like many other Army activities, KAHC maintains an Awards, Recognition, and Acknowledgements (ARA) Program. “Recognizing the great efforts and accomplishments . . . [of KAHC staff is] . . . one of the best ways to demonstrate . . . appreciation and investment in the success of the members of [the] “team,” making the ARA Program an “essential component of leadership and personnel management.” [TAB 21, Commander's Awards, Recognition and

**Acknowledgements (ARA) Program policy, dated August 23, 2012].** Kenner’s ARA Program comprises six different award categories.<sup>9</sup>

On October 18, 2011, at the request of then KAHC Commander, the KAHC Logistics Division, properly used a government purchase card to purchase 475 “Commander’s coins” at a total cost of \$2,731.25.<sup>10</sup> Funds from the Army Operations and Maintenance appropriation were used to pay for the coins. When the coins were received, the Logistics Division issued them to both the Commander and to the KAHC Command Sergeant Major for their use as part of the KAHC ARA Program. The Commander maintained a Commander’s Coin Distribution Tracker log that, as of September 27, 2013, reflected that a total of 197 (of the 455 coins ordered) had been distributed by the KAHC Commander and Command Sergeant Major.<sup>11</sup> The Commander’s Coin Distribution Tracker reflects that on September 24, 2012, the Commander presented a KAHC Commander’s Coin to each of three contractor employees.

## **LAWS, REGULATIONS, AND CONTRACT AUTHORITIES GOVERNING PERSONAL SERVICES CONTRACTS RELATED TO HEALTH SERVICES**

Generally, the Federal Government is required to recruit its employees either through hiring under competitive appointment or through procedures otherwise required by the civil service laws.<sup>12</sup> Federal employees are persons who are appointed, supervised by a federal officer, and perform federal functions pursuant to authorization from a congressional act or executive order.<sup>13</sup> There is a “long-standing rule that persons performing purely personal services for the Government must be placed on Government payrolls and made subject to

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<sup>9</sup> The six categories include: (1) Patient Safety and Good Catch Awards; (2) Safety Awards; (3) Civilian Employee of the Month and Quarter (Clinical and Non-Clinical); (4) Informal Awards (including Private and Public thank you; Lunch with KAHC Commander; Certificate of Appreciation; 3- or 4-day Pass (for Soldiers); 59 minute rule (early release); Letter of Input (Contractors); Northern Regional Medical Command (NRMC) Commanding General's Star Note; NRMC Commanding General's Coin; and KAHC Commander's Coin)); (5) Incentive (Impact) Awards (including Time-off Award for Department of the Army Civilians (DACs)); On the Spot Cash Award (for DACs); Honorary Award (for DACs); and Military Awards (for Soldiers)); and (6) Performance (Annual or PCS) Awards (such as Time-off Award (for DACs)); Monetary Award (for DACs); and Quality Step Increase (for DACs)).

<sup>10</sup> Each coin cost \$5.75.

<sup>11</sup> MEDCOM Regulation 672-7, paragraph 7b(4), requires appropriate recordkeeping with regard to the dissemination of coins purchased with appropriated funds. The KAHC’s Commander’s Coin Distribution Tracker includes a record of the date each coin was “awarded”, the name of each individual recipient, and any comments/justification associated with the award of the coin to the recipient.

<sup>12</sup> See Civil Service Act, Title 5, USC, Sections 3301-3397, 7301 (2006).

<sup>13</sup> Title 5, USC, Section 2105(a).

[government] supervision.”<sup>14</sup> Consequently, the Government may not enter a contract for personal services unless it has received explicit Congressional authorization.<sup>15</sup>

The most basic codified definition of a personal services contract comes from the Federal Acquisition Regulation (FAR): “Personal services contract means a contract that, by its express terms or as administered, makes the contractor personnel appear to be, in effect, Government Employees . . .”<sup>16</sup> The extremely fact-specific nature of the determination as to whether a contractor employee is performing a personal services contract or a non-personal services contract makes the analysis both simple and complex. Indeed, in any given scenario, reasonable minds easily could differ about whether to characterize an employment situation as being executed or performed as a personal services or a non-personal services contract manner.

Over the years, however, the personal services contracts ban has become a relatively consistent and clear formulation: “In simple terms, this means that the [g]overnment cannot hire contractors to be used in the same manner as a government employee, nor can supervisors exercise similar control and management authority over contractor personnel as they may a government worker.”<sup>17</sup> When determining whether such services contracts are proper, the FAR cautions that “[e]ach contract arrangement must be judged in the light of its own facts and circumstances . . .”<sup>18</sup> Whether the Government “exercise[s] relatively continuous supervision and control over the contractor personnel performing the contract” becomes the determinative factor.<sup>19</sup> A personal services contract can arise under the contracts terms or “in the manner of its administration during performance.”<sup>20</sup>

One statutory exception to the general ban on personal services contracts is Title 10, USC, Section 1091, which allows the DoD, including the DA, to “enter into personal services contracts to carry out health care responsibilities in such facilities, as determined to be necessary by the Secretary.” Accordingly, Defense Federal Acquisition Regulation Supplement (DFARS) 237.104(b)(ii)(A) provides that the authority in Title 10, USC, Section 1091 may be used to acquire:

- (1) Direct health care services provided in medical treatment facilities;
- (2) Health care services at locations outside of medical treatment facilities (such as the provision of medical screening examinations at military entrance processing stations); and
- (3) Services of clinical counselors, family advocacy program staff, and victim’s services representatives to members of the Armed Forces and covered

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<sup>14</sup> Pers. Servs. Private Contract v. Gov’t Pers.-Statutory Emp’t Ceilings, 32 Comp. Gen. 427, at 430 (1953).

<sup>15</sup> FAR 37.104(b).

<sup>16</sup> FAR 2.101.

<sup>17</sup> Glenn J. Voelz, *Contractors in the Government Workplace: Managing the Blended Workforce* 51 (Gov’t Inst. Press 2010).

<sup>18</sup> FAR 37.104(b).

<sup>19</sup> FAR 37.104(c)(2) (referring to that inquiry as “the key question”); see also Consultant Servs., T.C. Assocs., B-193035, 79-1 CPD ¶ 260, at 1 (Comp. Gen. Apr. 12, 1979).

<sup>20</sup> FAR 37.104(c).

beneficiaries who require such services, provided in medical treatment facilities or elsewhere. Persons with whom a personal services contract may be entered into under this authority include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines, and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

Further effectuating the authority in Title 10, USC, Section 1091, DoD Instruction (DoDI) 6025.5, *Personal Services Contracts for Health Care Providers*, paragraph 4.1, retrievable at <http://www.dtic.mil/whs/directives/corres/pdf/602505p.pdf>, states,

When in-house sources are insufficient to support the medical mission of the Military Departments or in using sound business judgment it is more efficient to do so, PSCs (personal services contracts) may be executed for physicians and other HCPs (health care providers).

Whether the government's treatment of a non-personal service contract employee crosses the line and creates an impermissible employer-employee relationship must be judged in light of the particular circumstances. The key question is whether the government exercises relatively continuous supervision and control over the contractor personnel performing the contract at issue. Accordingly, FAR 37.104(c)(2) states, "The sporadic, unauthorized supervision of only one of a large number of contractor employees might reasonably be considered not relevant . . ."

To assist agencies in making the fact-specific determinations required for each circumstance, FAR 37.104(d) lists criteria to be applied when analyzing "whether or not a proposed contract is personal in nature." The criteria include:

- (1) Performance on site;
- (2) Principal tools and equipment furnished by the government;
- (3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission;
- (4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel;
- (5) The need for the type of service provided can reasonably be expected to last beyond 1 year;
- (6) The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, government direction or supervision of contractor employees in order to—
  - (a) Adequately protect the Government's interest;
  - (b) Retain control of the function involved; or
  - (c) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

The presence of *any or all* of the above elements in the performance of a contract intended to be for non-personal services could create an improper employee-employer

relationship, but as the Government Accountability Office (GAO) found in a 2008 study “[s]uch a finding can only be established based on a case-by-case analysis of the totality of the circumstances of each case.”<sup>21</sup> The GAO did acknowledge that the primary consideration for determining whether a personal services contract exists is not whether such a contract exists by its terms, but rather nature of the relationship between the contractor and the Government in practice.

For instance, in *W.B. Joley*, B-234146, March 31, 1989, 89-1 CPD ¶ 339, the protester alleged that the proposed contract would lead to a personal services contract because—

among other things, the government provides the workplace and the tools to be used and establishes the workhours and the work to be done . . . [and] essentially, that the presence of certain elements listed in [FAR] 37.104(d) . . . as factors to be considered in assessing whether a proposed contract is personal in nature renders the contract a personal services contract. *Id* at 2.

The GAO disagreed and held that the

‘key question’ in determining whether a contract is for personal services is: ‘Will the government exercise relatively continuous supervision and control over contractor personnel performing the contract . . . we do not think the presence of these factors *per se* (emphasis in original) renders the contract a personal services contract. *Id* at 3.

The elements in FAR 37.104(d) are not the exclusive list of characteristics of an employer-employee relationship although they are “indicia of continuous supervision and control of contractor personnel by the government.” In the *Joley* case, the GAO stated, “[f]actors such as the contractor’s right to hire and fire employees, to grant or deny individual leave requests, and to reassign [contractor] employees negate the existence of a personal services contract as defined in the FAR.”

## **APPLICABLE FISCAL LAWS AND REGULATIONS**

The Whistleblower alleges that the relationship between the government and the contract psychometrist at KAHC as well as presentation of Commander’s coins and “award” certificates to contractor employees may have violated the Anti-Deficiency Act and other procurement guidelines, namely the Purpose Statute.

The Purpose Statute is codified at Title 31, USC, Section 1301, and provides that “appropriations shall be applied only to the objects for which the appropriations were made, except as otherwise provided by law.” In each annual DoD Appropriations Act, Congress provides funds for specific “purposes,” including the necessary expenses of agency Operations and Maintenance, Research and Development, Procurement, and Military Construction, among others.

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<sup>21</sup> U.S. Government Accountability Office, GAO-08-360, *Defense Contracting: Army Case Study Delineates Concerns with Use of Contractors as Contract Specialists*, at 15 (2008).

Within the Department of Defense, DoD Financial Management Regulations (DoD FMR), Volume 14, principally Chapter 2, provides guidance on matters related to the Anti-Deficiency Act and related funding statutes, including the Purpose Statute, as follows:

020101. Governance. The Anti-Deficiency Act . . . and related funding statutes consist of certain provisions of law prescribed in Title 31, USC. The Anti-Deficiency Act, prescribed in Sections *1341*, *1342*, and *1517* of Title 31, USC, prohibits obligations and expenditures in excess of or before an appropriation . . . Noncompliance with Sections *1301*, *1502(a)*, and *3302(b)* of Title 31, USC, which are additional funding statutes, *may* lead to an Anti-Deficiency Act violation (emphasis added) . . .

A. Amount Limitation. Section *1341* of Title 31, USC, stipulates that any officer or employee of the United States Government . . . may not:

1. Make an obligation, expenditure, or authorize an obligation or expenditure of funds that exceeds the amount available in an appropriation or fund.

2. Involve the Government in any contract or obligation for the payment of money before an appropriation is made available, unless the law authorizes such contract or obligation.

B. Voluntary Services Limitation. Section *1342* of Title 31, USC stipulates that an officer or employee of the United States Government . . . may not accept voluntary services on behalf of the Government or employ personal services in excess of that authorized by law, except as it may be necessary in emergencies involving the safety of human life or the protection of property.

C. Administrative Control of Funds, Amount Limitation. Section *1517* of Title 31, USC stipulates that an officer or employee of the United States Government . . . may not make an obligation or expenditure or authorize an obligation or expenditure that exceeds an apportionment or amount permitted by a regulation prescribed for the administrative control of an appropriation, including any other formal administrative subdivision of funds designated by a DoD Component . . .

D. Purpose Statute. Section *1301* of Title 31, USC. stipulates that appropriations shall be applied only to the objects for which the appropriations were made, except as otherwise provided by law.

E. Time Limitation. Section *1502(a)* of Title 31, USC stipulates that the balance of a fixed-term appropriation is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made and obligated within that period.

F. Miscellaneous Receipts Statute. Section 3302(b) of Title 31, USC requires an official or agent of the Government to deposit money received for the Government from any source into the miscellaneous receipts account of the U.S. Treasury without deduction for any charge or claim if the retention of the money is not authorized or exceeds authorized levels . . .

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## 0202 VIOLATIONS

### 020201. Discovery

An ADA violation may occur from various circumstances. If a suspected ADA violation is discovered, then a preliminary ADA review must be initiated.

### 020202. General Violations

General ADA violations occur when:

A. Statutory limitation is exceeded for the amount authorized in an appropriation or fund, to include special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used.

B. Statutory limitation on the purposes authorized in an appropriation or fund were violated and upon correction into the proper appropriation or fund, funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper appropriation or fund.

[DoD FMR, Volume 14, Chapter 2].

## **Applying Fiscal Law Principles to the Use of Appropriated Funds to Purchase Commander's Coins**

Typically, "Commander's coins" are about the size of half dollar coins and are usually custom minted and emblazoned with the unit insignia. Most Commander's coins are inscribed with words such as "presented for excellence" or "in recognition of outstanding performance." Commanders across all of the Armed Services use coins to instill unit pride, enhance *esprit de corps*, and reward service members and DoD civilian employees for outstanding performance and exceptional achievements pertinent to their official duties. Questions frequently arise, however, as to whether, from a fiscal law perspective, appropriated government funds may be used to purchase Commander's coins.<sup>22</sup>

The basic tenets of fiscal law, provide that: government agencies may use appropriated funds only for the "purpose" for which Congress appropriated them, the obligation of funds must occur within the time limits applicable to that appropriation, and the amount of the obligation and expenditure must not exceed the amounts Congress has appropriated. All three elements: purpose, time, and amount, must be observed for an obligation or expenditure of appropriated funds to be lawful.

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<sup>22</sup> Many commanders choose to use their own personal funds to purchase coins. The use of personal funds does not present an issue of fiscal law and eliminates any constraint on the purpose for which the commander may use the coins or the types of persons to whom he or she may present them. Essentially, there are no restrictions on the use of coins purchased from personal funds.

The Whistleblower alleges that the Purpose Statute, which underlies the first element in this three-part test, was violated when Commander's coins were given to several contractor employees at KAHC.

Simply stated, the Purpose Statute provides that appropriated funds may be used only for the purpose or purposes for which they were appropriated. It prohibits charging authorized items to the wrong appropriation, and prohibits the purchase of unauthorized items from any appropriation. The GAO has established a three-part test to determine whether a particular expense to be charged against appropriated funds is for a "proper purpose": (1) Is there a specific statutory basis for the expenditure, or is the expenditure necessary and incident to proper execution of the general purpose of the appropriation?; (2) Is the expenditure prohibited by law?; and (3) Is the expenditure otherwise provided for?

The Army's rationale for permitting the use of appropriated funds to purchase Commander's coins is premised on the concept that these coins are presented by commanders as on-the-spot awards to *military personnel or DA civilian employees* for outstanding duty performance. The presentation of Commander's coins to Soldiers is authorized by Title 10, USC, Section 1125.<sup>23</sup> The presentation of Commander's coins to civilian employees of the DA is authorized by Title 5, USC, Section 4503.<sup>24</sup> These specific statutory bases, reinforced by Army Regulations establishing agency award programs for both military personnel and civilian employees, meet the first prong of the GAO test.<sup>25</sup> There is no express prohibition on the use of

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<sup>23</sup> Title 10, USC, Section 1125 grants to the Secretary of Defense authority to "award medals, trophies, badges, and similar devices to members, units, or agencies of an armed force . . . for excellence in accomplishments or competitions related to that Armed Force, and [to] provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable." AR 600-8-22, *Military Awards*, implements this statute and specifically permits the presentation of a Commander's coin to a Soldier for "excellence in accomplishments or competitions which clearly contribute to the increased effectiveness or efficiency of the military unit [See AR 600-8-22, paragraphs 11-1 to 11-3, retrievable at [http://www.apd.army.mil/pdffiles/r600\\_8\\_22.pdf](http://www.apd.army.mil/pdffiles/r600_8_22.pdf)].

<sup>24</sup> Title 5, USC, Section 4503 states that an agency head may "incur necessary expense for the honorary recognition of, a [civilian] employee who—(1) by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paper work; or (2) performs a special act or service in the public interest in connection with or related to his official employment." For the Army, this statute is implemented in AR 672-20, *Incentive Awards*, retrievable at [http://www.apd.army.mil/pdffiles/r672\\_20.pdf](http://www.apd.army.mil/pdffiles/r672_20.pdf), which establishes an extensive incentive awards program for DA civilian employees.

<sup>25</sup> It is important to note that there exists no similar statutory authority to permit the use of appropriated funds to purchase Commander's coins for contractor personnel. Although contractor employees are an important component of the total DoD force, they are *not* Government employees. In fact, although AR 672-20 references so-called "Public Service Awards" that may be presented to certain non-government persons, under certain conditions, the regulation *expressly prohibits* making any award, including a certificate of appreciation, to Army contractor personnel [See e.g., AR 672-20, paragraphs 9-2, 9-2.1, and 9-5]. This prohibition is consistent with the restrictions imposed in Department of Defense (DoD) 1400.25-M, *Department of Defense Civilian Personnel Management System*, Subchapter 451, *Awards*, retrievable at [http://www.dtic.mil/whs/directives/corres/pdf/1400.25\\_SC451.pdf](http://www.dtic.mil/whs/directives/corres/pdf/1400.25_SC451.pdf). Although the DoD Manual permits the grant of honorary awards to private citizens, groups, or organizations that significantly assist or support DoD functions, services, or operations, with a view to "demonstrating the interest of DoD management in improving efficiency and effectiveness, and to encourage citizens and organizations in their efforts to assist in the accomplishment of DoD missions," it specifically precludes granting any such recognition to "persons or organizations having a commercial or profit-making relationship with DoD . . . unless the contribution is

appropriated funds for these purposes, nor is the expenditure of appropriated funds for the purchase of Commander's coins to be used as awards otherwise addressed in the law. Accordingly, prongs two and three of the GAO test are not implicated.

In the case of KAHC, the purchase of Commander's Coins was obligated against the annual appropriation for Operations and Maintenance, Army. This is the specific appropriation from which the operations of the Army—which encompass the Army's programs for awards and recognition to be provided to Soldiers and DA civilian employees—are properly funded. Accordingly, there is no Purpose Statute violation when Commander's coins are purchased from Operations and Maintenance appropriations in furtherance of a duly established agency awards program, as in this case.

Given that in the instant case, the purchase of Commander's coins was properly undertaken pursuant to an established agency award program (and that, thus, there was no violation of the Purpose Statute), by extension, there is no Anti-Deficiency Act violation under these circumstances. The DoD FMR provides as follows:

General ADA violations occur when:

B. Statutory limitation on the purposes authorized in an appropriation or fund were violated and upon correction into the proper appropriation or fund, funds were not available *at the time of* the erroneous obligation or were not available *when the obligation was recorded* in the proper appropriation or fund.”  
[emphasis added].

[DoD FMR, Chapter 2, paragraph 020202B].

As set forth above, no violation of the Purpose Statute occurred in this case and adequate funds were available at the time the cost of the Commander's coins was obligated against KAHC Operations and Maintenance, Army accounts.

### **Applicable Policies on Commander's Coins**

There is no Army-wide regulation or policy specific to Commander's coins. Army commanders are authorized by law and Army Regulations to establish their own awards programs, however. In practice, many of these programs include provisions for the presentation of Commander's coins. Applicable to the purchase and presentation of Commander's coins at KAHC are policies issued by MEDCOM and the Northern Regional Medical Command, both higher headquarters of KAHC.

MEDCOM Regulation 672-7, *Military Coins*, retrievable at [http://www.samhouston.army.mil/sja/pdf\\_files/2009/MEDCOM%20Reg%20672-7%20-%20Military%20Coins.pdf](http://www.samhouston.army.mil/sja/pdf_files/2009/MEDCOM%20Reg%20672-7%20-%20Military%20Coins.pdf), prescribes policies and procedures for the purchase and award of military coins by its subordinate commands and activities and authorizes

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substantially beyond that specified or implied within the terms of the contract establishing the relationship, or the recognition is clearly in the public interest.” [DoD 1400.25-M, Subchapter 451, paragraph 451.15].

subordinate organizations to publish their own coin policies, provided they are not inconsistent with that of MEDCOM. Pursuant to this regulation, no subordinate command may expend more than \$5,000 in appropriated funds in any single fiscal year for the purchase of such coins and the value of an individual coin may not exceed \$25. Further, the MEDCOM Regulation prescribes that units and organizations that purchase military coins with appropriated funds must maintain a formal record to track coin expenditures and report such expenditures annually, through their chain of command, to MEDCOM. MEDCOM Regulation 672-7 echoes AR 600-8-2 and AR 672-20 in setting forth the purposes for which Commander's coins may be presented and in delineating authorized recipients. In addition, MEDCOM Regulation 672-7 expressly prohibits the presentation of military coins purchased with appropriated funds to contractor personnel.<sup>26</sup>

As authorized by MEDCOM, the North Atlantic Regional Medical Command published its own coin policy, *North Atlantic Regional Medical Command (NARMC) Delegation of Authority for Military Coins*, dated August 31, 2009 [TAB 26].<sup>27</sup> In every material respect, including limitations on the amount of appropriated funds that may be expended for Commander's coins, as well as annual cost tracking and reporting requirements, the Northern Regional Medical Command policy simply reiterates MEDCOM Regulation 672-7. The Northern Regional Medical Command policy delegates to Commanders in the grade of Colonel (garrison, military treatment facility, and brigade commanders), the authority to approve the purchase of, and disseminate, military coins specially minted for their command. Further, the Northern Regional Medical Command policy provides that any such coin must be inscribed with the words "'for a job well done" or "for achieving excellence."

As provided for under the MEDCOM and Northern Regional Medical Command policies, the KAHC Commander, issued his *Awards, Recognition and Acknowledgement (ARA) Program* policy on August 23, 2012.<sup>28</sup> This policy was in effect during time period associated with the whistleblower's allegations to OSC.

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<sup>26</sup> MEDCOM Regulation 672-7, paragraph 7c, provides—"Military coins may be presented to Department of the Army (DA) personnel to:

- (a) Recognize excellence in an Army competition or similar activity (in accordance with ARs 600-8-22 and 672-20);
  - (b) Recognize a unique accomplishment that furthers the efficiency and effectiveness of the Army's mission (in accordance with ARs 600-8-22 and 672-20); or
  - (c) Further recruitment of personnel.
- (2) Military coins may be presented to Army volunteers as honorary awards for services or accomplishment that significantly assist or support Army functions, services, or operations (in accordance with 10 U.S.C. §1588).
- (3) Military coins shall not be given away as mementos and shall not be presented merely for an individual's normal performance of regularly assigned duties.
- (4) *Military coins purchased with appropriated funds shall not be presented to contractor personnel.*" (emphasis added).

<sup>27</sup> On 1, 2009, as part of MEDCOM's realignment, MEDCOM changed the name of the North Atlantic Regional Medical Command to the Northern Regional Medical Command (NRMC).

<sup>28</sup> TAB 21, Commander's *Awards, Recognition and Acknowledgement (ARA) Program* policy, dated August 23, 2012. The introduction to the KAHC ARA Program policy provides:

As to contractor employees, Commander's ARA Program policy provides that contractor employees may receive an informal "Letter of Input," but goes no further in describing what such a letter may entail. As to the "Civilian Employee of the Month Award," the policy specifically provides that "[n]ominations can be made by and for any member of the Kenner AHC staff (including contractors)." [See TAB 21, Commander's Awards, Recognition and Acknowledgements (ARA) Program policy, dated August 23, 2013, page 3, paragraph 5c]. The ARA Program policy refers generally to the "NRMC Commanding General's Coin" and the "KAHC Commander's Coin" as authorized "Informal awards," but never addresses who is authorized, or more importantly, perhaps, who is NOT authorized, to receive such a coin.<sup>29</sup>

### **Authorized Recognition of Contractor Employees**

Because of DoD's critical reliance on contractor support in executing the Department's missions, and given the large expenditures involved, contract surveillance is vital to ensuring that contractors provide quality services and supplies in a timely manner; to mitigating contractor performance problems; and to ensuring that the Federal Government receives best value.<sup>30</sup>

Under the FAR, the Contracting Officer is responsible for all contracting actions, ensuring compliance with the terms of the contract, and safeguarding the interests of the U.S. Government in its contractual relationships. Contract quality surveillance is an essential duty of every Contracting Officer. The requiring organization—the organization most familiar with the technical complexities and nuances of the requirements associated with the contract—also bears a heavy share of the contract quality surveillance burden. As experts on the contract requirements, members of the requiring organization may be granted specific authority by the Contracting Officer to conduct contract surveillance as a Contracting Officer's Representative (COR). A COR serves as the on-site "eyes and ears" of the Contracting Officer, verifying that the contractor is fulfilling the contract requirements and documenting that performance.

It is axiomatic that government contractors receive their awards and recognition whenever the government pays their bills for having completed the terms and conditions of the contract. Some forms of government contract provide incentive "fees" or "awards" for certain performance milestones or accomplishments, such as completing a project ahead of schedule or

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"The effective use of Awards, Recognition and Acknowledgements (ARA) is an essential component of leadership and personnel management. ARAs can range from a verbal thank-you (daily) to high-level honorary or military awards (periodically). Our Kenner AHC Line of Effort #3 focuses on investing in our people and developing leaders. Recognizing the great efforts and accomplishments of our staff is one of the best ways to demonstrate our appreciation and investment in their success."

<sup>29</sup> As stated in the Corrective Action portion of this Report, *infra* pages 43-45, the MEDCOM SJA will take affirmative action to ensure that the KAHC ARA Program policy is revised to comply strictly with law, regulation, and the policies of its superior commands, MEDCOM and Northern Regional Medical Command. In particular, the KAHC policy will be revised to state specifically the prohibitions on presenting awards, recognition, and acknowledgments to contractor employees.

<sup>30</sup> A more expansive discussion of the roles and responsibilities of the Contracting Officer and the COR are contained in the *DoD COR Handbook*, dated March 22, 2012, issued by the Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, dated March 22, 2012, retrievable at [http://www.acq.osd.mil/dpap/cpic/cp/docs/USA001390-12\\_DoD\\_COR\\_Handbook\\_Signed.pdf](http://www.acq.osd.mil/dpap/cpic/cp/docs/USA001390-12_DoD_COR_Handbook_Signed.pdf).

under budget. Nevertheless, personnel within government often desire to provide some sort of recognition to individual contractors for the contributions they may have made towards mission accomplishment. As discussed above, however, agency award programs are based on statutes. Specific statutes authorize the establishment of awards programs for military and civilian personnel of the Army, and the expenditure of appropriated funds in furtherance of such award programs. In contrast, there exists no statutory authority permitting the award of Commander's coins, certificates of appreciation, or similar nonmonetary incentives to contractors. Rather, DoD and Army manuals, regulations, and policies expressly prohibit such awards. The *DoD COR Handbook* goes so far as to caution that the Government “cannot use certificates to recognize a contractor or individual contractor employees, because doing so could complicate the source selection process on future contracts” by . . . leading to allegations of bias, protest to the GAO, and delay. The *DoD COR Handbook* does allow that:

“Contractors may be recognized through a letter of commendation from the Government to the contractor organization, which may choose to, in turn, recognize an individual contractor employee. In no event should a letter of commendation or any other recognition be given to a contractor or contractor employee without first coordinating such commendation or recognition with the Contracting Officer.”<sup>31</sup> [*DoD COR Handbook, Chapter 3*].

Even though individual awards and recognition of contractors are prohibited, the Contracting Officer, COR, and the requiring activity have a myriad ways in which to document and acknowledge contractor performance, whether it be negative feedback or “kudos”. Documenting how well a contractor performs on a contract is an essential part of the performance assessment process on which other Contracting Officers depend when evaluating a particular contractor’s submissions on future competitions. DoD policy directs CORs to provide regular performance comments to the Contracting Officer and notes that such comments should be “contractually based and professional; applicable to the monthly reporting period; performance based; specific, fully detailed, and stand alone; based on information gathered during audits, when possible, and fully supported.”

Contracting Officers may use the information received from CORs to document contractor performance in performance assessment databases. Section 872 of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417), enacted on October 14, 2008, required the development and maintenance of an information system that contains specific information on the integrity and performance of covered federal agency contractors. The Federal Awardee Performance and Integrity Information System (FAPIIS) was developed to address these requirements. FAPIIS provides users with access to integrity and performance information consolidated from other systems such as the Contractor Performance Assessment Reporting System (CPARS), proceedings information from the Entity Management section of the System for Award Management (SAM) database, past performance information from the Past Performance Information Retrieval System; and suspension/debarment information from the Performance Information section of SAM. It is through these systems, and the government’s

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<sup>31</sup> We think it possible that this is the sort of letter to which Commander’s ARA Program policy intended to refer in citing to contractor employee eligibility for an “Informal Award” of a “Letter of Input.”

regular payment of a contractor's bills, that contractors and contractor employees are authorized to receive acknowledgment of their performance.

### **Ethics Issues Associated with Contractors in the Workplace**

The presentation of Commander's coins and certificates of appreciation to contractor personnel are not only prohibited by Army Regulations governing departmental award programs, but are contrary to the principles of ethics and integrity that govern the Federal workplace. The *Standards of Ethical Conduct for Employees of the Executive Branch*, codified at Title 5, Code of Federal Regulations (CFR) and DoD (DoD) 5500.07-R, *Joint Ethics Regulation* (JER), retrievable at <http://www.dtic.mil/whs/directives/corres/pdf/550007r.pdf>, specify the ethics standards governing interaction by DoD military personnel and civilian employees with contractors and contractor employees. It is primarily the ethics issue of prohibited "endorsements" that impacts on the appropriate arms length working relationship that must be observed in the Federal workplace between Federal employees and contractor employees.

The general rule on endorsements is provided at Title 5, CFR 2635.702(c)), which states:

"Endorsements. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise except: (1) In furtherance of statutory authority to promote products, services or enterprises; or (2) As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission."

The JER, paragraph 3-209, in turn, states:

"Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied by DoD or DoD employees in their official capacities and titles, positions, or organization names may not be used to suggest official endorsement or preferential treatment of any non-Federal entity . . ."

The "endorsements" concern supports the general prohibition against awarding Commander's coins and certificates of appreciation to contractor employees. In essence, these items, as indicia of a job well done or of outstanding performance, could be viewed by the public as conveying a special token of appreciation to those private sector contractors who "enjoy" or are "fortunate" to have a business relationship with the Federal Government.

Additional cautionary pronouncements with respect to what a Commander's coin or certificate of appreciation represents are found in the Office of Government Ethics' (OGE) August 29 2006 DAEO-Gram DO-06-023 entitled "*Ethics and Working with Contractors—Questions and Answers*". Attached to DAEO-Gram DO-06-023 is a 29-page "questions and answers" document. The following is a question and answer relevant to the instant discussion excerpted from page 29.

Question: May an employee provide a letter or other statement discussing the quality of a particular contractor's performance?

Answer: Maybe. The OGE rule on endorsements, 5 C.F.R. § 2635.702(c), generally prohibits an employee from using his official position, title or authority to endorse any product, service or enterprise. Therefore, statements commending the performance of a contractor or a contractor's products generally are not permissible. However, the rule does not prohibit an employee from making a simple factual statement that the contractor's work satisfied the Government's requirements. . . . In addition to section 2635.702, there may be other policies or procedures, such as agency procurement or public affairs policies, that limit the situations in which an employee may make statements about a contractor's performance.

Example: A contractor asks an employee for a letter stating that the contractor performed all its work under a particular contract. After consulting with the contracting officer, the employee provides a statement indicating that the contractor met all benchmarks, submitted all reports, and delivered a fully operational product to the agency. This would not be a prohibited endorsement, even if it is anticipated that the contractor will share the letter with prospective customers.

While none of the above references specifically concern the presentation of Commander's coins to contractor employees, they do embody instructive ethics principles relevant in justifying the prohibition against presenting any such "endorsements" to contractor employees.

## **SUMMARY OF THE EVIDENCE OBTAINED FROM THE INVESTIGATION, AND AGENCY DISCUSSION**

### **Summary of the Evidence Obtained from the Investigation**

The AR 15-6 IO conducted an exhaustive investigation of the three allegations referred by OSC to the Army. All of the witnesses germane to the allegations were interviewed by the IO. Each witness interviewed in the context of the AR 15-6 investigation was asked to respond to a set of questions developed by the IO to solicit specific information relevant to the Whistleblower's allegations. When required for completeness or clarity, some of the witnesses were interviewed several times. A summary of the testimony provided by the two key witness relevant to the three OSC-referred allegations, a summary of the facts as determined by the AR 15-6 investigation, and a discussion of each of the three OSC-referred allegations in light of the testimonial and documentary evidence follow.

## Key Witnesses' Testimony

### The Whistleblower, GS-11 Behavioral Sciences Coordinator, KAHC.

The IO afforded the Whistleblower multiple opportunities to provide both testimonial and documentary evidence in support of her allegations.<sup>32</sup> The IO included all of the evidence provided by the Whistleblower in the investigative record.

In her first statement [TAB 4], the Whistleblower described her work activities at KAHC, serving first as a contractor employee with Eagle Applied Sciences performing psychometrist work in support of the Tele-health contract at KAHC, beginning in January 2010. KAHC was one of the several pilot sites of military medical institutions utilizing the Tele-health program. Subsequently, she was selected to fill a GS civilian position created at KAHC as a Behavioral Sciences Coordinator, entering on duty as a DA civilian employee in February 2012. Her duties as the Kenner Behavioral Sciences Coordinator “included the responsibility for coordination of work assignments, [and] training and quality controls within the testing lab.” Subsequently, Eagle Applied Sciences hired a new contractor employee, to perform the same contract psychometrist duties that the Whistleblower had previously performed while serving as a contractor employee for Eagle. The Whistleblower testified as follows:

“[o]ver the next month as I worked with Contract Psychometrist I noted problems in her patient evaluations/testing and general office skills. I began to feel that she was not competent, and that she did not possess the full scope of competencies listed as a requirement for employment and necessary for psychometrist duties at KAHC and Tele-health. I also felt that she should not see patients autonomously. I voiced my concerns to Chief of Psychology on several occasions. . . .I requested guidance from her [Chief of Psychology] on what could be done in light of Contract Psychometrist’s position as a contractor. I believed that Eagle Applied Sciences was responsible for her competency and for her psychometrist skills training or remediation but was unclear as to any specific limitations placed upon me as a government employee responsible for the supervision and operation of the testing lab. Nevertheless, Chief of Psychology and I coordinated to develop corrective measures to raise Contract Psychometrist competency.

On June 19, 2012 Chief of Psychology and I spoke with Contract Psychometrist regarding a plan to improve her skills as a psychometrist. The plan (“30 day expectations”) included psychometrist training, and practical exercises for specific assessments and the skills necessary to support the psychometrist role and KAHC/Tele-health mission. This plan included a 30-day reevaluation to ascertain her progress towards becoming autonomous for core assessment requirements.”

The Whistleblower further testified that she “ensured” that Contract Psychometrist received additional training and provided Contract Psychometrist with feedback throughout the

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<sup>32</sup> the Whistleblower made two sworn statements: one on May 17, 2013 [TAB 4] and one on August 22, 2013 [TAB 6]. Additionally, the Whistleblower provided the AR 15-6 IO with several documents in support of her complaints against the KAHC. These documents are attached to the Whistleblower’s statements at TABs 4 and 6.

entire process but continued “to feel uncomfortable in the role of supervisor for remediation on a contract employee,” and voiced her concerns on this matter. The Whistleblower testified that, in early July, Contract Psychometrist’s progress had “not significantly improved” and that she [the Whistleblower] again expressed her concerns regarding these issues to Chief of Psychology. In turn, Chief of Psychology requested guidance from the Chief of the Department of Tele-health, Northern Regional Medical Command, as to “how to proceed with Contract Psychometrist’s supervision and remediation.” Subsequently, Chief of Psychology informed the Whistleblower that she [Chief of Psychology] had discussed these matters with her technical chain of supervision. This resulted in a multi-site meeting/conference between several members of KAHC leadership, representatives of Eagle Applied Sciences, personnel from associated medical facilities such as the Walter Reed National Military Medical Center (WRNMMC), and Contract Psychometrist, to discuss the proposed 30-day performance improvement plan for Contract Psychometrist. According to at that meeting, she “expressed concern over apparent ‘dumbing down’ of testing protocols to overcome Contract Psychometrist’s deficiencies, thus not supporting command and department missions as well as raising ethical concerns.” Again, the Whistleblower requested guidance on the “role of contractors and what government supervisory responsibilities are.” The Whistleblower further testified that shortly thereafter, the following occurred:

“The decision was made by the Chief, Department of Tele-health, Northern Regional Medical Command, that Contract Psychometrist would be sent to WRNMMC for a week of assessment and training under the supervision of their psychologists. Because my relationship had become very strained (“hostile”) with Contract Psychometrist, the decision was that I would no longer be involved with supervision of her psychometry competencies/products and this would be done by different psychology staff from Tele-health for a week. In addition, the decision was made that we would have to tailor patient testing batteries based upon her [Contract Psychometrist’s] “familiarity and comfort”. My concern remained that this was not in line with our Mission and Vision Statements regarding “Excellent” patient care.

The Tele-health leadership assessment, after her week at WRNMMC, was that Contract Psychometrist’s skills were now adequate. However, I was no longer responsible for her testing oversight and quality controls; a DA civilian employee physician at KAHC was assigned as her supervisor. Suddenly, that physician was also then assigning workload distribution, a job that entailed assigning the testing referrals to each of the two psychometrists (Contract Psychometrist and myself). Although this function is in my position description and I had been doing it for months, it changed when the physician became Contract Psychometrist supervisor. I tried to get an understanding of the processes but could find no resolution for my concerns. The physician seemed to “cherry pick” which assessment batteries would be provided to the contractor Contract Psychometrist in order to assure what he termed “meaningful employment.” I advised the physician supervising Contract Psychometrist that I had serious ethical concerns with this approach and that I questioned the legality related to the government-contractor relationship and workload distribution.

I felt that I had capacity for work but was given less than my prior workload. In addition, another one of my previous responsibilities was to screen walk-ins on Tuesdays, a sole KAHC function. Instead of me performing this function, it was now “shared” with Contract Psychometrist. I was still very concerned with her performance because on those days, sometimes patients would be left alone in the waiting and testing rooms and would start looking in offices seeking assistance. I again sought guidance regarding what government vs. contract workers could do, how workload was supposed to be distributed and whether there were policy guidelines in these areas. I elevated these issues, using my chain of command . . . (copy to Chief of Psychology still on maternity leave) via an e-mail on August 22, 2012. I outlined my concerns regarding the legal issues of distributing workload when there are both GS and contract employees performing like duties and potential violations of the Federal Acquisition Regulations (the government-contractor relationship related to Personal Services). I was told that Chief of Psychology would resolve the issues upon her return in early September [from her maternity leave].

When Chief of Psychology returned from maternity leave, she changed my duties. She relieved me from most of my behavioral sciences responsibilities including: performing QA (quality assurance), maintaining supplies inventory, teaching interns and other personnel, performing workload distribution and scheduling of lab resources. This resulted in my remaining duties primarily as a psychometrist. Her explanation was that this action would allow her to “get a handle” on the testing lab and reassess Contract Psychometrist’s competency, but no end state or time line for resumption of duties (nor any feedback on performance) was provided. After several weeks in this state of limbo, I specifically asked if there were any concerns related to my performance and was proactive in seeking input in to means by which I could return to these duties (i.e., training, mentoring, etc.). I was informed by Chief of Psychology that she had no issues with my performance and she was still evaluating the way ahead for the testing lab.”

The Whistleblower continued to express her dissatisfaction with the assignment of work between Contract Psychometrist and her, and expressed frustration over the new workload assignment process. Additionally, the Whistleblower became concerned with the following new matters regarding the proper relationship between contractor employees and government personnel:

“I was becoming more aware that Contract Psychometrist, a contract employee, was being given awards (time off allowances) and other benefits that are usually reserved for government employees. However, this practice was common for other contractors as well. I again sought guidance and concluded that Contract Psychometrist was being treated more like she had a personal services contract rather than having been hired by a contracting company which had certain contractual agreements with the government regarding time worked, awards, and supervision. I requested a meeting with [the Chief of the Behavioral Health

Department, KAHC] and Chief of Psychology to ascertain the command/Army position on the rules/requirements for government-contractor relationships as well as an escalating tension/hostility related to loss of duties.

On 4 December 2012 Chief of Psychology, [the Chief of the Behavioral Health Department, KAHC] and I had a meeting. I again inquired about the distinctions of a personal services contract, asked again about the distribution of workload, why Contract Psychometrist was being treated more like a government employee rather than a contractor, why she received 59-minute off rewards when my understanding, as a former contract employee myself, was that those awards are not to be given or taken, and why the Behavioral Health Department was assigning Contract Psychometrist tasks outside of her contractual job description, especially when some of the assignments/responsibilities were in my position description. I also sought guidance on what the commands administrative grievance procedures were. With regard to the contractor relationship, [the Chief of the Behavioral Health Department, KAHC] stated that “we have had contractors here for years and we have always done it this way.” [the Chief of the Behavioral Health Department, KAHC] acknowledged not knowing that there are differences between contracts based on “personal services” and “non-personal services.” This resulted in [the Chief of the Behavioral Health Department, KAHC] calling the KAHC COR for assistance. The COR came up to [the Chief of the Behavioral Health Department, KAHC’s] office and during the discussion indicated that in the past, instances had occurred where contractors who had previously received inappropriate “perks” and later when the rules were enforced and they did not receive similar (government) benefits, formal complaints had been filed. She specifically, mentioned an incident I believe involved the Pharmacy but offered few details other than the similarity with our discussion. I believe this indicates that KAHC has been inappropriately giving contract employees benefits that they should not, over a period of time.”

The Whistleblower continued to address to her supervisory chain the assignment of work responsibility and the caseload distribution process, which she was not managing at that point in time. In December 2012, she requested a meeting with her supervisory chain, to discuss these matters. The meeting occurred, but the Whistleblower felt that devolved into a—

“‘counseling session’ directed at me. The Deputy Commander for Clinical Services, KAHC stated early in the session that ‘we aren’t here to discuss contracts, personal or otherwise; we treat all employees the same.’ He admonished me that I need to recognize there is no ‘I’ in ‘TEAM’ and needed to work collaboratively to improve communications. I was informed that they wanted Contract Psychometrist to perform more of my duties, and to allow her to sign for equipment when my understanding is that only government employees are supposed to sign for equipment and supplies. They took away my inventory job and made it a community proposition, directing me to ‘just order two of everything’ instead of taking a measured approach to ordering and spending money. Again, my perception was that they were trying to force me to treat

Contract Psychometrist as a peer in all aspects with no regard for rules/regulations which might limit the extent of that relationship. At the December meeting I was informed that everyone is treated equally at KAHC, whether contractor or GS.”

At the end of this testimony to the AR 15-6 IO, the Whistleblower expressed her “two biggest ongoing concerns”: (1) She still has yet to be informed as to the appropriate grievance procedures for addressing her above stated concerns, especially regarding her assignment of work to her versus assignment of work to the contractor employee, Contract Psychometrist, and that she “never felt comfortable being placed in the position of having to remediate a contract employee, whose hiring company should have been the ones to assure she was competent to do the job for which she was hired and the government was paying for;” and (2) That the Federal Acquisition Regulations have been violated with respect to how Contract Psychometrist has been treated as a contract employee in both how she executes her duties and with respect to the following matters:

“contractors are routinely recognized and awarded directly by command leadership with verbal and written praise as well as with tokens of appreciation such as Commanders' coins and recognition as “employee of the month/quarter”.

- Contractors are routinely awarded time off in the form of 59-minute rule.
- In e-mail communications, differences between contractor and GS are not apparent (“KAHC civilians and KAHC military” are group names, with contractors grouped together with GS and no clear identification in signature blocks and other formal means of communication.
- Daily supervision and direction of contracted employees is provided by government employees, on site, with all equipment and tools provided by the government, comparable services being performed by GS personnel, and the work has lasted more than a year.
- Government employees have been required to determine competency and qualifications of contracted employees (including in my case).”

The Whistleblower provided another statement and supporting documentation to the AR 15-6 IO on August 21, 2013 [TAB 6, Statement of the Whistleblower, dated August 22, 2013]. In this statement, citing to specific contracting rules and principles, the Whistleblower testified that although she has never been a contracting officer or specialist, she had a “general knowledge of acquisition rules” based on training she had received from the following courses: Fundamentals Government Ethics Training (online/in-person); the Fundamentals of Systems Acquisition Management (Defense Acquisition University (DAU)); Army Civilian Leadership Basic Course (online); and Army Supervisory Development Course (online). Additionally, she stated that she had not previously been a supervisor before her current position as the Kenner Behavioral Sciences Coordinator.

The Whistleblower stated that she believed Contract Psychometrist was treated as a personal services contractor because she met the six factors listed in FAR section 37.104. Additionally, the KAHC “institutional processes” and “command climate” were inappropriate concerning government- contractor relationships, and the enforcement of the rules varied depending on the Commander of KAHC. As examples of issues related to the inappropriate relationship with contractors, she cited the day-to-day supervision of contractors and allowing

contractors to receive awards, 59 minute off with pay, and to participate in organizational day activities. When she was a contracted psychometrist, she was instructed on her duties by [the Chief, Department of Tele-health, Northern Regional Medical Command], the government Tele-health lead. She stated that when she was the contractor psychometrist, she was able to “operate fairly autonomously” and “did not require day-to-day supervision.” However, she believes Contract Psychometrist required significantly more supervision than she [the Whistleblower] had required. Regarding her point that, as a contractor, she had been able to perform those duties “fairly autonomously”, the Whistleblower testified as follows:

“I did not require day-to-day supervision, rather I was able to take a test regimen and execute my tasks and provide a report/test results to the government (KAHC or Tele-health) without the level of supervision that was being required by Contract Psychometrist. Neither the government nor the contract house ever reported any concerns with performance during my tenure as a contract psychometrist. While I am not privy to all the details of the contract, I am and have been certified as a “Certified Specialist in Psychometry (CSP)” which is the commercial standard for ensuring competency in the Psychometry field. When I was hired by Eagle Applied Sciences, this certification was a requirement of my employment and it is a requirement of my PD (position description) as a GS employee. Contract Psychometrist does not have this nor did she meet the requirements for certification at the time she came onboard.”

