

**VA**



U.S. Department  
of Veterans Affairs

Office of the General Counsel  
Washington DC 20420

US5C HQ DC 1411

**MAY 30 2014**

In Reply Refer To:

The Honorable Carolyn Lerner  
Special Counsel  
U.S. Office of Special Counsel (OSC)  
1730 M. Street, NW, Suite 300  
Washington, DC 20036-4505

RE: OSC File No. DI-12-3232

Dear Ms. Lerner:

Enclosed, please find the Department of Veterans Affairs (VA) supplemental report regarding the above-referenced matter.

The supplemental report lists the recommendations made by VA's Office of the Medical Inspector (OMI) in its June 11, 2013, report to the Office of Special Counsel, and the actions taken on those recommendations by the Audie L. Murphy Memorial Veteran Affairs Hospital in San Antonio, Texas.

According to the OMI, the medical center successfully completed 12 of the 15 recommendations. The medical center is currently taking actions on the remaining three recommendations.

If you have any questions about this report, please contact Hansel Cordeiro, who can be reached at [Hansel.Cordeiro@va.gov](mailto:Hansel.Cordeiro@va.gov) or (202) 461-6322.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Renée L. Szybala".

Renée L. Szybala  
Acting Assistant General Counsel

Enclosure

**Office of the Medical Inspector  
Supplemental Report  
to the  
Office of Special Counsel  
Audie L. Murphy Memorial VA Medical Center,  
San Antonio, Texas  
OSC File No. DI-12-3232**

TRIM 2014-D-499

**BACKGROUND**

The Department of Veterans Affairs (VA) Under Secretary for Health (USH) requested that the Office of the Medical Inspector (OMI) investigate complaints lodged with the Office of Special Counsel (OSC) by [redacted] (hereafter, the whistleblower) at the Audie L. Murphy Memorial Veteran Affairs Hospital in San Antonio, Texas (hereafter, the Medical Center). The whistleblower, a maintenance mechanic in the Engineering Service's Maintenance and Operations Section (M&O), alleged that the Medical Center may have violated laws, rules or regulations, engaged in gross mismanagement and in abuse of authority, and created a substantial and specific danger to public health and safety in regard to management of asbestos exposure issues. As part of its investigation, OMI conducted a site visit to the Medical Center on April 23–25, 2013.

Based on its investigation, OMI made 15 recommendations for the Medical Center. These recommendations were endorsed by the Secretary of Veterans Affairs and the USH. OMI and the Veterans Health Administration's (VHA) Office of the Deputy Under Secretary for Operations and Management reviewed and concurred with the Medical Center's action plan in response to report recommendations. On February 11–12, 2014, OMI conducted a site visit to the Medical Center to review the Medical Center's implementation of OMI's recommendations.

Based on this visit, OMI concludes that the Medical Center successfully completed 12 of the 15 recommendations made by OMI. The Medical Center must take further action on Recommendations 3, 5, and 14.

**RECOMMENDATIONS AND ACTIONS**

**Recommendation 1:** The Medical Center should remove the whistleblower from any duties that could potentially lead to additional asbestos exposure.

**Resolution:** The whistleblower has been assigned to jobs that do not involve possible asbestos exposure. The Medical Center has also implemented a process to ensure all requested tasks are assessed for the presence of asbestos-containing material (ACM) prior to assignment of the job. Any job

which could potentially involve exposure to ACM is assigned to the Asbestos Abatement Team (AAT).

### **Action Completed**

**Recommendation 2:** The Medical Center should provide the whistleblower with, or assist him with, obtaining an appropriate occupational health evaluation per his desire.

**Resolution:** The Medical Center provided the whistleblower additional diagnostic testing, reviewed the results with him and provided an opportunity for him to ask questions.

### **Action Completed**

**Recommendation 3:** The Medical Center should develop a process for updating all three facility blueprints simultaneously as abatements are completed and documented by the AAT supervisor. Consider converting the blueprints to an electronic document, if possible, to obviate this problem.

**Resolution:** All M&O employees were provided color-coded blueprints of the Medical Center, indicating which areas still contain ACM, which areas have been abated of ACM, and which areas possibly contain ACM. All M&O staff received training about the color-coded blueprints. A comprehensive survey assessing the presence of ACM in all areas of the Medical Center has been completed. The survey results will be transferred to an electronic document, and made available for all M&O staff to access and review.

### **Action Ongoing**

**Recommendation 4:** The Medical Center should implement a formalized process for M&O staff to verify whether an area is known to contain ACM before the start of any work that involves its disruption. This process should include verification by supervisory and non-supervisory staff prior to the initiation of assigned work, providing training about this process, monitoring compliance and addressing non-compliance as indicated.

**Resolution:** The Medical Center implemented a formalized process for M&O staff to verify whether an area is known to contain ACM before the start of any work that involves its disruption. Before jobs are assigned, the work orders are evaluated by the maintenance foreman, and jobs assigned based on the presence or absence of ACM. If the presence of ACM is known or questionable, the job is assigned to the AAT. If the area is known to contain no ACM, the work is assigned to M&O staff who are not part of the AAT.