Further, when the Whistleblower was questioned about whether she ever received an award or other benefit specifically reserved for government employees when she worked for Eagle, she stated that she had not received any benefits reserved for government employees such as 59 minutes or other time off, awards, or participation in organizational days. Further, when asked by the AR 15-6 IO if she had any direct knowledge that Contract Psychometrist took 59 minutes off when government employees in her work group were given such a “time off” award, she replied “no”, though she asserted that “the “Commander e-mail” was just one of several instances in which this occurred (awarding of time off to Contract Psychometrist and other contractors). Many of these instances occurred at the supervisor- and/or department head-level rather than at the level of the KAHC command. These were typically announced at staff meetings and/or staff functions rather than by e-mail or other traceable means. Additionally, she testified that she was aware of several instances when the Commander, KAHC, had given coins and certificates to contractor employees, and had sent out e-mails authorizing 59 minutes off without distinction between contractors and DA civilian employees. Regarding her first-hand knowledge of instances in which “contractors [had been] recognized by the command leadership with awards of verbal and written praise, as well as with tokens of appreciation such as Commanders' coins and recognition as Employee of the Month/Quarter, the Whistleblower provided documentation that included: an e-mail sent by the Commander authorizing winners of a Halloween costume contest a 59 minute time-off award; a January 17, 2013 e-mail from the Commander authorizing 59 minutes off due to inclement weather; a picture of the Commander recognizing three contractors with “Employee of the Month” awards; one picture in which the Commander presented a contractor employee with a Commander’s coin; and a picture of the Commander presenting certificates to two individuals in the maintenance section, also believed to be contractor employees [TAB 6, Statement of the Whistleblower, dated August 22, 2013].

The Whistleblower concluded her August 2013 statement by stating that it was her perception that the “command behavior” regarding contractors in the workplace changed after the [OSC generated AR 15-6] investigation started, including drawing distinctions with respect to command recognition e-mails” granting 59 minutes and/or other recognition with respect to contractors and civilian employees. She noted too that “clear guidance” now was being provided concerning the distinction between contractors and civilian employees for command functions, and the attendance/participation/leave status of DA civilian employees as contrasted with that of contractor employees.

### **Contractor Psychometrist.**

Contract Psychometrist was interviewed twice by the AR 15-6 IO and provided statements dated May 17, 2013 [TAB 7, Statement of Contract Psychometrist, dated May 17, 2013] and August 19, 2013 [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013]. Contract Psychometrist testified that when she started working at KAHC as a contractor psychometrist employed by Eagle Applied Sciences, her supervisor was the Eagle Applied Sciences Program Manager the Tele-health contract. However, the on-site KAHC management team provided oversight as well. She testified that when she started to work at KAHC, the Whistleblower raised issues almost immediately to the KAHC management team regarding her (Contract Psychometrist’s) competency to perform her assigned duties/caseload. Contract Psychometrist described the following steps taken by KAHC and her contractor employer, Eagle Applied Sciences, to address the Whistleblower’s concerns: “The Whistleblower informed me that she was to be my immediate supervisor for orientation and training. Shortly after my hiring, she created a 30-day performance improvement plan that I was not aware of. She asked Chief of Psychology to review the plan and then for me to sign it in a meeting, which was a surprise to me. Then the Whistleblower was designated to observe me administering tests and my daily performance. Among other comments, she expressed herself on how long I spent at the copy machine and how I scanned documents. Since this was my first time as a government contactor I agreed to sign the document (the 30-day performance improvement plan), but I was confused because when I was hired, the vendor/contract agency and Tele-health had all checked my references and they were satisfactory.

Before the 30 days were up, the Whistleblower compiled a list of complaints and items that she said I could not perform. She sent them to Chief of Psychology who forwarded them to [the Chief of the Department of Tele-health, Northern Regional Medical Command], who was the head of Tele-health at that time. We had a meeting between [the Chief of the Department of Tele-health, Northern Regional Medical Command; the Chief, Department Behavioral Health, KAHC; the Whistleblower; and the Eagle Applied Sciences Program Manager for the Tele-health contract], and myself and a couple other individuals. It was

determined that my supervision would change (see copy of e-mail reference)<sup>33</sup>. The other outcome of the teleconference was that I would go to Rosslyn<sup>34</sup> to the Tele-health managers for them to observe me as I administered tests to mock patients. This was so that they could ascertain my abilities.

I worked with a neuropsychologist at WRNMMC who was also a contractor employee. She gave me several mock patient interviews. She trained me on some measures that she performed in her job as a neuropsychologist in order to familiarize me with more tests and also to expand my repertoire. I spent approximately one week in Rosslyn. This was paid for by my company. [The Chief of the Department of Tele-health, Northern Regional Medical Command] notified the vendor that my performance was satisfactory and I returned to work.” [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013].

Contract Psychometrist testified that while at training in Rosslyn, her “mentor” was a neuropsychologist at WRNMMC who was also a contractor employee. However, there were others at Rosslyn who assisted her and participated in an assessment of her competency. Contract Psychometrist then testified as to the results of her Rosslyn training sessions and the circumstances that ensued on her subsequent return to KAHC.

“The Whistleblower's questions about my abilities culminated in my trip to [The Chief of the Department of Tele-health, Northern Regional Medical Command] (head of Tele-health at the time) where I was observed administering assessments by several Tele-health providers and my ability to do my job was confirmed. I returned back to Kenner where the situation was the following: Chief of Psychology was on maternity leave, another DA civilian employee physician was the Acting Chief of Psychology, and the Whistleblower was still in charge of the testing referrals and their distribution to me as the other psychometrist. At the time, the workload was so that both the Whistleblower and myself could be busy with testing. Despite proving my competence, I was still not getting testing referrals. I decided to inform all my superiors both at Kenner . . . at Tele-health . . . and at Eagle Applied Sciences (the Eagle Program Manager of the Tele-health contract) of the lack of referrals I was experiencing. The Acting Chief of Psychology provided me with testing cases directly rather than going to the Whistleblower. With regard to the referrals from Tele-health, I received them directly from Tele-health providers whether by phone or via encrypted e-mails.” [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013].

Additionally, Contract Psychometrist testified that in short order additional issues arose regarding her ability to perform her assigned tasks, and she once again turned to her Eagle Applied Sciences supervisory chain to address the matter:

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<sup>33</sup> Contract Psychometrist made two sworn statements: one on May 17, 2013 [TAB 7] and one on August 19, 2013 [TAB 8]. Additionally, Contract Psychometrist provided the AR 15-6 IO with numerous e-mail records in support of her statements. These e-mails are attached to Contract Psychometrist’s statements at TABs 7 and 8.

<sup>34</sup> Some of the Eagle Applied Sciences contractor employees supporting the Tele-Health contract for KAHC were based at its Rosslyn, Virginia location.

“At that time I started to experience difficulties with being given test referrals since the Whistleblower was withholding consults and referrals from me. In addition, I could not access testing supplies and equipment because they were locked in the Whistleblower's office, or the rooms were booked by her for extensive periods of time, significantly limiting my ability to see and evaluate patients. I understand that the majority of these supplies are provided (paid by) WRNMMC Tele-health. My time was not filled with patients but I wanted to be busier and I feared for my job. I discussed this situation and my concerns with [management at KAHC and with the Eagle Applied Sciences Program Manager for the Tele-health contract]. I submitted monthly patient counts to document my workload to Eagle Applied Sciences Program Manager and the Tele-health administrators.

During this time my supervision regarding all neuropsychology referrals fell to [the neuropsychologist at WRNMMC, who was also a contractor employee], who approved the consults and with whom I maintained ongoing discussions regarding each patient until testing was completed. She is also my mentor for questions regarding testing in general. In addition to those patients, when I see local patients, my supervision is directed by the psychologist who has referred the patient to me.” [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013].

With a view to addressing the issues Contract Psychometrist raised to Eagle, and which Eagle, in turn, raised to KAHC, the Deputy Commander for Clinical Services, KAHC became directly involved in facilitating Contract Psychometrist's efforts to perform her assigned caseload. Contract Psychometrist testified that this occurred after she visited the Kenner Human Resources office and was advised that it “could not mediate this issue and referred me to my vendor.” [The Deputy Commander's] efforts to facilitate a smoother management of the patient load requiring a psychometrist's input included shifting the case load assignment responsibility for this area away from the Whistleblower, who had been making those assignments as the Kenner Behavioral Sciences Coordinator, and vesting case assignment responsibility in Chief of Psychology and himself. Further, [the Deputy Commander] recommended that the psychometrist section staff have daily huddles together with Chief of Psychology “to maintain open communication between us, and gave specific directives on how to equitably manage supplies and equipment.” Additionally, Contract Psychometrist stated that Chief of Psychology sent a memorandum that “spells out how referrals are managed. The Whistleblower gets walk-in patients and all patients that she can accommodate within a week. I see all Tele-health referrals and those patients whom she [the Whistleblower] cannot fit in within a week.”

In support of her testimony, Contract Psychometrist provided extensive e-mail documentation dated throughout the months of July 2012 through January 2013. These e-mails, between Contract Psychometrist; the Program Manager, Department of Tele-health, Northern Regional Medical Command; and the Eagle Applied Sciences Program Manager for the Tele-health contract at KAHC, detailed various workplace related matters of concern to Contract Psychometrist regarding her utilization at KAHC, including: (1) expressing her concerns that she was looking to them as her points of contact to help her address the various issues she was

encountering; (2) that the Acting Chief of the Psychology Department at KAHC had advised her about the change in her on-site, day-to-day “supervision,” so that “I will be supervised by whatever provider assigns me a referral to test” (referrals are assigned on a weekly basis at the psychology staff meeting); that the Acting Chief of the Psychology Department at KAHC had made arrangements that would be “guaranteeing access/use” for her to the computer room . . . as well as storing the testing supplies in a neutral environment”; that the neuropsychologist at WRNMMC who was also a contractor employee, was to be her mentor and provide her with any required training; (3) describing how satisfied the Chief of the Department of Tele-health, Northern Regional Medical Command and his team were with her training and capabilities as assessed during the Rosslyn training period; and that (4) her assignments (at that time) were still coming from the Whistleblower and that the intervention of the Eagle Applied Sciences Program Manager for the Tele-health contract at KAHC still was needed to improve this situation for her (Contract Psychometrist). Contract Psychometrist concluded one of her e-mails to the Eagle Program Manager, dated August 10, 2012, by saying “[p]lease let me know if any detail is not clear or if additional information is needed from me. Again, thank you for your support during this situation. Today I am eager to do the job I have been hired for just as much as I was on my first day and I look forward to the opportunity to do just that.”

Another e-mail exchange is worth noting. In an e-mail dated September 1, 2012, the Eagle Applied Sciences Program Manager for the Tele-health contract at KAHC wrote to Contract Psychometrist:

“[A contract physician] and I had the opportunity to brief the [Chief of the Department of Tele-health, Northern Regional Medical Command] on our site visit and our concerns. . . . the [Chief of the Department of Tele-health, Northern Regional Medical Command] was further advised of the contractual obligations of the contractor and government regarding this position and the tasks performed. He acknowledges our concerns and a plan to take immediate corrective actions. Finally, we did advise him of our concerns. . . . Hopefully we will begin to see immediate improvements . . . . I will be checking in with you on a periodic basis and expect you to contact me anytime you have work related concerns. So that we can monitor your work performance, I would like to see each month your patient count and a copy of your schedule for that month.” [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013].

Contract Psychometrist also addressed the allegations made by the Whistleblower concerning Contract Psychometrist’s taking “inappropriate time off.” Contract Psychometrist testified that “I always document my actual hours worked each day, which is usually 8 hours. I submit my daily worked hours directly to my vendor. I have no recollection of taking off for 59 minutes, and I did not participate in any other command sponsored hours off (e.g., Organization Day) since I was hired.” [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013].

### **Summary of the Evidence Obtained from the Investigation**

The Whistleblower alleged that KAHC management created an improper employer-employee relationship between the government and a contract psychometrist, at KAHC. The

Whistleblower further asserted that KAHC failed to correct this impropriety despite efforts to make them aware of these concerns throughout 2012. As evidence of this allegedly improper employment relationship, the Whistleblower testified that she and other government employees were placed in direct supervision of a contract psychometrist, whose performance and competence were deemed to be unsatisfactory. The Whistleblower charges that the improper relationship violated the Federal Acquisition Regulation, the Anti-Deficiency Act, and other procurement guidelines.

As originally awarded on September 30, 2009, KAHC Tele-health Contract W81XWH-09-C-0168 identified the psychometrist position in the personal services contract category. A December 2009 modification of the base contract changed the psychometrist position/duties to the non-personal services category, due to the fact that less than 45% of the psychometrist's time was spent in direct patient care.

In April 2012, a newly hired contract psychometrist, Contract Psychometrist, was assigned by her employer, Eagle Applied Services, to work at KAHC. The Whistleblower, then a GS-0101-11 Behavioral Sciences Coordinator, responsible for the development and operation of the psychology and neuropsychology testing labs, and for equitably and efficiently assigning cases to the contract psychometrist, soon noted problems with Contract Psychometrist's duty performance, including her skill in conducting patient evaluations, her ability to administer the breadth of tests required for psychometric evaluation, and other deficiencies in her work documentation and office skills [TAB 4, Statement of the Whistleblower, dated May 17, 2013, pages 1-2]. The Whistleblower approached her supervisor, Chief of Psychology, the Chief of the Psychology Department at KAHC, who listened to the Whistleblower's concerns.

The Whistleblower's position description stated that she was responsible for "instructing . . . newly hired . . . psychometrists in the administration and scoring of psychological and neuropsychological test batteries . . . and in making recommendations for corrective action." The Whistleblower's assigned duties also required her to "assist in developing performance plans and quality assurance of other psychometrists." [TAB 5, Position Description, Behavioral Sciences Coordinator, pages 2-3]. However, the Whistleblower informed Chief of Psychology that she was uncomfortable supervising or remediating Contract Psychometrist's competency due to Contract Psychometrist's status as a contractor. [TAB 4, Statement of the Whistleblower, dated May 17, 2013, page 2]. The Whistleblower stated that her concerns about supervising Contract Psychometrist also came to the fore "when minor direction to the contractor was not sufficient and day-to-day supervision was being required to effectively manage lab tasking." [See TAB 6, Statement of the Whistleblower, dated August 22, 2013, page 2].

In June 2012, the Whistleblower and Chief of Psychology developed a 30-day performance improvement plan for Contract Psychometrist that included evaluations of her skills by the Behavioral Health Coordinator (the Whistleblower) or Chief of Psychology (Chief of Psychology). [See TAB 9, 30-day Performance Improvement Plan]. Chief of Psychology expressed that the reason for the 30-day plan was "to have a record of items that they discussed [regarding Contract Psychometrist's duty performance] and a means to follow up on the concerns that the Whistleblower reported." [See TAB 10, Statement of Chief of Psychology, dated August 16, 2013, page 1]. The Whistleblower states that she was expected to review and

co-sign Contract Psychometrist's patient encounter notes, had provided Contract Psychometrist with additional training on several testing lab procedures, and had demonstrated proper procedures for Contract Psychometrist to model. The Whistleblower again expressed to Chief of Psychology her concerns about supervising the remediation of a contract employee, Contract Psychometrist. [See TAB 4, Statement of the Whistleblower, page 2 and TAB 6, Statement of the Whistleblower, page 2].

In early July 2012, Chief of Psychology communicated with her technical supervisory chain at KAHC and with the Whistleblower regarding concerns about Contract Psychometrist's duty performance during the 30-day performance improvement period. Chief of Psychology outlined several concerns of which she wanted to make her superiors, particularly the Chief of the Department of Tele-health, Northern Regional Medical Command, aware; Chief of Psychology's belief was that "as the Chief of Tele-health, he could ensure that any needed follow-up could occur through him and/or Contract Psychometrist's contractor." [See TAB 10, Statement of Chief of Psychology, dated August 16, 2013, page 1]. In response to Chief of Psychology's outreach, the Chief of Tele-health requested specifics about Contract Psychometrist's performance and promised to discuss the matter with the vendor, Eagle Applied Sciences. Shortly thereafter Chief of Psychology departed on maternity leave.

Contract Psychometrist stated that shortly after she reported to KAHC for duty as a contract psychometrist, the Whistleblower had told her that she (the Whistleblower) was to be her immediate supervisor for orientation and training. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013, page 1]. She also stated that "the Whistleblower sat in my test administrations and started to observe me." Contract Psychometrist was not sure if the Whistleblower "was asked to do so or took on that role herself." [See TAB 8, Statement of Contract Psychometrist, dated August 19, 2013, page 1]. When the Whistleblower raised issues regarding her performance, Contract Psychometrist signed the 30-day performance improvement plan presented to her on June 19, 2012 by Chief of Psychology and the Whistleblower. [TAB 9]. This prompted Contract Psychometrist to contact a DA civilian employee who served as the Tele-health Program Manager at the Northern Regional Medical Command, for guidance. In early July 2012, prior to the end of Contract Psychometrist's 30-day performance improvement period, the Chief of the Department of Tele-health, Northern Regional Medical Command; the Chief of the Department of Behavioral Health, KAHC; the Whistleblower; the Eagle Applied Sciences Program Manager for the KAHC Tele-health contract; and others, participated in a teleconference about Contract Psychometrist progress. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013].

Following the teleconference, on 13 July, the Tele-health Program Manager for the Northern Regional Medical Command (NRMC) e-mailed numerous members of KAHC management and the Eagle Applied Sciences Program Manager for the Tele-health contract, advising that Contract Psychometrist's supervision was to change to a "floating" provider model; essentially Contract Psychometrist was to be supervised for purposes of each individual patient assignment, by the individual psychologist who had referred that particular case to her. The e-mail also referenced that training for Contract Psychometrist would be facilitated, conducted, and managed by the Tele-health team located in Rosslyn, Virginia. A neuropsychologist at WRNMMC, who was also a contractor employee, would serve as Contract Psychometrist's

mentor. [See TAB 7 and TAB 11, E-mail from Tele-health Program Manager for NRMC, dated July 13, 2013].

Contract Psychometrist traveled to Rosslyn, Virginia for a week of training, as requested by the Chief of the Department of Tele-health, Northern Regional Medical Command. Contract Psychometrist states that all training was paid for by her contract vendor (Eagle), under the supervision of the WRNMMC contract neuropsychologist who served as Contract Psychometrist's mentor. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013; and TAB 2, Statement of Chief of Psychology, dated July 1, 2013]. After the week of training, it was determined that Contract Psychometrist was competent to perform psychometric testing as required by the Tele-health project, and she returned to KAHC. The Acting Chief of Psychology, KAHC, was assigned as Contract Psychometrist's primary local supervisor while Chief of Psychology was absent for maternity leave. [TAB 8, Statement of Contract Psychometrist, dated August 19, 2013, page 1]. During the period that the Acting Chief of Psychology, was assigning Contract Psychometrist's workload, the Whistleblower questioned "the legality related to the government-contractor relationship and workload distribution" pertaining to Contract Psychometrist. [TAB 4, Statement of the Whistleblower, dated May 17, 2013, page 3].

In August 2012, the Whistleblower wrote a lengthy e-mail to the Chief of the Department of Behavioral Health, KAHC. In this e-mail, the Whistleblower again expressed concerns about adherence to proper relationships between government and contractor employees, specifically citing concerns about favoritism being granted (in the form of workload distribution assignments) in order to provide "meaningful employment" to Contract Psychometrist, a contractor employee. The Whistleblower noted that explicit direction had been given by Tele-health Program Manager for NRMC to KAHC providers to supervise Contract Psychometrist, a contractor employee. The Whistleblower recommended that the Department of Behavioral Health Chief verify that the contract for which Contract Psychometrist was employed is not a "personal services" contract. [TAB 12, E-Mail from the Whistleblower to Chief of Psychology, et al., dated August 22, 2012]. The Department of Behavioral Health Chief found the Whistleblower's concerns difficult to understand because, as far as she knew, Contract Psychometrist's treatment was wholly consistent with her knowledge and prior experience regarding interactions with contractor personnel.

In September, the Whistleblower noted that a 59-minute time-off award was to be granted by KAHC commander, to employees of any treatment facility service that had a 90% completion rate on the Army Readiness Assessment Program survey. Commander's e-mail was addressed to "KAHC Military" and "KAHC Civilians." [TAB 13, E-mail from the Commander, dated September 19, 2013]. The Whistleblower interpreted this e-mail as being inclusive of contractors because it did not distinguish between GS DA civilian employees and contractor employees.

In October, Chief of Psychology sent the Whistleblower an e-mail stating that the "whole department was granted a 59-minute rule" and soliciting the Whistleblower's preference as to the timing of her 59 minutes off. The Whistleblower interpreted this e-mail as likely including all employees of the Behavioral Health Department, including contractors. [TAB 14, Chief of

Psychology's e-mail to the Whistleblower, dated October 11, 2012]. Later that same month, the KAHC Public Affairs Officer and the Commander publicly recognized several winners of the KAHC Halloween costume contest, including Contract Psychometrist. Commander's e-mail regarding the contest granted all winners, including Contract Psychometrist, a 59-minute time-off award. [TAB 15, E-mail from the Commander, dated October 31, 2012]. There is no evidence that Contract Psychometrist ever utilized this 59-minute time-off award, however.

Chief of Psychology, and other members of her technical supervisory chain each individually testified to the AR 15-6 IO that they were not aware of any contractor employee having taken 59 minutes off or receiving any other rewards inappropriate for a contractor employee. In her testimony, Contract Psychometrist stated that she had no recollection of having taken 59 minutes off, nor did she recall having participated in any other command-sponsored "hours off" from duty (e.g., Organization Day) since she had begun working at KAHC. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013, page 2].

On December 4, 2012, Chief of Psychology and the KAHC Chief of Behavioral Health met with the Whistleblower to address her ongoing concerns about government employee and contractor relationship roles and rules. The Whistleblower again raised concerns about appropriate contractor relationships, workload distribution, and that rewards (e.g., time off) were being granted improperly to contractor employees. The Whistleblower also indicated that she wished to seek outside arbitration of her concerns and a desire to notify the Commander of her intent. [TAB 16, Statement of Chief of Psychology, dated May 16, 2013; Memorandum for Record--Timeline of Events within Psychometry, dated December 5, 2012, with attachments; Memorandum for Record—Meeting with the Whistleblower and Chief of Psychology Regarding the Whistleblower's Relationship with a Contract Employee, dated December 4, 2012]. Chief of Psychology stated that she had attempted over several occasions to assuage the Whistleblower's concerns about appropriate supervisory relationships with contract employees. However, Chief of Psychology also believed, mistakenly, that the psychometrist's position under the Tele-health contract involved the performance of personal services. [See TAB 2, Statement of Chief of Psychology, dated July 1, 2013].

The KAHC COR had been invited to the December 4, 2012 meeting, where she was queried about, and proceeded to explain, the differences between personal services and non-personal services contracts. The COR also explained that she was not the COR for Contract Psychometrist's contract, but advised that she could provide the name of that individual. In a subsequent e-mail dated December 12, 2012, the KAHC COR provided documentation clarifying the definitions of personal and non-personal services contracts. In addition, she addressed the specific psychometrist contract in question (the KAHC Tele-health contract), highlighting the statement that "when not in direct Tele-health care, they [the psychometrists] can be utilized by on-site psychologists or designated personnel."

The KAHC COR also included in her December 12, 2012 e-mail the statement that "Since the Tele-health contract is a personal services contract for the Psychometrist . . . its contractor personnel are subject to the continuous supervision and control of a government officer or employee." [See TAB 2, Statement of Chief of Psychology, dated July 1, 2013]. This statement is in error. When it was awarded on September 30, 2009, the contract listed the

psychometrist position in the personal services category. On December 10, 2009, the government modified the contract to change the position to the non-personal services category. But relevant portions of the base contract were never conformed to reflect this contract modification. [See TAB 3, pages 19 and 71]. It is likely that this statement by the COR contributed to a continued misunderstanding of the nature of the KAHC contract psychometrist position.

Additionally, the Whistleblower had expressed a desire to meet with the KAHC Commanding Officer, in order to notify him that she would seek outside arbitration because she continued to perceive that a personal services contractual relationship had been established in the administration of a contract that was not designated as such. A meeting between the Whistleblower and Commander's deputy was scheduled for December 12, 2012. At this meeting, the Deputy Commander advised the Whistleblower that issues with Contract Psychometrist's competency seemed to be resolved and that an evaluation of Contract Psychometrist's contract was unnecessary. Under the belief that he was being asked to facilitate teamwork in the Psychology Department, the Deputy Commander addressed three issues: workload, supplies, and communication with the Whistleblower. To that end, the Deputy Commander emphasized that the KAHC command did not condone unfair treatment or favoritism.

The Whistleblower was dissatisfied with the meeting's outcome, felt that her concerns remained unaddressed, and perceived that she had been handled unfairly in view of her concerns that Contract Psychometrist's contract was being administered as if it were a personal services contract. In the Whistleblower's May 2013 statement to the AR 15-6 IO, she also elaborated that she had "first-hand knowledge" of FAR violations, including contractors having been awarded tokens of appreciation such as Commanders' coins, recognition as Employee of the Month/Quarter, and time off pursuant to the 59-minute rule. [See TAB 4, Statement of the Whistleblower, dated May 17, 2013, page 5]. At that time the Whistleblower provided copies of three e-mails authorizing the supervisors to apply the 59-minute rule to permit the early departure of "KAHC civilians." [See TAB 2, Statement of Chief of Psychology, dated July 1, 2013; TAB 17, E-mail from the Commander, dated January 17, 2013]. The Whistleblower stated her certainty that Contract Psychometrist took the time off because the Whistleblower recalled that on one such occasion, the two of them had left the workplace early together, but the Whistleblower did not know whether Contract Psychometrist had been charged leave for this time. In contrast, Contract Psychometrist had previously affirmed that she had no recollection of taking off for 59 minutes. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013, page 2]. The AR 15-6 investigation was unable to determine that any contract employees at KAHC had actually taken 59 minutes off without being on official leave documented through their contractor employer/vendor..

The Commander was unaware of the December 12, 2012 meeting between the Whistleblower and his Deputy Commander. When interviewed by the AR 15-6 IO, however, the Commander stated that he understood and adhered to the rules regarding appropriate relationships between government and contractor personnel, including the fact that he held regular meetings with his department and section chiefs that would have presented opportunities for sharing and disseminating information about contractor relationship rules. He created an

“Employee of the Quarter” recognition that did provide government-funded rewards, such as coins and cash, to GS civilian employees, but he specifically excluded contractor employees from eligibility for the Commander’s coin and on-the-spot cash awards [TAB 18, Statement of the Commander, dated May 20, 2013]. the Commander emphasized to his staff that the 59-minute rule was intended as a reward for military and government civilian employees only, and that in order to take time off, a contract employee must take leave through his/her contractor employer. [TAB 18, Statement of the Commander, dated May 20, 2013, page 1; TAB 19, Statement of the Commander, dated June 27, 2013].

The Whistleblower also stated that the Chief of Behavioral Health at KAHC had granted a 59-minutes time-off award to two contact employees for achieving a high level of chart closures. [See TAB 6, Statement of the Whistleblower, dated August 22, 2013, page 4]. When interviewed by the AR 15-6 IO, the Behavioral Health Chief vaguely remembered—about one year ago—having congratulated contractor and GS personnel who completed their charts in timely fashion during a meeting, and she recalled possibly having discussed what sort of award might be provided. She went on to say that she did not believe that this discussion ever resulted in any award other than individual recognition at the staff meeting. Further, the Chief of Behavioral Health stated that she did not recall ever having granted a 59-minute time-off award to contractors. She reinforced to the AR 15-6 IO that she understood that such time off is not allowed for contractors, and that if she had pursued an award of that sort, she would have been required to have sought permission to do so.

The Whistleblower stated that the Chief of Behavioral Health and the Commander awarded three contract employees from within the Behavioral Health unit with “Employee of the Month” awards. The Whistleblower provided pictures of the three contract employees during the ceremony with the Commander, including one picture of a contractor employee holding a coin that had apparently just been presented by the Commander. This is consistent with the Commander’s Coin Distribution Tracker, which reflects that on September 24, 2012, the Commander presented a KAHC Commander’s Coin to each of three contractor employees. The Whistleblower also provided a copy of e-mail correspondence between herself and a KAHC contractor employee (who had later converted to a job at KAHC as a GS civilian employee) confirming that she had received a Commander’s coin as part of recognition as the “Employee of the Month”. [TAB 20, E-mail from the Whistleblower to a KAHC Contractor Employee who had been selected for a GS civilian position, dated August 22, 2013, page 2]. Additionally, the Whistleblower provided copies of pictures showing the Commander awarding two contractor maintenance employees with certificates of recognition. Contract Psychometrist did not appear in any of the pictures provided by the Whistleblower.

The Commander acknowledged that he had authorized the use of appropriated funds to purchase his Commander’s coins, and believed that he had given coins to the women who appeared in the pictures provided by the Whistleblower. He recalled that the Chief of Behavioral Health had nominated certain employees for awards in accordance with his awards policy. [TAB 21, Commander’s Awards, Recognition and Acknowledgements (ARA) Program policy, dated August 23, 2013]. He also stated that he was not aware that any of the three women in the pictures were contractor employees at the time, and re-affirmed his understanding that

Commander's coins should not be awarded to contractors [TAB 22, Statement of the Commander, dated August 29, 2013].

The Commander also confirmed that he had given certificates to two maintenance men who had been nominated for recognition by their supervisor, as reflected in the pictures provided by the Whistleblower. [See TAB 22, Statement of the Commander, dated August 29, 2013, page 3].

Finally, the Whistleblower provided copies of another female contractor employee and a GS employee who had received recognition in the KAHC Bulletin and on the KAHC Facebook page that included mention that they had been awarded Commander's coins. Although it was determined that this presentation had not been made by KAHC management, but by representatives of the U.S. Army Installation Management Command, the Whistleblower wanted to ensure that these events were made a part of the record of the AR 15-6 investigation to illustrate KAHC's involvement in the process, and the "lack of distinction/command climate towards this relationship" (referring to the government employee-contractor employee relationship).

## OVERVIEW OF THE ALLEGATIONS

### Agency Discussion

#### **OSC Referred Allegation 1:**

KAHC management improperly created an employer-employee relationship between the government and the psychometrist currently assigned to KAHC, a contract employee.

#### **Army Findings as to Allegation 1:**

This allegation is unsubstantiated.

As originally awarded on September 30, 2009, KAHC Tele-health contract W81XWH-09-C-0168 identified the psychometrist position/duties in the personal services category. Contract Modification P0001, dated December 10, 2009, changed the psychometrist position/duties to the non-personal services category due to the fact that less than 45% of the psychometrist's time was spent in direct patient care and because psychometrists were used to administer tests and procedures ordered by others; psychometrists were not involved in patient diagnosis or in prescribing tests and/or procedures.

It is clear that certain KAHC employees directed Contract Psychometrist, a contractor employee of Eagle Allied Sciences, in the performance of her psychometrist duties under the Tele-health contract. But, it seems clear that Contract Psychometrist did not require continuous detailed instruction or robust supervision to perform her contract duties to standard. While the terms "supervise" and "supervision" were often applied to describe the relationships between KAHC government employees and Contract Psychometrist, the misuse of those terms, standing alone, does not establish an improper employer-employee relationship. The evidence shows that although Chief of Psychology believed Contract Psychometrist was in a personal services

contract position, her actions in regard to Contract Psychometrist were not beyond those required for oversight of a non-personal services contract employee.

FAR 37.104(d) lists six descriptive elements to be used as a guide in assessing whether or not a contract is in the nature of personal services. Five of the six elements could be used to describe Contract Psychometrist's position. The contract requires her to: (1) perform on site at a government facility; (2) use government tools and equipment in the employment of her contracted duties; (3) perform her duties in furtherance of Kenner's health care mission; and (4) perform her contracted duties alongside a government employee performing the same duties. Further, (5) Contract Psychometrist's period of contract performance could reasonably be expected to last beyond one year. The Whistleblower also quoted these elements in rendering her opinion that Contract Psychometrist was being managed as a personal services contract employee. [See TAB 4, Statement of the Whistleblower, dated May 17, 2013, page 6; TAB 6, Statement of the Whistleblower, dated August 22, 2013, pages 2-3]. However, the sixth element cited in the FAR, the level of supervision, is the key in determining whether government personnel improperly treated a non-personal services contract employee as a personal services contract employee in this instance.

Chief of Psychology and other government personnel at KAHC and the Northern Regional Medical Command reasonably assigned work to Contract Psychometrist pursuant to the terms and conditions of her contract. There is limited evidence that any government personnel monitored, oversaw, or directed the manner in which Contract Psychometrist complied with each such assignment. Accordingly, except for the 30-day performance improvement plan proposed and designed to address the competency complaint raised by the Whistleblower, no government employee directly or indirectly *supervised* Contract Psychometrist's performance of her duties under the contract. In essence, government personnel merely assigned Contract Psychometrist work to be performed under the contract and government medical practitioners used her resultant work products as diagnostic tools. Contract Psychometrist's interactions with government employees at KAHC and the Northern Regional Medical Command facilitated the completion of the treatment cycle for patients assigned to Contract Psychometrist's for psychometric processing—from her initial intake of vital medical information, to her conduct of the required testing, to her evaluation of those test results, and her ensuing discussion of those results with the attending doctor who would determine the best course of action in proceeding to provide care and treatment for the patient. None of the work Contract Psychometrist performed was of the sort that required direct government supervision to protect the government's interest, to ensure that the government retained control of the function involved, or to retain full personal responsibility for the function at issue in a government employee.<sup>35</sup>

With respect to the 30-day performance improvement plan<sup>36</sup> that the Whistleblower and Chief of Psychology prepared for Contract Psychometrist, the creation or existence of such a plan, while unusual in the context of a contractor employee, did not establish an improper

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<sup>35</sup> See FAR 37.104(d)(6).

<sup>36</sup> Note that Chief of Psychology developed the 30-day performance improvement plan on or about June 19, 2012, went on maternity leave 20 days later, and returned on September 12, 2012. The 30-day plan became moot after the KAHC and Eagle Allied Sciences agreed as to how Contract Psychometrist's workload and oversight would be addressed in Chief of Psychology's absence.

personal services contract. At most, the plan amounted to “[t]he sporadic, unauthorized supervision of only one of a large number of contractor employees . . .,” such that it was not determinative of an improper personal services contract. [See FAR 37.104(c)(2)]. When the Whistleblower started questioning Contract Psychometrist’s competency, both government personnel and Contract Psychometrist properly turned to the contract vendor, Eagle Applied Sciences, to address the issue. Contract Psychometrist showed that she understood her position when, after the Whistleblower asked her to attend a meeting, she stated “I don’t work for Kenner. I work for Eagle.” [TAB 4, Statement of the Whistleblower, dated May 17, 2013, page 3]. The e-mails between Contract Psychometrist and her contract employer points of contact (mostly the Eagle Applied Sciences Program Manager for the KAHC Tele-health contract), also demonstrate that Contract Psychometrist understood who her “supervisors” were and how to approach them for assistance in resolve problems related to her performance of contracted work. [See TAB 7, Statement of Contract Psychometrist, dated May 17, 2013, pages 6-23 and 26-27].

The training that Contract Psychometrist received also supports a finding that no improper personal services contract existed. Initially Contract Psychometrist required what she and Chief of Psychology termed, “familiarization” with some of the psychometric tests that she was required to administer. In a similar vein, the Whistleblower identified that Contract Psychometrist required “remedial training.” The short-term or intermittent instruction that the Whistleblower would have provided to Contract Psychometrist, by definition, would not have created a personal services contract.<sup>37</sup> Within 30 days after Eagle Applied Sciences was made aware that Contract Psychometrist required training familiarization to properly perform her duties as a contract psychometrist, Eagle arranged to send Contract Psychometrist to the Rosslyn, Virginia Tele-health facility for Eagle-funded evaluation and training. [See TAB 7; TAB 16, pages 1-4; and TAB 2, page 3]. The Tele-health COR approved Contract Psychometrist’s travel to Rosslyn based on the government’s request and in accordance with paragraph 12.1, Travel, of the Performance Work Statement of the KAHC Tele-health contract. [See TAB 3, page 19]. Contract Psychometrist traveled to Rosslyn for a week of training, paid for by her contract vendor (Eagle), under the supervision and mentorship of a neurologist who was also a contractor employee. [See TABs 2, 7, and 13].

Additionally, although Contract Psychometrist may not have been familiar with some higher-level testing that certified psychometrists may perform, no one at KAHC ever questioned Contract Psychometrist’s credentials or competence. Although the requirements to be a Certified Specialist of Psychometry and a member in good standing of the National Association of Psychometrists were conditions of employment applicable to the Whistleblower in her GS-11 DA civilian position as a Behavioral Sciences Coordinator, such certification and membership requirements were not a part of the Tele-health contract applicable to Contract Psychometrist in her status as contract psychometrist. Consequently, management at KAHC never had cause to employ continuous, close supervision or control over Contract Psychometrist’s performance such that it would have made Contract Psychometrist “appear to be, in effect, [a] government employee.”

It is true that KAHC personnel were confused about whether Contract Psychometrist was working under a personal services or a non-personal services contract. Many factors contributed

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<sup>37</sup> See FAR 2.101.

to this confusion. Foremost, in 2009, the higher headquarters MEDCOM contracting office modified the Tele-health contract, changing the psychometrist position from one for personal services to a non-personal services contract. MEDCOM did not ensure that the changes effected by the contract modification were incorporated throughout the base contract nor was KAHC management advised of the change. Consequently, some KAHC personnel believed that Contract Psychometrist was working in a personal services position. Nonetheless, in practice, KAHC utilized Contract Psychometrist as a non-personal services contractor. Contract Psychometrist and the KAHC leadership clearly understood that Contract Psychometrist worked for Eagle. Contract Psychometrist and KAHC turned to Eagle for her training and guidance. Contract Psychometrist's performance of duties was not so closely controlled by KAHC employees as to create an improper personal services contract.

Consequently, the weight of the evidence does not support the allegation of an improper employer-employee relationship.

**OSC Referred Allegation 2:**

KAHC management has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee.

**Army Findings as to Allegation 2:**

This allegation is unsubstantiated.

As discussed above in Allegation 1, there was a great deal of confusion concerning Contract Psychometrist's status. The December 2009 modification of the KAHC Tele-health contract was not fully incorporated into all of the relevant sections in the base contract and was effected without the knowledge of KAHC management, contributing to this confusion. However, there was insufficient government control over how Contract Psychometrist performed her duties to make this contract an improper personal services contract.

Initially, based solely on the Whistleblower's observations and reports early in Contract Psychometrist's employment, Chief of Psychology relayed information to her technical supervisory chain indicating that she was not satisfied with Contract Psychometrist's performance. As part of a 30-day performance improvement plan arranged with Chief of Psychology, the Whistleblower stated that she was asked to evaluate Contract Psychometrist, was expected to provide Contract Psychometrist with additional training on certain testing procedures and to co-sign Contract Psychometrist's patient notes, as well as to take other actions to assist in the remediation of Contract Psychometrist's performance deficiencies. The 30-day plan signed by Contract Psychometrist on June 19, 2012 specifically states that higher priority assessments will be observed by the Behavioral Sciences Coordinator (the Whistleblower) or the Chief of Psychology (Chief of Psychology.) [See TAB 10, Statement of Chief of Psychology, dated August 16, 2013]. Pursuant to an e-mail from (the Northern Regional Medical Command Tele-health Program Manager) in early July 2012, however, oversight of Contract Psychometrist was changed to a "floating" system—each psychologist who requested that Contract Psychometrist test an individual patient would direct her on-site activities with regard to that patient. The KAHC Tele-health contract authorizes this type of direct tasking. [TAB 3, page 28, paragraph 19.9.9]. And it is generally accepted within the field that the professional

relationships between psychometrists and psychologists will involve such an arrangement. [See Statement of Chief of Psychology, dated May 16, 2013]. In addition, the Whistleblower's GS-11 Position Description contemplated her overseeing the training and evaluation of subordinates, including contractors. [See TAB 5, Position Description, Behavioral Sciences Coordinator]. Nevertheless, for the period of time between June 19 and July 13, 2012, the Whistleblower's oversight of Contract Psychometrist's work appeared to inappropriately blend government and contractor functions. However, Chief of Psychology and the Director of Tele-health for the Northern Regional Medical Command worked with the Tele-health COR and the contracting office to have Contract Psychometrist's employer, Eagle Applied Sciences, coordinate additional training for Contract Psychometrist to remedy the performance issues raised by the Whistleblower. [See TAB 11; TAB 16, Statement of Chief of Psychology, dated May 16, 2013, pages 1-4; TAB 3, page 19; and TAB 2, Statement of Chief of Psychology, dated July 1, 2013, page 3]. Although KAHC management should have turned earlier to the Tele-health COR to assist them in determining the boundaries of their contractor oversight activities, the regulatory guidance and the totality of the evidence indicate that Chief of Psychology's supervision of Contract Psychometrist did not exceed the bounds of a non-personal services contract.

### **OSC Referred Allegation 3:**

The improper relationship between the government and the contract psychometrist may violate the Federal Acquisition Regulation, Anti-Deficiency Act, and other procurement guidelines.

### **Army Findings as to Allegation 3:**

This allegation is not substantiated. However, nonetheless, with respect to a related but independent basis from the OSC referred allegations, the Army does acknowledge that the Commander improperly presented Commander's coins to three contractor employees and certificates of recognition to two other contractor employees, in contravention of Army and MEDCOM Regulations and JER prohibitions on the endorsement of non-federal entities.

Given the findings with regard to OSC-referred allegations 1 and 2, above, there is no violation of the Federal Acquisition Regulation, Anti-Deficiency Act, or other procurement guideline as they pertain to Contract Psychometrist status as a contractor employee. For the reasons set forth below, we find no violation of the Federal Acquisition Regulation, Anti-Deficiency Act, and other procurement guidelines, including the Purpose Statute. However, it should be noted that with respect to the Whistleblower's allegations that other contractor employees working at KAHC improperly received awards and recognition, the Army acknowledges the finding that Commander's conduct was not in keeping with Army and MEDCOM Regulations and was not consistent with JER cautions regarding the endorsement of non-federal entities.

Multiple e-mails between KAHC personnel suggest that contractor employees may have been tacitly invited to partake in 59-minute time-off awards, without being provided specific guidance that they were not authorized to do so absent prior coordination with their contractor employers for leave, and that such leave would not be chargeable to hours for which the government was obligated to pay under the contract. [See TABs 13, 14, and 15]. The "KAHC Civilians" e-mail distribution list includes both government civilian and contractor employees. KAHC management, including the Commander, all asserted that they were aware of the rules for dealing with contractor employees and all stated that they upheld those rules. However,

Commander's ARA Program policy fails to specify that the informal 59-minute rule does NOT apply to contractors. [See TAB 21, Commander's Awards, Recognition and Acknowledgements (ARA) Program policy, dated August 23, 2013, page 2]. It is also does not appear that contractors were specifically reminded that they were not authorized a 59-minute time-off award, particularly because the e-mail announcements of such awards appeared to be all inclusive. Although it was not wholly unreasonable for management to presume that lower-level supervisors were knowledgeable of the rules relating to the administration of contractor employees and to expect that those would ensure that such rules were enforced, two better courses of action were available. First, management could have limited dissemination of the e-mail notifying employees of the 59-minute time-off award only to Soldiers and DA civilian employees. Second, management could have included both DA civilian employees and contractor employees in the same e-mail, while taking care to set forth clearly the "different" rules applicable to the contract employees. It is important to note, however, that notwithstanding the inclusion of contract employees on the distribution list of several e-mails announcing a 59-minute time-off award, the AR 15-6 IO uncovered no evidence that any contractor employee ever had availed himself/herself of a time-off award without being in a proper leave status through their contractor/vendor.

Further, Commander's ARA Program policy blurs the distinction between civilian employees and contractor employees in certain regards. As to the "Civilian Employee of the Month Award," for example, the policy specifically provides that "[n]ominations can be made by and for any member of the Kenner AHC staff (including contractors)." [See TAB 21, Commander's Awards, Recognition and Acknowledgements (ARA) Program policy, dated August 23, 2013, page 3, paragraph 5c].

The Whistleblower's allegation that awards and recognition were provided to contractor employees is substantiated by the photographic evidence she provided, as well as by Commander's testimony, his Commander's Coin Distribution Tracker, and other e-mails collected during the AR 15-6 investigation. The Whistleblower provided pictures of the three contract employees during the ceremony with the Commander, including one picture of a contractor employee holding a coin that had apparently just been conveyed by the Commander. This is consistent with Commander's testimony that he presented awards to the individuals in the picture, although he did not realize that they were contractors, and with his Coin Distribution Tracker that reflects that on September 24, 2012, the Commander presented a KAHC Commander's Coin to three contractor employees. Additionally, the Whistleblower provided copies of pictures showing the Commander awarding two contractor maintenance employees with certificates of recognition. The Whistleblower also provided a copy of e-mail correspondence between herself and a KAHC contractor employee (who had later converted to a job at KAHC as a GS civilian) confirming that she had received a coin awarded as part of the "Employee of the Month" recognition. These "awards" and recognitions, however well-intentioned on the part of the KAHC command and however *di minimus* in actual value were not in accord with Army and MEDCOM Regulations addressing Commander's coins.

These regulatory violations notwithstanding, none of the evidence gathered over the course of this investigation serves to substantiate a violation of either the Purpose Statute or the Anti-Deficiency Act. Violations of the Purpose Statute or the Anti-Deficiency Act attach at the

time appropriated funds are obligated and disbursed. A review of the available evidence reveals that the obligation and disbursement of Operations and Maintenance funds by the KAHC Logistics Division to pay for Commander's coins requested by the Commander, was authorized by law, Army Regulations establishing departmental awards programs for Soldiers and DA civilian employees, and the subordinate MEDCOM Regulation and Northern Regional Medical Command policy. The clear purpose underlying the KAHC purchase of Commander's coins was to award them to military and civilian personnel when merited by "excellence" in performance. Accordingly, there was no violation of the "Purpose Statute." And, since no Purpose Statute violation occurred, there can be no violation of the Anti-Deficiency Act under these circumstances. [See DoD FMR, Chapter 2, paragraph 020202B].

To be clear, we note that no matter how well intentioned the Commander was in to seeking to recognize the contractor employees performing contract work for KAHC as part of the "team," his *conduct* in presenting Commander's coins and certificates of appreciation was not in accord with Army and MEDCOM Regulations. These regulatory violations do not implicate the Purpose Statute or the Anti-Deficiency Act, however.

Had the Commander wished to recognize contractor employees for their contributions to the mission of KAHC, he should have coordinated his proposed actions with the appropriate Contracting Officer or COR to ensure that any such recognition took the form of a factual "Letter of Input" (as appeared to be contemplated by Commander's own ARA Program policy) to the contractor/vendor organization, which then may have elected to recognize one or more of its contractor employees on an individual basis. Further, it would have been appropriate for the Commander, or other members of KAHC management, to provide the Contracting Officer or COR with specific, detailed, stand alone, and fully supported information about contractor employee performance—whether in the form of "negative feedback" or kudos—to facilitating the documentation of same in established contractor performance assessment databases (as described in the *DoD COR Handbook*), as part of the contract quality surveillance process.

## **VIOLATIONS OR APPARENT VIOLATIONS OF LAW, RULE, OR REGULATION**

The AR 15-6 investigation into matters referred by OSC revealed that military coins and certificates of recognition were provided to contractor employees in contravention of Army and MEDCOM Regulations and JER prohibitions on the endorsement of non-federal entities.

## **CORRECTIVE ACTIONS UNDERTAKEN**

Even though no violation of the legal constraints on personal services contracts was deemed to have occurred in this case, the complexity and confusion associated with this issue, and with government employee-contractor relationships in general, warrants some corrective action. MEDCOM will promulgate and disseminate additional command-wide guidance and standardized training on the differences between a personal services contract and a non-personal services contract, as well as the roles and responsibilities of government employees in a

“blended” government workplace. Training will address the proper use and “supervision” of, as well as the allocation of work to, contractor employees.

Further, the training will emphasize that contractor employees are not authorized to receive performance awards, recognition, or acknowledgments procured with appropriated funds—including Commander’s coins or certificates of appreciation. The specific provisions of Army and MEDCOM Regulations prohibiting awards to contractors will be discussed, as will the JER prohibitions on the endorsement of non-federal entities. The applicability of the “59-minute rule” will be discussed, as will the fact that contractor employees are not eligible for a time-off award, and may depart the workplace early only after having coordinated with their contractor employers for leave, and that such leave will not be chargeable to hours for which the government is obligated to pay under the contract. The training will include discussions as to how commanders, supervisors, and other leaders best can craft and disseminate workplace messages—including e-mail communications—announcing a grant of “59-minutes”—so as to minimize confusion between the role and rules applicable to DA military and civilian employees and those governing contractor employees. Finally, the training will educate MEDCOM personnel on the use of appropriate measures to assess and document contractor performance.

Further, MEDCOM has requested that the COR for the KAHC Tele-health contract review the psychometrist position as set forth in the contract to ensure that the position should remain categorized as non-personal services given the nature of the duties the psychometrist must perform.

In the intervening period since OSC referred the Whistleblower’s allegations to DA, the Commander has departed KAHC for a new duty assignment. Accordingly, the MEDCOM SJA will take affirmative action to ensure that Commander’s ARA Program policy, if still in use at KAHC, is redrafted to render it wholly consistent with applicable law, regulation and policy, with a focus on making plain the prohibition on providing awards to contractor employees. Additionally, the matter of Commander’s conduct as documented in this report, however well-intentioned that conduct may have been, has been referred to the Commanding General, Northern Regional Medical Command, for review and action as appropriate.

## CONCLUSION

The DA takes very seriously its responsibility to address, in a timely and thorough fashion, the concerns of the OSC. In this case, the Army conducted a comprehensive investigation of the allegations referred by OSC. This investigation revealed that the increasing reliance on contractors in the Federal government workplace has created certain challenges.

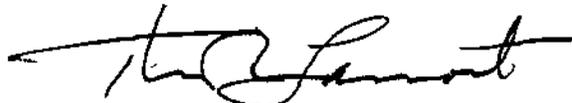
The KAHC leadership attempted to meet mission requirements as a “team” in a blended work environment of military personnel, DA civilian employees, and contractor employees. In such an environment, however, the rules related to contractor employees require an arm’s length approach to incorporating them into the workplace; such rules are often in tension with traditional principles of enhancing team building for mission accomplishment. Our investigation documented that although the higher headquarters MEDCOM contracting community changed the nature of the performance for the psychometrist position from “personal services” to “non-personal services” as part of a contract modification, KAHC leadership did not know about this modification and did not ascertain whether the contract psychometrist was a personal services or non personal services contractor. However, the methods and procedures KAHC used to assign specific work and duties to the contract psychometrist were proper and reflected that the contractor was not supervised in a manner that created an unlawful employer-employee relationship. While there does not appear to be a violation of applicable rules, KAHC leadership could have done a better job of ensuring that all personnel knew the rules and implemented them correctly.

The investigation did document several instances in which the stringent rules regarding contract employees were not strictly observed. In some cases, awards purchased with appropriated funds were presented to contract employees. This is unacceptable and KAHC is implementing measures to prevent a recurrence as well as educating its personnel on the use of appropriate measures to assess and document contractor performance.

I am satisfied that this is the correct outcome in this matter. Further, the Army found no criminal violations had occurred, and thus, made no referral of any violation to the Attorney General pursuant to Title 5, USC, Section 1213(d)(5)(d).

This letter, with enclosures, is submitted in satisfaction of my responsibilities under Title 5, USC, Section 1213(c) and (d). Please direct any further questions you may have concerning this matter to [REDACTED] the DA Office of General Counsel [REDACTED].

Sincerely,



Thomas R. Lamont  
Assistant Secretary of the Army  
(Manpower and Reserve Affairs)

**Army Report  
Kenner Army Health Clinic  
Fort Lee, Virginia**

**Office of Special Counsel File Number DI-13-1252**

**Redacted**

**September 20, 2013**

**Army Report Documents**  
**Kenner Army Health Clinic**  
**Fort Lee, Virginia**  
**OSC File Number DI-13-1252**

**Tab/Exhibit**

**Description**

- TAB A** Secretary of the Army (SA) delegation to the Assistant Secretary of the Army (Manpower & Reserve Affairs) his authority, as agency head, to review, sign, and submit to Office of Special Counsel the report required by Title 5, USC, Sections 1213(b), (c), and (d), dated March 18, 2011
1. Appointment Memorandum for Investigating Officer, dated May 13, 2013. Appointing Authority, MEDCOM Chief of Staff
  2. Chief of Psychology, Sworn Statement, dated July 1, 2013
  3. Contract W81XWH-09-C-0168 (September 30, 2009) and amendment (December 10, 2009) [extracts]  
Contract W81XWH-09-C-0168 (September 30, 2009)  
Amendment/Modification P00001 (December 10, 2009)
  4. The Whistleblower, Sworn Statement, May 17, 2013
  5. The Whistleblower, GS-0101-11 Position Description, Behavioral Sciences Coordinator
  6. The Whistleblower, Sworn Statement, August 22, 2013
  7. Contract Psychometrist, Sworn Statement, May 17, 2013 with supporting documents
    - a) Tele-Health Program Manager (NRMC), e-mail to Contract Psychometrist, July 13, 2012
    - b) Contract Psychometrist, e-mail to Eagle Program Manager, August 10, 2012
    - c) Contract Psychometrist, e-mail note, August 12, 2012
    - d) Contract Psychometrist, e-mail to Eagle Program Manager, August 27, 2012
    - e) Contract Psychometrist, memo to Eagle Program Manager, August 28, 2012
    - f) Eagle Program Manager e-mail to Contract Psychometrist, September 14, 2012
    - g) Contract Psychometrist, memo September 11, 2012
    - h) Contract Psychometrist, e-mail – Events of 10/02/12

- i) Contract Psychometrist, e-mail to Eagle Program Manager, October 19, 2012
  - j) Contract Psychometrist, memo for record beginning October 26, 2012 – November 16, 2012
  - k) Contract Psychometrist, e-mail to Eagle Program Manager, November 28, 2012
  - l) Contract Psychometrist, e-mail to Eagle Program Manager, Clinical Psychologist WRNMMC, and Chief, Dept. of Tele-Health (NRMC), December 5, 2012
  - m) Contract Psychometrist, e-mail to Chief of Psychology, January 10, 2013
  - n) Contract Psychometrist, e-mail to Eagle Program Manager, January 15, 2013
8. Contract Psychometrist, Sworn Statement August 19, 2013
  9. 30-day expectations, signed by Contract Psychometrist, June 19, 2012
  10. Chief of Psychology Sworn Statement August 16, 2013
  11. Tele-Health Program Manager (NRMC), e-mail to Chief, Dept. of Tele-Health (NRMC), Eagle Program Manager, Contract Psychometrist and others, July 13, 2012
  12. The Whistleblower, letter to Chief, Dept. of Behavioral Health (DBH) and Chief of Psychology, August 22, 2012
  13. Commander KAHC, e-mail to Safety Manager, KAHC Military and KAHC Civilians, September 19, 2012
  14. Chief of Psychology, e-mail to the Whistleblower, October 11, 2012
  15. Commander KAHC, e-mail, October 31, 2012
  16. Chief of Psychology, Sworn Statement and supporting documents, dated May 16, 2013
    - a) Memorandum for Record (MFR) dated 4 Dec 12. Subject: Meeting with the Whistleblower and Chief of Psychology regarding the Whistleblower's relationship with a contract employee
    - b) MFR dated 5 Dec 12. Subject: Timeline of Events within Psychometry
    - c) MFR dated 12 Dec 12. Subject: Functioning of Psychometry in the Department of Behavioral Health
    - d) E-Mail from Contracting Officer Representative, KAHC dated 12 Dec 2012; Subject: Services Contract Information
  17. Commander KAHC, e-mail to KAHC Military and KAHC Civilians, January 17, 2013
  18. Commander KAHC, Sworn Statement, May 20, 2013
  19. Commander KAHC, Sworn Statement, June 27, 2013
  20. DBH. Nurse Practitioner, e-mail to the Whistleblower, August 22, 2013

21. Memorandum from Commander, KAHC, Memorandum for Kenner Army Health Clinic (KAHC) Staff, Subject: Awards, Recognition and Acknowledgements (ARA) Program, dated August 23, 2012
22. Commander KAHC, Sworn Statement, August 29, 2013
23. What is a Psychometrist? The National Association of Psychometrists (NAP)
24. Articles on Tele-health
  - a) News Article, *Tele-TBI Clinics Deliver Prompt, Convenient Care*, from Health.mil, March 2011
  - b) News Article, *Army's Tele-Health programs provide continuity of care*, NRMC News and Events, October 1, 2010
25. Witness Listing for Army Report – DI-12-1252 (*copy only in unredacted Army Report version*)
26. Memorandum from Major General Carla Hawley-Bowland, Commander, Memorandum for SEE DISTRIBUTION, Subject: North Atlantic Regional Medical Command (NARMC) Delegation of Authority for Military Coins, August 31, 2009

TAB A



SECRETARY OF THE ARMY  
WASHINGTON

MAR 18 2011

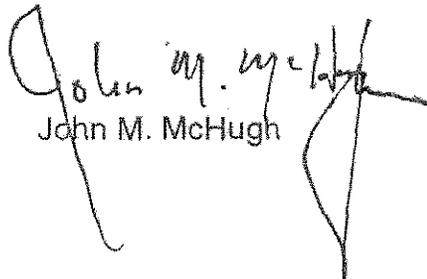
MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY  
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Delegation of Certain Authority Under Title 5, United States Code,  
Section 1213

In accordance with Title 10, United States Code, Section 3013(f), I hereby delegate to you certain authority conferred upon me as the head of the Department of the Army by Title 5, United States Code, Section 1213. Specifically, you are authorized to review, sign and submit written reports setting forth the findings of investigations into information and any related matters transmitted to me by The Special Counsel in accordance with Title 5, United States Code, Sections 1213. This authority may not be further delegated.

Although not a limitation on your authority to act in my behalf, in those cases in which your proposed decisions or actions represent a change in precedent or policy; are of significant White House, Congressional, Department or public interest; or have been, or should be, of interest or concern to me, for any reason, you will brief me prior to decision or action, unless precluded by the exigencies of the situation.

This delegation shall remain in effect for three years from the date of its execution, unless earlier rescinded in writing by me.

  
John M. McHugh

CF:  
Office of the Army General Counsel

TAB 1



DEPARTMENT OF THE ARMY  
HEADQUARTERS, UNITED STATES ARMY MEDICAL COMMAND  
2748 WORTH ROAD, SUITE 17  
JBSA FORT SAM HOUSTON, TEXAS 78234-6000

REPLY TO  
ATTENTION OF

13 MAY 2013

MCJA

MEMORANDUM FOR Investigating Officer (IO) US Army Element, Fort Belvoir, Virginia

SUBJECT: Whistleblower Investigation – Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

1. References:

a. Secretary of the Army Memorandum dated April 25, 2013, subject: Whistleblower Investigation Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

b. U. S. Office of Special Counsel Letter dated April 11, 2013, subject: OSC File No. DI-13-1252.

2. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6, Procedures for Investigating Officers and Boards of Officers, to conduct an informal investigation into whistleblower's allegations of violations of laws, rules and regulations at Kenner Army Health Clinic (KAHC), Fort Lee, Virginia. The purpose of your investigation is to determine the validity of the whistleblower's allegations and make findings concerning whether any wrongdoing occurred, and if so, by whom, and whether adequate policies and procedures are in place to preclude any recurrence of any improprieties, irregularities, or misconduct disclosed during your inquiry.

3. Specifically, you are directed to investigate the following allegations:

a. Whether KAHC officials have improperly created an employer-employee relationship between the government and the Contract Psychometrist Contract Psychometrist who is allegedly a contract employee?

b. Whether Contract Psychometrist has been inappropriately treated with respect to any matters related to her performance, training opportunities, or her supervision.

c. Whether management at KAHC has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee.

d. If an improper employee-relationship has been created at KAHC, does this relationship between the government and the contract psychometrist violate the Federal Acquisition Regulation, Anti-Deficiency Act, or any other procurement guidelines?



MCJA

SUBJECT: Whistleblower Investigation – Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

e. Whether there are other instances at KAHC of similar contractual improprieties have occurred with respect to the Video-conferencing coordinator and the KAHC Pharmacy Department?

4. This investigation takes priority over all normal duties, TDY and leave. You are directed to start this investigation upon receipt of this notice. In conducting this investigation, use the informal procedures of AR 15-6, Chapter 4. Upon completing your investigation, make appropriate findings and recommendations, including corrective and/or disciplinary actions, and report them to me through the Office of the Staff Judge Advocate, U.S. Army Medical Command.

5. In your investigation you are not limited to the issues and questions listed above. You will investigate any relevant and related matters that you may discover that fall under the areas for investigation described above. You are advised not to investigate matters that do not fall within the areas for investigation described above. If you are in doubt about the relevance of a matter, you will consult your legal advisor, (b)(6) who can be contacted at (b)(6) or (b)(6). You will consult with your legal advisor prior to beginning your investigation. Before beginning your investigation, you will receive a legal briefing for further guidance and additional information about how you should proceed from your legal advisor,

6. If you obtain or are provided evidence from other investigative reports, you may consider the exhibits collected by the investigator(s), but you may not consider another investigator's conclusions as evidence.

7. In conducting this investigation you will use the informal procedures of AR 15-6, Chapter 4.

8. In your investigation, you will make such findings as are relevant and supported by the facts. You will also make such recommendations as are appropriate and are supported by the facts. In compiling your report of investigation, consider carefully that information contained therein will be subject to public disclosure and release.

9. This investigation has been directed by the Office of Special Counsel (OSC) pursuant to a whistleblower complaint. Pursuant to OSC policy, you normally must interview the Whistleblower Fort Lee, Virginia, first.

10. You should contact witnesses you consider relevant during the course of your investigation. As you develop new facts, you should interview any individuals that you deem necessary to complete a thorough investigation. Obtain sworn statements from all witnesses whom you determine may have information relevant to this investigation. Document all statements in writing, preferably on a DA Form 2823 (Sworn Statement), and have witnesses verify their statements when final. You should conduct separate

MCJA

SUBJECT: Whistleblower Investigation – Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

interviews for each witness and conduct the interviews in person if practical. In addition, you must provide all persons interviewed with a Privacy Act statement before you solicit any information. At a minimum, you will interview the following personnel:

- a. the Whistleblower
- b. Contract Psychometrist
- c. Chief of Psychology

Tele-Health Program Manager (KACC)

- e. Acting Chief of Psychology 1
- f. Commander, KAHC
- g. Chief, DBH
- h. DCCS
- i. COR, KAHC

11. Caution all individuals that they must not discuss the subject matter of the investigation with anyone other than a properly detailed investigator. If in the course of your investigation, you suspect certain people may have committed criminal conduct, you must advise them of their right under Article 31, UCMJ or the Fifth Amendment, U.S. Constitution, as appropriate. In such case, waivers must be documented using DA Form 3881, Rights Warning Procedure/Waiver Certificate. If you believe the scope of your investigation should be expanded beyond its current focus, please report back to me so that I may take appropriate action. Consult your legal advisor if you have any questions regarding these procedures.

12. During the course of your investigation, you will find it necessary to interview civilian employees. Generally speaking civilian employees are required to cooperate with official investigations. There are some exceptions.

a. Civilian employees who are members of a bargaining unit have a right to union representation at any interview with management if they reasonably believe the interview could result in a disciplinary action against them. Should a bargaining unit employee seek to invoke this right, simply reschedule the interview for at least 24 hours to allow the employee time to arrange for union representation. The Civilian Personnel Advisory Center can tell you whether any particular employee you wish to interview is a member of the bargaining unit. Once you have scheduled any bargaining unit

MCJA

SUBJECT: Whistleblower Investigation – Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

employees for an interview, contact your legal advisor for guidance in notifying the appropriate union representative.

b. Civilian employees who reasonably believe that information they provide during an official investigation may be used against them in a criminal proceeding, may refuse to cooperate without a grant of immunity. Should any civilian employee decline to cooperate for any reason, suspend the interview and seek guidance from your legal advisor on how to proceed.

c. If the matter you are investigating involves a grievance, a personnel practice or policy or other conditions of employment, you may be required to notify the union of any interviews you have scheduled with bargaining unit employees and afford the union the opportunity to be present. Check with your legal advisor to determine if this rule applies in your case and how to proceed if it does.

d. You have no authority to compel the cooperation of contractor employees. If you find it necessary to interview contractor employees, you must contact the contracting officer for the applicable contract to request cooperation.

13. If, in the course of your investigation, you suspect wrongdoing or neglect on the part of a person senior to you, inform me so that a new investigating officer may be appointed. An investigating officer may not, absent military exigency, investigate someone senior to himself or herself.

14. If you believe the scope of your investigation should be expanded beyond its current focus, please report back to me so that I may take appropriate action. Consult your legal advisor if you have any questions regarding these procedures.

15. Your legal advisor during the course of your investigation will be (b)(6) at (b)(6) or (b)(6). Consult with him prior to beginning your investigation for further guidance and additional information about how you should proceed. You may consult the legal advisor at any time during the investigation and you will consult the legal advisor before warning any witness as a suspect and before putting your report in final form.

16. In your investigation, you will make such findings as are relevant and supported by the facts. You will also make such recommendations as are appropriate and are supported by the facts. In compiling your report of investigation, consider carefully that information contained therein will be subject to public disclosure and release.

17. Make specific findings and recommendations. If certain evidence conflicts with other evidence, state what you believe and why. Reference your analysis and findings to the specific evidence upon which you rely. Recommend remedial measures, to include any personnel or disciplinary actions you deem appropriate.

MCJA

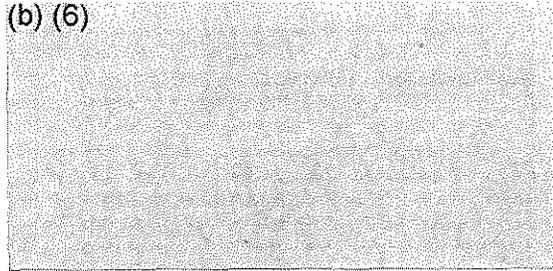
SUBJECT: Whistleblower Investigation – Contracting Irregularities at Kenner Army Health Clinic (Office of Special Counsel File Number DI-13-1252)

18. You will submit your completed investigation on a DA Form 1574 with a table of contents and enclosures. The enclosures will include all documentary materials considered by you. Make two copies of your report of investigation (ROI). Provide an index and clearly tab the original ROI, to include your findings and recommendations on DA Form 1574, with appropriate enclosures and forward the entire package to me, through the HQ MEDCOM Office of the Staff Judge Advocate by 27 May 2013.

19. If you require additional time to complete your investigation, you must request an extension in writing stating the reason(s) for your request and an approximate completion date and send it directly to me for approval. I must personally approve any extensions.

FOR THE COMMANDER:

(b) (6)



Chief of Staff

CF:  
NRM CJA  
MEDCOM OSJA

TAB 2

# SWORN STATEMENT

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10, United States Code, Section 3013 (10 USC § 3013).  
**PRINCIPAL PURPOSE:** To evaluate the facts and circumstances pursuant to an administrative investigation conducted DPAR 13-6.  
**ROUTINE USES:** Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties. In addition, the information may be disclosed to government agencies outside of the DoD as follows:  
a. To members of the U.S. Department of Justice when necessary in the defense of litigation brought against the DoD, or against the members of that department as a result of actions taken in their official capacity.  
b. To members of the U.S. Department of Justice when necessary for the further investigation of criminal misconduct.  
**DISCLOSURE:** If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory. Failure to provide information could result in disciplinary action or other adverse action against you under the UCMJ, Army Regulations, or Office of Personnel Management Regulations.  
If you are not a military member or a federal employee ordered to provide information, or if you reasonably believe that your information will incriminate you (that is, that you are reasonably likely to admit to criminal misconduct), disclosure is voluntary, and there will be no adverse effect on you for not furnishing the information other than that certain information might not otherwise be available to the commander for his or her decision in this matter.

1. LOCATION Ft Lee, Virginia  
2. DATE 2013/07/01  
3. TIME 1211  
4. FILE NUMBER  
5. NAME Chief of Psychology  
6. SSN N/A  
7. GRADE/STATUS (b) (6)  
8. ORGANIZATION OR ADDRESS Kenner Army Health Clinic, Ft Lee, Virginia

9. I, Chief of Psychology WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I have been the Chief of the Psychology Department, within the Department of Behavioral Health (DBH) at Kenner Army Health Clinic (KAHC), Ft Lee, VA, for around a year and a half. The Department is composed of several sections including psychometry. Currently, the psychometry section is composed of two individuals, The Whistleblower and Contract Psychometrist. The Whistleblower is a Psychometrist who is contracted through Eagle Applied Sciences, LLC.

The Whistleblower was a contract employee providing psychometry services in the same position that Contract Psychometrist is currently in until she was hired as a GS employee in February 2012. Sometime between February and June 2012, Eagle Applied Sciences provided Contract Psychometrist to the psychometry section.

The information that I know about the difference between a personal and non-personal services contract was provided to me by KAHC employee COR, KAHC whose title is: Health Systems Specialist/Contracting Officer's Representative (COR) Clinical Support. COR, KAHC provided me with Contract Psychometrist "Performance Work Statement" on 13 Sep 12 and provided me with more detailed information regarding the different types of contract on 12 Dec 12. COR, KAHC stated the following in an e-mail to me on 12 Dec 12: "Attached is the Performance Work Statement for the contracted Psychometrist and also some information concerning the Services Contracts. Most of the service contracts here at Kenner are "personal service contracts" whereby the contract personnel appear to be, in effect, Government employees. Psychiatrist has a personal service contract with the government. An example of a "nonpersonal service contract" here at Kenner is the contract for the Information Management Technicians, whereby the supervision and control of the contract technicians is provided by the contractor, i.e., Lead Supv Technician. Since the Tele-Health contract is a personal services contract for the Psychometrist and TBI Physician Assistant, its contractor personnel are subject to the continuous supervision and control of a government officer or employee. The Tele-Health Administrative Assistant, for example, is under "nonpersonal services" supervised by the Tele-Health Program Manager. I hope this makes things a bit clearer. IF you need any further assistance, please let me know. Respectfully,

COR, KAHC

Chief of Psychology

10. EXHIBIT \_\_\_\_\_ 11. INITIALS OF PERSON MAKING STATEMENT \_\_\_\_\_ PAGE 1 OF 4 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED

TAB 2

## 9. STATEMENT (Continued)

It is my understanding that <sup>Contract Psychometrist</sup> contract is a personal services contract. Prior to taking the position of Chief of Psychology, <sup>Former Chief, DBH</sup> was the Chief of DBH and was providing the supervision of <sup>The Whistleblower</sup> when she was under this same contract. When the responsibilities transitioned to me I continued the same type of supervision for <sup>Contract Psychometrist</sup> that <sup>Former Chief, DBH</sup> had provided to <sup>The Whistleblower</sup>.

In June 2012, <sup>The Whistleblower</sup> expressed concern about <sup>Contract Psychometrist</sup> performance. <sup>The Whistleblower</sup> indicated that <sup>Contract Psychometrist</sup> was not following proper procedure, not proficient in her basic duties and basic office etiquette. To help <sup>Contract Psychometrist</sup> understand our expectations, we developed a 30 day plan on 19 June 2012. <sup>The Whistleblower</sup> indicated that <sup>Contract Psychometrist</sup> had not made significant progress so I wanted to ensure that this information was communicated.

I relayed this information to <sup>Chief, Tele-health, (KACC)</sup>, Chief, Department of Tele-Health, Northern Regional Medical Command/Kimbrough Ambulatory Care Center (NRMC/KACC), Ft Meade, MD. On 6 July 2012, <sup>Chief, Tele-health, (KACC)</sup> replied that he would "give the vendor a heads up and notify them of the 30 day plan."

I went on maternity leave 9 July 2012 and returned 10 September 2012.

Sometime between 10 and 13 July 2012, KAHC, DBH key personnel, Tele-Health, and <sup>Contract Psychometrist</sup> contract key personnel held a conference call to discuss <sup>Contract Psychometrist</sup> performance. The meeting resulted in a change in her "supervision" at KAHC.

On 12 September 2012, I met with <sup>The Whistleblower</sup> and <sup>Contract Psychometrist</sup> to receive an overview of how things had been while out on maternity leave. Among other things, <sup>The Whistleblower</sup> mentioned there were challenges with the nature of <sup>Contract Psychometrist</sup> contract. <sup>Contract Psychometrist</sup> mentioned there were challenges with space sharing, the referral process and communication between she and <sup>The Whistleblower</sup>. On 13 September 2012, I obtained the Performance Work Statement for <sup>Contract Psychometrist</sup> from COR, KAHC. I reviewed this to ensure that DBH was utilizing <sup>Contract Psychometrist</sup> in accordance with her contract. Upon review, I determined that <sup>Contract Psychometrist</sup> was being utilized correctly. On 12 Dec 12 COR, KAHC further clarified that the contract psychometrist position was a personal services contract.

On 14 September 2012, I developed a plan in response to the challenges that had arisen during my maternity leave. This plan was developed in order to stabilize the psychological testing process and allow for assessment/observation/planning for what would be most effective for long-term functioning. Three different meetings were held to share this plan as follows: 1. <sup>The Whistleblower</sup>, 2. <sup>Contract Psychometrist</sup>, 3. Psychologists. Specifically for the psychometrists, step 6 of the plan stated I would provide referral and checklist to <sup>The Whistleblower</sup> or <sup>Contract Psychometrist</sup> for scheduling. For Tuesday Screens / Walk-Ins: <sup>The Whistleblower</sup> will conduct all testing for screens and walk-ins. If <sup>The Whistleblower</sup> is not available <sup>Contract Psychometrist</sup> will conduct testing for screens and walk-ins. Documentation: It will be noted in AHLTA who conducted the testing whether it be <sup>The Whistleblower</sup> or <sup>Contract Psychometrist</sup>. Tracking: A log will be kept by <sup>Chief of Psychology</sup> of all referrals and who they are assigned to. Scheduling: A shared calendar will be created in outlook and space will be scheduled as needed on this calendar.

I knew that <sup>Contract Psychometrist</sup> received an Honorable Mention for her Halloween costume in October 2012. I knew that <sup>Commander, KAHC</sup> granted all winners 59 minutes off. I discussed with <sup>Contract Psychometrist</sup> that any time she takes off needs to be approved through her contractor. I do not know if <sup>Contract Psychometrist</sup> contacted her contractor regarding

## 9. STATEMENT (Continued)

this 59 minutes or if she ended up taking this time off. The DBH staff member that signs Tele-Health contractors time cards, (b) (6), would be the one that would know this information.

In October 2012, The Whistleblower behavior became more hostile toward Contract Psychometrist usually involving supplies and she had several outbursts. DCCS Deputy commander for Clinical Services at KAHC, was consulted and a meeting was held with the following individuals present: DCCS Chief, DBH, Chief of Psychology and The Whistleblower. The Whistleblower DCCS provided guidance regarding work flow, supplies, and communication. DCCS also advised The Whistleblower that unprofessionalism is unacceptable and will not be tolerated.

On 5 December 2012, I received a phone call from Chief, Department of Tele-Health regarding an e-mail he had received from Contract Psychometrist contractor, Eagle Applied Sciences, LLC. This e-mail details challenges that Contract Psychometrist reported to her contractor regarding the interaction between she and The Whistleblower Chief, Tele-health, (KACC) indicated that if this could not be resolved then he would need to pull all of the testing equipment/supplies that he had provided for the use by his Tele-Health psychologists and have them solely managed by Contract Psychometrist Chief, Tele-health, (KACC) has allowed these resources to be used by The Whistleblower and the psychologists at KAHC. During the meeting held on 4 December 2012, The Whistleblower inquired as to who paid for Contract Psychometrist TDY over the summer in order to receive supervision/training on her job tasks. I asked Chief, Tele-health, (KACC) and he indicated that Contract Psychometrist contractor, Eagle Applied Sciences, LLC paid for the trip.

During the meeting held on 4 December 2012 The Whistleblower inquired as to whether or not the COR was on the conference call held the week of 9 July 2012. This conference call was held to discuss the performance of Contract Psychometrist Chief, Tele-health, (KACC) indicated that Eagle, Director, the Director of Corporate Programs at Eagle Applied Sciences, LLC (Eagle, Director is also the individual who sent Chief, Tele-health, (KACC) the e-mail regarding the ongoing challenges on 4 December 2012) was on this call as was the COR from TATRC (Tele-Health and Technology Research Center).

Both The Whistleblower and Contract Psychometrist continue to work at KAHC, DBH. There seems to be continued tension between The Whistleblower and Contract Psychometrist There have not been any recent challenges between either The Whistleblower or Contract Psychometrist The Whistleblower recently returned from maternity leave on 24 Jun 13.

This is my second statement for this investigation. I provided a MFR detailing the above information during my first interview. Investigating Officer (IO) advises the MFR is a Tab XVIII, pages 3-12.

-----NOTHING FOLLOWS-----

Chief of Psychology

STATEMENT OF

TAKEN AT Ft Lee, VA

DATED 2013/07/01

9. STATEMENT (Continued)

I, Chief of Psychology, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 4. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Chief of Psychology

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this \_\_\_\_ day of \_\_\_\_\_, 2012 at Ft Lee, Virginia

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

Investigating Officer (IO) Investigating Officer  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

Chief of Psychology

PAGE 4 OF 4 PAGES

TAB 3

**SOLICITATION, OFFER AND AWARD**

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 64
2. CONTRACT NO WB1XWH 09 C 0168	3. SOLICITATION NO	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFI)	5. DATE ISSUED
7. ISSUED BY USA MED RESEARCH ACO ACTIVITY 820 CHANDLER ST FORT DETRICK MD 21702-5014		6. REQUISITION/PURCHASE NO SEE SCHEDULE	8. ADDRESS OFFER TO (If other than Item 7)  See Item 7
CODE: WB1XWH		CODE:	
TEL: FAX:		TEL: FAX:	

NOTE: In sealed bid solicitations "offer" and "offense" mean "bid" and "bidder".

**SOLICITATION**

9. Sealed offers in original and \_\_\_\_\_ copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand-carried, in the depository located in \_\_\_\_\_ until \_\_\_\_\_ local time \_\_\_\_\_ (Hour) \_\_\_\_\_ (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME	B. TELEPHONE (Include area code) (NO COLLECT CALLS)	C. E-MAIL ADDRESS
---------------------------	---------	---	-------------------

**11. TABLE OF CONTENTS**

(X) SEC	DESCRIPTION	PAGE(S)	(X) SEC	DESCRIPTION	PAGE(S)
<b>PART I - THE SCHEDULE</b>			<b>PART II - CONTRACT CLAUSES</b>		
X A	SOLICITATION/ CONTRACT FORM	1	X I	CONTRACT CLAUSES	44 - 62
X B	SUPPLIES OR SERVICES AND PRICES/ COSTS	2 - 11	<b>PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS</b>		
X C	DESCRIPTION/ SPECS/ WORK STATEMENT	12 - 35	X J	LIST OF ATTACHMENTS	63
X D	PACKAGING AND MARKING		<b>PART IV - REPRESENTATIONS AND INSTRUCTIONS</b>		
X E	INSPECTION AND ACCEPTANCE	36 - 37	X K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	64
X F	DELIVERY OR PERFORMANCE	38 - 39	L	INSTRS, CONDS, AND NOTICES TO OFFERORS	
X G	CONTRACT ADMINISTRATION DATA	40 - 42	M	EVALUATION FACTORS FOR AWARD	
X H	SPECIAL CONTRACT REQUIREMENTS	43			

**OFFER (Must be fully completed by offeror)**

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date of receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO. DATE AMENDMENT NO. DATE

15A. NAME AND ADDRESS OF OFFEROR EAGLE APPLIED SCIENCES, LLC 200 CONCORD PLAZA DR STE 430 SAN ANTONIO TX 78216-2626	CODE: 4E108	FACILITY:	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
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15B. TELEPHONE NO (Include area code)	<input type="checkbox"/> 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
---------------------------------------	---	---------------	----------------

**AWARD (To be completed by Government)**

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT \$7,792,260.61	21. ACCOUNTING AND APPROPRIATION See Schedule
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(e) <input checked="" type="checkbox"/> 41 U.S.C. 253(e) ( 4 )	23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM Section G
24. ADMINISTERED BY (If other than Item 7) USA MED RESEARCH ACO ACTIVITY ATTN: USA SAWYER USA.SAWYER@AMEDD.ARMY.MIL FORT DETRICK MD 21702-5014	CODE: WB1XWH	25. PAYMENT WILL BE MADE BY DEFENSE FINANCE AND ACCOUNTING SERVICE DFAS ROME 325 BROOKS ROAD CUSTOMER SVC: 1-800-555-0527 ROME NY 13441-4527
26. NAME OF CONTRACTING OFFICER (Type or print) Contracting Officer TITLE: (b) (6) SPECIAL: Contracting Officer	27. UNITED STATES OF AMERICA Contracting Officer (Signature of Contracting Officer)	28. AWARD DATE 30-Sep-2009

**IMPORTANT - Award will be made on this Form, or on Standard Form 76, or by other authorized official written notice.**



## Section C - Descriptions and Specifications

PERFORMANCE WORK STATEMENT

**Performance Work Statement  
Army Medical Department's (AMEDD) Tele-Healthcare Program**

1. **Scope** This award provides for services to support the Tele-Healthcare Program. This program will provide the personnel and management support for an Army Medical Department (AMEDD) global Tele-Healthcare Program. This personnel support will provide the necessary infrastructure, management oversight, clinical and technical consultation and healthcare services to build and sustain a global AMEDD Tele- Healthcare Program.
2. **Background** The Office of The Surgeon General (OTSG) and the Medical Command (MEDCOM) Headquarters, also known as One-Staff is undertaking efforts to establish an AMEDD global personnel and hardware infrastructure required to conduct Tele-Healthcare Program operations. The Tele-Healthcare Program personnel in this document will work at a Regional Medical Command Headquarters or in a Medical Treatment Facility and will support designated specialties and related programs within and among the Regional Medical Commands (RMCs).
3. **Objectives** The objective of this PBSOW is to secure services in order to implement Phase II of the Army Telehealth program in a geographically dispersed manner.
4. **Personal and Non-Personal Services** This contract incorporates the use of personal and non-personal services.
5. **Applicable Documents.** At a minimum the Government will furnish regulatory guidance. All activities of this program will be governed by DoD 6025-13 R and all other applicable telemedicine regulatory documents. The contractor may identify additional guidance to be provided.
6. **Tasks.** The contractor shall provide personnel support for the AMEDD in program execution of its Global Tele-Health initiative by coordinating the personnel resources for the program. Tele-Health initiative is the use of technology in the scheduled interaction between a health care provider and patient (provider-patient) and/or the interaction between two or more health care providers (provider-provider). All policies, procedures and guidelines used in treatment as usual, face-to-face interactions between healthcare provider and patient were adopted for the Tele-Healthcare Program.
7. **Level of Effort:** The Government estimates a level of effort (LOE) for this requirement as shown in the following table for twelve-months based on exempt and non-exempt (as defined by Department of Labor Wage determination) 1880 man hours. The contractor is encouraged to propose LOE consistent with their technical approach for accomplishing all performance objectives/standards set forth in Section 6 above.

<b>Personal Services</b>		
<b>Position</b>	<b>Staff</b>	<b>Para</b>
Physician (MD)	1	19.1
Clinical Advisor (RN)	2	19.2
Clinical Coordinator (LPN)	13	19.3
Neurologist	1	19.4

Neuropsychologist	2	19.5
Occupational Therapist	1	19.6
Psychiatric Nurse	1	19.7
Psychology Technician	10	19.8
Psychometrist	6	19.9
Research Psychologist	1	19.10
Speech and Language Pathologist	1	19.11
TBI-Physician Assistant	3	19.12
Clinical Psychologist	1	19.13
	43	

Non- Personal Services		
Position	Staff	Para
Administrative Assistant	5	20.1
Appointing Clerks	3	20.2
Coder	1	20.3
Data (Analyst, QM, Research)	3	20.4
Portal Manager	1	20.5
Telehealth Technician	7	20.6
	20	

- 7.1 The government reserves the right to increase or decrease the LOE up to but not more than 25% over the life of the contract depending on the resources necessary to promote and maintain the welfare of service members utilizing the Telehealth Program.
- 7.2 Regardless of the initial staffing level, contractors shall, as part of each task effort, analyze work operation and suggest/provide alternative methods of staffing that are more efficient especially in cases of staff not performing at task levels identified in Section 6. The success of this analysis effort and the improvements suggested and/or implemented will be considered in subsequent task order award decisions.
- 7.3 Standard of Service Provided. Services must adhere to standards of practice set forth by the U.S. Army and relevant federal, state, and local law.
- 7.4 Contractor must demonstrate sound professional judgment and highest ethical standards in executing contract responsibilities.
- 7.5 Contractor shall wear professionally appropriate apparel. Clothing shall be clearly distinguishable from all U.S. Military Uniforms.
8. **Deliverables.** The contractor shall provide all deliverables identified in Section 7 and Section 8 of this SOW. Additionally, the contractor shall provide a Monthly Status Report describing activities of those assigned to the project to include but not exclusive to the following Telehealth encounter facts:

- Number of Telehealth encounters conducted
- Locations of Encounters Conducted
- Types of providers involved
- RVUs generated, and other related facts
- Problems encountered
- Actual or recommended corrective action
- A summary of funding activity

the contractor shall provide written proof to the contracting officer that all identification cards and other logistics support documents have been returned to the government.

- 17.1.6 The contractor shall allow German government authorities to visit the contractor's work areas for the purpose of verifying the status of positions and personnel as Technical Expert (TE)/Troop Care (TC)/Analytical Support (AS) employees. Such visits will not excuse the contractor from performance under this contract or result in increased costs to the Government.
- 17.17 The contract price shall not be subject to an economic adjustment with regard to TES/TCS/ASS:

- 17.1.7.1 If in the event that the contract and any or all positions identified in the contractor's proposal are disapproved for TES/TCS/ASS accreditation
- 17.1.7.2 If any or all positions submitted for TES/TCS/ASS consideration during the life of the contract are disapproved for TES/TCS/ASS accreditation
- 17.1.7.3 If any or all contractor employees are denied TES/TCS/ASS
- 17.1.7.4 If TES/TCS/ASS accreditation is rescinded during the life of the contract.
- 17.1.7.5 The contractor is responsible to ensure all contractor personnel meet all requirements for performance.

- 17.1.8 If the contractor's employees will be performing in the Federal Republic of Germany under the conditions identified in paragraph 17 (1-8) of this clause, DOCPER is not involved in the process.

18. **Personnel Qualifications.** The contractor shall possess working knowledge of military protocol when addressing Officers, Non-Commissioned Officer and Government personnel. Contractor personnel shall be able to effectively interface and communicate with civilian and military personnel at all levels.

19. **Personal Services Support**

**Physical Exam Requirements:** Personal Service Support personnel will be required to pass a physical exam IAW the medical treatment facility's requirements they are working in. The contractor shall provide the proper Licensing and Credentialing for all health care providers in all 50 states and the U.S. Territories. Physicians are regulated. The usual method to be a credentialed and licensed family or general physician is:

- Possess the amount of training and/or a degree from an accredited school of medicine or osteopathy;
- Complete an accredited program of neurology
- Pass a national exam
- Possess a license from one of the 50 US states or US territories

The contractor shall include resumes for the personal services support identified as in Section 7 of the PWS.

- 19.1 **Physician (MD) Ddiagnose and treat diseases, injuries, and other disorders.** Responsible for working to promote good health and illness prevention. Incumbent may be required to supervise other health-care workers, such as physician assistants, nurses, and technicians. This position is involved directly in patient care.
- 19.1.1 Provides care to patients via telemedicine from the Telehealth Cell in the hospital or Regional Medical Command Telehealth Cell.
- 19.1.2 Performs procedures, evaluations and interventions in collaboration with the attending physician or primary care provider.
- 19.1.3 Writes notes and documentation
- 19.1.4 In the Telehealth Cell, communicates with the client hospital's on-site providers or admitting physician to obtain patient care plan

- 19.7.9.3 Triage referrals to determine level of case complexity and ensures appointments are scheduled in a timely manner with the appropriate provider.
- 19.7.10 Administration and Research (10% of overall time is recommended)
  - 19.7.10.1 Will implement approved interventions and assess for efficacy and process improvement.
  - 19.7.10.2 The contractor will ensure compliance with applicable regulations, quality improvement standards, JCAHO requirements and maintain necessary certifications and licenses.
- 19.8 **Psychology Technician- Serve as an intake worker for crisis evaluation and/or routine intake evaluation. Facilitate intake and triage of patients by receiving phone calls and/or prospective patients in person to obtain demographic, historical and clinical information. Interviews patients to identify relevant information and organize pertinent facts. Assess patients' mental status to distinguish type of case and to discriminate between routine, complex and/or emergency cases. Analyzes and consolidates information for presentation to supervisor/psychologist for disposition of each case and makes recommendations for triage purposes. Assist in the collection, processing and distribution of intake forms. Administers and scores a variety of select psychological tests following prescribed testing procedures. Compiles cumulative, demographic, historical and diagnostic test data/information and compares to established norms.**
  - 19.8.1 This position is in support of the Telehealth Department at the Medical Treatment Facility.
  - 19.8.2 Participates in the design and implementation of Telehealth and be fully involved in the preliminary identification of appropriate subjects for treatment , collecting and summarizing assessment data on patients who are referred for Telehealth evaluation
  - 19.8.3 Conducts psychological, interview, and psycho-physiological assessments conducted with patients computer data entry
  - 19.8.4 Prepares reports of Telehealth consultation or assessment results
  - 19.8.5 Assisting in public presentation of findings at regional and national conferences
  - 19.8.6 Library research assists with establishing and maintaining remote VTC sessions.
  - 19.8.7 Provide additional psychological testing support.
  - 19.8.8 Coordinate the clinical VTC support scheduling for ongoing SRPs other deploying and redeploying activities as well as routine clinical Telehealth encounters
- 19.9 **Psychometrist - A Psychometrist is responsible for the administration and scoring psychological and neuropsychological tests under the supervision of a clinical psychologist or clinical neuropsychologist. Additionally, a Psychometrist will also make note of behavioral observations during the course of the assessment that may be used by the psychologist to aid in test interpretation. The Psychometrist may also be responsible for collecting demographic information from a patient. Will use Telehealth systems when possible.**
  - 19.9.1 Administer and score psychological tests as defined in competencies for a Psychometrist I.
  - 19.9.2 Score tests administered, including objective personality tests administered by Psychologist.
  - 19.9.3 Provide a written summary of the patient's behavior during testing, including any interactions with the patient's parents or peers that may be observed incidentally.

- 19.9.4 Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.
  - 19.9.5 Participate in establishing job requirements and goals; perform duties at the desired level of competency.
  - 19.9.6 Review and ensure timeliness, accuracy, and availability and security of information.
  - 19.9.7 Comply with Infection Control and Health and Safety policies and procedures.
  - 19.9.8 Understands, adheres to and models Core Standards as defined organizationally and specifically within the department/unit.
  - 19.9.9 Will work directly with the NPs at the NARMC and/or other RMC designated providers and/or staff. . When not in direct Telehealth care, they can be utilized by on-site psychologists or designated personnel.
  - 19.9.10 Perform other duties as assigned.
  - 19.9.11 Conducts psychological testing of beneficiaries including active duty service members who have been diagnosed with MTBI, family members, and retired service members.
  - 19.9.12 Includes provision of services to service members with deployment related illnesses and injuries including those who served in Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF), and other combat areas.
  - 19.9.13 Assignments involve the initial screening of outpatients and inpatients with moderate-severe mental disorders for suitability for testing
  - 19.9.14 Administering and scoring psychological tests using standard procedures
  - 19.9.15 Recommending and implementing modifications to standard procedures for individual patients
  - 19.9.16 Appropriately managing patients manifesting behavioral or emotional disturbances and Communication and consultation with supervising licensed psychologists, attending psychiatrists, and nursing staff
  - 19.9.17 Responsible for maintaining rapport with patients and adjusts the level and manner of interaction to promote optimal effort and test validity.
- 19.10 **Research Psychologist-** Ability to provide accurate and current advice on a variety of health care and patient treatment issues. Ability to advice on the diagnosis and treatment of diseases and the prevention of disease. Ability to advise on the prescription of medications, diagnostic testing procedures, medical instruments, medical equipment, and medical decision-making. Must possess a Doctor of Psychology from a school in the U.S. or Canada approved by a recognized accrediting body and be license in an US state or territory. This position will oversee quality control and recommend standardization for Telehealth practices in order to evaluate effectiveness. PhD in psychology preferred.
- 19.11 **Speech and Language Pathologist -** Assess and treat persons with speech, language, voice, and fluency disorders. May select alternative communication systems and teach their use. Will use Telehealth systems when possible.
- 19.11.1 Monitor patients' progress and adjust treatments accordingly.
  - 19.11.2 Evaluate hearing and speech/language test results and medical or background information to diagnose and plan treatment for speech, language, fluency, voice, and swallowing disorders.
  - 19.11.3 Administer hearing or speech/language evaluations, tests, or examinations to patients to collect information on type and degree of impairments, using written and oral tests and special

## 20 Non-Personal Services

- 20.1 **Administrative Assistant-** Position requires demonstrated experience and ability to use word processing and graphics production software and equipment. Duties include general administrative and clerical duties such as typing, filing, taking meeting minutes, composing routine correspondence, assisting in the production of final form documentation to meet requirements of governing contract; performing data entry on a variety of systems; and maintaining a technical library – all in a setting supervised by the Telehealth Program Manager.
- 20.1.1 Composes correspondence, reports, forms, and other documents independently or from transcribing machines, notes, or general instruction from supervisor and staff; proofreads material and corrects grammar, spelling, or word usage; receives and screens callers with complaints or problems and directs them to the appropriate party for disposition; interprets Telehealth policy on routine administrative matters and explains procedures to others; makes appointments, coordinates meetings, and schedules tele-conference rooms for supervisors and staff using an appointment book or on-line calendar system; arranges hotel and airline reservations and local travel plans for supervisors and staff.
- 20.1.2 May develop and maintain computerized spreadsheets and databases to enter information and generate reports; may produce, revise, or refine formal presentation materials, using presentation software
- 20.2 **Appointing Clerk –** Schedules appointments with the Telehealth team or other clinical staff for patients or customers by phone, mail, or in person, and records time and date of appointment in an appointment book or other applicable appointing system and indicates when appointments have been filled or cancelled. May telephone or write patients to remind them of appointments.
- 20.3 **Coder –** Assigns a code to each diagnosis and procedure, relying on their knowledge of disease processes. Technicians then use classification systems software to assign the patient to one of several hundred "diagnosis-related groups," or DRGs. Coders may also use other coding systems, such as those required for ambulatory settings, physician offices, or long-term care.
- 20.3.1 Provides Telehealth coding guidance and education across the region as mandated by MEDCOM Policy Memo 08-053 dated 18 Dec 2008 striving to obtain both the consulting and referring site getting appropriate credit.
- 20.3.2 Perform audits focused on achieving the maximum efficiencies and best practices possible.
- 20.4 **Data Analyst-** Responsible for collection, analysis and dissemination of functional, technical and administrative data. May works under the supervision of a more senior data analyst. Requires a bachelor's degree and 4 years of experience of which a minimum of 2 years must be in analysis of government or commercial data and/or programs or equivalent work experience.
- 20.4.1 Perform management studies
- 20.4.2 Perform Business Case Analysis
- 20.4.3 Specify metrics and trends that determine success
- 20.4.4 Identify resource utilization
- 20.4.5 Track RVUs as mandated by MEDCOM Policy Memo 08-053 dated 18 Dec 2008
- 20.4.6 Pull data to support future VTC use as a profit center
- 20.5 **Portal Manager -** Manage the content strategy and development of a Telehealth portal. Skillfully bridge the gap between content and business objectives and provide a unique blend of communication strategy, and technical expertise to ensure successful achievement of cross-functional online content strategy supporting Telehealth objectives. Work with team of developers, attorneys, designers, marketing and application owners to develop firm solution for client intranet and extranet sites from concept to

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

CONTRACT ID CODE: **J**      PAGE OF PAGES: **1** / **48**

2. AMENDMENT/MODIFICATION NO: **P00001**      3. EFFECTIVE DATE: **10-Dec-2009**      4. REQUISITION/PURCHASE REQ. NO.: **SEE SCHEDULE**      5. PROJECT NO. (if applicable):

6. ISSUED BY: **USA MED RESEARCH AGO ACTIVITY**  
**820 CHANDLER ST**  
**FORT DETRICK MD 21702-5014**      CODE: **W81XWH**      7. ADMINISTERED BY (if other than item 6): **USA MED RESEARCH AGO ACTIVITY**  
**ATTN: (b) (6)**      CODE: **W81XWH**  
**(b) (6)**  
**FORT DETRICK MD 21702-5014**

8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code):  
**EAGLE APPLIED SCIENCES, LLC**  
**200 CONCORD PLAZA DR STE 430**  
**SAN ANTONIO TX 78216-2858**

9A. AMENDMENT OF SOLICITATION NO.:  
 9B. DATED (SEE ITEM 11):  
 X 10A. MOD. OF CONTRACT/ORDER NO.: **W81XWH-09-C-0166**  
 10B. DATED (SEE ITEM 13):  
 X **30-Sep-2009**

CODE: **4E1D8**      FACILITY CODE:

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offer:  is extended,  is not extended.

Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:  
 (a) By completing items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)  
**See Schedule**

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACT ORDERS**  
**IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).

X C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:  
**Bilateral Modification IAW FAR 43.103(a)(3)**

D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor  is not,  is required to sign this document and return \_\_\_\_\_ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  
 Modification Control Number: **(b) (6) 101466**

The purpose of this modification is to incorporate the following mutually agreed upon changes herein:  
 1) Re-allocate funding for Recruiting Phase-In implemented in the Base Year  
 2) Incorporate revised payment schedule as detailed Payment Schedule in Section G;  
 3) Incorporate the revised Performance Work Statement with changes highlighted in yellow and the Contractor's revised cost proposal dated 10 December 2009;  
 4) Designate **(Eagle, Director)** as the Contractor's Project Manager.

No change in cost. All other terms and conditions remain the same.

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)      16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)  
 Contracting Officer / ACCOUNT MANAGER  
 TEL: (b) (6)      EMAIL: Contracting Officer

15B. CONTRACTOR/OFFEROR      15C. DATE SIGNED      16B. UNITED STATES OF AMERICA  
 Contracting Officer      16C. DATE SIGNED  
 BY: \_\_\_\_\_      10-Dec-2009  
 (Signature of person authorized to sign)      (Signature of Contracting Officer)



6. **Tasks.** The contractor shall provide personnel support for the AMEDD in program execution of its Global Tele-Health initiative by coordinating the personnel resources for the program. Tele-Health initiative is the use of technology in the scheduled interaction between a health care provider and patient (provider-patient) and/or the interaction between two or more health care providers (provider-provider). All policies, procedures and guidelines used in treatment as usual, face-to-face interactions between healthcare provider and patient were adopted for the Tele-Healthcare Program.
7. **Level of Effort.** The Government estimates a level of effort (LOE) for this requirement as shown in the following table for twelve-months based on exempt and non-exempt (as defined by Department of Labor Wage determination) 1880 man hours. The contractor is encouraged to propose LOE consistent with their technical approach for accomplishing all performance objectives/standards set forth in Section 6 above.

Personal Services		
Position	Staff	Para
Physician (MD)	1	19.1
Neurologist	1	19.4
Neuropsychologist	2	19.5
Occupational Therapist	1	19.6
Psychiatric Nurse (RN)	2	19.7
Speech and Language Pathologist	1	19.11
TBI-Physician Assistant	3	19.12
Clinical Psychologist	1	19.13
	12	

Non- Personal Services		
Position	Staff	Para
Administrative Assistant	4	20.1
Appointing Clerk <sup>1</sup>	1	20.2
Clinical Advisor (RN) <sup>1</sup>	2	19.2
Clinical Coordinator (LPN) <sup>1,2</sup>	13	19.3
Coder	0	20.3
Data (Analyst, QM, Research) <sup>5</sup>	3	20.4
Medical Service Coordinator <sup>4</sup>	2	
Medical Service Coordinators Level 5 <sup>5</sup>	1	
Portal Manager	1	20.5
Psychology Technician <sup>1</sup>	10	19.8
Psychometrist <sup>1</sup>	6	19.9
Research Psychologist <sup>1</sup>	1	19.10
Telehealth Technician <sup>3</sup>	5	20.6
Telemedicine Program Consultant <sup>3</sup>	2	

18. **Personnel Qualifications.** The contractor shall possess working knowledge of military protocol when addressing Officers, Non-Commissioned Officer and Government personnel. Contractor personnel shall be able to effectively interface and communicate with civilian and military personnel at all levels.

19. **Personal Services Support**

**PERSONAL SERVICES.** This contract is in part a personal services contract and is intended to create an employer-employee relationship between the Government and the individual contract health care providers only to the extent necessary for providing the healthcare services required under this contract. The performance of healthcare services by the individual contract health care providers under a personal services contract are subject to day-to-day supervision and control by healthcare facility personnel comparable to that exercised over military and civil service health care providers engaged in comparable healthcare services. Any personal injury claims alleging negligence by the individual contract health care providers within the scope of the health care provider's performance of the personal services contract shall be processed by Department of Defense (DoD) in the same manner as claims alleging negligence by DoD military or civil service health care providers. The contract does not create an employer-employee relationship between the Government and any corporation, partnership, business association or other party or legal entity with which the contract health care provider may be associated. The authority for this contract is 10 United States Code 1089 and 10 United States Code 1091.

- **Professional Liability.** Pursuant to 10 USC 1089(a), DoD shall process any personal injury claim alleging negligence by the HCP within the scope of the HCP's performance under this contract as claims alleging negligence by DoD military or civil service HCP. The contractor or HCP is not required to maintain medical malpractice liability insurance, and the Government will not reimburse or otherwise pay for such insurance should any be purchased.
- **Responsibility and Procedure.** If any suit or action is filed or any claim is made against the contract HCP, which occurred as a result of work performed by the HCP under this contract, the HCP shall immediately notify the contractor, the contracting officer and the chief of the appropriate services and promptly furnish them copies of all pertinent documents received.
- The contract HCP shall cooperate with the government, without further compensation, in the processing, review, settlement, or defense of the suit, action, or claim; and authorize government representatives to settle or defend the claim and to represent the HCP in, or take charge of, any litigation involved in such an action. The contract HCP may, at the contract HCP's own expense, participate in defense of such claim or litigation.
- **Confidentiality/HIPAA.** The contractor shall abide by AR 40-3 and AR 40-66 concerning the nature of limited privileged communication between patient and health care provider for security and personnel reliability programs. The contractor shall abide by AR 40-66 concerning the confidentiality of patient records, as embodied in federal statutes including the Privacy Act of 1974 and the Drug and Alcohol Act, Public Law 92-129 and HIPAA. The contractor shall direct all requests for medical information on patients to the Chief, Patient Administration Division. The contractor shall not release any medical or personal information on a patient without first receiving written approval from the government. Government will provide the regulations upon request by the contractor.
- **Conflict of Interest.** Contract employee shall not use patient care rendered pursuant to this agreement as a part of a study, research grant, or publication without the prior written consent of the MTF Commander.
- Contractor shall not bill the patient, an insurer, or anyone else for services rendered. The Contractor is prohibited from receiving compensation of any kind for eligible patients treated, procedures performed, or any other actions performed, except under the terms and conditions of this contract, at the rate specified in the contract.
- Contractor shall not, while performing services under this contract, advise, recommend, or suggest to persons eligible to receive medical care at Army expense that such persons should receive care from the

Contractor at any place other than at the MTF. The Contractor will not refer any patients to any company or service to which they have a direct or indirect involvement (including partnership programs and ancillary services not offered by the MTF).

- Contractor shall not introduce new medical procedures or changes in standing operating procedures without first coordinating with the Chief of Services, or his/her designated representative.
- Contractor is not prohibited by reason of his employment under this contract from conducting private practice, if there is no conflict with the performance of services under this contract.
- Contractor shall not use Government facilities or other Government property in connection with conducting a private practice.
- The Contractor shall not use any Department of Defense, either military or civilian, personnel in performance of this contract.
- **SAFETY.** The contractor shall be responsible for knowing and complying with all installation safety prevention regulations. Such regulations include, but are not limited to, general safety, fire prevention, and waste disposal.
- **SECURITY.** The MTF is a restricted access military installation. A Personnel Background Check may need to be processed. An ID, the Common Access Card (CAC) and the vehicle registration (see section 2.18) will not be issued until the background checks are completed and approved by the Installation Security Manager. The CAC card is required for access to Government computer databases and also is given to the security guards when entering the military installation. The Contractor shall ensure each healthcare provider is a U.S. Citizen (certified copy of birth certificate or naturalization papers).
- **Security Identification Badges.** Contractor shall comply with the local installation and MTF personnel identification and access requirements. The Contractor is responsible for absences due to expired identification and access documents.
- Each contract employee shall wear a visible Security badge ID, provided by the Military Treatment Facility or the Military Installation in accordance with their guidance. The badge must show the full name, title and if required by the Military the words "Contractor" in front.
- Contractor shall turn in the MTF badge and Civilian ID Card to the Contracting Officer Representative (COR), or his/her designated representative upon termination of their services under this contract.
- **VEHICLE REGISTRATION.** Contractor must register their vehicles with the Provost Marshal's Office to gain access onto the military installation. A valid driver's license, government-furnished civilian ID, proof of insurance and current registration must be presented to the Provost Marshal's Office, at which time a Department of Defense decal will be issued. The decal shall be placed on the vehicle's front windshield in accordance with instructions.
- Vehicles, with or without a DoD decal, are subject to search. Contract employee may encounter long delays for vehicle inspection and identification checks upon entering and exiting the installation. The government will not reimburse the contractor for time spent at installation checkpoints. Contractor should plan accordingly and report to work at their scheduled duty time, at their appointed place of duty within the MTF.
- Contractor shall follow installation procedures for removal and turn-in of the vehicle decal upon termination of services under this contract.

- **ADP Security.** The Contractor under this contract shall have access to and/or process information requiring protection under the Privacy Act of 1974. These positions are considered "ADP Sensitive" positions. Compliance with DoD Directive 5200.28, DoD 5200.2-R, AR 25-2 and AR 380-67 (for Army), and applicable regulations for other services, are mandatory for ADP Sensitive positions.
- **JC Standards.** Contractor shall take part in Department or MTF programs as required to meet the JC standards.
- **MTF Formulary.** Contract employee authorized to prescribe pharmaceuticals shall do so according to the availability of drugs listed therein. The pharmacy services will provide instructions to all prescribing contract physicians on substitutions and generic drugs for prescribed drugs. The Contractor shall follow the procedures of the MTF when prescribing drugs.

**HIPAA.** Health Insurance Portability and Accountability Act of 1996, Privacy and Security of Protected Health Information (Mar 2008)

In accordance with DoD 6025.18-R "Department of Defense Health Information Privacy Regulation," January 24, 2003, the Contractor meets the definition of Business Associate. Therefore, a Business Associate Agreement is required to comply with both the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security regulations. This clause serves as that agreement whereby the Contractor agrees to abide by all applicable HIPAA Privacy and Security requirements regarding health information as defined in this clause, and in DoD 6025.18-R and DoD 8580.02-R, as amended. Additional requirements will be addressed when implemented.

- \* **Definitions.** As used in this clause generally refer to the Code of Federal Regulations (CFR) definition unless a more specific provision exists in DoD 6025.18-R or DoD 8580.02-R.
- **Individual** has the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- **Protected Health Information** has the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created or received by the Contractor from or on behalf of the Government pursuant to the Contract.
- **Electronic Protected Health Information** has the same meaning as the term "electronic protected health information" in 45 CFR 160.103.
- **Required by Law** has the same meaning as the term "required by law" in 45 CFR 164.103.
- **Secretary** means the Secretary of the Department of Health and Human Services or his/her designee.
- **Security Rule** means the Health Insurance Reform: Security Standards at 45 CFR part 160, 162 and part 164, subpart C.
- **Terms used, but not otherwise defined, in this Clause** shall have the same meaning as those terms in 45 CFR 160.103, 164.501 and 164.304.
- **The Contractor shall not use or further disclose Protected Health Information other than as permitted or required by the Contract or as Required by Law.**

- The Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Contract.
- The Contractor agrees to use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits in the execution of this Contract.
- The Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of Protected Health Information by the Contractor in violation of the requirements of this Clause.
- The Contractor shall report to the Government any security incident involving protected health information of which it becomes aware.
- The Contractor shall report to the Government any use or disclosure of the Protected Health Information not provided for by this Contract of which the Contractor becomes aware.
- The Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.
- The Contractor shall ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.
- The Contractor shall provide access, at the request of the Government, and in the time and manner reasonably designated by the Government to Protected Health Information in a Designated Record Set, to the Government or, as directed by the Government, to an Individual in order to meet the requirements under 45 CFR 164.524.
- The Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Government directs or agrees to pursuant to 45 CFR 164.526 at the request of the Government, and in the time and manner reasonably designated by the Government.
- The Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, available to the Government, or at the request of the Government to the Secretary, in a time and manner reasonably designated by the Government or the Secretary, for purposes of the Secretary determining the Government's compliance with the Privacy Rule.
- The Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- The Contractor shall provide to the Government or an Individual, in time and manner reasonably designated by the Government, information collected in accordance with this Clause of the Contract, to permit the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

#### General Use and Disclosure Provisions

Except as otherwise limited in this Clause, the Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the Government for treatment, payment, or healthcare operations purposes, in accordance with the specific use and disclosure provisions below, if such use or disclosure of Protected Health

Information would not violate the HIPAA Privacy Rule, the HIPAA Security Rule, DoD 6025.18-R or DoD 8580.02-R if done by the Government.

#### Specific Use and Disclosure Provisions

- Except as otherwise limited in this Clause, the Contractor may use Protected Health Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.
- Except as otherwise limited in this Clause, the Contractor may disclose Protected Health Information for the proper management and administration of the Contractor, provided that disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.
- Except as otherwise limited in this Clause, the Contractor may use Protected Health Information to provide Data Aggregation services to the Government as permitted by 45 CFR 164.504(e)(2)(i)(B).
- Contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

#### Obligations of the Government

##### Provisions for the Government to Inform the Contractor of Privacy Practices and Restrictions

- The Government shall provide the Contractor with the notice of privacy practices that the Government produces in accordance with 45 CFR 164.520.
- The Government shall provide the Contractor with any changes in, or revocation of, permission by individual to use or disclose Protected Health Information, if such changes affect the Contractor's permitted or required uses and disclosures.
- The Government shall notify the Contractor of any restriction to the use or disclosure of Protected Health Information that the Government has agreed to in accordance with 45 CFR 164.522.

##### Permissible Requests by the Government

The Government shall not request the Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Privacy Rule, the HIPAA Security Rule, or any applicable Government regulations (including without limitation, DoD 6025.18-R and DoD 8580.02-R) if done by the Government, except for providing Data Aggregation services to the Government and for management and administrative activities of the Contractor as otherwise permitted by this clause.

#### Termination

- **Termination.** A breach by the Contractor of this clause, may subject the Contractor to termination under any applicable default or termination provision of this Contract.
- **Effect of Termination.**
- If this contract has records management requirements, the records subject to the Clause should be handled in accordance with the records management requirements. If this contract does not have records management requirements, the records should be handled in accordance with paragraphs (2) and (3) below

- 19.7.9.2 The incumbent acts as the department's liaison with health benefit advisors, health care finders, primary care managers and primary care case managers, utilization management personnel, and other providers interacting with Tripler Army Medical Center Concussion Clinic and Behavioral Health Department.
- 19.7.9.3 Triages referrals to determine level of case complexity and ensures appointments are scheduled in a timely manner with the appropriate provider.
- 19.7.10 **Administration and Research** (10% of overall time is recommended)
  - 19.7.10.1 Will implement approved interventions and assess for efficacy and process improvement.
  - 19.7.10.2 The contractor will ensure compliance with applicable regulations, quality improvement standards, JCAHO requirements and maintain necessary certifications and licenses.
- 19.8 **Psychology Technician.** Serve as an intake worker for crisis evaluation and/or routine intake evaluation. Facilitate intake and triage of patients by receiving phone calls and/or prospective patients in person to obtain demographic, historical and clinical information. Interviews patients to identify relevant information and organize pertinent facts. Assess patients' mental status to distinguish type of case and to discriminate between routine, complex and/or emergency cases. Analyzes and consolidates information for presentation to supervisor/psychologist for disposition of each case and makes recommendations for triage purposes. Assist in the collection, processing and distribution of intake forms. Administers and scores a variety of select psychological tests following prescribed testing procedures. Compiles cumulative, demographic, historical and diagnostic test data/information and compares to established norms.
  - 19.8.1 This position is in support of the Telehealth Department at the Medical Treatment Facility.
  - 19.8.2 Participates in the design and implementation of Telehealth and be fully involved in the preliminary identification of appropriate subjects for treatment , collecting and summarizing assessment data on patients who are referred for Telehealth evaluation
  - 19.8.3 Conducts psychological, interview, and psycho-physiological assessments conducted with patients computer data entry
  - 19.8.4 Prepares reports of Telehealth consultation or assessment results
  - 19.8.5 Assisting in public presentation of findings at regional and national conferences
  - 19.8.6 Library research assists with establishing and maintaining remote VTC sessions.
  - 19.8.7 Provide additional psychological testing support.
  - 19.8.8 Coordinate the clinical VTC support scheduling for ongoing SRPs other deploying and redeploying activities as well as routine clinical Telehealth encounters
- 19.9 **Psychometrist.** Responsible for the administration and scoring psychological and neuropsychological tests under the supervision of a clinical psychologist or clinical neuropsychologist. Additionally, a Psychometrist will also make note of behavioral observations during the course of the assessment that may be used by the psychologist to aid in test interpretation. The Psychometrist may also be responsible for collecting demographic information from a patient. Will use Telehealth systems when possible.
  - 19.9.1 Administer and score psychological tests as defined in competencies for a Psychometrist I.
  - 19.9.2 Score tests administered, including objective personality tests administered by Psychologist.
  - 19.9.3 Provide a written summary of the patient's behavior during testing, including any interactions with the patient's parents or peers that may be observed incidentally.

- 19.9.4 Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.
- 19.9.5 Participate in establishing job requirements and goals; perform duties at the desired level of competency.
- 19.9.6 Review and ensure timeliness, accuracy, and availability and security of information.
- 19.9.7 Comply with Infection Control and Health and Safety policies and procedures.
- 19.9.8 Understands, adheres to and models Core Standards as defined organizationally and specifically within the department/unit.
- 19.9.9 Will work directly with the NPs at the NARMC and/or other RMC designated providers and/or staff. . When not in direct Telehealth care, they can be utilized by on-site psychologists or designated personnel.
- 19.9.10 Perform other duties as assigned.
- 19.9.11 Conducts psychological testing of beneficiaries including active duty service members who have been diagnosed with MTBI, family members, and retired service members.
- 19.9.12 Includes provision of services to service members with deployment related illnesses and injuries including those who served in Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF), and other combat areas.
- 19.9.13 Assignments involve the initial screening of outpatients and inpatients with moderate-severe mental disorders for suitability for testing
- 19.9.14 Administering and scoring psychological tests using standard procedures
- 19.9.15 Recommending and implementing modifications to standard procedures for individual patients
- 19.9.16 Appropriately managing patients manifesting behavioral or emotional disturbances and Communication and consultation with supervising licensed psychologists, attending psychiatrists, and nursing staff
- 19.9.17 Responsible for maintaining rapport with patients and adjusts the level and manner of interaction to promote optimal effort and test validity.

**19.9 PRMC/Tripler Psychometrist. The main change is from inpatient care to outpatient care**  
**MAJOR DUTIES:**

- Functions as a relatively autonomous Psychometrist conduct standard intake activities (e.g., administering standard clinical intake forms, taking vital signs, etc.), counseling, educational activities and the administering, scoring, and compiling the results of psychological tests; conducts psychological testing of PRMC/Tripler beneficiaries including active duty service members who have been diagnosed with MTBI, family members, and retired service members; position includes provision of services to service members with deployment related illnesses and injuries including those who served in Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF), and other combat areas; assignments involve: (a) the initial screening of patients, administering intake questionnaires and psychological tests and scoring of these tests using standard procedures; (c) recommending and implementing modifications to standard procedures for individual patients; (d) appropriately managing patients manifesting mild to moderate behavioral or emotional disturbances and; (e) communication and consultation with supervising licensed psychologists. The incumbent maintains rapport with patients and adjusts the level and manner of interaction to promote optimal effort and test validity. (Approximately 50%)
- Compiles written case history, patient complaints, test results, and other clinically relevant information for use in the subsequent assessment and diagnosis of patients by the supervising psychologist; observes and reports patient behavior, emotional status, and motivation during testing; enters test results and other information into a computerized database and manages the database. (Approximately 30%)

mechanisms, support systems, review of medical history and collection of collateral information as needed.

- 19.12.1.1 Formulates diagnostic impressions and treatment plans and recommendations using the DSM IV and ICD9 diagnostic designations.
  - 19.12.1.2 Recommends Prescription of appropriate psychotropic medications when indicated. When necessary, refers patients to health professionals in other fields.
  - 19.12.1.3 Documents and maintains records in a timely manner and per Tripler Army Medical Center and Behavioral Health clinic policies will include the use of an electronic medical record.
  - 19.12.1.4 Communicates the results of the evaluations taking full responsibility for the findings, interpretations, decisions, recommendations, and reports.
  - 19.12.1.5 Performs comprehensive evaluations for the purposes of fitness for duty evaluations and routine cases for Community Mental Health Service (CMHS).
  - 19.12.1.6 Provides crisis intervention and individual or group psychotherapy for a wide array of psychopathology. All cases involving command referrals or unusual or abnormal findings are reviewed with the designated clinical psychiatrist or clinical psychologist, oftentimes via Tele Health.
  - 19.12.1.7 Maintains and advances practice skills and knowledge in the field of Clinical Psychology by reading current professional literature, attending formal and informal lectures and study programs, attending patient care conferences and meetings via Tele Health/VTC with other psychiatric care providers.
- 19.12.2 **CONSULTATION:** (30% of overall time is recommended)  
Functions as a collaborative member of the behavioral health care TBI/Tele Health team providing a clinical perspective to patient care.
- 19.12.2.1 Participates in therapy program development and consultation with all levels of staff regarding how psychological and physiological aspects relate to the behavioral change of the patient.
  - 19.12.2.2 Participates in staff development programs and in development and implementation of policy.
  - 19.12.2.3 Serves as a resource, liaison, and consultant regarding the evaluation, treatment, and follow-up of psychiatric patients.
  - 19.12.2.4 Develops a knowledge base of available community resources within the local community and assists patients in accessing these resources. Personal contacts include military and community leaders, social workers, physicians, psychologists, nurses, clinic personnel, educators, and case managers, and health care administrators.
  - 19.12.2.5 Serves in a teaching capacity to provide formal and informal education to individuals and family members. Topics include, but are not limited to, suicide prevention classes, stress management classes, mental status evaluation classes, deployment briefs, redeployment briefings and critical incident stress debriefings.
- 19.12.3 **CASE MANAGEMENT:** (20% of overall time is recommended) - The incumbent participates in care-coordination planning and activities. The incumbent acts as the department's liaison with health benefit advisors, health care finders, primary care managers and primary care case managers, utilization management personnel, and other providers interacting with Tripler Army Medical Center Concussion Clinic Nurse Case Manager, and Behavioral Health Department. Assesses referrals to determine level of case complexity and ensures appointments are scheduled in a timely manner with the appropriate provider.
- 19.12.4 **ADMINISTRATION AND RESEARCH** (5% of overall time is recommended) – Will implement approved interventions and assess for efficacy and process improvement. The incumbent will ensure compliance with applicable regulations and quality improvement standards.

- 20.1 **Administrative Assistant.** Position requires demonstrated experience and ability to use word processing and graphics production software and equipment. Duties include general administrative and clerical duties such as typing, filing, taking meeting minutes, composing routine correspondence, assisting in the production of final form documentation to meet requirements of governing contract; performing data entry on a variety of systems; and maintaining a technical library – all in a setting supervised by the Telehealth Program Manager.
- 20.1.1 Composes correspondence, reports, forms, and other documents independently or from transcribing machines, notes, or general instruction from supervisor and staff; proofreads material and corrects grammar, spelling, or word usage; receives and screens callers with complaints or problems and directs them to the appropriate party for disposition; interprets Telehealth policy on routine administrative matters and explains procedures to others; makes appointments, coordinates meetings, and schedules tele-conference rooms for supervisors and staff using an appointment book or on-line calendar system; arranges hotel and airline reservations and local travel plans for supervisors and staff.
- 20.1.2 May develop and maintain computerized spreadsheets and databases to enter information and generate reports; may produce, revise, or refine formal presentation materials, using presentation software
- 20.2 **Appointing Clerk.** Schedules appointments with the Telehealth team or other clinical staff for patients or customers by phone, mail, or in person, and records time and date of appointment in an appointment book or other applicable appointing system and indicates when appointments have been filled or cancelled. May telephone or write patients to remind them of appointments.
- 19.2 **Clinical Advisor (RN).** Provides accurate and current advise on a variety of complex nursing issues to include: planning, organizing, and directing nursing care, standards of patient care, patient care plan, implementing physicians' orders, administering medications and intravenous solutions, medical recording and reporting, medical re-supply, hospital safety, infection-control policies and procedures, nurse staffing policies, and nursing staff supervision. Must have a degree or diploma from a professional nursing program approved by the legally designated State accrediting agency at the time the program was completed by the applicant. Must have active, current registration as a professional nurse in a State, District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.
- 19.2.1 Assists in scheduling patient-provider as well as provider-provider telehealth and non telehealth encounters
- 19.2.2 Assists in preparing patients for Telehealth encounter
- 19.2.3 Performs all related duties associated with the Telehealth encounter from start to finish.
- 19.2.4 Assists in ensuring privileges are in place
- 19.2.5 Working with case managers at all the MTFs
- 19.2.6 Collecting data
- 19.2.7 Provides assistance to Nurse Educators in ensuring participation in education opportunities using relevant systems
- 19.2.8 Training providers in the use of systems
- 19.2.9 Formulating recommended Region-wide guidance and procedures
- 19.2.10 Assisting in the correct coding of encounters.
- 19.2.11 Coordinate Medical Consent, clinic advising, and care coordination.
- 19.3 **Clinical Coordinator (LPN/LVN).** Provides advice on and applies federal, state, departmental and institutional nursing procedures. Ability to provide advice on patient supervision, patient safety considerations and patient well being issues. Ability to transcribe, prepare, administer and record medications and treatments prescribed by a physician. Under direction, to develop as part of a multi-disciplinary team, a broad spectrum plan of care for a specific population of clients, to provide specialized Telehealth care to clients in the population; to identify emerging/recurring health problems and develop programs with other agencies to manage these problems; to supervise nursing and nonprofessional staff; and to do other related work as required.

TAB 4

# SWORN STATEMENT

## PRIVACY ACT STATEMENT

3

**AUTHORITY:** Title 10, United States Code, Section 3013 (10 USC § 3013).  
**PRINCIPAL PURPOSE:** To evaluate the facts and circumstances pursuant to an administrative investigation conducted UP AR 15-6.  
**ROUTINE USES:** Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties. In addition, the information may be disclosed to government agencies outside of the DoD as follows:  
a. To members of the U.S. Department of Justice when necessary in the defense of litigation brought against the DoD, or against the members of that department as a result of actions taken in their official capacity.  
b. To members of the U.S. Department of Justice when necessary for the further investigation of criminal misconduct.  
**DISCLOSURE:** If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory. Failure to provide information could result in disciplinary action or other adverse action against you under the UCMJ, Army Regulations, or Office of Personnel Management Regulations.  
If you are not a military member or a federal employee ordered to provide information, or if you reasonably believe that your information will incriminate you (that is, that you are reasonably likely to admit to criminal misconduct), disclosure is voluntary, and there will be no adverse effect on you for not furnishing the information other than that certain information might not otherwise be available to the commander for his or her decision in this matter.

1. LOCATION Petersburg, VA      2. DATE 2013/05/17      3. TIME 1445      4. FILE NUMBER \_\_\_\_\_  
5. NAME The Whistleblower      6. SSN N/A      7. GRADE/STATUS GS  
8. ORGANIZATION OR ADDRESS Kenner Army Health Clinic, Fort Lee, VA  
9. I, The Whistleblower WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I filed a complaint about contracting irregularities at Kenner Army Health Clinic including concerns that:

- Management at KAHC improperly created an employer-employee relationship between the government and the current Tele-Health psychometrist, who is a contract employee residing at KAHC.
- Management has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee and concerns related to Personal Services.
- The improper relationship between the government and the contract psychometrist may violate the Federal Acquisition Regulation, Anti-Deficiency Act and other procurement guidelines.

I informed the investigating officer, Investigating Officer (IO) about the chronology of events, my concerns, responses and requests to my supervisors at each time. I first became employed as a psychometrist at KAHC as a contract employee in January 2010. I was employed by Eagle Applied Sciences supporting the Tele-Health Contract for Walter Reed Army Medical Center. Kenner Army Health Clinic is one of several military medical institutions where the Tele-Health program employees reside.

In February of 2012, a GS position was created for a Behavioral Sciences Coordinator and I was hired into that position. The position description includes duties as a psychometrist in addition to other duties. I had no input into the specific duties that were outlined but had reviewed the description prior to being hired into the position.

In March 2012, Chief, Tele-health (KACC), who was the chief of the Tele-Health service at Walter Reed National Military Medical Center contacted me to review resumes that had been submitted for my former position. Two were submitted. I felt uncomfortable reviewing the employment applications and avoided participation in the selection process. I was later told that Chief, Tele-health (KACC) contacted the successful applicant by phone as part of a "Teleconference" with them. Contract Psychometrist was subsequently hired and started work in April 2012 as the contract psychometrist.

My position as the Behavioral Sciences Coordinator included the responsibility for coordination of work assignments, training and quality controls within the testing lab. Over the next month as I worked with Contract Psychometrist I noted problems in her patient evaluations/testing and general office skills. I began to feel that she was

10. EXHIBIT \_\_\_\_\_ 11. INITIALS OF PERSON MAKING STATEMENT \_\_\_\_\_ PAGE 1 OF 6 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT. AND PAGE NUMBER MUST BE INDICATED

TAB 4

## 9. STATEMENT (Continued)

not competent, and that she did not possess the full scope of competencies listed as a requirement for employment and necessary for psychometrist duties at KAHC and Tele-Health. I also felt that she should not see patients autonomously. I voiced my concerns to Chief of Psychology on several occasions and she agreed with my assessment. I requested guidance from her on what could be done in light of Contract Psychometrist position as a contractor. I believed that Eagle Applied Sciences was responsible for her competency and for her psychometrist skills training or remediation but was unclear as to any specific limitations placed upon me as a government employee responsible for the supervision and operation of the testing lab. Nevertheless, Chief of Psychology and I coordinated to develop corrective measures to raise Contract Psychometrist competency.

On June 19, 2012 Chief of Psychology and I spoke with Contract Psychometrist regarding a plan to improve her skills as a psychometrist. The plan ("30 day expectations") included psychometrist training, and practical exercises for specific assessments and the skills necessary to support the psychometrist role and KAHC/Tele-Health mission. This plan included a 30-day reevaluation to ascertain her progress towards becoming autonomous for core assessment requirements. Chief of Psychology had Contract Psychometrist sign an acknowledgement of the 30-day expectations, and Chief of Psychology directed me to ensure that her patient encounters in AHLTA were transferred to me for review and co-signature. As directed by Chief of Psychology, I provided general oversight of her testing procedures with specific assessments assigned to Contract Psychometrist for review and study, followed by practical exercises that involved psychometric testing administration performed in a controlled environment. I ensured that she received additional training including collaboration on development of several testing lab Standard Operating Procedures, modeling of behavior (she was to observe me as I administered psychometric testing), and general testing supervision. I provided specific feedback to Contract Psychometrist throughout the process. I continued to feel uncomfortable in the role of supervisor for remediation of a contract employee. The longer this continued, my level of concern increased as did my vocalization of these concerns.

In early July, Contract Psychometrist progress had not significantly improved and I again expressed my concerns regarding these issues to Chief of Psychology. I requested additional guidance in light of Chief of Psychology pending maternity leave and anticipated prolonged absence. Chief of Psychology notified Chief Tele-health (KACC) of our continued concerns by e-mail and requested Chief Tele-health (KACC) feedback on how to proceed with Contract Psychometrist supervision and remediation. Chief of Psychology informed me that although Acting Chief of Psychology? was to be the acting chief of Psychology in her absence, I should approach Chief, DBH with any issues regarding Contract Psychometrist.

Clinical Psychologist WRNMMC a Psychologist at WRNMMC telephoned me to inquire into my concerns about Contract Psychometrist performance as she had been forwarded the email from Chief of Psychology and was following up. I informed Clinical Psychologist WR about the "30-day" plan and actions taken to date. I then received an invitation from the Tele-health program manager's office to a meeting to discuss "Performance Improvement" for Contract Psychometrist. I noticed that I was the only KAHC representative invited in the Outlook invitation so I immediately informed the Department Head, Chief, DBH and suggested her attendance. The WRNMMC Tele-Health program manager (Tele-health PM (KACC)) e-mailed Chief Tele-health (Gov), Eagle Director (KTR), Acting Chief of Psychol (Gov), and COR (TATRC) (Gov) regarding Subject: "F/U to TCON Re Contract Psychometrist?" with the following: Contract Psychometrist supervision at KAHC has changed as follows: the supervising psychologist will tailor testing battery based on what Contract Psychometrist is "familiar with and comfortable with". The e-mail also implied that KAHC government psychologists are responsible for supervision when cases originate from within KAHC, and references TAD training to WRNMMC.

Five days later Chief of Psychology had begun her maternity leave and the telephone conference occurred with myself, Chief, DBH Chief Tele-health (KACC) from Tele-Health, other WRNMMC representatives, and Eagle Applied Sciences Managers. I verbally asked Contract Psychometrist to attend the conference call at 1300 in the conference room with Chief, DBH.

## 9. STATEMENT (Continued)

Chief, DBH and myself, but Contract Psychometrist told me "I don't work for Kenner. I work for Eagle." She dialed in from her office. Chief, DBH and I dialed in from our conference room. After the TELCON and subsequent email (Tele-Health PM, (KACC)), I expressed concern over apparent "dumbing down" of testing protocols to overcome Contract Psychometrist deficiencies, thus not supporting command and department missions as well as raising ethical concerns. I requested additional guidance on the role of contractors and what government supervisory responsibilities are.

The decision was made by Chief, Tele-Health, (KACC) that Contract Psychometrist would be sent to WRNMMC for a week of assessment and training under the supervision of their psychologists Clinical Psychologist WRNMMC and Neuropsychologist WRNMMC. Because my relationship had become very strained ("hostile") with Contract Psychometrist, the decision was that I would no longer be involved with supervision of her psychometry competencies/products and this would be done by different psychology staff from Tele-Health for a week. In addition, the decision was made that we would have to tailor patient testing batteries based upon her "familiarity and comfort". My concern remained that this was not in line with our Mission and Vision Statements regarding "Excellent" patient care.

The Tele-Health leadership assessment, after her week at WRNMMC, was that Contract Psychometrist skills were now adequate. However, I was no longer responsible for her testing oversight and quality controls; Acting Chief of Psychology 1 was assigned as her supervisor. Suddenly, Acting Chief of Psychology 1 was also then assigning workload distribution, a job that entailed assigning the testing referrals to each of the two psychometrists (Contract Psychometrist and myself). Although this function is in my position description and I had been doing it for months, it changed when Acting Chief of Psychology 1 became Contract Psychometrist supervisor. I tried to get an understanding of the processes but could find no resolution for my concerns. Acting Chief of Psychology 1 seemed to "cherry pick" which assessment batteries would be provided to the contractor Contract Psychometrist in order to assure what he termed "meaningful employment." I advised him that I had serious ethical concerns with this approach and that I questioned the legality related to the government-contractor relationship and workload distribution.

I felt that I had capacity for work but was given less than my prior workload. In addition, another one of my previous responsibilities was to screen walk-ins on Tuesdays, a sole KAHC function. Instead of me performing this function, it was now "shared" with Contract Psychometrist. I was still very concerned with her performance because on those days, sometimes patients would be left alone in the waiting and testing rooms and would start looking in offices seeking assistance. I again sought guidance regarding what government vs contact workers could do, how workload was supposed to be distributed and whether there were policy guidelines in these areas. I elevated these issues, using my chain of command, to Chief, DBH (copy to Chief of Psychology still on maternity leave) via an e-mail on August 22, 2012. I outlined my concerns regarding the legal issues of distributing workload when there are both GS and contract employees performing like duties and potential violations of the Federal Acquisition Regulations (the government-contractor relationship related to Personal Services). I was told that Chief of Psychology would resolve the issues upon her return in early September.

When Chief of Psychology returned from maternity leave, she changed my duties. She relieved me from most of my behavioral sciences responsibilities including; performing QA, maintaining supplies inventory, teaching interns and other personnel, performing workload distribution and scheduling of lab resources. This resulted in my remaining duties primarily as a psychometrist. Her explanation was that this action would allow her to "get a handle" on the testing lab and reassess Contract Psychometrist competency, but no end state or time line for resumption of duties (nor any feedback on performance) was provided. After several weeks in this state of limbo, I specifically asked if there were any concerns related to my performance and was proactive in seeking input in to means by which I could return to these duties (i.e. training, mentoring, etc.). I was informed by Chief of Psychology that she had no issues with my performance and she was still evaluating the way ahead for the testing lab. This

## 9. STATEMENT (Continued)

continued in to mid-October at which time I received my performance review and rating of "highly successful", but my duties were still removed and workload distribution was not consistent. At this point, I was confused and frustrated because my performance rating was superior but my duties were gone and the workload distribution procedure remained difficult to decipher. Some of my prior assignments were given to Contract Psychometrist without any explanation to me as to why.

In the fall, the department had inventory issues with some missing supplies and equipment, all of which I signed for. I asked for guidance from Chief of Psychology in correcting the inventory and accounting for missing items. I was concerned because I had personally signed for between \$150-\$200,000 worth of testing equipment during my tenure. I remained frustrated because I felt there was no guidance provided for dividing workload fairly between Contract Psychometrist and me and the missing items were last in Contract Psychometrist possession. In addition, I was becoming more aware that Contract Psychometrist, a contract employee was being given awards (time off allowances) and other benefits that are usually reserved for government employees. However, this practice was common for other contractors as well. I again sought guidance and concluded that Contract Psychometrist was being treated more like she had a personal services contract rather than having been hired by a contracting company which had certain contractual agreements with the government regarding time worked, awards, and supervision. I requested a meeting with Chief, DBH and Chief of Psychology to ascertain the command/Army position on the rules/requirements for government-contractor relationship as well as an escalating tension/hostility related to loss of duties.

On 4 December 2012 Chief of Psychology, Chief, DBH and I had a meeting. I again inquired about the distinctions of a personal services contract, asked again about the distribution of workload, why Contract Psychometrist was being treated more like a government employee rather than a contractor, why she received 59-minute off rewards when my understanding as a former contract employee myself was that those awards are not to be given or taken, and why the Behavioral Health department was assigning Contract Psychometrist tasks outside of her contractual job description, especially when some of the assignments/responsibilities were in my position description. I also sought guidance on what the commands administrative grievance procedures were. With regard to the contractor relationship, Chief, DBH stated that "we have had contractors here for years and we have always done it this way." She acknowledged not knowing that there are differences between contracts based on "personal services" and "non-personal services." This resulted in Chief, DBH calling the KAHC Contracting Officer Representative (COR), COR, KAHC, for assistance. COR, KAHC came up to Chief, DBH office and during the discussion indicated that in the past, instances had occurred where contractors who had previously received inappropriate "perks" and later when the rules were enforced and they did not receive similar (government) benefits, formal complaints had been filed. She specifically, mentioned an incident I believe involved the Pharmacy but offered few details other than the similarity with our discussion. I believe this indicates that KAHC has been inappropriately giving contract employees benefits that they should not, over a period of time.

Seeing no resolution to my expressed concerns at the end of this meeting, I requested to speak to the clinic CO, Commander, KAHC, in order to get more clarification regarding the processes in treating contract employees as well as what the commands administrative grievance procedures were while using my chain of command. I also wanted further instruction regarding the relationships and distinctions between Tele-Health contractors and GS positions when the work being performed is substantially the same as in the case with Contract Psychometrist and myself at this point. Chief, DBH and Chief of Psychology told me that they can do whatever they want with regard to Contract Psychometrist workload and supervision plan. I was confused and frustrated by having had my duties taken away and my general knowledge of acquisition rules. Additionally, the environment was becoming more hostile and resulted in my receiving a counseling statement for the first time in my time at KAHC, and on three different occasions the same incident was mentioned in what was later documented (via MFRs) as additional counseling on this

## 9. STATEMENT (Continued)

same matter/instance I explained that I had remained reluctant to participate in <sup>Contract Psychometrist</sup> remediation but I was also told that my standards are "too high" (this had also been previously expressed by <sup>Acting Chief of Psychology 1</sup> during his tenure as acting chief). They suggested that instead of seeing <sup>Commander, KAHC</sup> that we meet with <sup>DCCS</sup> on December 12<sup>th</sup>.

The meeting was scheduled, I prepared for it as if it were an "office call" as I requested. However, shortly upon entering <sup>DCCS</sup>'s office (with <sup>Chief, DBH</sup> and <sup>Chief of Psychology</sup>), the "office call" was in fact a "counseling session" directed at me. <sup>DCCS</sup> stated early in the session that "we aren't here to discuss contracts, personal or otherwise; we treat all employees the same." He admonished me that I need to recognize there is no "I" in "TEAM" and needed to work collaboratively to improve communications. I was informed that they wanted <sup>Contract Psychometrist</sup> to perform more of my duties, and to allow her to sign for equipment when my understanding is that only government employees are supposed to sign for equipment and supplies. They took away my inventory job and made it a community proposition, directing me to "just order two of everything" instead of taking a measured approach to ordering and spending money. Again, my perception was that they were trying to force me to treat <sup>Contract Psychometrist</sup> as a peer in all aspects with no regard for rules/regulations which might limit the extent of that relationship. At the December meeting I was informed that everyone is treated equally at KAHC, whether contractor or GS.

Interestingly, while they were striving for me to treat <sup>Contract Psychometrist</sup> as an equal and seeking an environment of "equality", <sup>Chief of Psychology</sup> was tending to favor (when distributing work) <sup>Contract Psychometrist</sup>. In addition, we were directed by <sup>DCCS</sup> to have daily huddles and to work collaboratively and yet on several occasions <sup>Contract P.</sup> and <sup>Contract Psychometrist</sup> made decisions outside the collaborative "huddle" that left me out of the loop but pertained to my work responsibilities and those of the lab. At this time, <sup>Chief of Psychology</sup> continues to provide daily supervision of <sup>Contract Psychometrist</sup>, the majority of my Behavioral Sciences duties remain removed and they are holding me to a different standard (turn-around-time and testing error rate). For instance, when a testing referral is received by the lab, the standard applied to my capacity is whether I can see the patient within one-week, if not it goes to <sup>Contract Psychometrist</sup>, regardless of her capacity.

My two biggest ongoing concerns are that

1. I still have never been well-informed regarding the administrative grievance procedures for addressing these concerns, especially since there seem to be significant differences of opinion regarding the interpretation of duties for employees who perform similar jobs, despite clear differences between those listed on the contract versus those listed on my position description. I never felt comfortable being placed in the position of having to remediate a contract employee, whose hiring company should have been the ones to assure she was competent to do the job for which she was hired and the government was paying for.