### **Action Completed**

**Recommendation 5:** The Medical Center should perform personal air monitoring, when appropriate, to assess the risk and occurrence of exposure to ACM.

**Resolution:** The Medical Center performed personal air monitoring and negative exposure assessments for most tradespersons who potentially could be exposed to ACM while performing their duties. The Medical Center still needs to perform negative exposure assessments for Environmental Management Service (EMS) staff members who perform tasks that could expose them to ACM.

**Action Ongoing**

**Recommendation 6:** The Medical Center should perform job hazard assessments on all M&O work done in areas with known or presumed ACM.

**Resolution:** The Medical Center performed job hazard assessments on each trade in the AAT. AAT members are the only employees with potential exposure to ACM since the implementation of the new formalized process for assigning work orders.

**Action Completed**

**Recommendation 7:** The Medical Center should ensure all M&O personnel are provided the proper Personal Protective Equipment (PPE) for respiratory protection in accordance with OSHA standards.

**Resolution:** The Medical Center conducted PPE risk assessments, and, based on the findings, provided the appropriate PPE, fit testing, and training to the AAT, the only staff expected to be exposed to ACM.

**Action Completed**

**Recommendation 8:** The Medical Center should provide annual asbestos-awareness training as required by 29 CFR §1910.1001, *Asbestos*; VHA Directive 2010-036, *Asbestos Management Plan*; and the Medical Center's Policy Memorandum 007-13-09, *Asbestos Management Plan*.

**Resolution:** The Medical Center offered asbestos-awareness training to all staff. The M&O staff was provided additional asbestos awareness training, which included a 16-hour asbestos worker course. The EMS staff receives asbestos awareness training annually.

**Action Completed**

**Recommendation 9:** Perform a retrospective review with all M&O staff for evidence of asbestos exposure; this review should include evaluating the medical records of current and former employees.

**Resolution:** The Medical Center performed retrospective reviews on former and current M&O staff. Twenty six staff members were offered diagnostic screening, and 23 of the 26 completed the screening. No findings of adverse health effects associated with asbestos exposure were evident in the screenings completed.

**Action Completed**

**Recommendation 10:** The Medical Center should provide training about the process for reporting suspected asbestos exposures to the immediate supervisor, the AAT supervisor, and the Safety Service, as described in Medical Center Policy Memorandum 007-13-9, Asbestos Management Program.

**Resolution:** The Medical Center provided training about the process for reporting suspected asbestos exposure to the immediate supervisor, the AAT supervisor, and the Safety Service. Staff received training about the process, and in the future, this training will be provided on an annual basis.

**Action Completed**

**Recommendation 11:** The Medical Center should notify other employees in the area where potential ACM will be disturbed for sample collection prior to the sampling process, and offer them an opportunity to leave the area during that process.

**Resolution:** The current Medical Center sampling protocol requires the Contracting Officer Representative (COR), a member of Engineering Service, or Safety Service staff to accompany contactors during the sampling process. At this time, staff in the area is given the opportunity to leave the area while the samples are collected. Prior to the start of the Medical Center's comprehensive asbestos survey, information about the survey process was offered to all employees via email communication, all-employee meetings and departmental staff meetings.

**Action Completed**

**Recommendation 12:** The Medical Center should provide staff training about negative exposure procedures, including what qualifies as such a procedure and how that determination is made.

**Resolution:** The Medical Center provided staff training about negative exposure procedures. This training was provided to M&O staff twice during 2013, and will be provided on an annual basis in the future.

**Action Completed**

**Recommendation 13:** The Medical Center should provide training to the COR about the importance of accompanying contractors while material sampling is occurring.

**Resolution:** The Medical Center provided training to the COR about the importance of accompanying contractors while material sampling is occurring. No incidents have been reported in which contractors were unaccompanied while obtaining material samples.

**Action Completed**

**Recommendation 14:** The Medical Center should perform personal exposure monitoring on all current M&O staff who could be exposed to asbestos, as required by 29 CFR §1910.1001, and notify monitored persons of the results on an individual basis.

**Resolution:** The Medical Center performed personal exposure monitoring on all trades except EMS staff; monitoring of this last group is now in progress. Asbestos monitoring data are relayed to employees verbally and posted at the worksite. The Medical Center is developing a process for documenting the receipt by employees of their asbestos monitoring data, and ensuring these data are included in the employee's file in Occupational Health. The Medical Center is also developing a process for proper communication between Safety Service, the AAT supervisor, and Occupational Health, to ensure these data are reviewed and appropriate actions taken as indicated.

**Action Ongoing**

**Recommendation 15:** The Medical Center should provide medical surveillance for all staff with exposure levels greater than the permissible exposure limit (PEL).

**Resolution:** The Medical Center reviewed exposure levels for M&O staff, and found that medical surveillance was indicated for the AAT only.

**Action Completed**