2. I believe that the Federal Acquisitions Regulations have been violated in regards to how <sup>Contract Psychometrist</sup> has been treated as a contract employee. She has been treated more as if she is a personal services contractor rather than a government services contract employee. I feel that other hospital services may, based on conversations and reports from other individuals, have been doing this with their employees too. The distinctions should be better known and enforced. I have first-hand knowledge of the command's actions relating to the FAR:  
- contractors are routinely recognized and awarded directly by command leadership with verbal and written praise as well as with tokens of appreciation such as Commanders' coins and recognition as "employee of the month/quarter"

- Contractors are routinely awarded time off in the form of 59-minute rule

9. STATEMENT (Continued)

- In e-mail communications, differences between contractor and GS are not apparent (KAHC civilians and KAHC military" are group names, with contractors grouped together with GS and no clear identification in signature blocks and other formal means of communication.
- Daily supervision and direction of contracted employees is provided by government employees, on site, with all equipment and tools provided by the government, comparable services being performed by GS personnel, and the work has lasted more than a year.
- Government employees have been required to determine competency and qualifications of contracted employees (including in my case)

**NOTHING FOLLOWS**

I, , HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE \_\_\_\_ . I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

**The Whistleblower**

*(Signature of Person Making Statement)*

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 15th day of MAY, 2013  
*17th*

Petersburg, VA

**Investigating Officer (IO)**

*(Signature of Person Administering Oath)*

**Investigating Officer (IO)**

*(Typed Name of Person Administering Oath)*

*(Authority to Administer Oaths)*

WITNESSES

at

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

TAB 5

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## Position Description

PD#: AQ377711

Replaces PD#:

Sequence#: VARIES

### BEHAVIORAL SCIENCES COORDINATOR

GS-0101-11

Servicing CPAC: FORT LEE, VA

Agency: VARIES  
Army Command:  
VARIES  
Command Code:  
VARIES

Region: SOUTH  
CENTRAL

Citation 1: OPM SERIES DEF., GS-101, AUG 2002

Citation 2: OPM PCS SOCIAL WORK SERIES, GS-185, JUN 64

Citation 3: OPM ADMIN ANALYSIS GEG, AUG 90

Classified By: MEDCOM  
FORT LEE KAHC, DCA

Classified Date:  
05/31/2011

FLSA: EXEMPT

FLSA Worksheet:

FLSA Appeal: NO

Drug Test Required:  
VARIES

DCIPS PD: NO

Career Program: VARIES

Financial Disclosure  
Required: NO

Acquisition Position: NO

Functional Code:

Requires Access to  
Firearms: VARIES

Interdisciplinary: NO

Competitive Area: VARIES

Position Sensitivity:  
VARIES

Security Access: VARIES

Competitive Level:  
VARIES

Target Grade/FPL: 11

Career Ladder PD: NO

Emergency Essential:  
[ ]

Bus Code: VARIES

Personnel Reliability  
Position: VARIES

Information Assurance: N Influenza Vaccination:

Army Enterprise Position: VARIES  
Supervisor Status:  
VARIES

Position Designation:  
VARIES

PD Status: VERIFIED

TAG 5

**Position Duties:**

1. The incumbent provides screening, psychological and neuropsychological testing, and psycho-diagnostic evaluation for service members and other qualified beneficiaries with a variety of problems that can affect the ability of patients to function competently at work, home, school, and/or in other situations. Assignments include the initial screening and evaluation of patients with all degrees of severity, some of whom may be uncooperative or hostile, providing psycho-diagnostic services, making preliminary interpretations of the data, developing recommended courses of action, and consultation with other professionals and commands. Determines the degree of severity, proffers suggested differential diagnoses, informs staff of other complications/conditions, and recommends treatment and/or referral to other specialists. Persuasiveness is also required to educate patients and others about the nature of the emotional/behavioral/occupational/learning problems of the referred individuals. The incumbent functions as a relatively autonomous psychometrician in administering and scoring psychological and neuropsychological test batteries, interprets validity and significance of data collected, prepares written reports as directed by the Chief of Psychology or positionally equivalent authority that integrate the patient's psychosocial history and test data; makes recommendations for and coordinates further actions. The incumbent is responsible for the development and operation of the psychology and neuropsychology testing labs. In this role, is responsible for using a standardized scheduling system, equitably and efficiently assigning neuropsychological assessment cases to staff psychologists, trainees and other psychometrists based on workload, difficulty of assignment, and capabilities of the personnel involved; conducting quality assurance reviews of the test administration, scoring, and data entry of Psychology staff, trainees, and other psychometrists; assisting in developing performance plans and quality assurance of other psychometrists; and assisting in the recruitment of other competent individuals for available psychometrist positions. (Approx. 45%)

2. Conducts screening and assessments with service members and other qualified beneficiaries for specific purposes of assessment of Posttraumatic Stress Disorder (PTSD) and mild Traumatic Brain Injuries (mTBIs). The incumbent performs psychological and neuropsychological assessments using interview, formal psychological testing, and consultation as appropriate and selects established diagnostic evaluation procedures. Incumbent gathers case history, complaints, and/or other problem-related information for use in the evaluation and diagnosis of patients. Formulates psychological evaluation based on interpretation of assessment and study findings, determines degree of severity, differential diagnoses and/or other complications, develops recommended course of action and recommends treatment and/or referrals to other specialists. Administers and scores psychological and neuropsychological assessment batteries to patients with known or suspected PTSD and/or brain injuries; makes purposeful, systematic behavioral observations of patients undergoing assessment and records them accurately for use by the staff psychologists and neuropsychologists; interprets the initial validity and significance of behavioral and psychometric data; and provides basic interpretation of assessment data that are later reviewed and approved by a licensed psychologist. The incumbent maintains the highest standards of clinical care to active duty service members and other beneficiaries. The incumbent participates in clinical case conferences as a team member, providing relevant information the psychometry service has obtained about the patient. (Approx. 40%)

3. Provides training in the administration and scoring of psychological test instruments, as well as interview techniques, to military and civilian trainees at various levels (practicum students, residents, etc.) assigned to Psychology Service for the purposes of training. These responsibilities include instructing fellows, psychology interns, students, and newly hired psychologists and psychometrists in the administration and scoring of psychological and neuropsychological test batteries; monitoring testing protocols for recurring administration errors or incorrect scoring and making recommendations for corrective action; improving personal level of competence, taking the initiative to foster professional growth. The incumbent must have experience of at least 7,000 hours of documented psychometric testing, and expertise in numerous psychological and neuropsychological measures. Incumbent monitors the supply of psychological and neuropsychological testing materials and coordinates the ordering of supplies with the supervising psychologist and/or responsible noncommissioned officer. This includes control and accountability for department psychometric materials, including ensuring accountability for non-expendable or durable testing materials; laptop computers used for test administration; software for test administration; and other high value or otherwise sensitive items in accordance with the department standard operating procedures (SOP) and relevant military regulations. The incumbent ensures individual hand receipts are issued for all psychometric materials; conducts a complete inventory at turn-in and verifies that equipment is in proper working status; maintains hand receipts in a secure manner in both electronic and paper formats; maintains an inventory of expendable testing supplies and initiates purchase requests as needed. The incumbent coordinates with the Information Management Division (IMD) regarding acquisition, installation, security, and maintenance of testing hardware and software; and coordinates with responsible individuals in the department to arrange for the correct disposal of outdated test equipment and supplies. (Approx. 15% )

Performs other duties as assigned.

#### CONDITIONS OF EMPLOYMENT:

Must be a Certified Specialist of Psychometry (CSP) through the Board of Certified Psychometrists and be a member in good standing of the National Association of Psychometrists.

Must have minimum of 7,000 hours experiences administering and scoring of psychological and neuropsychological assessments.

Must have at least 1 year experience within the military Behavioral Health system (with at least one year on location within the Kenner Army Health Clinic).

#### FACTOR 1 - KNOWLEDGE REQUIRED BY THE POSITION - LEVEL 1-7 - 1250 POINTS

Comprehensive and thorough knowledge of psychological and neuropsychological assessment measures.

Thorough knowledge of a wide range of practices and procedures associated with psychological and neuropsychological evaluations and other elements of specialized behavioral science programs and behavioral or social science principles to direct the activities of the psychological and neuropsychological psychometry testing lab.

Thorough knowledge of laws, regulations, and practices related to privacy of

Information and skills sufficient to ensure and maintain that privacy.

Skill in applying knowledge to accomplish a variety of difficult and complex work assignments in carrying out the psychometry responsibilities of the Psychology Service.

Skill in assessing program needs to accomplish goals and objectives, evaluate program results and effectiveness, and recommend and/or implement solutions for improvements.

Ability to monitor supply of psychological and neuropsychological testing materials and coordinate the ordering of supplies and equipment.

Ability to develop activities, training, and programs that assist the Psychology Service in matters related to psychological and neuropsychological assessment.

Ability to function as liaison between the Department of Behavioral Health (DBH) Psychology Service and various command and community organizations and offices to establish, maintain, and provide psychometric services.

Ability to communicate sufficiently effectively, both orally and in writing, to ensure quality functioning of the psychometry service within the Psychology Service.

#### FACTOR 2 - SUPERVISORY CONTROLS - LEVEL 2-4 - 450 POINTS

The Behavioral Science Coordinator of the Department of Behavioral Health, Psychology Service works under the supervision of the Chief, Department of Behavioral Health (DBH) and Chief, Psychology Service. The supervisor and employee collaborate in developing deadlines and approaches to unusual or particularly complex problems. The employee independently plans and carries out duties and handles problems and deviations in accordance with instructions, policies, previous training, and/or accepted practices. The employee keeps the supervisor informed of progress and status of the overall psychological and neuropsychological testing service. Work is reviewed for completeness, adequacy of planning, appropriateness of methods or techniques employed, reasonableness of scheduling, and appropriateness of conclusions and recommendations drawn from data developed.

#### FACTOR 3 - GUIDELINES - LEVEL 3-3 - 275 POINTS

Available guidelines include American Psychological Association (and various applicable Divisions), Joint Commission on Accreditation of Health Care Organizations, and Department of Defense (DoD) regulations and policies which are constantly being reviewed, developed, and revised. Individual case issues encountered may be varied and unusual. The incumbent operates within the parameters of the standard operating procedures of the Division of Behavioral Health and the Psychology Service. The incumbent uses initiative and judgment to accomplish tasks.

#### FACTOR 4 - COMPLEXITY - LEVEL 4-4 - 225 POINTS

The incumbent typically performs assignments for licensed psychologists within the Psychology Service, such as responsibility for establishing, maintaining, ensuring, and carrying out the workload schedules. The position requires sensitivity to and recognition of the delicate balance between the productivity requirements and the

provision of quality services. The incumbent is required to establish relations with a variety of organizations and participate with them to provide the support services in a wide variety of areas (e.g., health care providers, educational/academic organizations, law enforcement and investigation, legal, security, medical, etc.). Decisions regarding what needs to be done include assessment of unusual circumstances and interpretation of considerable data and planning of work.

**FACTOR 5 - SCOPE AND EFFECT - LEVEL 5-3 - 150 POINTS**

The incumbent is responsible for all psychological and neuropsychological testing aspects of the Psychology Service of the Department of Behavioral Health. The incumbent is assigned the task of coordination and scheduling of all psychological and neuropsychological testing. Work includes independently administering and scoring psychological and neuropsychological testing batteries. Work requires knowledge and expertise in numerous psychological and neuropsychological testing measures. Incumbent is responsible for managing, ordering, and purchasing psychological and neuropsychological testing instruments and required complementary equipment.

**FACTORS 6 & 7 - PERSONAL CONTACTS AND PURPOSE OF CONTACTS - LEVEL 3C - 180 POINTS**

Contacts include those with staff of the Psychology Service, other hospital staff, representatives of outside organizations, and civilian educational and health care providers who are involved with the patient, those with persons outside the employing agency such as representatives of Central Clearance Facility, other commands/organizations at Fort Lee Virginia, other commands/organizations outside Fort Lee, community organizations, educational facilities, other health care providers, etc., and within the same agency at the installation such as personnel from all services within the Department of Behavioral Health, and at various other locations. Contacts are also with the patients, their families, and other representatives. The content of contacts varies; roles are identified during the course of contacts.

The purpose of the contacts is to exchange information or opinions; to coordinate, schedule, manage psychologists within the organization including the various on- and off-base referral sources, etc., and to evaluate patient problems of a behavioral, emotional, and/or academic nature. Persons contacted require the incumbent to use skills in obtaining desired effects and contacts with referral sources, other health care providers, outside organizations, patients and their families, and are to evaluate problems of a behavioral, cognitive, emotional, legal, and/or academic nature.

**FACTOR 8 - PHYSICAL DEMANDS - LEVEL 8-1 - 5 POINTS**

Work is primarily sedentary and usually performed while sitting comfortably. There will be some walking, standing, bending, and carrying of light items. No special physical effort or ability is required to perform the work.

**FACTOR 9 - WORK ENVIRONMENT - LEVEL 9-1 - 5 POINTS**

The work area is adequately lighted, ventilated, and climate controlled. The environment involves everyday risks or discomforts that require normal safety precautions.

**TOTAL POINTS: 2540**

Point Range: 2355-2750 = GS-11

FLSA EVALUATION

Pay Plan/Series/Grade GS-0101-11

Availability Pay Exemption (e.g., Criminal Investigators, U.S. Customs and Border Protection pilots who are also Law Enforcement Officers)

Foreign Exemption (Note: Puerto Rico and certain other locations do not qualify for this exemption – see 5 CFR 551.104 for a list of Nonexempt areas.)

Executive Exemption

Exercises appropriate management responsibility (primary duty) over a recognized

organizational unit with a continuing function, AND

Customarily and regularly directs 2 or more employees, AND

Has the authority to make or recommend hiring, firing, or other status-change decisions, when such recommendations have particular weight.

Note: Shared supervision or "matrix management" responsibility for a project team does not meet the above criteria. Limited "assistant manager" functions or "acting in the absence" of the manager do not meet above criteria.

Professional Exemption

Professional work (primary duty)

Learned Professional, (See 5 CFR 551.208)

Registered Nurses, Dental Hygienists, Physician's Assistants, Medical Technologists, Teachers, Attorneys, Physicians, Dentists, Podiatrists, Optometrists, Engineers, Architects, and Accountants at the independent level are just some of the typical examples of exempt professionals

or

Creative Professional, (See 5 CFR 551.209),

or

Computer Employee (See 5 CFR 551.210; must meet salary test and perform such duties as systems analysis, program/system design, or program/system testing, documentation, and modification). Computer manufacture or repair is excluded (non-exempt work)

Administrative Exemption

Primary duty consistent with 5 CFR 551 (e.g., non-manual work directly related to

the management or general business operations of the employer or its customers), AND job duties require exercise of discretion & independent judgment.

Comments/Explanations (State which major duties/job functions are Exempt; it is possible to combine exempt work from more than one category to arrive at an overall determination that the employee is Exempt):

Conclusion: EXEMPT

This position has a mandatory seasonal influenza vaccination requirement and is therefore subject to annual seasonal influenza vaccinations. Applicants tentatively selected for appointment to this position will be required to sign a statement (Condition of Employment) consenting to seasonal influenza vaccinations.

**Fair Labor Standards Act (FLSA) Determination = ( )**

**FLSA Comments/Explanations:**

**Position Evaluation:**

Not Listed

**Position Competencies:**

TAB 6

**SWORN STATEMENT**

**PRIVACY ACT STATEMENT**

**AUTHORITY:** Title 10, United States Code, Section 3013 (10 USC § 3013)  
**PRINCIPAL PURPOSE:** To evaluate the facts and circumstances pursuant to an administrative investigation conducted 11F AR 15-4.  
**ROUTINE USES:** Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties. In addition, the information may be disclosed to government agencies outside of the DoD as follows:  
 a. To members of the U.S. Department of Justice when necessary in the defense of litigation brought against the DoD, or against the members of that department as a result of actions taken in their official capacity.  
 b. To members of the U.S. Department of Justice when necessary for the further investigation of criminal misconduct.  
**DISCLOSURE:** If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory. Failure to provide information could result in disciplinary action or other adverse action against you under the UCMJ, Army Regulations, or Office of Personnel Management Regulations. If you are not a military member or a federal employee ordered to provide information, or if you reasonably believe that your information will incriminate you (that is, that you are reasonably likely to admit to criminal misconduct), disclosure is voluntary, and there will be no adverse effect on you for not furnishing the information other than that certain information might not otherwise be available to the command for his or her decision in this matter.

1. **LOCATION:** Fort Lee, Virginia \_\_\_\_\_ 2. **DATE:** 2013/08/22 3. **TIME:** \_\_\_\_\_ 4. **FILE NUMBER:** N/A  
 5. **NAME:** The Whistleblower \_\_\_\_\_ 6. **SSN:** N/A 7. **GRADE/STATUS:** GS \_\_\_\_\_  
 8. **ORGANIZATION OR ADDRESS:** \_\_\_\_\_

9. I, The Whistleblower \_\_\_\_\_ WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

Investigating Officer (IO) interviewed me on Wednesday August 21 at 1800 regarding the following questions. My responses follow each question.

1. You also stated you have a "general knowledge of acquisition rules." Have you ever worked as a government contracting officer or specialist? If Yes, when and where? If No, how did you gain your "general knowledge of acquisition rules"? Formal training?

No; mainly through formal training (most if not all courses on IDP). Specifically:  
 Government Ethics Training (online/in-person)  
 Fundamentals of Systems Acquisition Management (Defense Acquisition University (DAU))  
 Army Civilian Leadership Basic Course (online)  
 Army Supervisory Development Course (online)

2. Have you ever been in a supervisory position to lead a government department that included contractor personnel?

Not until this coordinator position in which I was being asked to provide day-day supervision (including direction) of the contract Psychometrist. This led to my seeking leadership input on the guidelines and regulations related to this environment early on in the process. I had been a supervisor and leader in the private sector (Psychometrist, Practice Manager, Small Business Owner) supervising non-government employees. However, my customer base included a significant % of government interaction (state disability claims, federal workman's compensation claims, etc.)

3. If the government awards a contract, would you expect the contractor employee to perform the duties the government required in the contract?

Assuming the awarding of the contract followed proper guidance/regulations, especially regarding application of personal services contracts and/or clearly defining duties (vice "all duties as assigned"), products required (i.e. test scores and reports), and had a quality plan in place (both contractor and government) then YES.

I would also expect the government to be free of any influence in hiring any contract employee, that the employee would be qualified to perform the duties (minus any command familiarization (INDOC)), that the contract house would have proper management controls

10. **EXHIBIT** \_\_\_\_\_ 11. **INITIALS OF PERSON MAKING STATEMENT** \_\_\_\_\_ **PAGE** 1 **OF** 5 **PAGES**

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



## 9. STATEMENT (Continued)

In place to monitor the execution of the contract and provide day-day supervision since the government's relationship is with the contractor vice the individual contract employee, and that the government would have a process in place to ensure that government rules/regulations are met in the execution of the contract. I would also expect the team to be trained by someone with knowledge of acquisition rules/regulations on how best to work in a co-mingled environment (military, civilian, and contractor) vice taking the stance that "we treat everyone the same". Also, when a government employee inquires into concerns, I would contact the COR for guidance.

I would also expect the contract house to provide adequate oversight and supervision of their employees and the products/services provided. To the best of my recollection, I had never met my Eagle "supervisor" (Eagle, Director). His only interactions with me (and I assume a similar level of interaction with others including <sup>Contract Psychometrists</sup>) was 3-4 times per year via email and/or phone. In fact many interactions he would defer supervisor responsibility to the government lead at KAMC (Former Chief, DBH Contract Provider 1) and/or Walter Reed (<sup>Chief, DBH Contract Provider 2</sup>).

## 4. Since the government awarded a contract that included psychometrist duties, how would you assign work for the contract psychometrist?

First and foremost I would have clear process and procedures in place for all aspects of the contract, not just those concerning Psychometrist duties. I would have a quality assurance surveillance plan to manage expectations related to products/services provided. The processes and procedures would drive the work and products to be provided thus minimizing risk of violations of the contractor-government relationship. Also, since the contract is for Tele-health services, I would treat that capability as an autonomous entity providing surge support when government (civilian and military) capacity exceeded established standards of care timelines. This would allow all the contract capability (Psychometrists, Psychologists, Psychiatrists, etc.) to operate fairly autonomously within the scope of the contract without day-day supervisor/training by government employees, yet provide a value-added capability to the MEDCOM Enterprise. It would also facilitate clearer boundaries and ability to measure performance of the contractor to ensure that the government was getting what was being paid for. Co-mingling staff without these boundaries (process/procedures) not only creates issues which I raise, but makes it extremely difficult to measure contract performance. Lastly, when I was initially scheduling work for the testing lab as the BSC, I looked at psychometrists schedule, scope/complexity of test regimen and patient needs so that I could efficiently schedule patients and manage lab resources, while providing the highest standards of patient care. Again, my concern came when minor direction to the contractor was not sufficient and day-day supervision was being required to effectively manage lab tasking. I would also not permit contractors to write the same organizational SOP's by which they would be performing. I would treat that as inherently government.

For clarification when I state "supervisory duties", I mean duties such as:

- Planning, directing, assigning and controlling (QA) the work of others
- Providing technical leadership and training
- Building group consensus in decision making and organizational tasking
- Administrative duties such as timekeeping, review of documents prior to forwarding to higher authority, leave approval, etc
- These duties take a considerable % of time (>= 25% per OPM)

5. You stated government personnel treated <sup>Contract Psychometrist</sup> as if she was in a personal services position. Can you please describe what that treatment entailed in the workplace?

According to Federal Acquisition Regulation 37.104, with regard to personal services contracts, the following elements should be used as a guide in assessing whether or not a proposed contract is personal in nature:

- (1) Performance on site (Yes)
- (2) Principal tools and equipment furnished by the Government (Yes, both KAMC funding and Walter-Reed Tele-health government funding. The contractor (Eagle and associated primes/subs) provide no tools and equipment just personnel).
- (3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission. (Yes, and further supported this as the contractor was performing my duties to ensure KAMC mission accomplishment during the 1-day/week time off)
- (4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel (Yes, as I am performing psychometrist duties as part of my PD as a Civil Service Employee).
- (5) The need for the type of service provided I can reasonably be expected to last beyond 1 year (Already over 1 year).

## 9. STATEMENT (Continued)

(6) The inherent nature of the service or the manner in which it is provided reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to

- (i) Adequately protect the Government's interest;
- (ii) Retain control of the function involved; or
- (iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

(Yes as a matter of practice and as indicated in various emails from KAHC and tele-health management acknowledging the need for supervision by both government and contractor personnel).

Also, as I have pointed out throughout the process, this has very little to do with <sup>Contract Psychometrist</sup> but it is an institutional process by which the command operates. So many of the observations and concerns cited are much broader than <sup>Contract Psychometrist</sup> contract support as a Psychometrist to Tele-health but are attributable as the command climate related to government-contractor interactions. As previously stated in my initial documents submitted, this includes day-day supervision, training by government personnel on position requirements (basic duties), awarding/recognizing performance directly vice through the COR and contractor (59 minute time-off awards, command coins, full participation in organizational "field days" (O-day), etc).

Also of note, the command climate in this area was significantly different prior to <sup>Commander, KAHC</sup> and the current command <sup>Current Commander, KA</sup>. Under <sup>Previous Commander, KA</sup>, command directed communications more clearly managed the expectations of government vs. contractors on issues such as 59 minutes. Specifically, I recall an incident in which a contractor in our department <sup>DBH Contract Employee</sup> asked the commander and/or DCCS why contractors were not allowed to leave early for 59 minutes and that she suspected some were. Command leadership put out in Commander's Call the reasons very clearly and concise as to the overarching differences in management of contractors vs government and really did a fairly good job of keeping a team focus while ensuring these differences were understood. <sup>Commander, KAHC</sup> leadership/management style and team did not address overtly. However, as stated in my original claim, the Pharmacy had an issue involving government/contractor relationships that led to an EEO and/or IG complaint well before my concerns were raised. I only found out when our KAHC COR alluded to this in a meeting between myself, <sup>Chief of Psy</sup> and <sup>Chief, DBH</sup> just prior to my filing to OSC.

6. Since the psychometrist performs in the Kenner Psychology Department, isn't it expected that government personnel working in that Department would assign work directly to the contract psychometrist? (If no, please elaborate.)

Not explicitly. If the contract is in fact a valid contract and does not violate Federal Acquisition Regulations (FAR) related to personal services (i.e. maybe contract should have been awarded as a personal services contract) and since there are tele-health providers who could provide local supervision and/or supervision could be provided by other tele-health providers for whom the psychometrist is providing support. When the contract is either written vaguely or loosely managed then opportunities are created by which mismanagement and FAR violations are more likely. Additionally, these risks might further be mitigated through clear training and established processes/procedures to clearly articulate the extent of government to contractor work assignments/scheduling without the need for day to day supervision. Also, "assignment of work" is just one of many "supervisory" duties required and being requested by command leadership in this instance. In isolation, "assigning work" is a disingenuous representation of the totality of "supervision" (as stated previously) being required.

a. When you were the contract psychometrist, did government personnel assign testing duties to you?

Yes, I was instructed by the government tele-health lead, <sup>Tele-health PM (KACC)</sup>, when I did not have any contract duties (tele-health), that Kenner could use me how they saw fit, since KAHC did not have a civil service psychometrist. To my recollection, I had received less than 5 referrals/clients for psychometric testing from the tele-health contract within a 2 year period. Note my total number of clients during my last year as a contractor was between 450-500 of which less than 5 were related to the primary purpose of the contract (tele-health). I believe this drove KAHC determination that this capability/competency was needed in-house as the projected demand was similar and this OPTEMPO was higher than they expected a single Psychometrist to manage long term. It is important to note that since <sup>Investigating Officer (IO)</sup> visit, within past 30 days of this interview, Walter-Reed and KAHC guidance to tele-health contractors and our staff is that they must dedicate at least 51% of their time to the tele-health contract and associated clients/duties. This had led to significant downtime for <sup>Contract Psychometrist</sup> in particular as evidenced by our morning staff huddles within the testing lab.

Another significant difference in task assignment was that I was able to operate fairly autonomously and that I did not require day-day supervision, rather I was able to take a test regimen and execute my tasks and provide a report/test results to the government (KAHC

## 9. STATEMENT (Continued)

or tele-health) without the level of supervision that was being required of Contract Psychometrist. Neither the government nor the contract house ever reported any concerns with performance during my tenure as a contract psychometrist. While I am not privy to all the details of the contract, I am and have been certified as a "Certified Specialist in Psychometry (CSP)" which is the commercial standard for ensuring competency in the Psychometry field. When I was hired by Eagle Applied Sciences this certification was a requirement of my employment and it is a requirement of my PD as a GS employee. Contract Psychometrist does not have this nor did she meet the requirements for certification at the time she came onboard.

b. As a contract psychometrist, who did you give the results to when you completed your testing?

Results of testing are provided to a Licensed Psychologist for interpretation and analysis as an input into their diagnosis and treatment planning/execution. The Psychologist may be part of the tele-health program or a local KAHC asset (contractor, military or GS).

c. How were the results used?

Results are used for diagnostics, clarifying diagnosis, to help develop a treatment plan, and to ascertain reduced effort in patients. This can impact individual warfighters (soldiers, airman, sailors and marines) individual treatment, fitness for duty determinations, disability claims, school assignment, medical retirement/termination, etc.

d. Was the individual you give the results bound by your results or were they a tool used in diagnosis?

According to many Psychology governing bodies, the level of skill and training required for the use of a particular test has to be sufficient for the user/Psychologist to assume full ethical responsibility. This has formed the basis and demand for certification in this psychometry field. Whether they have a legal/ethical obligation to use the results is outside my scope. I am aware that in civilian instances, the use or lack thereof is many times a part of legal proceedings in which testing was administered (i.e. fitness for trial (sanity), disability determinations, etc)

7. When you worked for Eagle, did you ever receive an award or other benefit specifically reserved for government employees?

Not that I recall, in fact regarding 59 minutes, I never received 59 minutes as a recognition for myself, but the division, department and/or command had on occasion and I know that I had to take the time as leave if desired. I did not know this as a result of any training or knowledge of Eagle leave policy however, I knew this from asking government leaders at KAHC at the time.

8. Other than Commander, KAHC e-mail, do you have any direct knowledge that Contract Psychometrist took the 59 minutes off? If No, next question. If Yes, do you know if she followed her employer's leave procedure?

No and remember that the Commander email" was just one of several instances in which this occurred (awarding of time off to Contract Psychometrist and other contractors). Many of these instances occurred at the supervisor and/or department head level vice command leadership level. These were typically announced at staff meetings and/or staff functions vice via email or other traceable means.

9. You stated you have "first-hand knowledge . . . contractors are routinely recognized and awarded directly by command leadership with verbal and written praise as well as with tokens of appreciation such as Commanders' coins and recognition as "employee of the month/quarter"? Please provide any evidence that supports this statement.

- Commander, KAHC email re: 59 minutes and recognition for Halloween costumes
- Commander, KAHC email regarding inclement weather and 59 minutes for all. Note, while I am unable to confirm the government was charged for this time, I know she Contract Psychometrist took the time off (left 59 minutes early) as we left together and our hours of work are aligned.
- Chief, DBH awards 2 contract employees DBH, LCWS-1 and DBH, LCWS-2 along with government employees (Acting Chief of Psychology 2 and others) 59 mins for a high level of chart closures. This occurred during a staff meeting, no email trail.
- Chief, DBH and Commander, KAHC award DBH, LCWS-1 DBH Tele-Health Coordinator (contractor) and DBH, Nurse Practitioner (contractor/government) employee of the month for the divisions within Behavioral Health. See copy of email as evidence from an awardee and

INITIALS OF PERSON MAKING STATEMENT

PAGE 4 OF 5 PAGES

9. STATEMENT (Continued)

picture. Note that the period of performance for DBH Nurse Practitioner was as a contractor but the day of award was in fact her first day as GS.

Commander, KAHC recognition/award to individuals within maintenance staff (see picture)  
DBH Tele-Health Coordinator (contractor) and DBH LCWS-3 (GS) recently received recognition for KAHC patient care from a patients command. This included award plus command coin. While KAHC most likely did not initiate, they were involved in the process. Whether they had a duty to inform the command of DBH Tele-Health Coordinator status is a matter for lawyers and policy makers. My including it in this response is only to show the lengths the command (KAHC) themselves took to recognize (KAHC Bulletin and KAHC Facebook page) and lack of distinction/command climate towards this relationship. (Pics and articles)

Interviewing these individuals would be the means by which "evidence" would likely be obtained. Emails and pictures were/are submitted for evidence with regard to 39 minutes awards and coins. Note Ms. Kirkman is no longer a contractor with KAHC.

Interestingly, command behavior has significantly changed in many of these areas since Investigating Officer (IO) initial investigative visit. In particular, KAHC has ceased "level-loading" the contract psychometrist, command recognition emails (broad recognition from command leadership to all staff and subsequent awarding of 39 minutes and/or other recognition) have more clearly articulated the difference between contractors and government, contractors while invited to command functions such as the upcoming organizational day (O-day) are not granted basket time off rather given clear guidance on command expectations related to participation by contractors and for the first time a requirement that a government employee remain within the department during O-day (offsite) to provide oversight of contractor activities (email dated 8/21/13 - Chief, DBH). In previous years under Commander, KAHC, contractors were full participants or went home as the clinic was "shutdown".

-----NOTHING FOLLOWS-----

I, The Whistleblower, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 5. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

The Whistleblower

(Signature of Person Making Statement)

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 22nd day of August, 2013 at Ft. Lee and Ft. Belvoir, Virginia

Investigating Officer (IO)

(Signature of Person Administering Oath)

Investigating Officer (IO) Investigating Officer  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 5 OF 5 PAGES

TAB 7

SWORN STATEMENT

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, United States Code, Section 3013 (10 USC § 3013).
PRINCIPAL PURPOSE: To evaluate the facts and circumstances pursuant to an administrative investigation conducted UP AR 15-6.
ROUTINE USES: Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties.
DISCLOSURE: If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory.

1. LOCATION Fort Lee, Virginia 2. DATE 2013/05/17 3. TIME 1000 4. FILE NUMBER
5. NAME Contract Psychometrist 6. SSN N/A 7. GRADE/STATUS Contractor
8. ORGANIZATION OR ADDRESS Kenner Army Health Clinic, Fort Lee, VA

I, Contract Psychometrist WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
I was interviewed by the investigating officer regarding the allegations that include:
Management at Kenner improperly created an employer-employee relationship between the government and the current psychometrist at Kenner, who is a contract employee.

When I was first hired, The Whistleblower informed me that she was to be my immediate supervisor for orientation and training. Shortly after my hiring, she created a 30-day performance improvement plan that I was not aware of. She asked Chief of Psychology to review the plan and then for me to sign it in a meeting, which was a surprise to me. Then The Whistleblower was designated to observe me administering tests and my daily performance.

Before the 30 days were up, The Whistleblower compiled a list of complaints and items that she said I could not perform. She sent them to Chief of Psychology who forwarded them to Chief, Telehealth (KACC) who was the head of Telehealth at that time. We had a meeting between Chief, DBH The Whistleblower Eagle, Director and myself and a couple other individuals. It was determined that my supervision would change (see copy of e-mail reference). The other outcome of the teleconference was that I would go to Rosslyn to the Telehealth managers for them to observe me as I administered tests to mock patients.

I worked with Neuropsychologist WRNMMC who is a neuropsychologist and she gave me several mock patient interviews. She trained me on some measures that she performed in her job as a neuropsychologist in order to familiarize me

0. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF TAKEN AT DATED"
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



## STATEMENT (Continued)

with more tests and also to expand my repertoire. I spent approximately one week in Rosslyn. This was paid for by my company. Chief, Telehealth, (KACC) notified the vendor that my performance was satisfactory and I returned to work.

At that time I started to experience difficulties with being given test referrals since The Whistleblower was withholding consults and referrals from me. In addition, I could not access testing supplies and equipment because they were locked in The Whistleblower office, or the rooms were booked by her for extensive periods of time, significantly limiting my ability to see and evaluate patients. I understand that the majority of these supplies are provided (paid by) WRNMMC Telehealth. My time was not filled with patients but I wanted to be busier and I feared for my job. I discussed this situation and my concerns with Acting Chief of Psychology 1 Chief, DBH Chief, Telehealth, (KACC) and Eagle, Director I submitted monthly patient counts to document my workload to Eagle, Director and the Telehealth administrators.

During this time my supervision regarding all neuropsychology referrals fell to Neuropsychologist WRNMMC who approved the consults and with whom I maintained ongoing discussions regarding each patient until testing was completed. She is also my mentor for questions regarding testing in general. In addition to those patients, when I see local patients my supervision is directed by the psychologist who has referred the patient to me. This is the current situation.

As the months went by, The Whistleblower continued to refuse communicating and cooperating with me on work related matters. As a result, DCCS had to mediate the communication issues and matters of access to testing supplies. At that time I was feeling harassed and had long considered making a harassment charge against The Whistleblower but Human Resources could not mediate this issue and referred me to my vendor. DCCS recommended that we have daily huddles together with Chief of Psychology to maintain open communication between us, and gave specific directives on how to equitably manage supplies and equipment. As a result of that meeting Chief of Psychology sent a memorandum that spells out how referrals are managed. The Whistleblower gets walk-in patients and all patients that she can accommodate within a week. I see all Telehealth referrals and those patients whom she cannot fit in within a week.

Although The Whistleblower seemed to have built a wall, in the last few months I thought things were improving. I still feel that The Whistleblower questions my competence and this makes me feel humiliated.

Regarding any inappropriate time off, I always document my actual hours worked each day, which is usually 8 hours. I submit my daily worked hours directly to my vendor. I have no recollection of taking off for 59 minutes, and I did not participate in any other command sponsored hours off (e.g. Organization Day) since I was hired.

STATEMENT (Continued)

[The statement continues on until the end.]

~~NOTHING FOLLOWS~~

Contract Psychometrist

I, insert name here, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE \_\_\_\_ . I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Contract Psychometrist

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 17<sup>th</sup> day of May, 2013 at Fort Lee, Virginia

Investigating Officer (IO)

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

Investigating Officer (IO), Investigating Officer  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority to Administer Oaths)

Contract Psychometrist

From: Tele-health PM, (KACC)  
Sent: Friday, July 13, 2012 12:28 PM  
To: Contract Psychometrist  
Subject: RE: Spelling of Supervisor's Name (UNCLASSIFIED)

Thank you [redacted]. This is helpful. I'll incorporate it in the email.

Tele-health PM, (KACC)

Program Manager, Department of Tele-Health NRM/CACC  
(b) (6)

-----Original Message-----

From: Contract Psychometrist  
Sent: Friday, July 13, 2012 12:17 PM  
To: Tele-health PM, (KACC)  
Subject: RE: Spelling of Supervisor's Name (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Tele-health PM, (KACC)

It was a pleasure to speak with you as well. It is reassuring to see all the support I have from your end.

The acting Chief/Psychologist of the Psychology Department here at KAHC is Acting Chief of Psychology 1

Acting Chief of Psychology 1 Actually, I want to use this opportunity to make you aware of some specifics that I was given when I met with Acting Chief of Psychology 1 few minutes ago.

Acting Chief of Psychology 1 informed me of the following:

- for the next period of time, my supervision here will be floating as I will be supervised by whatever provider assigns me a referral to test (referrals are assigned on a weekly basis at the psychology staff meeting.) This means that there will not be a unique supervisor (as I previously understood), but it will change on a case by case basis.
- When I will be assigned a case, the supervising psychologists here will tailor the testing battery based on what I am familiar/comfortable with.
- As a result, the psychologists here at KAHC will not be responsible for supervising me on cases not coming from within KAHC.
- Any training has been deferred to your clinic and the staff assigned to me (Neuropsychologist WRNMMC). I made Acting Chief of Psychology 1 aware that Neuropsychologist WRNMMC has been designated as my mentor and that I am already in contact with her for questions and concerns.
- Acting Chief of Psychology 1 asked that I keep him and the staff here in the loop as of when I will come to your clinic for the aforementioned training. Of course, I reassured him that I will provide the information.

Please let me know if you need any other detail and once again thank you for the support.

Contract Psychometrist

-----Original Message-----

From: [REDACTED] Tele-health PM, (KACC)

Sent: Friday, July 13, 2012 11:23 AM

To: Contract Psychometrist

Subject: Spelling of Supervisor's Name

[REDACTED]

It was good talking to you. What is the spelling for your new supervisor's last name? I would like to copy him in this email, which will not be super detailed but mainly to demonstrate we are all on the same page and taking the action that was discussed in the meeting. Thank you.

Cordially,

Tele-health PM, (KACC)

Program Manager, Department of Tele-Health Northern Regional Medical Command Kimbrough

(b) (6)

Classification: UNCLASSIFIED

Caveats: NONE

Contract Psychometrist

From: Contract Psychometrist  
Sent: Friday, August 10, 2012 1:19 PM  
To: Eagle, Director  
Subject: Memorandum for record re phone conversation on 08/09/2012 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Eagle, Director

Per our conversation,  
Memorandum for record

9 Aug. 12

Phone conversion between Eagle, Director and Contract Psychometrist, per her progress in training and concern about utilization at Ft. Lee.

I updated Eagle, Director regarding my training experience, and how satisfied Chief, Tele-health, (KACC) and his team were. I personally know that Chief, Tele-health, (KACC) has spoken with the acting chief about how the training went; other topics discussed were guaranteeing access/use for me to the computer room without having to inquire to The Whistleblower about it, as well as storing the testing supplies in a neutral environment.

I am concerned about my utilization here at Ft. Lee upon my return from the fructuous training at Chief, Tele-health, (KACC) clinic. This week, I was able to accrue 4 AHLTA encounters only thanks to the pre-employment screens we do on Tuesdays; this week The Whistleblower was on a training so I had the opportunity of getting a couple of hours of testing with these patients. On the same Tuesday occurred the incident where The Whistleblower tossed on my table the testing output of one of the patients I was screening, commenting "let me know if I can do anything else for you". I reported the incident to the acting chief. Prior to my training at Chief, Tele-health, (KACC) clinic, the acting chief discussed the topic of my utilization and indicated that part of the Psychology referrals would be assigned to me for testing during the weekly Psychology Staff meeting. I have participated to this week's meeting on Tuesday, Aug. 7th, when The Whistleblower presented three cases (she is in charge of receiving and tracking all testing referrals coming from psychologists and non psychologists; The Whistleblower presents the referral coming from providers who are not psychologists during the Tuesdays meetings). During this week's meeting, two of the cases were taken by psychologists but none of them was assigned to me. Also, during the same meeting, The Whistleblower mentioned that she is fully booked 8 weeks out.

In the past few days, thanks to the physical proximity of my office to The Whistleblower I have heard her scheduling at least 8 new testing patients, with appointments up to October, 3rd.

Noticing how I am left unutilized, a couple of days ago I have decided to inquire further with the acting chief about how exactly the testing cases are divided, and whether the psychologists on staff are aware that they can choose which psychometrist will test their patients. The acting chief replied to me "hum, this was not planned out" and offered to assign to me the testing of his upcoming MEB evaluations. Today Aug. 9th, after our phone conversation, I have received 4 testing cases by the acting chief.

During my aforementioned conversation with the acting chief, he himself mentioned that in order to schedule the testing patients, it was necessary I would ask The Whistleblower about the testing room availability and give her advanced notice because The Whistleblower prefers that way. This is what occurred in the past few days, please let me know if any detail is not clear or if additional information is needed from me. Again thank you for your support during this



situation. Today I am eager to do the job I have been hired for just as much as I was on my first day and I look forward to the opportunity to do just that.

Best Regards,

Contract Psychometrist, Psychometrist  
Kenner Army Health Clinic Behavioral Health Services

(b) (6)

Classification: UNCLASSIFIED

Caveats: NONE

Contract Psychometrist

---

Subject: note

08/21/12 0835 one testing referral from a psychologist assigned to AT, she walked back with patient and scheduled him

08/21/12 0840 another psychologist walked with patient to AT office to assign her a testing case

08/21/12 1005 during the screens meeting, the acting chief indicated that the screenings will return to be under Amy's because it is a "Kenner thing" and bringing me on board was like a "bonus." The acting chief indicated that this has nothing to do with my capabilities, that I would be as back up when AT is in training or out sick, and that AT will decide if she needs help from me when swamped with "screening" patients.

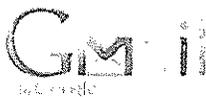
So, not only I am prevented from doing psychometric work and I have to inquire with AT to access the computer resource, but also she will be the one to determine whether or not I get to do any screens when she is running them.

Best Regards,

Contract Psychometrist, Psychometrist  
Kenner Army Health Clinic Behavioral Health Services

(b) (6)

TAB 7c



## Contract Psychometrist

### memorandum 1 (UNCLASSIFIED)

1 message

## Contract Psychometrist

Mon, Aug 27, 2012 at 8:23 AM

To: "Contract Psychometrist <Contract Psychometrist

Classification: UNCLASSIFIED

Caveats: NONE

Eagle, Director

Per our conversation,

Memorandum for record :

9 Aug. 12

Phone conversion between Eagle, Director and Contract Psychometrist per her progress in training and concern about utilization at Ft. Lee.

I updated Eagle, Director regarding my training experience, and how satisfied [Contract Psychometrist] and his team were. I personally know that [Contract Psychometrist] has spoken with the acting chief about how the training went; other topics discussed were guaranteeing access/use for me to the computer room without having to inquire to [The Whistleblower] about it, as well as storing the testing supplies in a neutral environment.

I am concerned about my utilization here at Ft. Lee upon my return from the fructuous training at [Contract Psychometrist] clinic. This week, I was able to accrue 4 AHLTA encounters only thanks to the pre-employment screens we do on Tuesdays; this week [The Whistleblower] was on a training so I had the opportunity of getting a couple of hours of testing with these patients. On the same Tuesday occurred the incident where [The Whistleblower] tossed on my table the testing output of one of the patients I was screening, commenting "let me know if I can do anything else for you". I reported the incident to the acting chief.

Prior to my training at [Contract Psychometrist] clinic, the acting chief discussed the topic of my utilization and indicated that part of the Psychology referrals would be assigned to me for testing during the weekly Psychology Staff meeting. I have participated to this week's meeting on Tuesday, Aug. 7th, when [The Whistleblower] presented three cases (she is in charge of receiving and tracking all testing referrals coming from psychologists and non psychologists; [The Whistleblower] presents the referral coming from providers who are not psychologists during the Tuesdays meetings). During this week's meeting, two of the cases were taken by psychologists but none of them was assigned to me. Also, during the same meeting, [The Whistleblower] mentioned that she is fully booked 8 weeks out.

In the past few days, thanks to the physical proximity of my office to [The Whistleblower] I have heard her scheduling at least 8 new testing patients, with appointments up to October, 3rd.

Noticing how I am left unutilized, a couple of days ago I have decided to inquire further with the acting chief about how exactly the testing cases are divided, and whether the psychologists on staff are aware that they can choose which psychometrist will test their patients. The acting chief replied to me "hum, this was not planned out" and offered to assign to me the testing of his upcoming MEB evaluations. Today Aug. 9th, I have received 4 testing cases by the acting chief.

During my aforementioned conversation with the acting chief, he himself mentioned that in order to schedule the testing patients, it was necessary I would ask [The Whistleblower] about the testing room availability and give her advanced notice because [The Whistleblower] prefers that way.

This is what occurred in the past few days, please let me know if any detail is not clear or if additional information is needed from me. Again thank you for your support during this situation. Today I am eager to do the job I have been hired for just as much as I was on my first day and I look forward to the opportunity to do just that.

Best Regards,

Contract Psychometrist Psychometrist  
 Kenner Army Health Clinic Behavioral Health Services  
 (b) (6)



(b) (6)

Classification: UNCLASSIFIED

Caveats: NONE

Eagle, Director

Per our conversation,

Memorandum for record :

28 Aug 12

Eagle meeting 22 Aug 12, Ft Lee, VA, present at the meeting: Contract Psychometrist, Eagle, Director, Eagle, Director, and Contract Provider 2, per how client is treating Eagle personnel.

Follows is an itemized list of events from Contract Psychometrist

08/07/12 - The Whistleblower presented three cases (she is in charge of receiving and tracking all testing referrals coming from psychologists and non psychologists; The Whistleblower presents the referral coming from providers who are not psychologists during the Tuesdays meetings). During this week's meeting, two of the cases were taken by psychologists but none of them was assigned to me.

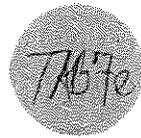
Also, during the same meeting, The Whistleblower mentioned that she is fully booked 8 weeks out. In the past few days, thanks to the physical proximity of my office to The Whistleblower I have heard her scheduling at least 8 new testing patients, with appointments up to October, 3rd.

During the pre-employment screens, The Whistleblower scored a testing protocol of one of the patients I was screening and when finished, she tossed the output on my table, commenting "let me know if I can do anything else for you". I reported the incident to the acting chief.

08/08/12 - Conversation with the acting chief about my utilization, he has offered to assign me MEB cases he would normally test himself and indicated that it was necessary I would ask The Whistleblower about the testing room availability and give her advanced notice because The Whistleblower prefers it that way."

08/14/12 - During the staff meeting, the testing referrals were not discussed as The Whistleblower was out of the office for the day, and she is the only one that has access to the referral book.

Today Acting Chief of Psychology 1 asked me why I had requested the office administrator to open The Whistleblower office for me; he questioned why I need to get testing supplies from The Whistleblower office, since I previously told him I had all the necessary supplies for the screening process. (Implying I had lied to him earlier about having all the supplies.) I replied that I never requested to get into The Whistleblower office. I later talked with the office administrator and found out she opened The Whistleblower office to (b) (6) the handyman. Acting Chief of Psychology 1 was notified of the misunderstanding and he apologized to me.



08/15/12 - Recent email exchange with <sup>The Whistleblower</sup> I inquired about the computer rooms availability on a two weeks window; <sup>The Whistleblower</sup> indicated availability of only one of the two computer rooms for a total of 3 afternoons (after 1200) or 15% of the available time.

Being able to access the computer only in the afternoon forces me to schedule some patients' testing into two separate sessions rather than one, otherwise their attention and problem solving skills would be tested at a point in the day when they are fatigued from the morning tests. I usually conduct computerized tests of attention, performance, and problem solving when the patient first arrives to the appointment. As a consequence of the computer room availability, in agreement with the patient's provider, I scheduled the referral case I was given on Wed. Aug 15th for two separate testing sessions rather than one. <sup>Acting Chief of Psychology 1</sup> the acting chief, is aware of this situation.

Further, due to the proximity of my office to the computer rooms, I have noticed on multiple occasions that one of the computer room was available (morning and afternoon) on days deemed as unavailable by <sup>The Whistleblower</sup>

08/20/12 - <sup>Contract Provider 1</sup> asked me if could administer a computer test to his patient as he and the patient had been trying to locate <sup>The Whistleblower</sup> but were not successful. (The patient had an early appointment with <sup>The Whistleblower</sup> and notified the psychometrist that she was unable to find her ID card to get on post. Furthermore, <sup>Contract Provider 1</sup> had previously attempted to locate <sup>The Whistleblower</sup> to complete the testing and left a note on her door.) I accepted the provider's request and administered the test. About 10 to 15 mins after I completed the administration, <sup>The Whistleblower</sup> arrived.

I notified <sup>Acting Chief of Psychology 1</sup> the acting chief, of what had happened and he indicated that I should have not stepped in, regardless of the request from the provider, because it was <sup>The Whistleblower</sup> patient, and I should have attempted to further locate her. <sup>Acting Chief of Psychology 1</sup> expressed his concern about my behavior being seen as "taking a patient that was not mine" and that this could be reason for <sup>The Whistleblower</sup> to raise a complain." <sup>Acting Chief of Psychology 1</sup> indicated that he was picturing me "jumping hastily on the provider's request." I replied that was not the case, as I try to stay away from <sup>The Whistleblower</sup> business for fear or complaint or retaliation. <sup>Acting Chief of Psychology 1</sup> further requested I would email <sup>The Whistleblower</sup> and notify her of the event, including the provider involved and <sup>Acting Chief of Psychology 1</sup> in the written communication. I complied with the request.

08/21/12 - Providers walked to <sup>The Whistleblower</sup> office with their patients to schedule testing appointments. My door is open, but I am not given any testing referral.

0900 - During the staff meeting, three referral cases were presented. Two were assigned to <sup>The Whistleblower</sup> none was assigned to me.

1005 - During the screens meeting, the acting chief indicated that from now on, <sup>The Whistleblower</sup> <sup>The Whistleblower</sup> will return to be in charge of the screenings like it was before" because it is a "Kenner thing" and bringing me on board was a "bonus." The acting chief indicated that this is unrelated to my capabilities, and that I would be as back up when <sup>The Whistleblower</sup> is in training or out sick. Also, the acting chief indicated that <sup>The Whistleblower</sup> will decide if she

needs help from me when "swamped" with patients to screen. (Note: when ~~The Whistleblower~~ was a contractor, she was in charge of the Tuesday's screenings)

The pre-employment screenings occurring on Tuesdays involve psychometric work in the role of administering personality/vocational assessments to service members as part of the medical records review.



# Contract Psychometrist

**FT Lee Kenner ACH**

1 message

**Eagle, Director**

Sat, Sep 1, 2012 at 10:52 AM

To: "Contract Psychometrist <Contract Psychometrist

Greetings

Contract Psychometrist and I had the opportunity to brief Chief, Telehealth, LLC on our site visit and our concerns. Contract Provider 2 was advised in spite of your competency to administer psychological testing and the recent training received, you are not on a regular schedule to administer testing to patients. He is aware that the scheduling and testing of patients is not shared equitably among the psychometrist and that your colleague's control of testing resources impedes your ability to schedule patients on a daily routine basis.

Chief, Telehealth, LLC was further advised of the contractual obligations of the contractor and government regarding this position and the tasks performed. He acknowledge our concerns and a plan to take immediate corrective actions. Finally, we did advise him of our concerns with regards to Human Use violations and that you will no longer engage in coercive recruitment of volunteers for psychological testing and that all future active mentoring regarding testing protocols and interpretation occur with patients who are being tested for medical indications.

Hopefully, we will begin to see immediate improvements where you are treated fairly and professionally in the work area, and patient testing and resource are distributed equitably among the psychometrist. I will be checking in with you on a periodic basis and expect you to contact me anytime you have work related concerns. So that we can monitor your work performed I would like to see each month your patient count and a copy of your schedule for that month. Please ensure the information does not contain any PHI or PII. Do not e-mail or fax this information. I would prefer it be mailed to my attention at Eagle.

Give me a call next week if you have questions.

**Eagle, Director**

Director of Corporate Programs  
Eagle Applied Sciences, LLC

(b) (6)

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## Contract Psychometrist

---

From: Contract Psychometrist  
Sent: Friday, September 14, 2012 10:29 AM  
To: Eagle, Director; Chief, Tele-health, (KACC)  
Cc: Clinical Psychologist WRNMMC  
Subject: Things are changing (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning,

I would like to inform you of the latest meeting I had with <sup>Chief of Psychology</sup>. She has come back from maternity leave and has become aware of the challenges that are present between myself and <sup>The Whistleblower</sup> in terms of resource access and caseload. After gathering information from different sources, <sup>Chief of Psychology</sup> just informed me of her plan of action she intends to put in place to improve the situation.

1) The testing referrals will now go to her instead of <sup>The Whistleblower</sup> <sup>Chief of Psychology</sup> will present the cases and once they are assigned to a staff psychologists she will decide which psychometrist will conduct the testing. <sup>Chief of Psychology</sup> will keep a log of when and where the testing referral/patient is.

2) There will be a shared outlook calendar where to check and book the computer rooms. Only three people will be allowed to make changes to the calendar, <sup>Chief of Psychology</sup> myself and <sup>The Whistleblower</sup>. Staff psychologists will be granted the ability to view the calendar without making modifications.

3) If one of the psychometrist needs a testing protocol that is currently in the other psychometrist's office, <sup>Chief of Psychology</sup> will be the point of contact to obtain that resource.

4) I will remain the back up for the pre-employment screens and <sup>The Whistleblower</sup> will remain in charge for those. I should not schedule any patient on Tuesdays until 1400 so not to affect flow to the testing area.

I am hopeful that these changes will improve the situation as they will minimize the contact between <sup>The Whistleblower</sup> and myself. Although I would have hoped to develop at least a cordial relationship with <sup>The Whistleblower</sup> I am hopeful that these changes will alleviate some tension.

Best Regards,

Contract Psychometrist Psychometrist  
Kenner Army Health Clinic Behavioral Health Services  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

On 09/11/12 <sup>Chief of Psychology</sup> requested I would meet with her for a debriefing on how things have been in the office during her absence. The topic covered were the following:

- 1) Training with <sup>Chief, Telehealth, (KACC)</sup> in Rosslyn. I informed <sup>Chief of Psychology</sup> of how the training went, that I worked with several psychologists who observed that my professional abilities are not questionable and they were pleased about how I performed.
- 2) relationship with WB I informed <sup>Chief of Psychology</sup> that WB does not respond to any verbal interaction and I made her aware of the incident where WB tossed papers on my desk.
- 3) Access to computer room (limited days and hours). <sup>Chief of Psychology</sup> acknowledged that it creates difficulties and ultimately affects patient care.
- 4) Access to testing resources. I informed <sup>Chief of Psychology</sup> that <sup>Chief, Telehealth, (KACC)</sup> had talked in the past to <sup>Acting Chief of Psychology 1</sup> about making the testing resources available and allocating them in a neutral place, but that did not happen. The majority of the testing resources are located in WB private office. <sup>Chief of Psychology</sup> questioned whether <sup>Acting Chief of Psychology 1</sup> made WB move the testing resources or not. She also indicated that she will get a list of where the resources are located.
- 5) Caseload and access to testing referrals. <sup>Chief of Psychology</sup> questioned whether the psychologists on staff have received clear directives that they can choose which psychometrist to assign their testing patient. I responded that I am not sure about the directives they have received; nevertheless, on multiple occasions at the Tuesday psychology meetings I have openly indicated that my schedule was free to conduct testing.
- 6) Pre-employment screens. I informed <sup>Chief of Psychology</sup> of how the lack of dialog and cooperation with WB had affected the practice of pre-employment screens and that I was pulled from conducting them. <sup>Chief of Psychology</sup> acknowledged that the explanation I received for being pulled from the screens was a cover up and acknowledged that it made it look as if I was not part of the organization. She indicated that she will look into the situation and decide whether to reinstate me in the pre-employment screens or not.

<sup>Chief of Psychology</sup> indicated that she was informed by <sup>Acting Chief of Psychology 1</sup> about the quality of my work, that she was pleased about it and not concerned about my performance. She indicated that she wants to come up with a plan to address the topics and create a better working environment, with the hope that her authority would lead to more compliance.

On 09/12/12 I had a meeting with <sup>Chief, DBH</sup>, the Chief of Behavioral Health, who wanted to follow up on the meeting occurred last month in regard to how things are going in the office. <sup>Chief, DBH</sup> thanked me for "putting up" with the training up in Rosslyn and indicated that it was necessary in order to confute WB allegations regarding my professional abilities. <sup>Chief, DBH</sup> also thanked me for being so tolerant of this situation and she apologized for what has been going on.

I addressed the following topics:

- 1) Lack of communication between WB and myself not even for a cordial exchange (i.e. salute). The only communication that occurs is via email regarding the testing room availability.

TAB 7 2

2) Reduced computer room access and impact on patients (computer available to me only on few days per month and only after 1300) Chief, DBH acknowledged that it represents a problem and indicated she will look into getting a laptop to me to be used as additional resource.

3) My caseload, average patient count (ave. 1-2/week), and lack of access to testing referrals (WB is the designated receiver of the referral forms, she keeps the referral book, and she presents the referrals at the weekly meetings). I have not received testing referrals from psychologists providers, except for MEB cases. Chief, DBH responded indicating that she will work with Chief of Psychology on coming up with a way to divide the caseload more efficiently. She explained that the situation with the staff psychologists is very complex and there are "loyalties to people", with psychologists assigning patients to WB in the attempt to placate her reactions (WB

Along the same lines, she explained that WB feels threatened by my job position in terms of workload and fears the department will get rid of her.

4) Being pulled from pre-employment screens. Chief, DBH explained that the decision to pull me from the pre-employment screens aimed at giving back to WB a sense of control over the workload. Chief, DBH acknowledge that the explanation given to me was to cover the real reason.

Chief, DBH indicated that she would work on some ways to build my practice up since it is not reasonable that I am utilized just for an average of 1-2 patient/week.

On 09/13/12 Chief of Psychology asked me to list the tests I am familiar with administration as well as which testing kit/protocol I have access to. I also provided Chief of Psychology with an inventory of the administration/scoring programs currently installed on the two testing computers to display the limitation of one room versus the other.

Contract Psychometrist

subject: Events of 10/02/12

I have not been assigned any new case since 09/18/12. My schedule for the next three weeks is empty except for one patient scheduled for 10/04, while WB testing room schedule is busy for the next 3 weeks.

I am starting to become suspicious that I am only assigned "easy" or simple cases while the more complex are assigned to WB

2 cases presented on 09/18/12; one rejected I have not received the other one.

3 cases presented on 09/25/12; one assigned to intern, none of the remaining 2 assigned to me.

2 cases presented on 10/02/12 (Contract Psychologist DBH non assigned to me.

Today a patient presented for pre-employment screens that were conducted by WB. The patient came last week when I was conducting the screens but once explained the time involved in the process, she indicated she had a doc's appointment and could not stay. This morning when the patient returned, she allegedly indicated that she had completed the assessment the week prior. WB took the patient's word and escorted the patient to the waiting room; forwarded the pt's chart to <sup>Acting Chief of Psychology ?</sup> with a note "the patient said she did test last week, but I do not have the test".

<sup>Acting Chief of Psychology ?</sup> inquired with me whether I had the test of the patient, at which point I explained that the patient had not even started the assessment the prior week. By that point, the patient had allegedly waited over one hour and could not devote any more time to the pre-employment screening. The patient left for the second time unable to accomplish what she came in for.

Around 1245, <sup>Acting Chief of Psychology ?</sup> inquired with me if WB had asked me about the patient status before forwarding her the chart; I indicated that WB did not ask/notify me of anything (not in person, nor by email) related to the aforementioned patient.

I heard WB scheduling two new testing patients whose provider is <sup>Contract Psychologist DBH</sup>

Best Regards,

Contract Psychometrist Psychometrist  
Kenner Army Health Clinic Behavioral Health Services

(b) (6)

TAB 72

Contract Psychometrist

From: Contract Psychometrist  
Sent: Friday, October 19, 2012 3:31 PM  
To: Eagle, Director  
Subject: Case load issues for month of October (UNCLASSIFIED)  
Attachments: Microsoft Office Outlook - Weekly Calendar Style September.pdf, Microsoft Office Outlook - Weekly Calendar Style October.pdf

Classification: UNCLASSIFIED

Caveats: NONE

Dear Eagle, Director,

Because I was assigned fewer patients to test in October, on 10/03/12 I met with the Chief of Psychology, <sup>Chief of Psychology</sup> to discuss my availability to test patients and my desire to have a larger case load. <sup>Chief of Psychology</sup> indicated that the patients numbers are low because the Psychology department is understaffed, with the result that the psychologists will not solicit testing referrals from non-psychology providers. She said she would consider me when a referral became available. Within about a week from that meeting, I received 2 more cases that needed a neuropsychological evaluation, and they were assigned to me since I am the Tele-Health employee. This totaled my October case load to 4 patients.

There continues to be an imbalance between the number of cases referred to me and <sup>The Whistleblower</sup>. Thus far this month 4 referrals were presented at the Tuesday Psychology meetings, all of which were assigned to <sup>The Whistleblower</sup> doctoral intern.

Upon <sup>Chief of Psychology</sup> return from maternity leave, a shared testing room calendar has been implemented, where both <sup>The Whistleblower</sup> and I can book the computer rooms for our testing and scoring. I took the liberty of tracking the disparity between my case load and <sup>The Whistleblower</sup>. I will include as attachment a copy of the testing room schedule for the months of September and October so you can get a better sense of what I am referring to (my appointments are in purple).

On 10/18/12, I decided to voice my concerns with the Chief of Behavioral Health, <sup>Chief, DBH,</sup> who apologized for the situation I am facing, the poor utilization of my skills and poor integration in the work environment. She indicated that she would address the topic with <sup>Chief of Psychology</sup> <sup>Chief of Psychology</sup> one more time.

As you know, we have been trying to address this challenge for quite a while. If there is anything else you wish me to do, please call me to discuss.

Best Regards,

Contract Psychometrist Psychometrist  
Kenner Army Health Clinic Behavioral Health Services  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

- Oct. 26<sup>th</sup> in [redacted] office (acting chief of Psychology): per office policy, I requested testing materials that were missing from my kit from [redacted]. [redacted] asked [redacted] to provide the aforementioned materials; initially she denied any possession of the items. Later in the morning, I returned to [redacted] office to inquire about the status of the material requested; while I was still there, [redacted] walked in office, forcefully threw the testing materials on [redacted] sofa, and walked away.
- Ongoing since Oct 26<sup>th</sup>, [redacted] books the testing room for the whole day and locks the door during the lunch break when neither she nor the patient are using the testing computer room, preventing access to the room and the selected scoring programs installed on the machine.
- Nov 16<sup>th</sup>: [redacted] requested me to test an inmate and administer a test battery decided at the last minute. Part of the battery was a test purchased by [redacted] and at the time stored in [redacted] office. In the attempt to facilitate the urgency of the situation, our Tele-health VTC coordinator interceded for me to obtain the testing material from [redacted] however, [redacted] denied the material to her, indicating that she would have surrendered the test only to the Chief of Psychology or of BH with a written request. Due to the special situation of the inmate client waiting for services, the office manager became involved in the attempt to obtain the aforementioned material. [redacted] initially indicated that she would not give the material because she was on the last 10 minutes of her lunch break; ultimately, 30 minutes later, the office manager obtained the testing material I needed to complete the evaluation of the inmate.
- Nov 16<sup>th</sup>: [redacted] requested immediate scoring of the tests administered to the inmate to aid his clinical decision. Part of the battery scoring program needed was located in a testing room [redacted] had reserved for the day and locked while not in use. I requested access to the room (the scoring procedure would only take 10 minutes); despite [redacted] was made aware of the special circumstances occurring, she still denied me access to the room. Ultimately, the testing room remained unused and locked until COB 1630, forcing me to postpone the scoring procedure until after hours.
- Nov 16<sup>th</sup>: While testing the aforementioned inmate, [redacted] falsely reported me to the Hipaa privacy officer of Kenner Army Health Clinic claiming that I had displayed the inmate medical chart face up on the hallway floor. The inmate's medical chart was not in my possession and was actually brought to our facility by the inmate's guards. The Tele-health VTC coordinator vouched for my innocence and notified both the Chief of Psychology as well of the Chief of Behavioral Health of the false nature of the accusation.

TAB 76

## Contract Psychometrist

From: Contract Psychometrist  
Sent: Wednesday, November 28, 2012 11:09 AM  
To: Eagle, Director  
Subject: Memorandum for record (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Eagle, Director,

Per our phone conversation on 11/27/12, this is a memorandum for records.

- Oct. 26th in <sup>Acting Chief of Psychology 2</sup> office (acting chief of Psychology): per office policy, I requested testing materials that were missing from my kit from <sup>Acting Chief of Psychology 2</sup> asked <sup>The Whistleblower</sup> to provide the aforementioned materials; initially she denied any possession of the items. Later in the morning, I returned to <sup>Acting Chief of Psychology 2</sup> office to inquire about the status of the material requested; while I was still there, <sup>The Whistleblower</sup> walked in office, forcefully threw the testing materials on <sup>Acting Chief of Psychology 2</sup> sofa, and walked away.

- Ongoing since Oct 26th: <sup>The Whistleblower</sup> books the testing room for the whole day and locks the door during the lunch break when neither she nor the patient are using the testing computer room, preventing access to the room and the selected scoring programs installed on the machine.

Nov 16th: <sup>Chief, Tele-health, (KACC)</sup> requested me to test an inmate and administer a test battery decided at the last minute. Part of the battery was a test purchased by <sup>Chief, Tele-health, (KACC)</sup> and at the time stored in <sup>The Whistleblower</sup> office. In the attempt to facilitate the urgency of the situation, our Tele-health VTC coordinator interceded for me to obtain the testing material from <sup>The Whistleblower</sup> however, <sup>The Whistleblower</sup> denied the material to her, indicating that she would have surrendered the test only to the Chief of Psychology or of BH with a written request. Due to the special situation of the inmate client waiting for services, the office manager became involved in the attempt to obtain the aforementioned material. <sup>The Whistleblower</sup> initially indicated that she would not give the material because she was on the last 10 minutes of her lunch break; ultimately, 30 minutes later, the office manager obtained the testing material I needed to complete the evaluation of the inmate.

- Nov 16th: <sup>Chief, Tele-health, (KACC)</sup> requested immediate scoring of the tests administered to the inmate to aid his clinical decision. Part of the battery scoring program needed was located in a testing room <sup>The Whistleblower</sup> had reserved for the day and locked while not in use. I requested access to the room (the scoring procedure would only take 10 minutes); despite <sup>The Whistleblower</sup> was made aware of the special circumstances occurring, she still denied me access to the room. Ultimately, the testing room remained unused and locked until COB 1630, forcing me to postpone the scoring procedure until after hours.

- Nov 16th: While testing the aforementioned inmate, <sup>The Whistleblower</sup> falsely reported me to the Hipaa privacy officer of Kenner Army Health Clinic claiming that I had displayed the inmate medical chart face up on the hallway floor. The inmate's medical chart was not in my possession and was actually brought to our facility by the inmate's guards. The Tele-health VTC coordinator vouched for my innocence and notified both the Chief of Psychology as well of the Chief of Behavioral Health of the false nature of the accusation.



- Nov 27th: A meeting was called by Chief of Psychology to discuss the details of centralizing all psychometric testing materials and facilitate access for required individuals, instead of the current method of storing the materials in The Whistleblower or my office.

During the meeting, Chief of Psychology stressed the importance communication and of working collaboratively to get this mission accomplished; Chief of Psychology asked both I and The Whistleblower what we could both do it to help facilitate. I indicated I will collaborate and communicate with The Whistleblower, The Whistleblower indicated she is not willing to collaborate or communicate with me. Chief of Psychology asked The Whistleblower why she is not willing to communicate and The Whistleblower responded the following: "Do we have to rehash the past? Maybe we should have Commander, KAHC (Kenner Army Health Clinic Commander) come up here. My words get misconstrued and I do not want retaliation from the department of Behavioral Health." Chief of Psychology agreed to set a meeting with Commander, KAHC

During the meeting, Chief of Psychology requested to inventory the resources in my and The Whistleblower office; therefore the three of us proceeded to the psychometry area. The Whistleblower stopped in the hallway before her office and we stopped along with her. Chief of Psychology asked why we stopped and The Whistleblower stated she was waiting for clear directions from Chief of Psychology and wanted someone to lead the way. At that moment, Chief of Psychology asked me to lead the way to my office to look at the testing resources stored in it, and so we proceeded. Once we arrived to my office, Chief of Psychology and I entered while The Whistleblower proceeded to her office to schedule a testing patient who was brought to the area at the moment.

Best Regards,

Contract Psychometrist, Psychometrist  
Kenner Army Health Clinic Behavioral Health Services  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

Contract Psychometrist

From: Contract Psychometrist  
Sent: Wednesday, December 05, 2012 3:05 PM  
To: Eagle, Director Clinical Psychologist WRNMMC Chief, Tele-health, (KACC)  
Subject: Chief, Tele-health, (KACC)  
Meeting with (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon,

I just wanted to follow up with you on the recent events you have been informed of and give you an update on what Chief of Psychology shared with me this afternoon.

I met with Chief of Psychology this afternoon to gather more information about the involvement of the DCCS in the matter with The Whistleblower. Chief of Psychology indicated that after several failed attempts to address the behaviors The Whistleblower displayed both with me and within the department in general, she and Chief, DBH decided to involve the clinic DCCS, DCCS. From what I was told, the problems with The Whistleblower are greater than the hostile work environment she has created in the psychometry section. Chief, DBH has reportedly met several times with DCCS DCCS during this past week and will again in the next couple of weeks to also discuss with him the specifics of the hostile work environment/harassment I have been a victim of.

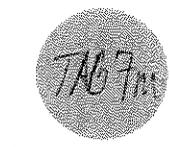
Chief of Psychology indicated that she would support my decision if I were to request a meeting with DCCS and share with him my personal experience of hostile work environment. Any advice on how to proceed is greatly appreciated.

During my meeting with Chief of Psychology, we also discussed the matter of the centralized location for the testing equipment. She indicated that she will comply without hesitation if Chief, Tele-health, (KACC) decides for the WRAMC equipment to not be moved at all in the centralized location and to be stored in my office instead. Once again, any advice is greatly appreciated.

Best Regards,

Contract Psychometrist, Psychometrist  
Kenner Army Health Clinic Behavioral Health Services  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE



Contract Psychometrist

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From: Contract Psychometrist  
Sent: Thursday, January 10, 2013 1:25 PM  
To: Chief of Psychology  
Subject: RE: noise concerns (UNCLASSIFIED)  
Signed By: Contract Psychometrist

Classification: UNCLASSIFIED  
Caveats: NONE

Chief of Psychology

I do have a noise machine on at the highest setting, but it does not cover much since WB office is so close. I have to keep the machine outside my door because it would be too loud inside my office, especially when I have to play audio tracks for the neuropsych testing. I do keep it on none the less.

Thank you for addressing the problem.

Contract Psychometrist

-----Original Message-----

From: Chief of Psychology  
Sent: Thursday, January 10, 2013 1:18 PM  
To: Contract Psychometrist  
Subject: RE: noise concerns (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Thank you for letting me know, this will be addressed. Do you have a noise machine on? If so, has that helped at all?

Chief of Psychology  
Chief, Psychology  
Behavioral Health Services  
Kenner Army Health Clinic  
(b) (6)

-----Original Message-----

From: Contract Psychometrist  
Sent: Thursday, January 10, 2013 12:10 PM  
To: Chief of Psychology  
Subject: noise concerns (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Chief of Psychology

I would like to express some concerns/complaints related to the noise level in the testing area which affects my testing patients. Despite the "quiet,

please" sign outside my door when I am conducting psychological/neuropsychological testing, <sup>The Whistleblower</sup> slams her door repeatedly each time she enters/exits her office. Due to the proximity of my <sup>The Whistleblower</sup> offices, unfortunately the noise becomes bothersome and significantly disrupts the concentration of the patients I test. Just as disrupting is when <sup>The Whistleblower</sup> talks out loud to her patients with her door open, or in the hallway between our rooms, or even between her office and one of the computer testing rooms where her patient sits. On several instances, my patients have made comments about the noise outside my office as they were trying to complete tasks that required concentration and silence; others just politely smile and show patience when I apologize with them about the noise.

I hate to bring this up, considering the already tense situation in the psychometry section, but unfortunately it seems a repetitive behavior despite the sign outside my door is turned on "quiet" to indicate testing is in progress. Please assist.

Thanks,

Best Regards,

**Contract Psychometrist**, Psychometrist  
Kenner Army Health Clinic Behavioral Health Services

(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

## Contract Psychometrist

From: Contract Psychometrist  
Sent: Tuesday, January 15, 2013 8:37 AM  
To: Eagle, Director  
Subject: Update on events at Ft. Lee (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Eagle, Director,

I just wanted to give you an update on how things are going here at Ft. Lee. Please forgive the lengthy email as I try to convey a picture of the events.

1) The last time we spoke, The chief of Behavioral Health (Chief, DBH) and the Chief of Psychology (Chief of Psychology) had escalated the problems with The Whistleblower to the DCCS. As a result of that meeting that occurred before the Christmas holidays, the testing supplies (one of the items causing acrimony between The Whistleblower and I) have been split between our two offices and stored in an area commonly accessible. Also, per advice of the DCCS, Chief of Psychology The Whistleblower and I have daily "psychometry huddles" first thing in the morning, where we discuss what is scheduled for the day and whatever topic needs to be addressed. I perceive this as a way to improve the communication between The Whistleblower and I allowing Chief of Psychology to act as a buffer. As expected, The Whistleblower was able to communicate with me only on the first two meeting; soon after she went back to old habits and communication between her and I reached a halt. I can provide an example. On 12/21/12, I was tasked to request a quote for additional testing supplies by contacting the PAR testing company while The Whistleblower would contact the Pearson testing company. I proceeded to do my task through Clinical Psychologist WRNMMC. However, during the psychometry huddle on 01/07/13, The Whistleblower indicated that she contacted both aforementioned testing companies and requested the quotes. She did not notify me that she was taking over the task I was assigned with, hence failing to communicate and collaborate with me. The chief of BH was present at the huddle and she reportedly recorded the event and addressed it with The Whistleblower at a later time.

2) Another change I would like to keep you abreast of pertains the management of the testing referrals. Up until now, Chief of Psychology was managing (collecting and assigning) the testing referrals. As of 01/09/13, the duty to manage the testing referrals was transferred to The Whistleblower. I was notified of the change during the psychometry huddle that same day (although The Whistleblower was already informed of the change) when Chief of Psychology presented a memorandum for record that I was required to sign. I have included the memorandum as attachment to this email. The change in management specifies that The Whistleblower will test the following:

- walk-in patients
- referred patients that can be accommodated within a week.

I will receive the patients needing psychological testing through Tele-health and will receive testing referrals from Kenner providers only if The Whistleblower cannot accommodate them within a week or is out sick.

As you can imagine, such change brought back old memories of when The Whistleblower was managing the testing referrals and I was not receiving any patients, along with the concern about my patients count. On the same morning, I took the liberty to call Clinical Psychologist WRNMMC at Chief, Tele-health, (KACC) office and ask for advice. Upon encouragement from Clinical Psychologist WRNMMC, I talked to Chief of Psychology and inquired what led to the change in how the testing referrals will be managed as well as what measures were in place to guarantee I would still receive patients. Chief of Psychology indicated that managing the testing referrals is a responsibility included in The Whistleblower job description and it is a way to make The Whistleblower aware of what is expected of her. Chief of Psychology indicated that she required The Whistleblower to keep a log book to track how the referrals are assigned



between psychometrists and such book will be periodically checked by Chief of Psychology to ensure accuracy and fairness. Chief of Psychology also shared with me that she has access to both The Whistleblower and my appointment calendar to ensure the referrals distribution reflects our availability on the calendar. Finally, Chief of Psychology indicated that The Whistleblower behaviors are being monitored by her and reported to higher supervisors when necessary. Both Chief, Tele-health, (KACC) and Clinical Psychologist WRNMLVC are aware of the change and will be monitoring the situation to ensure I am treated fairly.

3) On 01/10/13, I was forced to reach out to Chief of Psychology and express some concerns/complaints related to the noise level in the testing area which affects my testing patients. Despite the "quiet, please" sign outside my door when I am conducting psychological/neuropsychological testing, The Whistleblower slams her door repeatedly each time she enters/exits her office. Due to the proximity of my and The Whistleblower offices, unfortunately the noise becomes bothersome and significantly disrupts the concentration of the patients I test. Just as disrupting is when The Whistleblower talks out loud to her patients with her door open, or in the hallway between our rooms, or even between her office and one of the computer testing rooms where her patient sits. On several instances, my patients have made comments about the noise outside my office as they were trying to complete tasks that required concentration and silence; others just politely smiled and showed patience when I apologized with them about the noise.

Chief of Psychology indicated that she will address the problem with The Whistleblower. In the meantime, I am keeping track of the events.

Best Regards,

Contract Psychometrist,  
Psychometrist, Tele-Health Services  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

TAB 8

SWORN STATEMENT

PRIVACY ACT STATEMENT

AUTHORITY: Title 19, United States Code, Section 3013 (10 U.S.C. § 3013)
ROUTINE USES: To evaluate the facts and circumstances pursuant to an administrative investigation conducted under 15-a.
DISCLOSURE: If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation...

1. LOCATION: Fort Lee, Virginia
2. DATE: 2013/08/19
3. TIME:
4. FILE NUMBER: N/A
5. NAME: Contract Psychometrist
6. SSN: N/A
7. GRADE/STATUS: contractor
8. ORGANIZATION OR ADDRESS

I, Contract Psychometrist, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

I provided a sworn statement in May and interviewed me on August 16th in order to provide a follow-up statement. I was asked to comment on the following questions: Regarding your work assignments and duties at Kenner, how were you treated? How did you receive assignments? If you had questions, from whom did you solicit advice or clarifications? Did anyone ever assign you tasks that were outside your contractual duties? If so, what did you do?

When I first started working at Kenner, the system in place was the following: Behavioral Sciences Coordinator, receives the testing referral requests from providers (both within Kenner and Telehealth) and discusses the referrals during the weekly psychology meetings. Up to that point, was the only Psychometrist, hence she took care of all the referrals to test. Upon my arrival, was the person to divide the testing referrals between the two of us in order for SMs to be tested in a timely manner. As soon as I was able to test patients (after having CAC and Hipaa training), sat in my test administrations and started to observe me. I do not know if she was asked to do so or if she took on that role herself. Within a couple of weeks, I was asked to sign a 30-day performance improvement plan and started questioning my abilities to do my job. At the time, she was still in charge of giving me testing referrals, which I did not receive because I was being "evaluated" as part of the 30-day plan. questions about my abilities culminated in my trip to (head of Telehealth at the time) where I was observed administering assessments by several Telehealth providers and my ability to do my job was confirmed. I returned back to Kenner where the situation was the following: was on maternity leave, was the acting Chief of Psychology and was still in charge of the testing referrals and their distribution to me as the other Psychometrist. At the time, the workload was so that both and myself could be busy with testing. Despite proving my competence, I was still not getting testing referrals. I decided to inform all my superiors both at Kenner and Chief, DBH, at Telehealth (AKA) and and at Eagle Applied Sciences (Eagle, Director, Program Manager) of the lack of referrals I was experiencing. provided me with testing cases directly rather than going to. With regard to the referrals from Telehealth, I received them directly from Telehealth providers whether by phone or via encrypted emails. When returned from her maternity leave in September, she took charge of dividing all of the Kenner testing referrals up between both and me; remained in charge of referral distribution for the next several months. Usually,

10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE WRITING "STATEMENT OF TAKEN AT DATED" THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



STATEMENT OF Contract Psychometrist

TAKEN AT Fort Lee, Virginia

DATED 2013/08/17

9. STATEMENT (Continued)

the division of work was done on the basis of our schedules with the goal to accommodate the patients in a timely manner. In January, <sup>Chief of Psychology</sup> created a policy according to which <sup>The Whistleblower</sup> does all of the testing for patients she can schedule within one week, and the walk-ins from the local psychologists. I do testing for Telehealth, and any Kenner patients that <sup>The Whistleblower</sup> can't fit in her schedule within a week.

When I first started working at Kenner and had questions about my job, the location of testing materials, and other orientation issues, I would usually ask <sup>The Whistleblower</sup> (from May until August when she stopped speaking to me) or the other employees in Behavioral Health. If I have questions specific to the testing patients, I ask the individual psychologist who referred me the patient to test, that is I contact the "owner" of the patient (which can be a Telehealth provider or local psychologist.) If I notice anything during the testing administration that requires further examination, or that I need to notify the psychologist about (such as if a patient is suicidal), then I discuss it with that provider. I always ask the individual psychologist about any clarifications regarding the testing case. If I ever had a pure testing administration question, such as scoring questions or administration of <sup>Chief Telehealth (KACC)</sup> some aspect of a test, then I used ask <sup>Neuropsychological W/M/M/C</sup> the Telehealth Neuropsychologist assigned to me during my trip to <sup>Chief Telehealth (KACC)</sup> recently left the Telehealth program but she has a replacement and if I have questions then I would ask her replacement. Sometimes I needed to ask <sup>Chief Telehealth (KACC)</sup> questions, and now that he is gone I would ask his replacement.

No one ever assigned me any tasks outside of my contract.

~~NOTHING FOLLOWS~~

I, Contract Psychometrist, HAVE READ OR I HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Contract Psychometrist

WITNESSES

not required

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 17th day of August, 2013 at Fort Lee and Ft Belvoir, Virginia

Investigating Officer (IO)

(Signature of Person Administering Oath)

Investigating Officer (IO) Investigating Officer  
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

(Authority to Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

TAB 9

Following expectations for 30-Days to determine progress

Performance Objective: Operate autonomously as a Psychometrist for core assessment batteries and basic lab functions. Autonomy requires proficiency in assessment administration and scoring to include proper intake, assessment instruction, assessment administration with no significant errors, assessment scoring with minimal scoring errors, assessment familiarity (understanding usage, result validity, data significance), assessment documentation (AHLTA, testing file, etc.) and provider/client/testing coordination (patient/process flow, multi-tasking). Also, must demonstrate ability to efficiently and effectively operate testing lab during "employment screening day"; attention to detail commensurate with military environment; effective time management; adherence to all KAHC/ARMY/DOD regulations and law (e.g. HIPAA); and demonstrate ability to make purposeful, systematic behavioral observations of clients and records them accurately.

Core Assessments (\* not yet proficient and/or observed):

Higher Priority:

BAI	*MMPI-2	*TOMM
BDI	*PAI	TSI
*BHS	PCL-M	*WAIS IV
*CPT	*PDS	WCST
*CVLT-II	*RBANS	*WMS-IV
*DKEFS	SASSI	*WRAT IV
*JOLO	*SIMS	CTIP
KBIT	*STAXI	

Lower Priority:

*CAT-Computer Version	*GRVD PEGBOARD	*NEO
*CTMT	*IOWA GAMBLING TSK	*WASI
DAPS	*NAB	

Evaluation: All higher priority assessments will be observed (administration and scoring) by the Behavioral Health Coordinator or Chief of Psychological Services within next 30 days. Assessments will be administered to actual client and/or departmental volunteer. All lower priority assessments will be discussed in detail in a simulated/abbreviated test environment with the Behavioral Health Coordinator within the next 30 days. Priority should be given to those areas where proficiency has not yet been documented.

Signature below indicates understanding of expectations and agreement to comply with expectations.

Contract Psychometrist

Contract Psychometrist

6/19/2012

Printed Name

Signature

Date

TAB 9

TAB 18

SWORN STATEMENT

For use of this form, see AR 190-45, the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 3071; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN)
PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.
ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention placement, and other personnel actions.
DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION: Ft Lee, Virginia; 2. DATE: 2013/08/16; 3. TIME: 0700; 4. FILE NUMBER; 5. LAST NAME, FIRST NAME, MIDDLE NAME: Chief of Psychology; 6. SSN; 7. GRADE/STATUS: (b) (6); 8. ORGANIZATION OR ADDRESS: Kenner Army Health Clinic, Ft Lee, Virginia

I, Chief of Psychology, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH
I did not personally have any problems with Contract Psychometrist performance at the time of the complaint from The Whistleblower. The concerns were all reported by The Whistleblower.
I did not observe any problems with Contract Psychometrist subsequent to the complaint. All reported by The Whistleblower.
The motivation to develop the 30 day plan was simply to have a record of items that we discussed and a means to follow up on the concerns that The Whistleblower reported.
The motivation to contact Chief Tele-Health (KACC) was to make him aware as he was the Chief of Tele-Health at that time and could ensure that any needed follow up could occur through him and/or Contract Psychometrist contractor.
The plan was not needed while I was away on maternity leave as Chief Tele-Health (KACC) indicated that he would ensure that any follow up needed would take place.
Day to day interactions with Contract Psychometrist include: Psychometry huddles in order to discuss any referrals that have come in from providers and who those referrals will go to. If The Whistleblower has availability within one week then she is given the referral. If The Whistleblower does not have availability within one week then the referral is given to Contract Psychometrist. The only time that Contract Psychometrist would not be given a referral regardless of The Whistleblower availability would be if one or more of the tests requested is outside of her scope of knowledge. Contract Psychometrist provided a list of tests she is competent to administer. The options when this occurs is for The Whistleblower to conduct testing as she is available or the psychologist can conduct the testing themselves. Psychometry huddles take place on Monday at 0740, Tuesday at 0750, Thursday at 0740, and Friday at 0750 (Friday huddles did not take place during the furlough). Contract Psychometrist does the testing for all neuropsychology evaluations as Kenner does not have a neuropsychologist on staff and Tele-Health does. Every Tuesday at 0900 there is a psychology section meeting during which each referral is discussed and assigned to a psychologist. If it is determined during this meeting that the referral would warrant a neuropsychology evaluation then the referral is given directly to Contract Psychometrist. If Contract Psychometrist does the testing for a referral for a psychologist at Kenner then she provides them with the test results so that the psychologist is able to review this data and use it to complete the psychological evaluation for the service member.

10. EXHIBIT; 11. INITIALS: oth; MAKING STATEMENT; PAGE 1 OF 2 PAGES; ADDITIONAL PAGES MUST CONTAIN THE HEADLINE "STATEMENT OF ... TAKEN AT ... DATED ..."; THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



STATEMENT OF Chief of Psychology TAKEN AT  Ft Lee, VA DATED 2013/08/16

B STATEMENT (Continued)

Chief of Psychology

AFFIDAVIT

I, Chief of Psychology, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Chief of Psychology

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 16<sup>th</sup> day of August, 2013

at Fort Lee and Fort Belvoir Virginia

Investigating Officer (IO)

(Signature of Person Administering Oath)

Investigating Officer (IO), Investigating Officer

(Typed Name of Person Administering Oath)

(Authority To Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

TAB 11

-----Original Message-----

(Tele-health PM, KACC)

From:

Sent: Friday, July 13, 2012 1:04 PM

To: (Chief, Tele-health, (KACC))

(Eagle, Director)

COR (TATRC)

Cc: Contract Psychometrist

USA MEDCOM KAHC,

Neuropsychologist WRNMMC

US USA;

Clinical Psychologist WRNMMC

DOD CAPMED

Rosslyn, (b) (6)

US USA MEDCOM WRAMC, Acting Chief of Psychology 1

USA MEDCOM KAHC

Subject: F/U to TCON re

Contract Psychometrist

All,

This is to confirm that we are all on track to continue with our commitment to see <sup>Contract Psychometrist</sup> succeed in her position and be of service to all our patients and providers. Included in this email is <sup>Acting Chief of Psychology 1</sup> acting Chief/Psychologist of the Psychology Department at KAHC.

<sup>Contract Psychometrist</sup> supervision at KAHC has changed as follows.

- for the next period of time, her supervision at KACH will be floating as she will be supervised by whatever provider assigns her a referral to test (referrals are assigned on a weekly basis at the Psychology staff meeting.) There will not be a unique supervisor as it will change on a case by case basis.
- When she is assigned a case, the supervising psychologist will tailor the testing battery based on what she is familiar and comfortable with.
- The psychologists at KAHC will not be responsible for supervising her on cases not coming from within KAHC.

Training will be facilitated, conducted and managed by the Tele-Health team located in Arlington, <sup>Neuropsychologist WRNMMC</sup> will continue as <sup>Contract Psychometrist</sup> mentor. <sup>Clinical Psychologist WRNMMC</sup> will be back in the office on July 20th and will coordinate the timing of <sup>Contract Psychometrist</sup> visit to our office.

We certainly appreciate the opportunity to work closely with all who support our Service Members and their families.

Cordially,

(Tele-health PM, KACC)

(Tele-health PM, KACC)

Program Manager, Department of Tele-Health Northern Regional Medical Command Kimbrough Ambulatory Care Center, Fort Meade, MD  
1777 North Kent Street, Arlington, VA 22209

(b) (6) (Office)  
(BB)

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE



TAB 12

Subject: Per our Conversation Regarding Testing Lab Concerns- Follow up (UNCLASSIFIED)  
 From: the Whistleblower  
 To: Chief, DBH  
 Cc: (b) (6)  
 Date: Wednesday, August 22, 2012 9:06 AM

Classification: UNCLASSIFIED  
 Caveats: NONE

Chief, DBH

I have included below my concerns as discussed on Monday but with a little more fidelity and detail as to the root of those concerns. As stated, since I am no longer responsible for contractor performance within the testing lab, I have no issues with <sup>Contract</sup> <sub>Psychometrist</sub> my interest lie only with ensuring the Testing Lab performs at the level expected to meet our Clinic and Departmental mission, vision and standards of care set forth. Also, that the environment that I work and expectations of my work are consistent with my PD and not continually changing.

The three areas of concern are followed by an example or two as well as my input on possible ways to resolve. I do not want to be the employee who offers criticism but not offer a solution. I do appreciate your interest in my concerns and your actions to date. Thank you.

Professional Expectations:

To be provided necessary tools, oversight and guidance to perform the job of Behavioral Sciences Coordinator. In return, I perform the duties outlined in my Position Description and other duties assigned to facilitate execution of the command/departmental mission.

Standard of Service:

That the DBH is the KAHC center for promotion, sustainment and enhancement of behavioral health, we seek to build relationships of trust that reflect our commitment to accessible, responsive, evidenced based care for our service members and to support the military community in which they serve. As a proficient, cohesive and compassionate team of behavioral health professionals delivering excellent care to service members and families supporting Command in the accomplishment of the Joint Services mission, we aspire to be the leading behavioral health organization in the Army Medical Command.

(Similar language in Behavioral Sciences Coordinator PD related to standard of care)

Specific areas of concern:

Area of Concern - Workload distribution and priority (govt vs. contractor). Favoritism is currently being given to non-government employee to ensure "meaningful employment". However, IAW US Code, Title 5, it is unlawful to ... (6) give a preference or advantage to anyone so as to improve or injure the employment prospects of any particular employee or applicant. Additionally, providing day to day supervision of contractors by government employees is a violation of the personal services provisions 37.104(b) of the Federal Acquisition Regulations.



## Example -

- Acting Chief of Psychology [redacted] has assigned work directly to contractor without regard for capacity/availability of government since my concerns were voiced. Also, significant changes were made in policies and procedures to accommodate contractor.

## Recommendation -

1) Develop a documented process for workflow requiring testing services (Process under Chief of Psychology [redacted] was similar but undocumented). Contractor priority being TELE-health clients, government employee KAHC clients. Set trigger of X weeks that would then have contractor provide "surge" support to KAHC. Likewise, similar process and triggers may be used for TELE-health clients. For Screens, either alternate weeks or assign screens just to one psychometrist.

Area - Ethical, Integrity and Legal concerns associated with actions occurring over the past 60 days.

## Example -

1) As a result of contractor being "under-qualified" and unable to perform LAW government/contract requirements (Contract W81XWH-09-C-0168), I was present along with members of my Chain of Command and the decision was made to "pay" for contractor to receive training and TDY to become "qualified" to meet the terms of the contract. The COR was not present, however, even the COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract (LAW DFARS 252.201-7000).

2) Explicit direction was given to KAHC providers to provide supervision to contractor by WRAMC Program Manager.

Recommendation - Verify that the subject contract is NOT a "Personal-Services" contract. If not, provide staff training by a qualified Contracting Officers Representative (COR) on appropriate roles/responsibilities associated with on-site contractors supporting the government. Also by documenting a work flow process as indicated and previous recommendation would alleviate KAHC staff from the need to provide day to day supervision of a contracted employee.

Area of Concern - Retaliation and hostile environment since informing my Chain of Command of concerns with contractor performance and ethical/HIPPA issues.

## Example -

1) Workload and type of work taken away (after Chief of Psychology [redacted] went on leave).  
 a. Responsibility for development and operation of testing lab - According to the Position description of the Behavioral Sciences Coordinator: "The Incumbent is responsible for the development and operation of the psychology and neuropsychology testing labs. In this role, is responsible for using a standardized scheduling system, equitably and efficiently assigning neuropsychological assessment cases to staff psychologists, trainees and other psychometrists based on workload, difficulty of assignment, and capabilities of the personnel involved; conduction quality assurance reviews of the test administration, scoring, and data entry of Psychology Staff, trainees, and other psychometrists; assisting in developing performance plans and quality assurance of other psychometrists; and assisting in the recruitment of other competent individuals for available psychometrist positions. (Approx 45%)"

2) Accused (by Acting Chief of Psychology 1 [redacted] of having too "high a standard". Note this standard is established via the command/departamental mission/vision statements and my Position Description vice my personal ideology.

Recommendation -

- 1) Verify departamental vision and clarify definition of "highest standards of clinical care".
- 2) See recommendation regarding documenting workflow processes.

Very respectfully,  
the Whistleblower

Sincerely,

the Whistleblower

Kenner Army Health Clinic  
 Behavioral Health Services  
 700 24th Street  
 Fort Lee, VA 23801  
 Phon<sup>(b) (6)</sup>  
 Fax

This message is intended exclusively for the individual (s) or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This communication may contain individually identifiable information with the disclosure of which, to any person or agency not entitled to receive it, is or may be prohibited by the Privacy Act, 5 U.S.C. 552a and Title 10 U.S.C. 1102. Improper disclosure of protected information could result in civil action or criminal prosecution. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, forwarding, retention, or copying of this message or any portion of it is strictly prohibited. If you receive this communication in error, please notify the sender immediately by e-mail and delete this message. \*

TAB 13

the Whistleblower

US USA MEDCOM KAHC

From: Commander, KAHC USA MEDCOM KAHC  
Sent: Wednesday, September 19, 2012 11:01 AM  
To: (b)(6) USA MEDCOM KAHC; KAHC Military; KAHC Civilians  
Subject: Re: ARMY READINESS ASSESSMENT PROGRAM (ARAP)

Folks, we can do better than this. The survey takes only 10 mins (or less) to do.

I will award any service that hits 90% complete a 59-minute time off award for those folks who completed the survey.

Suspense: COB this Friday.

V/R  
Commander, KAHC

Commander, KAHC

"Your care. Your Trust. Our Mission."

Sent from my Blackberry

----- Original Message -----

From: (b)(6) USA MEDCOM KAHC  
Sent: Monday, September 17, 2012 04:48 PM  
To: KAHC Military; KAHC Civilians  
Subject: FW: ARMY READINESS ASSESSMENT PROGRAM (ARAP)

All,

The survey has been extended until COB 21 Sept 2012. The results are currently at 28%. Please take the time to complete this survey. I thank you in advance for your support.

V/r,

(b)(6)  
Safety Manager  
Kenner Army Health Clinic  
(b)(6)

-----Original Message-----

From: Commander, KAHC USA MEDCOM KAHC  
Sent: Tuesday, September 04, 2012 4:05 PM  
To: KAHC Military; KAHC Civilians  
Subject: RE: ARMY READINESS ASSESSMENT PROGRAM (ARAP)

Team,

TAB 13

Please take the time to do this survey. Safety is an extreme priority for me and my command. We need to hear your feedback.

Thanks!

Commander, KAHC

-----Original Message-----

From: (b) (6) USA MEDCOM KAHC  
Sent: Tuesday, September 04, 2012 12:09 PM  
To: KAHC Military; KAHC Civilians  
Subject: ARMY READINESS ASSESSMENT PROGRAM (ARAP)

Team Kenner,

We have accomplished many great things in the past 12 months with our safety program. In the pursuit of continued improvement, this office is asking for your support in completing the 2012 Army Readiness Assessment Program (ARAP).

This survey is designed to provide the commander, with feedback regarding YOUR organization's safety climate. I encourage you to call it as you see it. This is our opportunity to tell the commander the things that we have done well and the things that we need to improve upon. Your responses really do make a difference.

This survey will close at 1700, 14 Sept 2012.

How to: Login into ARAP and take an assessment.

- \* Step 1. <https://arap.safety.army.mil/TakeSurveyAccess.aspx>
- \* Step 2. Click on the red button labeled [Take an Assessment]
- \* Step 3. After reading the instructions, click on [Take Assessment] button or tab.
- \* Step 4. Select your rank (this is the only demographic the Combat Readiness/Safety Center tracks).
- \* Step 5. Select your Unit's Branch from the drop down menu [Health Services].
- \* Step 6. Type in the Access Code [YNREBHLjs]
- \* Step 7. Click on the Submit button.

\*\* The assessment will take between 10-12 minutes per person.

At the end, a certificate may be printed to document the completion of the assessment.

Note: Everyone taking the assessment will enter the same access code above. This survey is anonymous as the application does not acquire any personal identifying data!

I thank you in advance for your participation and your support of the Kenner Army Health Clinic safety program.

V/r,

(b) (6)

Safety Manager  
Kenner Army Health Clinic

(b) (6)

TAB 14

the Whistleblower

US USA MEDCOM KAHC

---

From: Chief of Psychology USA MEDCOM KAHC  
Sent: Thursday, October 11, 2012 10:55 AM  
To: the Whistleblower  
Subject: 59 minute rule (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

The whole department was granted a 59 minute rule that can be taken either today or tomorrow for performance on medication reconciliation. Let me know if you would like to take it today or tomorrow.

Chief of Psychology  
Behavioral Health Services  
Kenner Army Health Clinic  
Fort Lee, Virginia 23801

(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

TAB 14

LAB 15

the Whistleblower

US USA MEDCOM KAHC

From: Commander, KAHC USA MEDCOM KAHC  
Sent: Wednesday, October 31, 2012 11:19 AM  
To: KAHC Civillans, KAHC Military  
Subject: RE: Kenner Halloween Costume Contest Winners

Thanks to all who participated for going all out! Have a great day and congratulations to the winners! Check out our Facebook page and an upcoming newsletter for photos of our participating staff.

And thanks to (b)(6) for taking the photos of our folks and our judges for going around and checking everyone out!

Commander, KAHC

-----Original Message-----

From: (b)(6) CIV USA MEDCOM KAHC  
Sent: Wednesday, October 31, 2012 10:16 AM  
To: KAHC Civillans; KAHC Military  
Subject: Kenner Halloween Costume Contest Winners

The results are in!!!! Take a look at the winners of our Kenner Costume & Door Decoration Contest.

1st Place - (b)(6) Command Support Staff as The Grim Reaper 2nd Place - (b)(6)  
(b)(6) PM as the Scarecrow from the Wizard of Oz 3rd Place - (b)(6) FMC as The Wizard

Honorable Mention Costume Winners:

(b)(6) Command - A younger (b)(6) from back in the day!  
(b)(6) Peds - Maleficent  
Contract Pyschometrist DBH as a Freudian slip Contractor  
(b)(6) ADC as a Mariachi  
(b)(6) as a Centurian Gladiator (b)(6) RMD as a Disco Diva (b)(6)  
Peds as an Old Lady Maria Paris, PM as Dorothy with her dog Toto

Top costume and honorable mention winners will receive 59 minutes time-off award given by the Commander.

Door Decoration & Team Winners:

1st Place RMD, Disco/70's  
2nd Place PM, Wizard of Oz  
3rd Place Lab, Zombies

Participants were judged on originality and creativity of individual costumes and section décor.

The best door decoration and team award goes to RMD who will get a pizza party today sponsored by the Command Grp.

(b)(6)  
Public Affairs Officer



TAB 16

SWORN STATEMENT

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, United States Code, Section 3013 (10 USC § 3013).
PRINCIPAL PURPOSE: To evaluate the facts and circumstances pursuant to an administrative investigation conducted UP AR 15-6.
ROUTINE USES: Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties.
DISCLOSURE: If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory.

- 1. LOCATION Fort Lee, Virginia
2. DATE 2013/05/xx
3. TIME 0000
4. FILE NUMBER
5. NAME insert name here
6. SSN N/A
7. GRADE/STATUS Contractor vs GS vs
8. ORGANIZATION OR ADDRESS Kenner Army Health Clinic, Fort Lee, VA
Chief of Psychology

I, \*\*insert name here, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

See attached documentation in response to the questions of this investigation.

Attached documentation includes:

Memorandum for Record (MFR) dated 4 Dec 12. Subject: Meeting with The Whistleblower and Chief of Psychology regarding The Whistleblower relationship with a contract employee.

MFR dated 5 Dec 12. Subject: Timeline of Events within Psychometry.

MFR dated 12 Dec 12. Subject: Functioning of Psychometry in the Department of Behavioral Health.

E-Mail from COR, KAHC dated 12 Dec 12. Subject: Services Contract Information.

10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_ TAKEN AT \_\_\_ DATED \_\_\_"
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



Chief of Psychology

STATEMENT OF insert name here

TAKEN AT Fort Lee, VA

DATED 2013/05/14

9. STATEMENT *(Continued)*

[The statement continues on until the end.]

NOTHING FOLLOWS

Chief of Psychology

I, insert name here, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Chief of Psychology

*(Signature of Person Making Statement)*

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 14<sup>th</sup> day of May, 2013 at Fort Lee, Virginia

Investigating Officer (IO)

*(Signature of Person Administering Oath)*

ORGANIZATION OR ADDRESS

Investigating Officer (IO) Investigating Officer  
*(Typed Name of Person Administering Oath)*

ORGANIZATION OR ADDRESS

*(Authority to Administer Oaths)*

INITIALS OF PERSON MAKING STATEMENT

Chief of Psychology

PAGE 2 OF 2 PAGES



DEPARTMENT OF THE ARMY  
 UNITED STATES ARMY MEDICAL DEPARTMENT ACTIVITY, FORT LEE  
 KENNER ARMY HEALTH CLINIC  
 700 24TH STREET  
 FORT LEE, VIRGINIA 23801-1716

REPLY TO  
 ATTENTION OF

MCXO-DBH

5 December 2012

MEMORANDUM FOR RECORD

SUBJECT: Timeline of Events within Psychometry

1. The psychometry section within the Department of Behavioral Health (DBH) is currently composed of two individuals, <sup>The Whistleblower</sup> and <sup>Contract Psychometrist</sup> <sup>The Whistleblower</sup>. <sup>The Whistleblower</sup> is a Psychometrist who is contracted through Eagle Applied Sciences, LLC. This contract is managed by Chief, Tele-health, (KACC), Chief, Department of Tele-Health, KACC/NRMC. Prior to being hired as a GS employee, <sup>The Whistleblower</sup> worked under the contract that <sup>Contract Psychometrist</sup> now works under. At that time, the psychometry section was composed of one individual, <sup>The Whistleblower</sup>.

2. In June of 2012, <sup>The Whistleblower</sup> brought it to the attention of <sup>Chief of Psychology</sup> that there were challenges with the functioning of <sup>Contract Psychometrist</sup>. The following is a detailed timeline of the events that have transpired since that time.

19 Jun 12 <sup>Chief of Psychology</sup> reviewed expectations with <sup>Contract Psychometrist</sup> based on feedback received from <sup>The Whistleblower</sup>.

6 Jul 12 <sup>Chief of Psychology</sup> contacted <sup>Chief Tele-health, (KACC)</sup> as follows in order to pass on the current functioning of <sup>Contract Psychometrist</sup> prior to departing on maternity leave.

<sup>Chief, Tele-health, (KACC)</sup>

I wanted to take an opportunity to touch base with you regarding <sup>Contract Psychometrist</sup>. My understanding is that you are her direct supervisor as she is a contracted employee through Walter Reed. As the Chief of Psychology here at KAHC I have been made aware of several concerns with her performance thus far. <sup>The Whistleblower</sup> has been working with her diligently in order to attempt to resolve these concerns so that she can fulfill the requirements of her contract. On 19 Jun 12 we developed a 30 day plan in order to address the concerns and clearly outline expectations. I attached this plan for your review. Unfortunately, she has not made significant progress at this point. I will be starting maternity leave sometime within the next week and I wanted to make sure that you had an awareness of this before I begin leave should something significant arise while I am out.

Significant concerns are as follows:  
 -She has made two HIPAA violations



-An Army officer indicated she would be submitting an ICE complaint on 3 Jul due to <sup>Contract Psychometrist</sup> inability to explain the need for assessment. <sup>Contract Psychometrist</sup> had been able to observe how to do this and had practiced this with supervision prior to being asked to demonstrate this skill on her own.

-She is making repeated administration and scoring errors despite close supervision and practice.

-She struggles with basic office administration to include: filing, spelling, grammar, and correctly identifying patient information on records.

-She has difficulty with basic office etiquette to include use of personal cell phone and laptop.

-Other areas of concern include: time management, multi-tasking and work prioritization, and difficulty learning administration of multiple measures used for assessment.

I would welcome your feedback on how to proceed with <sup>Contract Psychometrist</sup> supervision. The plan I discussed with <sup>The Whistleblower</sup> is to review functioning at the end of the 30 day period which would be 19 Jul. At this point <sup>The Whistleblower</sup> will discuss that all areas still need significant improvement. We can extend the plan for an additional time period but would like your guidance and thoughts prior to doing this. Our Behavioral Health Services Chief, <sup>Chief, DBH</sup>, is aware of these concerns and can assist <sup>The Whistleblower</sup> with any coordination of improvement plans as needed while I am out on leave.

6 Jul 12

<sup>Chief, Tele-Health (KACC)</sup> responded to the e-mail from <sup>Chief of Psychology</sup> as follows:

Thanks for the info. I wish we were contacted earlier about this. Can you be a bit more specific? I see that she is either not observed or not proficient on a number of items. It does not take much to administer a computer based MMPI2. Which is she having difficulty with? Also what was the HIPAA violations? I will call to discuss with her and talk with the vendor.

Thanks

Chief, Tele-health, (KACC)  
Chief, Department of Tele-Health  
KACC/NRMC

6 Jul 12

<sup>Chief of Psychology</sup> provided the specifics requested by <sup>Chief, Tele-Health (KACC)</sup> as follows:

We were honestly hoping that she was simply struggling with adjusting to the new job and setting and that these things would resolve quickly and easily. However, that has not been the case and in preparation to go on maternity leave I consulted with <sup>The Whistleblower</sup> today to see how things were going and received the update.

Here is the detailed information I received from <sup>The Whistleblower</sup>

We have had consistent errors with instructions and facilitation of patients on the simple computer administered/scored assessments(as well as difficult assessment such as WAIS and WMS). Lack of detail seems to be an issue, for example, instructing the SM to turn cell phone off, monitoring progress, answering

questions, giving appropriate instructions, such as, entering answers and how to best answer the questions. Checking in on the client and not forgetting the client in a testing room.

HIPAA:

- 1) multiple times computer assessment screen was left up after scoring and Contract Psychometrist walked away. Instructed 2x why we need to close out personal information/assessments on our computer screens.
- 2) Contract Psychometrist placed a referral for testing(different patient) from a psychologist (which included DX, Name, DOB, SS, etc) directly in front of a testing client while this patient was filling out self reports
- 3) Attempted to use testing booklets that someone had filled out name and ss# where the patient attempted to erase but personal information was exposed for the next testing client (instead of shredding or whitening out the booklet). This was caught by a staff psychologist.

Attention to Detail - Errors in AHLTA and summary sheets(wrong tests listed, grammar, typos spell check not run) when samples were provided.

HIPAA/PII (X2)

Administration - WAIS IV did not follow time limits, WMS IV did not provide feedback (Verbal Pairs) and provided erroneous feedback, failed to end administration according to protocol (Symbol Span, Block Design, Figure weights). Not following time limits with WAIS. Consistent Discontinue errors during testing. Not turning (work/personal) telephone off during assessment, Scoring - Basic mathematical errors, Standard deviation errors (+ vs -), transposing of numbers, not following scoring instructions. Addition/subtraction errors

Loss of accountability of test package for WRNNMC.

Basic office administration (Filing, Spelling, Grammar, Correct Patient name on computer reports).

Basic Office Etiquette (Cell phone usage, personal laptop usage)

Patient facilitation - Walking client to waiting room or provider as needed; facilitating multiple clients (forgot a patient and psychologist had to locate the patient while she was behind closed doors administering other assessments).

Multi-tasking and work prioritization - inability to manage multiple clients on screening days and instances of overlapped appointments, inability to adjust testing battery to permit best use of provider/client time.

Time management - Poor preparation and set up of testing administration materials and required support equipment. Basic time management skills of making copies ahead of time and doing other tasks while copier is running.

Scanning efficiently, feeding in large quantities for automatic feed and not scanning each side of document by hand

6 Jul 12

Chief, Telehealth (RCCO) responded to Chief of Psychology as follows:

Clinical Psychologist WRNNMC is going to talk to The Whittier then her. I will give the vendor a heads up and notify them of the 30 day plan.

Thanks and enjoy your maternity leave!

Chief, Tele-health, (KACC)  
Chief, Department of Tele-Health  
KACC/NRMC

- 9 Jul 12 Chief of Psychology last day prior to maternity leave
- 10-13 Jul 12 A conference call was held one day this week to discuss performance which included KAHC, DBH key personnel, Tele-Health, and contract key personnel
- 13 Jul 12 E-mail received regarding supervision.

All,

This is to confirm that we are all on track to continue with our commitment to see succeed in her position and be of service to all our patients and providers. Included in this email is Contracting Officer, acting Chief/Psychologist of the Psychology Department at KAHC.

supervision at KAHC has changed as follows.

- for the next period of time, her supervision at KACH will be floating as she will be supervised by whatever provider assigns her a referral to test (referrals are assigned on a weekly basis at the Psychology staff meeting.) There will not be a unique supervisor as it will change on a case by case basis.
- When she is assigned a case, the supervising psychologist will tailor the testing battery based on what she is familiar and comfortable with.
- The psychologists at KAHC will not be responsible for supervising her on cases not coming from within KAHC.

Training will be facilitated, conducted and managed by the Tele-Health team located in Arlington. will continue as mentor. will be back in the office on July 20th and will coordinate the timing of visit to our office.

We certainly appreciate the opportunity to work closely with all who support our Service Members and their families.

Cordially,

Tele-health PM, (KACC)

Program Manager, Department of Tele-Health  
(b) (6)

- 10 Sep 12 Chief of Psychology returns from maternity leave and met with Chief, DBH to receive an overview of key information that took place while out. Chief of Psychology met with Contracting Officer who was the acting chief of psychology the majority of the time while on maternity leave. Chief of Psychology met with Acting Chief of Psychology who was the acting chief of psychology several days while on maternity leave.
- 12 Sep 12 Chief of Psychology met with The Whistleblower in order to receive an overview of how things had been while out on maternity leave. Key issues brought to the attention of Chief of Psychology included: Challenges with the referral process with psychological evaluations, questions about the nature of Contract Psychometrist contract, tracking of testing supplies, and documentation challenges.
- 12 Sep 12 Chief of Psychology met with Contract Psychometrist in order to receive an overview of how things had been while out on maternity leave. Key issues brought to the attention of Chief of Psychology included: Challenges with testing room space/sharing, asking if resources could be in a shared space, challenges with the referral process, challenges with communication between she and The Whistleblower.
- 13 Sep 12 Obtained the contract description for Contract Psychometrist from COR, KAHC. Reviewed the contract to ensure that DBH was utilizing Contract Psychometrist in accordance with her contract. Upon review, determined that Contract Psychometrist was being utilized correctly.
- 14 Sep 12 Chief of Psychology reviewed the plan for how psychometry would be utilized. This plan was developed by Chief of Psychology in response to the challenges that had arisen during maternity leave. This plan was developed in order to stabilize the psychological testing process and allow for assessment/observation/planning for what would be most effective for long-term functioning. Three different meetings were held to share this plan as follows: 1. The Whistleblower 2. Contract Psychometrist 3. Psychologists

Plan reviewed as follows:

1. Need identified for psychological testing
  2. Provider who identifies need completes referral form
  3. Referral form either e-mailed or placed in the box of Chief of Psychology if Chief of Psychology is out on leave then an alternate person will be identified.
  4. Chief of Psychology will review referrals at the Tuesday psychology department meeting at 0900 and a psychologist will be assigned to each case.
  5. The psychologist assigned will provide completed psychological assessment checklist to Chief of Psychology with the tests to be administered marked.
  6. Chief of Psychology will provide referral and checklist to The Whistleblower or Contract Psychometrist for scheduling. (Chief of Psychology obtained a list on 13 Sep 12 of the measures that Contract Psychometrist was qualified to administer based on the supervision/training she received to ensure that she is only assigned cases which she is qualified to complete. The Whistleblower is proficient to administer all measures that are on the assessment checklist so there are no limitations as to which cases she can be assigned.)
- (Note: During the period of 14 Sep 12-7 Dec 12 The Whistleblower has been assigned 32 cases and Contract Psychometrist has been assigned 12 cases.)

Tuesday Screens / Walk-Ins: <sup>The Whistleblower</sup> will conduct all testing for screens and walk-ins. If <sup>The Whistleblower</sup> is not available <sup>Contract Psychometrist</sup> will conduct testing for screens and walk-ins.

Documentation: It will be noted in AHLTA who conducted the testing whether it be <sup>The Whistleblower</sup> or <sup>Contract Psychometrist</sup>

Tracking: A log will be kept by <sup>Chief of Psychology</sup> of all referrals and who they are assigned to.

Scheduling: A shared calendar will be created outlook and space will be scheduled as needed on this calendar.

- 14 Sep 12 Created outlook calendar for scheduling psychological testing rooms and shared calendar with <sup>The Whistleblower</sup> <sup>Contract Psychometrist</sup> and DBH Psychologists in order to have a means to know when rooms were available for use.
- 17 Sep 12 Announced at the Monday DBH staff meeting that psychological evaluation referrals would go to <sup>Chief of Psychology</sup> and would be coordinated by the psychometrist assigned.
- 1 Oct 12 <sup>The Whistleblower</sup> asked <sup>Chief of Psychology</sup> what "capacity" is in terms of assigning psychological evaluation referrals. <sup>Chief of Psychology</sup> indicated that it would be best for <sup>The Whistleblower</sup> to provide feedback on an ongoing basis regarding her availability so that her time is utilized as referrals become available. <sup>The Whistleblower</sup> indicated to <sup>Chief of Psychology</sup> that she was "at capacity" for this week.
- 22 Oct 12 It was brought to the attention of <sup>Chief of Psychology</sup> by <sup>Contracting Officer</sup> that <sup>The Whistleblower</sup> had made errors during the scoring/testing of an MEB patient. <sup>Contracting Officer</sup> indicated the following: the wrong stimulus card was used on the RBANS, the patient marked 0 for ending his life and was asked questions as if he had endorsed wanting to end his life, and made 14 scoring errors on the TSI-2. Observed <sup>Contracting Officer</sup> <sup>Contracting Officer</sup> provide this feedback to <sup>The Whistleblower</sup> <sup>The Whistleblower</sup> discussed correction of the errors with <sup>Contracting Officer</sup>
- 31 Oct 12 It was brought to the attention of <sup>Chief of Psychology</sup> by <sup>Acting Chief of Psychology 2</sup> that <sup>The Whistleblower</sup> had demonstrated unprofessional behavior by slamming testing supplies needed by <sup>Contract Psychometrist</sup> down on a sofa in <sup>Acting Chief of Psychology 2</sup> office in the presence of <sup>Acting Chief of Psychology 2</sup> and <sup>Contract Psychometrist</sup> and by having an unprofessional demeanor when supplies were requested. <sup>Acting Chief of Psychology 2</sup> indicated that this took place on 30 Oct 12 when she was acting chief of psychology while <sup>Chief of Psychology</sup> was on leave.
- On 31 Oct 12, asked <sup>The Whistleblower</sup> to provide an account of this interaction to <sup>Chief of Psychology</sup> <sup>Chief of Psychology</sup> <sup>The Whistleblower</sup> denied slamming testing supplies on the sofa and denied having an unprofessional demeanor. <sup>The Whistleblower</sup> indicated that she felt she had controlled herself during this interaction as she had wanted to throw the supplies at <sup>Contract Psychometrist</sup> <sup>Contract Psychometrist</sup> <sup>The Whistleblower</sup> counseled <sup>The Whistleblower</sup> on the expectation of professionalism which is detailed in MFR dated 31 Oct 12. <sup>The Whistleblower</sup> would not sign the MFR acknowledging that she had been counseled on that date. <sup>The Whistleblower</sup> indicated that she would decide whether or not she would sign by the end of the week.

The Whistleblower discussed the process of "loaning equipment out" and expressed concern that the current "Assessment Materials Check-In/Out Log" (that was created by The Whistleblower) did not specify when materials/equipment would be returned to her office. Asked for feedback regarding the time frame that would make sense based on her experience. Agreed that 7 days would be reasonable unless there are other circumstances that would require the item be out longer. Agreed that if an item would be out longer, then the expected time frame would be listed on the log.

2 Nov 12 The Whistleblower provided the signed MFR dated 31 Oct 12 to Chief of Psychology. The Whistleblower asked Chief of Psychology to describe what unacceptable behavior she had more specifically. Indicated to The Whistleblower that if she would like more specifics then Acting Chief of Psychology 2 would need to be consulted as she was present and acting chief of psychology at that time. The Whistleblower noted on the MFR, "Specific unacceptable behaviors not defined by Chief of Psychology

15 Nov 12 Chief of Psychology received information from Chief, DBH late in the day that there would be a prisoner transported to KAHC, DBH on 16 Nov 12 for the purposes of psychological testing by Contract Psychometrist with Chief Tele-Health (TACC) facilitating. Chief of Psychology shared with The Whistleblower that there would be a prisoner in her area the next day and discussed safety precautions.

16 Nov 12 The Whistleblower inquired to Chief of Psychology as to when items would be returned that had been entered into the "Assessment Materials Check-In/Out Log" by Chief of Psychology for use by Contract Psychometrist. Indicated that these items had been checked out prior to the discussion about the 7 days or notes that specify other circumstances. Responded to The Whistleblower indicating that these items would continue to be checked out as they are continually used by Contract Psychometrist.

Chief of Psychology also indicated the following via e-mail in response to The Whistleblower "I also think that it is a good idea to let everyone know what to do if they need testing equipment/supplies. However, I would like to finish gathering information regarding what is currently in inventory. I discussed testing equipment with both Chief, SWS and Chief Tele-Health (TACC) and am in the process of deciding how best to coordinate all of the inventory we have here. I will discuss the plan with everyone during our psychology staff meeting on 4 Dec 12 and I will discuss with you further either next week or the week after in order to review the plan. Thank you for your continued feedback."

16 Nov 12 Chief of Psychology discussed safety precautions for the prisoner with Contract Psychometrist first thing in the morning prior to his arrival. Asked Contract Psychometrist if she was aware of what testing would be needed for the prisoner. Contract Psychometrist indicated that Chief Tele-Health (TACC) was to provide her with the list of tests some time that morning.

It was brought to the attention of Chief of Psychology by Chief, DBH and DBH Tele-Health Coordinator (Tele-Health Coordinator) that The Whistleblower would not release tests needed to Contract Psychometrist for testing of the prisoner unless they were checked out in the log to Chief of Psychology or Chief, DBH. DBH Tele-Health Coordinator indicated that The Whistleblower was displaying unprofessional behavior with her lack of immediate cooperation with the special circumstance of

testing the prisoner in a timely manner. Chief of Psychology arrived in the psychometry area and received the items needed in order to provide to Contract Psychometrist Contract Psychometrist expressed concern to Chief of Psychology that The Whistleblower had signed out the testing room that had computer scoring for one of the measures that was requested immediately by Chief Telehealth (KACE) Assisted Contract Psychometrist in coordinating when she could use this room to score the measure.

21 Nov 12 Chief of Psychology met with The Whistleblower in order to obtain her perspective regarding the testing of the prisoner on 16 Nov 12. The Whistleblower indicated that she was "happy to adjust" if she knew what she "needs to adjust to". Chief of Psychology indicated to The Whistleblower that additional guidance would be forthcoming.

27 Nov 12 Meeting initiated by Chief of Psychology in order to review plan for psychological testing equipment/supplies. Individuals present: The Whistleblower Contract Psychometrist Acting Chief of Psychology? (asked to attend as often serves role of acting psychology department chief in the absence of Chief of Psychology and Chief of Psychology

Items discussed: Chief of Psychology put out the following guidance: All testing equipment/supplies will be centrally located in Test Room 1 for ease of access for psychologists and psychometrists who utilize them, the laptop from Test Room 1 will be re-located to the middle VTC room, Chief of Psychology will provide the format for sign out of supplies/equipment, need a complete inventory of what we have and where it came from to be provided by both The Whistleblower and Contract Psychometrist discussed expectation that The Whistleblower and Contract Psychometrist will both monitor when supplies are low and order from the appropriate source, discussed that if possible the task of having equipment/supplies centrally located would be complete by COB 7 Dec 12.

Contract Psychometrist indicated that she was agreeable to all items discussed. The Whistleblower indicated that she refused to interact with Contract Psychometrist in person and would only interact with her through e-mail. The Whistleblower indicated that Commander, KAHC should be present to continue this discussion. Concluded discussion of this task and accompanied both Contract Psychometrist and The Whistleblower back to their offices in order to review space/shelving/cabinet needs in order to complete this task.

28 Nov 12 Meeting held at request of The Whistleblower Request for meeting sent via e-mail dated 28 Nov 12 stating, Chief of Psychology I am sorry for how my behavior was perceived yesterday and want to assure you that the task will be completed. I would like to meet before Dec 4<sup>th</sup> to discuss with you, if that would be ok. Maybe if we can discuss the concerns we can decide the next steps and resolve within." Individuals present: The Whistleblower and Chief of Psychology

Items discussed: The Whistleblower indicated that the task of centralized supplies was not an issue. The Whistleblower indicated that she would prefer e-mail communication with Contract Psychometrist with Chief of Psychology as a moderator (Included on the e-mail). The Whistleblower indicated that she is uncomfortable having verbal communication with Contract Psychometrist due to Contract Psychometrist past accusations. The Whistleblower indicated past accusations included: that The Whistleblower had thrown things, that The Whistleblower was hostile, that The Whistleblower accused Contract Psychometrist of stealing things. The Whistleblower indicated that Chief, DBH had agreed that she would have limited contact with Contract Psychometrist The Whistleblower stated that Chief, DBH agreed to this at some point during the period of time Chief of Psychology

was on maternity leave (16 Jul 12-7 Sep 12). Chief of Psychology reviewed the expectation that there needs to be a capability of both verbal and written communication between The Whistleblower and Contract Psychometrist in order for The Whistleblower to begin managing psychological evaluation referrals again. Chief of Psychology previously indicated that the first week of December 2012 the process of psychological evaluation referrals would be re-visited. A MFR with the Subject of "Expectations for management of psychological evaluation referrals " was created by Chief of Psychology on 15 Nov 12 in preparation for this transition. This MFR was not reviewed with The Whistleblower or Contract Psychometrist as challenges with communication were ongoing and would make the expectations detailed in this MFR impossible to carry out. Plan to implement the expectations in this MFR if/when communication challenges are resolved.) Challenges with communication were not resolved during this meeting so Chief of Psychology indicated that the meeting scheduled with Chief, DBH on 4 Dec 12 would be the next available opportunity for all involved to continue to address these issues.

3 Dec 12 The Whistleblower brought it to the attention of Chief of Psychology that moving the storage cabinets needed for the testing equipment/supplies may be difficult to complete by 7 Dec 12 as NCOIC, DBH and PFC DBH, Psychology would not be available to move them due to fall clean up. Discussed moving the date to have this task complete by 14 Dec 12. Sent an e-mail to The Whistleblower Contract Psychometrist NCOIC, DBH, and PFC DBH, Psychology to indicate the change in date. Copied the e-mail to Chief, DBH and Contract Psychometrist for their awareness.

4 Dec 12 Weekly psychology department staff meeting held. Chief of Psychology had indicated to The Whistleblower and Contract Psychometrist that the plan for centrally locating testing supplies/equipment should be shared with the psychology department for their awareness. This information was shared and indicated that psychologists and psychometrists would have access to this room and would be expected to sign out items used. Discussed the expectation for communication among all who use testing supplies/equipment in order to facilitate the availability of items needed.

4 Dec 12 Meeting held as issues not resolved in meeting held on 28 Nov 12 with Chief of Psychology and The Whistleblower Individuals present. The Whistleblower Chief, DBH, and Chief of Psychology  
Items discussed: See MFR written by Chief, DBH.

5 Dec 12 Received a phone call from Chief, Tele-Health, (KACC) Chief, Department of Tele-Health, regarding an e-mail he had received from Contract Psychometrist contractor, Eagle Applied Sciences, LLC. This e-mail details challenges that Contract Psychometrist reported to her contractor regarding the interaction between she and The Whistleblower Chief, Tele-Health, (KACC) indicated that if this could not be resolved then he would need to pull all of the testing equipment/supplies that he had provided for the use by his Tele-Health psychologists and have them solely managed by Contract Psychometrist Chief, Tele-Health, (KACC) has allowed these resources to be used by The Whistleblower and the psychologists at KAHC, DBH.

During the meeting held on 4 Dec 12 The Whistleblower had inquired as to who had paid for Contract Psychometrist to go TDY over the summer in order to receive supervision/training on her job tasks. Asked Chief, Tele-Health, (KACC) and he indicated that Contract Psychometrist contractor, Eagle Applied Sciences, LLC, had paid for this.

During the meeting held on 4 Dec 12 <sup>The Whistleblower</sup> inquired as to whether or not the COR was on the conference call held the week of 9 Jul 12. This conference call was held to discuss the performance of <sup>Contract Psychometrist</sup> <sup>Chief, Tele-Health, (KACC)</sup> indicated that Eagle, Director the Director of Corporate Programs at Eagle Applied Sciences, LLC (Eagle, Director is also the individual who sent <sup>Chief, Tele-Health, (KACC)</sup> the e-mail regarding the ongoing challenges on 4 Dec 12) was on this call as was the COR from TATRC (Tele-Health and Technology Research Center).

3. In order for the psychometry section to function effectively, both <sup>The Whistleblower</sup> and <sup>Contract Psychometrist</sup> need to be willing and able to communicate both verbally and in writing. <sup>The Whistleblower</sup> and <sup>Contract Psychometrist</sup> also need to maintain professional behavior with each other as well as with any other professional, service member, patient, or command personnel. <sup>Contract Psychometrist</sup> has expressed a willingness to follow all of these expectations. <sup>The Whistleblower</sup> has expressed a willingness to follow all expectations except for verbal communication without a moderator present.

Chief of Psychology

Chief, Psychology



DEPARTMENT OF THE ARMY  
KENNER ARMY HEALTH CLINIC  
700 24TH STREET  
FT. LEE VA 23801-1716

MCXO-DBH

December 4, 2012

MEMORANDUM FOR RECORD

SUBJECT: Meeting with The Whistleblower and Chief of Psychology regarding The Whistleblower relationship with a contract employee

Chief of Psychology and the undersigned met with The Whistleblower on 12/04/12 at 1500 hours regarding her concerns about the nature of Contract Psychometrist contract, whether it is a personal services contract or a service contract and what specific guidance is given for the nature of the GS employee's relationship to that contracted individual. The Whistleblower expressed concerns that the limitations of the interaction between contract employee and GS employee were not known and therefore an independent arbiter should be consulted. I suggested we consult with COR, KAHC COR for Kenner. She joined the meeting briefly, but was not sure of the nature of the contract with Contract Psychometrist. She did generally explain the differences between the two types of contracts and agreed to find out more for us.

The Whistleblower expressed concerns that the workload distribution was not being managed correctly and alleged she had been unfairly deprived of patients by Contracting Officer and Chief of Psychology. Chief of Psychology We discussed this with her and voiced a different perspective related to the difficulty The Whistleblower was having in communicating with Contract Psychometrist. No agreement regarding the fairness/unfairness was reached.

The Whistleblower also expressed concerns that the government had sponsored "training" for the contract employee. It was pointed out there was a difference in "training" and "on-boarding/orienting". It was further pointed out that Chief, Tech-Health (KACC) had the contract employee return to his area for a week so his staff could more closely observe Contract Psychometrist work to determine her competence, a question The Whistleblower had raised. In addition, Contracting Officer did a similar thing at the local level for the same reason.

The Whistleblower stated her only reason for meeting with us was to inform us of her intent to seek outside arbitration. She also indicated her intent to provide Commander, KAHC the same courtesy. I suggested we speak with DCCS if she, The Whistleblower was willing as I felt he may have

TAB 106

more specific knowledge of these contractual issues. She agreed to this and a meeting time was arranged for Wednesday Dec 12 at 1500.

Chief, DBH

Chief, Division of Behavioral Health  
KAHC Fort Lee, VA



DEPARTMENT OF THE ARMY  
 UNITED STATES ARMY MEDICAL DEPARTMENT ACTIVITY, FORT LEE  
 KENNER ARMY HEALTH CLINIC  
 700 24TH STREET  
 FORT LEE, VIRGINIA 23801-1716

REPLY TO  
 ATTENTION OF

MCXO-DBH

12 December 2012

MEMORANDUM FOR RECORD

SUBJECT: Functioning of psychometry in the Department of Behavioral Health

1. Due to the recent challenges within the psychometry section, DCCS Deputy Commander for Clinical Services, was consulted. A meeting was held with the following individuals present: DCCS Chief, DBH Chief of Psychology The Whistleblower

2. DCCS reviewed background information provided by Chief of Psychology which was detailed in the MFR dated 5 Dec 12. DCCS indicated that based on his assessment of the situation there were challenges in the following three areas: work flow, supplies, and communication. Chief, DBH Chief, DBH Chief of Psychology and The Whistleblower indicated agreement with this assessment.

- a. Work flow: The task of managing psychological evaluation referrals had previously been managed by The Whistleblower Chief of Psychology has been managing psychological evaluation referrals due to the challenges between The Whistleblower and Contract Psychometrist The Whistleblower The Whistleblower is capable of managing psychological evaluation referrals if she is able to communicate effectively and professionally with Contract Psychometrist The Whistleblower agreed that she would be able to communicate effectively and professionally with Contract Psychometrist Chief of Psychology will update the draft MFR originally dated 15 Nov 12 with the subject of : Expectations for management of psychological evaluation referrals. Once the MFR has been updated and there is evidence that effective/professional communication is taking place between The Whistleblower and Contract Psychometrist then The Whistleblower will be advised by Chief of Psychology that she will return to managing psychological evaluation referrals.
- b. Supplies: There have been challenges with coordinating the use of psychological testing supplies between The Whistleblower and Contract Psychometrist Chief of Psychology began the task of having a centralized location for supplies so that The Whistleblower and Contract Psychometrist would each have access to supplies needed. Chief of Psychology had requested a detailed list of supplies from both Contract Psychometrist and The Whistleblower Contract Psychometrist had provided this list prior to this meeting while The Whistleblower had not. DCCS advised that a detailed list of supplies was essential in planning/coordinates. The Whistleblower agreed that she would work with Contract Psychometrist to compile a list of supplies. Once this list is compiled then Chief of Psychology will work with The Whistleblower and Contract Psychometrist to determine if additional supplies are needed and where supplies will be located.
- c. Communication: Due to challenges between The Whistleblower and Contract Psychometrist The Whistleblower had previously indicated that she would not have verbal interactions with Contract Psychometrist without a moderator present. DCCS advised that daily huddles could be used



to facilitate communication within the psychometry section. Chief of Psychology agreed to coordinate these huddles daily and The Whistleblower agreed to participate in these huddles. The huddles will be held as follows: Monday 0740, Tuesday 0750, Wednesday 0750, Thursday 0740, and Friday 0750. It was also agreed that Chief of Psychology would facilitate a huddle with The Whistleblower and Contract Psychometrist immediately following this meeting in order to review the expectations for work flow, supplies, and communication.

3. DCCS counseled The Whistleblower that prior demonstrated behavior including slamming of supplies, refusal to communicate with a co-worker without a moderator, and any other verbal or physical evidence of unprofessionalism is unacceptable and will not be tolerated. The Whistleblower verbalized understanding.

4. Chief of Psychology will monitor work flow, supplies, and communication within the psychometry section on an ongoing basis. Chief of Psychology will provide feedback to Chief, DBH and DCCS as needed through this process.

Chief of Psychology

Chief, Psychology

The Whistleblower

Acknowledgment of Counseling

Chief, DBH

Chief, Department of Behavioral Health  
Acknowledgment of Attendance

Chief of Psychology

From: COR, KAHC  
Sent: Wednesday, December 12, 2012 10:19 AM  
To: Chief of Psychology; MEDCOM KAHC; Chief, DBH  
KAHC  
Subject: Services Contract Information (UNCLASSIFIED)  
Attachments: Psychometrist Statement of Work.pdf; General differences between Personal and Nonpersonal Services Contracts.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Attached is the Performance Work Statement for the contracted Psychometrist and also some information concerning the Services Contracts. Most of the service contracts here at Kenner are "personal service contracts" whereby the contract personnel appear to be, in effect, Government employees. Psychiatrist has a personal service contract with the government. An example of a "nonpersonal service contract" here at Kenner is the contract for the Information Management Technicians, whereby the supervision and control of the contract technicians is provided by the contractor, i.e., Lead Supv Technician.

Since the Tele-Health contract is a personal services contract for the Psychometrist and TBI Physician Assistant, its contractor personnel are subject to the continuous supervision and control of a government officer or employee. The Tele-Health Administrative Assistant, for example, is under "nonpersonal services" supervised by the Tele-Health Program Manager.

I hope this makes things a bit clearer.

IF you need any further assistance, please let me know.

Respectfully,  
COR, KAHC

Contracting Officer's Representative (COR) Clinical Support  
(b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE



TAB 17

-----Original Message-----

From: Commander, KAHC [REDACTED] USA MEDCOM KAHC  
Sent: Thursday, January 17, 2013 2:40 PM  
To: KAHC Civilians; KAHC Military  
Subject: Early release today and delayed reporting tomorrow (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

K-Team,

With the impending winter weather on its way this evening, I am authorizing supervisors to allow release of their personnel early this afternoon (59-min rule) to start safe travel home. Please balance the releases against our mission requirements and patient service.

Tomorrow morning, Fort Lee will be operating under a 2-hour delay. This means that personnel will need to report to duty two hours later than their normally scheduled work start time. As discussed with many clinic LMTs this morning, we have already been contacting and rescheduling patients who were booked prior to 0900 hours.

Commander, KAHC  
[REDACTED]



LAB 18

**SWORN STATEMENT**

For use of this form, see AR 190-45; the proponent agency is PMG

**PRIVACY ACT STATEMENT**

**AUTHORITY:** Title 10, USC Section 301; Title 5, USC Section 2051, E.O. 9397 Social Security Number (SSN).  
**PRINCIPAL PURPOSE:** To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.  
**ROUTINE USES:** Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.  
**DISCLOSURE:** Disclosure of your SSN and other information is voluntary.

1. LOCATION DiLorenzo TRICARE Health Clinic	2. DATE (YYYYMMDD) 2013/05/20	3. TIME 1500	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME Commander, KAHC	6. SSN	7. GRADE/STATUS (b) (6)	
8. ORGANIZATION OR ADDRESS 5801 Army Pentagon, Washington, D.C. 20310			

9.  Commander, KAHC,  I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

The following are my responses to the questions posed by the IO  Investigating Officer in this 15-6 investigation along these lines of inquiry:

a. Whether KAHC officials have improperly created an employer-employee relationship between the government and the current psychometrist at KAHC,  Contract Psychometrist, who is allegedly a contract employee?  
 -- I am unaware of the relationship between  Contract Psychometrist and  the Whistleblower, as well as the supervisory role of BH employees over  Contract Psychometrist. I would assume that the Whistleblower would have helped ensure that  Contract Psychometrist a contract psychometrist, performed to the standard. Feedback on  Contract Psychometrist would have gone from the section supervisor (such as  Chief of Psychology or  Chief, DBH) through the COR to the contractor. I would not have expected that a contracted employee needed and remedial training, which again, would have been provided by the contractor. I had a policy of not awarding government-funded rewards, such as coins and cash awards, to contracted personnel and I do not recall ever giving  Contract Psychometrist a coin. The 59-minute early release was intended as a reward for military and government employees. Contracted employees were not allowed to have a paid early release from work. If  Contract Psychometrist had taken an early release, she was required to coordinate that through the contractor (as leave) and sign out for unpaid time.

b. Whether  Contract Psychometrist has been inappropriately treated with respect to any matters related to her performance, training opportunities, or her supervision.  
 --I was unaware of  Contract Psychometrist receiving training opportunities for poor performance. Normally, a report would have been sent to the contractor for corrective action (i.e. training, removal of employee, etc.). The contractor was responsible for providing training in order to enhance competence or to replace the individual. However, I think it would have been reasonable for the GS civilian to provide quick, on the spot feedback to a contracted employee if such correction were deemed necessary to ensure patient safety.

c. Whether management at KAHC has continued this improper relationship despite being informed several times of the psychometrist's status as a contract employee.  
 I was not informed of  the Whistleblower concerns about an improper relationship related to this employee's status. I had an publicly known open door policy (physically and by email) which was available for any employee to voice concerns that were not addressed by the local supervisory chain. None of these issues came to my level.  
 I understand that my deputy commander for clinical services met with  the Whistleblower and her supervisor to address the concerns.

10. EXHIBIT	11. INITIALS OF <input type="checkbox"/> Commanding Officer KAHC	12. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF <u>3</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"  
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Commander, KAHC TAKEN AT 1600hrs DATED 20 MAY 2013

9. STATEMENT (Continued)

d. If an improper employee-relationship has been created at KAHC, does this relationship between the government and the contract psychometrist violate the Federal Acquisition Regulation, Anti-Deficiency Act, or any other procurement guidelines?

-Again, I was not informed of this issue until this investigation. I do believe if a modest amount of feedback is provided to a contracted employee, that is OK. However, remedial training is the contractor's responsibility and that was policy at Kenner.

c. Whether there are other instances at KAHC of similar contractual improprieties have occurred with any other departments.

-I did not hear of or observed this type of behavior in other departments. We have discussed contractor status in our weekly staff meetings on occasion and reinforced rules such as no government-funded rewards or coins for contractors. These meetings were attended by all the supervisor teams, the deputies and me.

The 59-minute early release was intended as a reward for military and government employees. Contracted employees were not allowed to have a paid early release from work. In order to take the time off, the employee needed to take leave through the contractor.

Employee-of-the-Quarter was a recognition I created in order to stimulate comradery and improve morale among all employees, 70% of whom were civilian. GS and contracted employees were eligible and could be nominated by their supervisor. Although the GS employee who won the award for a give quarter would receive a coin and an OTS cash award and have their photo posted on our Kenner Heroes wall, a contracted employee could not receive the government-sponsored awards (i.e. the coin and OTS cash award).

INITIALS OF PERSON MAKING STATEMENT Commander,  
KAHC

PAGE 2 OF 2 PAGES

Commander, KAHC  
STATEMENT OF \_\_\_\_\_ TAKEN AT 1600 DATED 20 MAY 2013

9. STATEMENT (Continued)

Commander, KAHC  
**AFFIDAVIT**  
I, \_\_\_\_\_, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE  
Commander, KAHC  
\_\_\_\_\_  
(Signature of Person Making Statement)  
WITNESSES:  
\_\_\_\_\_  
\_\_\_\_\_  
ORGANIZATION OR ADDRESS  
\_\_\_\_\_  
\_\_\_\_\_  
ORGANIZATION OR ADDRESS  
Subscribed and sworn to before me, a person authorized by law to administer oaths, this 20<sup>th</sup> day of May, 2013  
at 1600  
\_\_\_\_\_  
Investigating Officer (IO)  
\_\_\_\_\_  
(Signature of Person Administering Oath)  
Investigating Officer (IO)  
\_\_\_\_\_  
(Typed Name of Person Administering Oath)  
\_\_\_\_\_  
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT Commander, KAHC  
PAGE 3 OF 3 PAGES

TAB 19

SWORN STATEMENT

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, United States Code, Section 3013 (10 USC § 3013).
PRINCIPAL PURPOSE: To evaluate the facts and circumstances pursuant to an administrative investigation conducted I/P AR 15-6.
ROUTINE USES: Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties.
DISCLOSURE: If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory.

1. LOCATION: Fort Belvoir, Virginia 2. DATE 2013/06/27 3. TIME 1209 4. FILE NUMBER N/A
5. NAME: Commander, KAHC 6. SSN N/A 7. GRADE/STATUS: (b) (6)
8. ORGANIZATION OR ADDRESS

9. I, Commander, KAHC WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

- 1. Who were the intended addressees of the e-mail congratulating the Kenner Halloween Costume Contest Winners?
Ans: The audience was every single employee at Kenner, to include contracted staff.
2. Do you know whether contractor employees are included in the KAHC Civilians address?
Ans: Yes, I believe they were included.
3. Do you know whether Contract Psychometrist received any reward, such as 59 minutes off, because she received Honorable Mention for her Halloween costume?
Ans: No, I don't know if she received an award beyond recognition.
4. What topics did you discuss regarding contractor status in your weekly staff meetings?
Ans: We occasionally discussed what types of incentives were available for civilians.

NOTHING FOLLOWS

10. EXHIBIT 11. INITIALS OF PERSON MAKING STATEMENT Commander, KAHC PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



STATEMENT OF Commander, KAHC

TAKEN AT Virginia

DATED 2013/06/27

9. STA Commander, KAHC

I, \_\_\_\_\_ I HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE \_\_\_\_ I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR ~~UNLAWFUL INDUCEMENT~~

Commander, KAHC

This statement was provided electronically by Commander, KAHC

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 27 day of June, 2013 at Ft Belvoir, Virginia

Investigating Officer (IO)

*(Signature of Person Administering Oath)*

Investigating Officer (IO)

*(Typed Name of Person Administering Oath)*

*(Authority to Administer Oaths)*

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

Commander, KAHC

PAGE 1 OF 2 PAGES

TAB 20

Classification: UNCLASSIFIED

Caveats: NONE

-----Original Message-----

From: <sup>DBH, Nurse Practitioner</sup> USARMY MEDCOM KAHC (US)  
Sent: Thursday, August 22, 2013 8:26 AM  
the Whistleblower <sup>USARMY MEDCOM KAHC (US)</sup>  
Subject: RE: Question for you (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

The only reason I remember the day was that it was my first day as a civilian employee, I almost skipped the meeting because of in/out processing, and there is a picture of me shaking hands with <sup>Commander, KAHC</sup> where I look special needs.

I came in on 24 SEP 12 and <sup>Chief, DBH</sup> gave an announcement that they were going to start doing awards within the department. I think she said the plan was to do it quarterly, but I can't say that with 100% certainty. Anyway, she gave awards to me, <sup>DBH, LCWS-1</sup> and <sup>(b) (6)</sup> during a staff meeting. We got a little note and a commander's coin. I submitted a suggestion for the next round of awards, but then the next awards never really came and then I think the leader-management team forgot or got side tracked by other priorities. As you are aware, they are not good at recognizing us in formal ways.

If there is anything else I can do to help you with the proposal, let me know. Hopefully psychiatry and social work take a hint from your proposal and follow along too.

<sup>DBH, Nurse Practitioner</sup>

-----Original Message-----

From: <sup>the Whistleblower</sup> USARMY MEDCOM KAHC (US)  
Sent: Thursday, August 22, 2013 8:04 AM  
To: <sup>DBH, Nurse Practitioner</sup> USARMY MEDCOM KAHC (US)  
Subject: Question for you (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

about:blank

TAB 20

DBH, Nurse  
Practitioner

I have been working on getting something together to present to psychology services regarding employee of month awards etc... Didn't you win employee of the month for psychiatry services at one time? Do you remember when that was and if you received a plaque, coin, and/or certificate?

V/r,

the Whistleblower

Kenner Army Health Clinic (KAHC)  
Division of Behavioral Health (DBH)  
700 24th Street  
Fort Lee, VA 23801  
Phone: (b) (6)  
Front Desk (b) (6)  
the Whistleblower

This document may contain information covered under the Privacy Act, 5 USC 552(a), and/or the Health Insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with those provisions. Healthcare information is personal and sensitive and must be treated accordingly. If this correspondence contains healthcare information it is being provided to you after appropriate authorization from the patient or under circumstances that don't require patient authorization. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Redisclosure without additional patient consent or as permitted by law is prohibited. Unauthorized redisclosure or failure to maintain confidentiality subjects you to application of appropriate sanction. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

TAB 21



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY MEDICAL DEPARTMENT ACTIVITY  
700 24TH STREET  
FORT LEE, VIRGINIA 23801-1716

MCXO-CO

23 August 2012

MEMORANDUM FOR Kenner Army Health Clinic (KAHC) Staff

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

### 1. REFERENCES.

- a. AR 672-20, Incentive Awards
- b. AR 690-400, Total Army Performance Evaluation System
- c. AR 600-8-22, Military Awards
- d. KAHC Command Philosophy
- e. KAHC Code of Conduct
- f. KAHC Balanced Scorecard
- g. Individual Award MOIs

### 2. INTRODUCTION.

a. The effective use of Awards, Recognition and Acknowledgements (ARA) is an essential component of leadership and personnel management. ARAs can range from a verbal thank-you (daily) to high-level honorary or military awards (periodically). Our Kenner AHC Line of Effort #3 focuses on investing in our people and developing leaders. Recognizing the great efforts and accomplishments of our staff is one of the best ways to demonstrate our appreciation and investment in their success.

b. ARAs should be appropriate to the level of achievement, supported by observed or recognized accomplishments, timely, presented in a public forum of the awardee's peers, and/or presented in a way tailored to the individual.

### 3. PURPOSE OF THE PROGRAM.

The purpose of this ARA document is to standardize and ensure all Kenner AHC team members are aware of the types of awards, recognitions, and acknowledgements available to members of our team, the procedures for submitting awards, and examples to assist in completion.



MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

#### 4. TYPES OF AWARDS.

a. There are six (6) different types of award categories:

- 1) Patient Safety and Good Catch Awards - Patient Safety Manager (PSM)
- 2) Safety Award - Safety Manager
- 3) Civilian Employee of the Month and Quarter (Clinical and Non-Clinical) - Awards Board
- 4) Provider of the Year Award – DCCS, DCN, and Patient Advocate
- 5) Deputies Team Award (Monthly) - Governing Body Board
- 6) All other Awards, Recognition and Acknowledgements - Leaders and Supervisors

a) Informal Awards. Examples:

1. Private and Public thank you
2. Lunch with KAHC Commander
3. Certificate of Appreciation
4. 3, 4-day Pass (for Soldiers)
5. 59 minute rule (early release)
6. Letter of Input (Contractors)
7. NRMC Commanding General's Star Note
8. NRMC Commanding General's Coin
9. KAHC Commander's Note
10. KAHC Commander's Coin

b) Incentive (Impact) Awards. Examples:

1. Time-off Award (for DACs)
2. On the Spot Cash Award (for DACs)
3. Honorary Award (for DACs)
4. Military Award (for Soldiers)

c) Performance (Annual or PCS) Awards. Examples:

1. Time-off Award (for DACs)
2. Monetary Award (for DACs)
3. Quality Step Increase (for DACs)
4. Military Award (for Soldiers)

MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

## 5. DETAILS AND PROCEDURES FOR SUBMITTING AWARDS.

a. **Patient Safety (PS) Award.** This award was established to enhance the KAHC Patient Safety Program and to support a culture of safety within the organization. The patient safety awards can be earned by anyone at Kenner AHC. Proponent for this award is the Kenner AHC Patient Safety Officer. There are three types of Patient Safety Awards:

1) **Individual Patient Safety Awards.** The individual patient safety award is awarded quarterly to one individual for both clinical and non-clinical areas. The award includes a Certificate of Appreciation, On the Spot Cash award (civil service), 3-day pass (military), Commander's Coin, and a designated parking space. Individual submit answers to patient safety questions provided by the PSM during the quarter. The highest score wins. For more information, see the patient safety MOIs.

2) **Section Safety Awards.** The section safety award is a patient safety trophy that awarded quarterly and inscribed with the clinic's name. The trophy is passed to the next section each time a new section is awarded. Sections earn points for submitting required PS, IC and TeamSTEPPS reports as well as other PS related actions. The section with the most points wins.

3) **Good-Catch Awards.** The good catch award was established to recognize staff who have submitted events or near misses into the online Patient Safety Reporting System. Good-Catch (G-C) award is established to enhance the KAHC Patient Safety Program and support a culture of patient safety with the organization. Weekly G-C award is a random drawing from reports submitted that week. The winner gets a G-C pin and certificate. The quarterly award includes a Certificate of appreciation and Good Catch pin, Pass (military), Cash award (civil service), commander's coin, and a designated parking space. The quarterly award is based on impact of the report on patient safety in Kenner.

b. **Safety Award.** This award was established to highlight and encourage safety on the job by recognizing individuals and sections that have provided outstanding safety and health service to the Command. Safety awards may be submitted by anyone at Kenner AHC and is awarded quarterly. Proponent for this award is the Kenner AHC Safety Manager. The KAHC Safety Award Policy is on the KAHC intranet under Regulations and Policies. The recommendation for award is forwarded to the supervisor to recommend type of award or combination of awards (informal and/or incentive) depending on the level/scope of the contribution. Award justification should summarize the actions or documented results and be sent to the Safety Manager via e-mail or printed request.

c. **Civilian Employee of the Month.** This award was established to recognize civilian employees who excel in accomplishment of the mission. Nominations can be made by and for any member of the Kenner AHC staff (including contractors). Recognitions are made in two different categories (clinical and non-clinical). Clinical nominations could reflect actions such as providing exceptional direct patient care (providers, nursing), quality of care, and/or patient satisfaction (APLSS/ICE). Non-clinical nominations could reflect actions in support/service of clinical operations, special projects or assignments, or other actions internal to the clinic. Award justification should summarize the actions or significant contributions of the staff member and be sent to the KAHC HRD outlook account via e-mail or by printed request for selection by the Kenner AHC Awards Board.

MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

1) Awardee will have their picture taken by the Fort Lee Photo Studio, to be posted in the ancillary hallway adjacent to the Command Photos and Soldier/NCO of Month and Quarter.

2) At the end of each quarter, the monthly winners from the past 3 months will be reviewed in order to select a Kenner AHC Civilian of the Quarter (COQ). The selected COQ will receive a Certificate of Appreciation, an On the Spot Cash award, and Commander's Coin.

d. **Provider of the Year.** The provider of the year award is a special award that is selected at the end of each calendar year (December). Proponents for this award are the Deputy Commander for Clinical Services (DCCS), Deputy Commander for Nursing (DCN), and the Kenner AHC Patient Advocate. The review and selection of a provider for this award will factor in a variety of data measures including the previous 12 months of APLSS survey data, ICE comments, workload or productivity measures, quality of care, peer reviews, and any other notable projects, contributions, or accomplishments. Nominations for this award should be sent to the DCCS and patient advocate. The awardee will receive recognition in the form of a combination of informal and incentive awards depending on the level/scope of the contribution.

e. **Deputies Team Award.** The Deputies Team award is a monthly recognition established to recognize the success and contributions of TEAMS (Together Everyone Achieves More). This award can only be nominated by a Deputy Commander. The discussion and selection of the Team Award will be made by the Kenner AHC Governing Body Board (GBB) which meets monthly. The Team Award trophy is presented in front of the section's staff by the Command with photo taken for recognition and announcement in the Kenner Bulletin and on KAHC Facebook. The trophy is handed off each month to the subsequent awarded section. Anyone at Kenner AHC can recommend the nomination of a section to a Deputy Commander.

**f. Awards, Recognitions and Acknowledgements (ARA).**

1) **Informal Awards.** Any of the different types of informal awards referenced in paragraph 4 may be submitted as a request to the Commander or their respective Deputy with a justification for this recognition. Informal awards may be submitted at any time of the year.

2) **Incentive (Impact) Awards.** Any of the different types of incentive (impact) awards referenced in paragraph 4 may be submitted to the KAHC HRD outlook account via email with the appropriate nomination and justification documents. An example of the DA 1256, justification, and citation for civilian incentive awards is included in enclosure 1. An example DA 638 military award recommendation is included in enclosure 2. Incentive awards may be submitted at any time, but must be received in advance of the published monthly awards submission deadline for consideration.

3) **Performance Evaluation Awards.** AR 672-20 states that the Total Army Awards Program is to foster mission accomplishment by recognizing excellence of both military and civilian members of the force and motivating them to high levels of performance and service. Performance awards may be submitted in conjunction with an annual evaluation for those who are deserving based on merit. The submission of a performance award is at the discretion of the supervisor and is not an entitlement. Nominations and approvals are documented in Part III of the Civilian Evaluation Report Form.

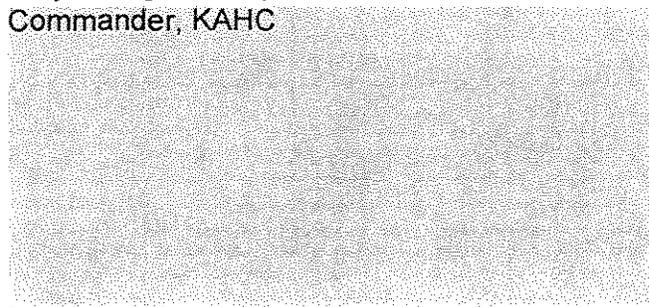
MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

4) Military Awards. AR 600-8-22 outlines various types of military awards. The military awards that may be approved at the KAHC Commander level include: The Army Commendation Medal, Army Achievement Medal, Certificate of Achievement and Certificate of Appreciation. Higher level awards (Meritorious Service Medal, Legion of Merit) are sent to higher levels of command (NRMC, MEDCOM) for approval. Military award nominations are submitted through the Medical Company (Officers to the Company Commander, Enlisted and NCOs to the First Sergeant) before they are forwarded to HRD for awards board review and processing. Timelines for submission of awards are as follows: AAMs (>30 days), ARCOMs (>60 days), MSMs (>120 days), and LOMs (>150 days).

6. POINTS OF CONTACT. Points of contact for any questions regarding the Awards, Recognition and Acknowledgements (ARA) Program are your respective supervisor or the KAHC Human Resources Division.

Commander, KAHC



MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

Enclosure 1. DA 1256 Civilian Incentive Award Nomination and Approval Example.

*EXAMPLE*

INCENTIVE AWARD NOMINATION AND APPROVAL				
For use of this form, see AR 672-20. The proponent agency is Office of the Deputy Chief of Staff for Personnel				
PART I - TO BE COMPLETED BY OPERATING OFFICE				
1. EMPLOYEE NAME (LAST, FIRST NAME, MI) <b>JOHNNY, SHIGESMITH, M.</b>		2. BRANCH (Do not abbreviate) <b>KENNER ARMY HEALTH CLINIC FORT LEE, VA 23801</b>		
3. PRESENT POSITION, TITLE, GRADE AND SALARY <b>OFFICE COORDINATION ASSISTANT (OA) GS-0303-06</b>		4. POSITION HELD DURING PERIOD COVERED IN NOMINATION (If other than that shown in item 3)		
5. TYPE OF AWARD RECOMMENDED				
ALL NOMINATIONS WILL BE JUSTIFIED AND INCLUDE THE DOCUMENTATION REQUIRED BY DA FORM 672-20				
a. HONORARY		b. MONETARY		
<input type="checkbox"/> DECORATION FOR EXCEPTIONAL CIVILIAN SERVICE	<input type="checkbox"/> COMMANDER'S AWARD FOR CIVILIAN SERVICE	<input type="checkbox"/> QUALITY STEP INCREASE		
<input type="checkbox"/> MERITORIOUS CIVILIAN SERVICE AWARD	<input checked="" type="checkbox"/> ACHIEVEMENT MEDAL FOR CIVILIAN SERVICE	<input type="checkbox"/> PERFORMANCE AWARD \$		
<input type="checkbox"/> SUPERIOR CIVILIAN SERVICE AWARD	<input type="checkbox"/> CERTIFICATE OF ACHIEVEMENT	<input type="checkbox"/> SPECIAL ROTARY SERVICE AWARD \$		
<input type="checkbox"/> OTHER (Specify)		<input type="checkbox"/> ON-THE-SPOT CASH AWARD \$		
c. PERIOD OF SERVICE TO BE RECOGNIZED (MONTHS) <b>12</b>		PERIOD COVERED		
d. NOMINATING OFFICIAL				
1. NAME (Last, First, Middle Initial)		2. TITLE (Last, First, Middle Initial)		
<b>IM IN CHARGE, CHIEF</b>				
PART II - TO BE COMPLETED ONLY FOR AWARDS FORWARDED TO MDA (DAPE-CPL)				
7. INDICATE IF NOMINATION IS CONSISTENT WITH PARAGRAPH 2-2 OF AR 672-20 (Circle YES or NO. If NO, include explanation on separate page)				
YES		NO		
8. TYPED NAME (QUALIFICATION OPPORTUNITY OFFICER)		9. SIGNATURE		
NO				
10. TYPED NAME (CIVILIAN PERSONNEL OFFICER)		11. SIGNATURE		
NO				
PART III - TO BE COMPLETED BY LOCAL INCENTIVE AWARDS COMMITTEE - RECOMMEND				
12. APPROVAL <input type="checkbox"/> DISAPPROVAL <input type="checkbox"/> OTHER <input type="checkbox"/>				
COMPLETE FOR MONETARY AWARDS RECOMMENDED				
AMOUNT RECOMMENDED \$	TANGIBLE MONETARY BENEFITS \$	INTANGIBLE BENEFITS	ESTIMATED NET YEAR SAVINGS \$	
PART IV - TO BE COMPLETED BY APPROPRIATE APPROVING AUTHORITY (R/S)				
ACTION LEVEL	APPROVED IF (Specify authority)	NOT APPROVED	ADDITIONAL COMMENTS	SIGNATURE, TITLE AND DATE
9. LOCAL COMMAND CHAIRPERSON				
10. INSTALLATION COMMANDER (If designated representative)				
11. MAJOR COMMAND REVIEW COMMITTEE				
12. COMMANDER (If designated representative)				
13. DEPARTMENT OF THE ARMY INSTANT AWARDS BOARD				

MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

**Award Justification for Mr. Johnny Shoemith, HRD**

Supervisor writes a paragraph or two justification to support the award recommendation. When writing a justification, the leader/supervisor should attempt to best describe the contributions of the employee in a way that any member of the awards board can clearly understand the importance. Whenever possible, use quantifiable examples (metrics or numbers) such as APLSS patient satisfaction scores, ICE comments, cost savings, workload growth, or other efficiencies achieved by the staff member. Awards are also often written to recognize employee efforts on specific assignments or projects, in which case the supervisor should describe the impacts or specific contributions of the staff member.

**Proposed Citation**

Supervisor should write a proposed citation to go on the award. An example citation:

FOR EXCEPTIONAL SERVICE FROM (MONTH, YEAR) THROUGH (MONTH, YEAR) AS HUMAN RESOURCES TECHNICIAN AT KENNER ARMY HEALTH CLINIC. MR. SHOESMITH DEMONSTRATED..... (BRIEFLY DESCRIBE THE CONTRIBUTION) ..... MR. SHOESMITH'S ACTIONS REFLECT GREAT CREDIT UPON HIMSELF, KENNER ARMY HEALTH CLINIC, THE NORTHERN REGIONAL MEDICAL COMMAND, AND THE UNITED STATES ARMY.

MCXO-CO

SUBJECT: Awards, Recognition and Acknowledgements (ARA) Program

Enclosure 2. DA 638 Military Recommendation for Award and Approval Example. (check with (b)(6) for better example.

RECOMMENDATION FOR AWARD			
For use of this form, see AR 600-8-22; the proposing agency is DCS, G-1.			
For valor/heroism/meritoric and all awards higher than MSM refer to special instructions in Chapter 3, AR 600-8-22			
1. NAME (Last, First, Middle Initial) Commander, 82d Airborne Division, Fort Bragg, NC 28310	2. GRADE Commander, HHD, 27th Main Support Bn, 1st Cavalry Division, Ft. Hood, TX 76544	3. DATE RECEIVED 20060710	
PART I - SOLDIER DATA			
4. NAME (Last, First, Middle Initial) DOE, JOHN B Sr.	5. GRADE SSC	6. SSN 000-11-2222	
7. ORGANIZATION (HHD, 27th Main Support Bn, 1st Cavalry Division, Ft. Hood, TX 76544	8. PREVIOUS AWARDS AAM-1, ARCOM-2, MSM-1, RSM-1		
9. BRANCH OF SERVICE	10. RECOMMENDED AWARD MSM 101 C	11. PERIOD OF AWARD a. FROM 20020401 b. TO 20061009	
12. REASON FOR AWARD 12a. INDICATE REASON 1. OF OR FROM AWARD YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> 2. YES, STATE AWARD GIVEN YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	12b. POSTHUMOUS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	13. PROPOSED PRESENTATION DATE (MM/DD/YYYY) 20061212	
PART II - RECOMMENDER DATA			
14. NAME (Last, First, Middle Initial) (b)(6)	15. GRADE Platoon Sergeant	16. ORGANIZATION HHD, 27th Main Support Bn, Ft. Hood, TX 76544	17. SIGNATURE //SIGNED//
PART III - JUSTIFICATION AND CITATION DATA (Use specific details as basis of meritorious act or service)			
18. ACHIEVEMENTS 2005-2006 SSG Doe was responsible for all logistical matters pertaining to the unit. He reviewed internal logistical status reports and provided daily logistical information to the higher headquarters.			
19. ACHIEVEMENT 2 SSG Doe maintained the current status of the commander's critical decisions. He was responsible for coordinating transportation requests for the administrative moves.			
20. ACHIEVEMENT 3 SSG Doe was responsible for ensuring tightrope circumstances were sustained and supervised non-normal supply and maintenance procedures. He provided support to all battalion-level command staff personnel, and battalion food service personnel.			
21. ACHIEVEMENT 4 SSG Doe provided support to the unit Forward Support Battalion and the Aviation Support Battalion.			
22. PROPOSER'S COMMENTS For exceptional meritorious service while assigned as Noncommissioned Officer in Charge of the Support Operations Section, Staff Sergeant Doe's leadership and selfless dedication to duty enhanced operational support and ensured mission accomplishment. His professional yet reflective great credit upon himself, the 1st Cavalry Division, and the United States Army.			

TAB 22

# SWORN STATEMENT

## PRIVACY ACT STATEMENT

**AUTHORITY:** Title 10, United States Code, Section 3013 (10 USC § 3013)

**PRINCIPAL PURPOSE:** To evaluate the facts and circumstances pertinent to an administrative investigation conducted under 10 USC 3013

**ROUTINE USES:** Any information you provide may be disclosed to members of the Department of Defense (DoD) who have a need for the information in the performance of their official duties. In addition, the information may be disclosed to government agencies outside of the DoD as follows:  
a. To members of the U.S. Department of Justice when necessary in the defense of litigation brought against the DoD, or against the members of that department as a result of actions taken in their official capacity.  
b. To members of the U.S. Department of Justice when necessary for the further investigation of criminal misconduct.

**DISCLOSURE:** If you are a military member or a federal employee being ordered to provide a statement to assist an official investigation, providing the information is mandatory. Failure to provide information could result in disciplinary action or other adverse action against you under the UCMJ, Army Regulations, or Office of Personnel Management Regulations.  
If you are not a military member or a federal employee ordered to provide information, or if you reasonably believe that your information will incriminate you (that is, that you are reasonably likely to admit to criminal misconduct), disclosure is voluntary, and there will be no adverse effect on you for not furnishing the information other than that certain information might not otherwise be available to the commander for his or her decision in this matter.

1. LOCATION: DILORENZO PENTAGON 2. DATE 2013/08/29 3. TIME 1700HRS 4. FILE NUMBER N/A  
5. NAME: Commander, KAHC 6. SSN N/A 7. GRADE/STATUS: (b) (6)  
8. ORGANIZATION OR ADDRESS: DILORENZO TRICARE HEALTH CLINIC, THE PENTAGON, WASH, D.C.

9. I, Commander, KAHC WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

1. Did you have commander's coins while leading the Kenner Army Health Clinic?  
ANSWER: Yes.

2. What types of funds were used to purchase your commander's coins?  
ANS: Government appropriated funds.

3. How did your awards program work - i.e. in terms of proposals, evaluation of each award submission, and final determination to recognize each employee with an award?  
ANS: I had a written policy on our Awards, Recognition and Acknowledgements (ARA) program that gave general guidance to my leader-managers on what awards were available, who were eligible for which awards and how to submit nominees. The policy is attached to this statement. It covers numerous award types, to include coins and certificates. Most awards were reviewed by an awards board, which then submitted its recommendations to me. Occasionally, I would simply decide that a staff member was deserving of an on-the-spot coin, but I typically would consult with the person's supervisor to ensure the candidate was otherwise in good standing performance-wise.

The most common award I gave was a hand-written note with a US Flag lapel pin. I purchased the pins with my personal funds so that I could give them to contracted employees as well as DoD and military staff.

a. When did you award your commander's coins?

ANS: I awarded coins generally to staff members who exhibited excellence in executing their duties or those who accomplished something that supported the mission with great impact. Coin recipients were usually nominated by supervisors. Additionally, a person could earn a coin upon departing Kenner in good standing.

4. You have seen the pictures of you with three women, two of them shaking your hand and one holding a coin with you: what was/were the occasion(s)?

Commander,  
KAHC

10. EXHIBIT \_\_\_\_\_ 11. INITIALS OF PERSON MAKING STATEMENT \_\_\_\_\_ PAGE 1 OF 3 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED



Commander  
KAHC

STATEMENT OF \_\_\_\_\_

TAKEN AT

1700 hrs

DATED 2013/08/29

9. STATEMENT (Continued)

ANS: In order to help boost morale over all the sections at Kenner, I instituted a "drive-by" recognition program wherein I asked each supervisor to nominate up to 3 people in their section to receive a commander's coin, based on excellence of service and care over the year. The intent was to ensure that every section at Kenner was recognized. I believe these photos were taken while I was recognizing the three staff recommended by Chief, DBH and her leader-manager staff in the Behavioral Health Division.

a. Do you know who the women are?

ANS: Yes, I know them. They are members of the Behavioral Health staff.

b. If it was (they were) awards event(s), who nominated them for awards?

ANS: The chief of the division, Chief, DBH, nominated them after she consulted with her subordinate leadership.

c. One picture shows you and one of the women holding a coin; is it one of your commander's coins?

ANS: Yes it is.

d. If so, did you give it to her at the event?

ANS: I believe I did give it to her.

e. Did you give the other two women anything? If Yes, what?

ANS: I have to assume that since this was the same event I also gave them commander's coins.

f. [If the funds used to purchase your coins were appropriated and you gave one or more of the women a coin]: at the time, did you know whether any of the women were contract employees?

ANS: I did not know that they were contract employees at the time I gave them the coins.

g. [If the funds were appropriated funds and you knew they were contract employees]: did you know such awards are prohibited?

ANS: Either way, I knew, and know, that coins are prohibited from being dispensed to contract employees.

5. You mentioned in a prior interview that you discussed appropriate handling of contract employees, particularly with regards to time-off awards (e.g. 59-minute awards, Organization Day and other awards with monetary value) with your leaders at Kenner. Do you specifically recall instructing the leadership in Behavioral Health regarding personnel issues, with specific attention to contract employees and awards?

ANS: I do not recall having a focused intimate discussion with the Behavioral Health leadership on this topic. However, Chief, DBH, Chief, SWS, and Chief of Psychology regularly attended my weekly key staff meetings, during which we occasionally discussed appropriate handling of contract employees.

6. You have seen the two pictures of you and two men, each holding a certificate: what was/were the occasion(s)?

ANS: I believe these men were being recognized by their supervisor for outstanding service over the prior year. This is the same criteria used for the "drive-by" coins, but since I knew these men to be contract employees who worked in the facilities section, I gave them certificates in lieu of coins.

a. Do you know who the men are?

ANS: Yes, I do.

b. If it was (they were) awards event(s), who nominated them for awards?

ANS: Their supervisor, Chief, Facilities Management

c. What types of funds were used to purchase the certificates?

ANS: I assume they were purchased with government appropriated funds.

Commander  
KAHC

INITIALS OF PERSON MAKING STATEMENT \_\_\_\_\_

PAGE 2 OF 3 PAGES

9. STATEMENT (Continued)

- d. Were the certificates numbered?  
ANS: I do not know, but I do not think so. I never saw a certificate number on any certificates I gave.
- e. [If appropriated funds were used to purchase the certificates]: do you know whether the men were contract employees?  
ANS: I knew they were contract employees. Almost all facilities staff were contracted.
- f. [If appropriated funds were used to purchase the certificates, and you knew they were contract employees]: did you know such awards are prohibited?  
ANS: No, I did not know that certificates were prohibited and to this day I am not aware of this. I am not aware of a regulation specifically addressing certificates. Over my career, I have seen certificates given to contracted staff/organizations (e.g. officer club staff, vendors, hotels, etc.) by senior officers for excellence in support of the mission, often covered by either OML or Title 10 funds. I understood that if the value to the US government of such recognition exceeded the intrinsic value/cost (de minimus) of producing certificates, then this was an acceptable practice.

~~NOTHING FOLLOWS~~

Commander, KAHC, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT, WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND I HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, cCommander, KAHC

WITNESSES

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

*(Signature of person Making Statement)*  
Subscribed and sworn to before me, a person authorized by law to administer oaths, this 29<sup>th</sup> day of August, 2013 at Ft Belvoir, Virginia

Investigating Officer (IO)

*(Signature of Person Administering Oath)*

Investigating Officer (IO)  
*(Typed Name of Person Administering Oath)*

*(Authority to Administer Oaths)*

TAB 23

# What is a Psychometrist?

[The National Association of Psychometrists \(NAP\)](#) - [About](#) - [What is a Psychometrist?](#)

A psychometrist is responsible for the administration and scoring psychological and neuropsychological tests under the supervision of a clinical psychologist or clinical neuropsychologist. Psychometrist training should have emphasis on accuracy, validity, and standardization in administration. As well as, accurately scoring the assessments with appropriate norms and providing detailed behavioral observations of the examinee that may be used by the psychologist to aid in test interpretation. The psychometrist may also be responsible for collecting demographic information from a patient.

In addition, this person may also be responsible for various clerical or administrative duties that include but are not limited to patient scheduling, billing and coding of procedures, and procurement of office and testing supplies.

Psychometrists have been utilized by psychologists and neuropsychologists since the 1930's. Their use became more prevalent over the years and in 2006 the American Medical Association (AMA) and the Center for Medicare and Medicaid Services (CMS) published a new set of professional billing codes to include a code (96119) used exclusively for testing performed by a 'supervised technician' (psychometrist). By utilizing non-doctoral technicians to administer assessments, neuropsychologists are allowed more time for report writing, clinical interviewing, test selection and interpretation of data.

The minimum education level for a psychometrist is a Bachelor's degree in Psychology or a related field from an accredited college or university.

Facilities that employ many psychometrists of varying experiential and educational levels may adopt a tiered system in which to categorize psychometrists. For example, a senior psychometrist may hold the title of Lead Psychometrist and have increased responsibilities for the training and oversight of junior psychometrists.

• Information in part provided by Tom Brickson, MA, CSP, NCC, LMHC

## Psychometrist Job Description I

### Purpose of Position:

To become familiar with and increase knowledge of standardized psychological test batteries, evaluating cognitive, academic and behavioral status.

### Major Duties and Responsibilities:

1. Administer and score psychological tests as defined in competencies for a Psychometrist I.
2. Score tests administered, including objective personality tests administered by Psychologist.
3. Provide a written summary of the patient's behavior during testing, including on interactions with the patient's parents or peers that may be observed incidentally.
4. Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.
5. Attend training conferences offered by the department as well as by outside organizations.
6. Participate in establishing job requirements and goals; perform duties at the desired level of competency.

TAB 33

7. Review and ensure timeliness, accuracy, and availability and security of information.
8. Comply with Infection Control and Health and Safety policies and procedures.
9. Understands, adheres to and models Core Standards as defined organizationally and specifically within the department/unit.
10. Perform other duties as assigned.

## Psychometrist Job Description II

### Purpose of Position:

To administer and score psychological test batteries evaluating cognitive, academic, neuropsychological, behavioral, and emotional status in order to assist Psychologists, Psychiatrists, Neurologists, and other medical professionals in treatment decisions. To administer standardized testing appropriate to determine localization of brain lesions, ability to return to school after injury or illness, appropriate school placement, learning disability, and other treatment decisions. To provide technical support to Psychologists on specialty teams and clinical research projects.

### Major Duties and Responsibilities:

1. Administer and score psychological tests as defined in competencies for a Psychometrist II.
2. Score tests administered, including objective personality tests administered by Psychologist.
3. Provide a written summary of the patient's behavior during testing, including any interactions with the patient's parents or peers that may be observed incidentally.
4. Ensures that inpatients referred to the division for testing are seen in a timely manner.
5. Discuss progress of inpatients with other health professionals; keep psychologist informed of their status.
6. Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.
7. Assist with research projects and special groups.
8. Attend training conferences offered by the department as well as by outside organizations.
9. Train scoring clerk.
10. Assists Business Director and Psychologist in Satellites in keeping insurance authorizations current.
11. Informs Satellite personnel of patient insurance co-pays.
12. Participate in establishing job requirements and goals; perform duties at the desired level of competency.
13. Review and ensure timeliness, accuracy, and availability and security of information.
14. Comply with Infection Control and Health and Safety policies and procedures.
15. Understands, adheres to and models Core Standards as defined organizationally and specifically within the department/unit.
16. Perform other duties as assigned.

## Psychometrist Job Description III

### Purpose of Position:

To administer and score psychological test batteries evaluating cognitive, academic, neuropsychological, behavioral, and emotional status including those patients which are difficult, complex or have disorders in a specialty, in order to assist Psychologists, Psychiatrists, Neurologists, and other medical professionals in treatment decisions. To administer standardized testing appropriate to determine localization of brain lesions, ability to return to school after injury or illness, appropriate school placement, learning disability, and other treatment decisions. To provide technical support to Psychologists on specialty teams and clinical research projects. Provide clinical, departmental, and professional leadership within the department.

### Major Duties and Responsibilities:

1. Administer and score psychological tests as defined in competencies for a Psychometrist III.
2. Assists clinical psychologists in selection of test to be administered. Trouble-shoot difficult testing situations and administer tests that are developmentally appropriate for the child.
3. Adapt the administration of test to the specific needs of each patient while staying within the standardized procedures set forth for each specific test.
4. Score tests administered, including objective personality tests administered by Psychologist.
5. Ensures that inpatients referred to the division for testing are seen in a timely manner.
6. Discuss progress of inpatients with other health professionals; keep psychologist informed of their status.
7. Write progress notes in the medical record to keep hospital personnel informed of the status of referrals.
8. Assist with research projects and special groups.
9. Attend training conferences offered by the department as well as by outside organizations.
10. Train new psychometrists and scoring clerks.

11. Acclimate new neuropsychology fellows, residents and research assistants to the psychometrist position and the collaborative relationship.
12. Assists Business Director and Psychologist in Satellites in keeping insurance authorizations current.
13. Informs Satellite personnel of patient insurance co-pays.
14. Provide for the exchange of appropriate patient care and clinical information when patients are admitted, referred, transferred or discharged. Provide data for Psychologists which will contribute to the assessment of a patient's needs, the organization's capability to provide care or treatment and the appropriate level of care.
15. Participate in improving organizational performance through recommending areas or approaches for improvement activities, performing new procedures, collecting data and providing input to departmental discussions.
16. Participate in establishing job requirements and goals; perform duties at the desired level of competency.
17. Review and ensure timeliness, accuracy, and availability and security of information.
18. Comply with Infection Control and Health and Safety policies and procedures.
19. Understands, adheres to and models Core Standards as defined organizationally and specifically within the department/unit.
20. Perform other duties as assigned.

<http://napnet.org/about/what-is-a-psychometrist/>

LAB 24

## Tele-TBI Clinics Deliver Prompt, Convenient Care

*Tahira Hayes, Health.mil*

The doctor may not be able to reach out and shake Army Spc. Andrew Nethken's hand, but Nethkens says the video teleconference system makes it feel like the doctor is in the same room with him.

Before receiving treatment for his traumatic brain injury, Nethkens recalled having severe headaches most days, nearly to the point of passing out. After a few months of therapy, his headaches have almost entirely disappeared.

Nethkens' success is due in part to the treatment he received through the Defense and Veterans Brain Injury Center's tele-TBI Clinic which allowed direct access to a Walter Reed Neurologist. DVBIC initiated telehealth services in 2009. Katie Ambrose, the tele-TBI program manager at DVBIC, says the effort is part of a larger telehealth network that started at Northern Regional Medical Command to serve patients with psychological health issues. By partnering with NRMCM tele-behavioral health specialists, DVBIC is able to extend critical TBI assessment and treatment services to service members at a growing number of military treatment facilities.

In the next few months, two new tele-TBI clinics at Fort Dix, N.J. and Carlisle Barracks, Pa. will join the list of clinics at Fort Sill, Okla.; Quantico, Va.; West Point, N.Y.; Camp Lejeune, N.C.; Fort Lee, Va.; Fort Knox, Ky. and Aberdeen Proving Ground, Md.

This innovative and convenient treatment uses "interactive video-teleconferencing to reach patients in rural and underserved areas...and troop intensive sites where demand for specialized care fluctuates with mass mobilizations," according to the Defense and Veterans Brain Injury Center website.

TBI diagnoses for service members jumped from 10,963 in 2000 to 30,703 in 2010. Two decade-long wars and increased awareness about traumatic brain injuries have contributed to this rise. The military is constantly working on developing new techniques to treat and manage this growing issue.

Dr. Jillian Schneider, a neuropsychologist with DVBIC says tele-TBI helps to cut down on appointment waiting lists because doctors can provide services to multiple military treatment facilities. "With tele-TBI I do not have to limit myself to just seeing patients at Walter Reed or Quantico, I have the flexibility to see patients at various sites, allowing me to provide services to patients depending on the level of need," Schneider said. She added, "Sites that do not have a neuropsychologist on staff or have to rely on local civilian providers or other MTF's can have access to our services for supplemental support. I can jump right in and be another provider with tele-TBI."

When TBI services aren't available, patients may be sent to civilian providers, but this option doesn't allow for direct access to the military's electronic health record system. The time it takes to transmit records and reports to and from civilian providers may slow time-sensitive treatments. Tele-TBI increases the continuity of care and convenience for patients who have the option of receiving care right on base. This may involve specialists at more than one facility. For instance, a neuropsychologist may be based at Fort Belvoir while a Neurologist is at Walter Reed Army Medical Center and an Occupational Therapist is at Ft. Dix. Through the Tele-TBI Clinic, a patient at a remote military treatment facility can have access to all these specialists.

If a patient has been referred to a neuropsychologist, the process begins with a teleconference between



the doctor and the patient, reviewing the patient's history and patient concerns. Then, the neuropsychologist develops a set of tests administered by an on-site psychometrist. Once the testing is complete, the neuropsychologist writes a report and a set of recommendations, and then meets with the patient again via teleconference to provide feedback and treatment recommendations.

DVBIC also provides tele-health services for specialty evaluations of neurological concerns, headache management, psychological health problems and specialized therapy for TBI related problems such as temporomandibular joint disorder. For more information about DVBIC, visit [www.dvbic.org](http://www.dvbic.org).

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From Health.mil, March 2011. [www.health.mil](http://www.health.mil).

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Home > [NRMC News and Events](#) > **Army's Tele-Health programs provide continuity of care**

View All  
Site  
Content

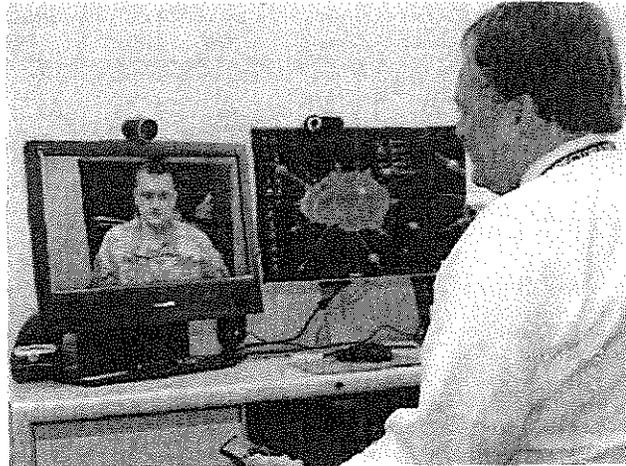
Close

Title

Army's Tele-Health programs provide continuity of care

Page Content

**WALTER REED ARMY MEDICAL CENTER** (Oct. 1, 2010) -- The Tele-Health programs offered by the U.S. Army's Northern Regional Medical Command (Provisional) and Walter Reed Army Medical Center are using a novel, yet high-quality, approach to outpatient care. Reinventing the good old house call with the use of electronic communications to underserved areas, all while maintaining a continuity of care, is an adaptive and innovative approach to enhancing behavioral health and resiliency.



Dr. Michael Lynch, chief, WRAMC Tele-Health Services Department of Psychiatry, "dials in" from his office at Walter Reed to demonstrate the ease of access of the video teleconference (VTC) set up with the assistance of Sgt. Shawn Branson, noncommissioned officer-in-charge of the Behavioral Health Clinic located at Kirk U.S. Army Health Clinic, Aberdeen Proving Grounds, Md. (Photo by Joshua L. Wick)

This complex joint network of Tele-Health programs in which WRAMC acts as the hub spans across approximately 26 military installations. The network is managed by a team organized with cross-level assets from behavioral health, traumatic brain injury, neurosurgery and psychology, to new adaptive tele-initiatives for dermatology, nephrology, diabetic retinopathy and forensics.

The Tele-Health program was organized in 1996 with the establishment of the telemedicine directorate at Walter Reed. This virtual hospital model "was more of a research oriented activity, like Telemedicine and Advanced Technology Research Center (TATRC) is now," said Dr. Michael Lynch, chief of WRAMC Tele-Health Services, Department of Psychiatry.

Initially designed for beneficiaries then adapted for active, reserve and Guard personnel, this program is also accessible to retirees.

In 2008, U.S. Army Medical Command took over the program. Despite the program being Army funded, they did not sever ties with any facility they served, like Marine Corps Base Quantico, Va., and Patuxent River Naval Air Station, Md.

"[Shortly after,] we started increasing our numbers, our demand was very high, [and] then we got approval to hire another group of people [practitioners]. At the same time that was happening the Tele-TBI requirement came out [as a MEDCOM tasking]," Lynch said. This directive focused on how to address Soldiers with mild TBI through the use of Tele-Health.

As one of the only established regional Tele-Health programs, when the operation-order came out it was easy for NRMC's Tele-Behavioral Health to stand this program up because they already had it. "We already had our system built [so] we reached out to the Defense and Veterans Brain Injury

TAB 246

Center (DVBIC) and said, "Do you want to partner with this?" Lynch said.

"Since we had this big infrastructure already, as this began to roll out, we identified what we needed...We didn't ask for start-up personnel, or a couple of cells, or a regional clinical operations to try to do this; we said, 'give us providers and let us go to work'"

This pre-existing Tele-Health joint integration will also allow for a smoother transition of the programs with the transition to the Walter Reed National Military Medical Center in Bethesda, Md., and Fort Belvoir Community Hospital (Va.), next year because of the 2005 Base Realignment and Closure law.

"From an outsider standpoint, I think it's going to be harder to integrate at the level of the main hub, wherever we end up," said Katie Ambrose, Tele-TBI, DVBIC program manager. The smaller sites have already bought off on the idea, she added.

"As we're expanding through DVBIC with therapy services, if we have therapy services tomorrow, they have patients to give us. So they are wanting and needing those services at the smaller sites," Ambrose said.

"We try to integrate our services as much as possible within the Tele-Health realm. At Fort Knox, Ky., we did a headache clinic. We used a physician assistant from Tele-Neurosurgery, DVBIC neurologist and our staff and infrastructure to run a headache clinic, so we took everybody and put a product out," Lynch said.

Their cross coordination has been successful, but that takes time energy and effort, added the doctor. There is a lot of administrating and management delays related to this program; from addressing stigmas, then creating buy-in, managing contracts, to managing remote personal and even getting the proper credentials, these present ever evolving hurdles.

"We have the flexibility to manage a virtual system, and that saves on a provider having to go on temporary duty for a month, which saves money, and gives us the ability to add, mold, surge," he said. "We are able to shift gears as needed, so if tomorrow they needed us at Fort Bliss, Texas, we could do this at Fort Bliss," Lynch said.

This level of access-to-care is what allows NRMC's Tele-Health programs to see between 1,400 to 1,700 patients appointments a month.

While her husband was attending the U.S. Army War College, at Carlisle Barracks, Pa., Dr. Dawn Porter, a child and adolescent psychiatrist, WRAMC Tele-Health Services Department of Psychiatry, was brought on board to assist in providing on-site services. Porter's husband then took a command at Fort Irwin, Calif. "We just put a video teleconference (VTC) on her desk and she maintained her patients in Pennsylvania, plus picked up patients in California," Lynch said. Now that Porter has moved to the National Capital Region, she will continue to see those residual patients in California, Pennsylvania, and pick up missions here.

"So we aren't changing providers," said the doctor, the service members and beneficiaries don't have to tell their story all over again, and in turn this timely service can be an important value added awareness and prevention tool for the success and application of compressive Soldier fitness along with their resiliency.

"It's the same service, just delivered in a different way. It's not the technology, said Wendy Baynard, WRAMC Tele-Health Services program manager.

"Technology can enhance it," Lynch said.

"It's still the patient-provider relationship," Baynard said.

"The geriatrics patients we see love it, kids love it, [because] your 18 to 24 [year-olds] grew-up with it," Lynch said. People surprisingly are very comfortable with the VTC set up. He added that, "They will disclose stuff on VTC that they would never say in-person." They're less intimidated by this setup; it adds a dynamic, like a safety barrier which allows the practitioners to find out more information.

"For the TBI clinic, the numbers speak for themselves," Ambrose said. "Quantico and West Point, N.Y., were sending patients two, three, and four hours away for neurophysic testing, and having a high no-show rate," and, "now both have 100 percent show rates for the Tele-TBI clinics.

Working to establish a school-based program for children and adolescents, providers [physicist and/or social worker] were going to school rather than kids coming to them. This sparked a pilot program with the public schools at Fort

Meade, Md. Not able to plug into the county school communication lines, they were able to find a simple solution — using an air card and a high definition laptop which can be deployed so that a provider can see the patient and not have to worry about the connectivity issue.

This adaptive technology can support and enhance mental health care and resiliency even when a Soldier or servicemember is deployed or re-deploying.

"If you're deployed for a year and you have been getting a certain amount of care and you wanted to see your provider again, why can't you see your provider?" asked Lynch. "We are looking at sending applications to the theater."

Currently, they're determining how the program could be set up to provide tele-services to the operational theater as well as inter-theater. One such application is mobile Conex containers fitted for three VTC stationed at various contingency operating and/or forward operating bases.

"Because of the time zones and such, we would reach out to Europe Regional Medical Command, and Landstuhl Army Medical Center, in Germany," Lynch said. Depending upon the time, the program would establish rolling shifts with other medical centers or regions and/or case managers, he added. This would be a booster session versus an acute care session in its application, and if necessary, they could refer a Soldier to a practitioner in theater.

"We could start it tomorrow, if there was a unit on the other side. If you do this now you have providers all through VTC, so it's like the good old house call approach," Lynch said.

**Joshua L. Wick, Stripe Staff Writer**

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9275 Doerr Road, Ft Belvoir, VA 22060

TAB 25

## Tab 25

Witness Listing for Army Report --DI-12-1252--

*Copy only in unredacted Army Report version*

TAB 26



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
NORTH ATLANTIC REGIONAL MEDICAL COMMAND  
6900 GEORGIA AVENUE, NORTHWEST  
WASHINGTON, DC 20307-5001

31 AUG 2009

MCAT-RM

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: North Atlantic Regional Medical Command (NARMC) Delegation of Authority for Military Coins

1. Reference MEDCOM Regulation 672-7, HQ AMEDD, MCJA, 17 February 2009, Subject: Decorations, Awards, and Honor (Military Coins).
2. Military coins have a longstanding history in the United States Army. Leaders distribute coins to servicemembers and civilians who have demonstrated the tenets of Army values of loyalty, duty, respect, selfless-service, honor, integrity, and personal courage in their daily work. Their work represents role model performance and as such, it is befitting that they are presented with a commander's coin for excellence.
3. This policy outlines the North Atlantic Regional Medical Command's position on the authority and process for distributing this commemorative item.
4. Authority: Subject to the limitations contained in MEDCOM Regulation 672-7, Commander, NARMC, delegates the authority to approve the purchase of military coins using appropriated funds, and authority to have military coins minted for their position/command to:
  - a. Commanders in the grade of O-6 (garrison, military treatment facility and brigade commanders)
  - b. Commanders in the grade of O-5 (battalion commanders)
5. This authority will not be further delegated.
6. Limitations.
  - a. Do not personalize coins. You can inscribe the presenter's name on a case-by-case basis for a presentation.
  - b. The coins must read, "for a job well done" or "for achieving excellence."
  - c. Acquisition of coins may not exceed \$5,000 per commander. Cost includes design, proofs, and other related costs. Cost per coin may not exceed \$25 each.



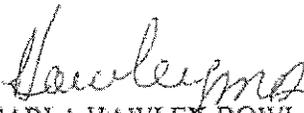
MCAT-RM

SUBJECT: North Atlantic Regional Medical Command (NARMC) Delegation of Authority for Military Coins

7. All NARMC units that use appropriated dollars for military coins will report their purchases annually. Forward to NARMC Resource Management no later than 1 November for the preceding year.

8. The point of contact for this memorandum is LTC John Butler, (202) 782-7214, [john.d.butler@us.army.mil](mailto:john.d.butler@us.army.mil).

Encl  
MEDCOM Regulation 672-7

  
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