

Veterans Affairs Infrastructure Desperately Needs Review: As First Step, White House Must Nominate Commissioners

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KEY TAKEAWAYS

The Biden Administration is wasting a unique opportunity to alleviate the Department of Veterans Affairs' (VA's) many problems with its health care infrastructure.

Commissioners for the AIR Commission are crucial for identifying the VA's real estate problems. Failing to appoint them guarantees the commission's failure.

Every passing day compounds the effects of the missed appointment deadline; the Administration must appoint AIR commissioners immediately.

The 2014 scandal at a Phoenix, Arizona, Department of Veterans Affairs (VA) facility where at least 40 veterans died while waiting for medical care highlighted problems at the VA that had been building for years.¹ Since then, Congress has taken multiple steps to address these problems. The two legislative solutions to veterans' diminished access to health care are the Veterans Access, Choice and Accountability Act of 2014, known as the Choice Act, and the Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018. These two new laws provided new authorities that have greatly helped to accelerate the delivery of care.

Some of the many remaining issues relate to the aging and obsolete infrastructure maintained by the VA. This infrastructure is now required to be assessed

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by 2022 because of a provision in the MISSION Act. Underscoring the importance of this review, former Secretary of Veterans Affairs Anthony Principi stated: “To keep VA’s healthcare system dynamic, though, the department must continue to conform to the changes that have taken place in healthcare delivery in the United States and to the changing demographics of the veteran population. I don’t believe the system can stay static. If it does, I fear it will perish.”²

Nine months into his Administration, President Joe Biden is delaying the process of infrastructure assessment—and by association, the improvement of health care for veterans—by not nominating members to the commission that will assess the transformation of the VA’s infrastructure. Instead of assessing the current infrastructure and its future viability, the Administration has signaled that it is more interested in spending more money on maintaining the current infrastructure.³ As this *Issue Brief* explains, the Administration should nominate commissioners immediately so that the Asset and Infrastructure Review (AIR) Commission can advance its work.

The Infrastructure Problem

The MISSION Act calls for a revision of the VA’s infrastructure and assets through the establishment of the AIR Commission. AIR is an independent commission tasked with “assessing and making recommendations regarding the modernization or realignment of facilities of the Veterans Health Administration.”⁴ The need for review and reassessing the infrastructure derives from two main issues: obsolete infrastructure, and mismatch of that infrastructure with the geographical distribution of the current veteran population. The outdated infrastructure was highlighted by Bruce Carruthers, a member of the Save Our VA campaign, who stated:

The average age of VA buildings is 60 years, and 69 percent of its main hospitals are at least 50 years old. Some are in good shape, but the fundamental issue is that even if they are maintained, the buildings are not designed to deliver modern healthcare. Many cannot accommodate treatment modalities and technologies developed since they were built.⁵

Former American Enterprise Institute scholar Rebecca Burgess projects an overall decrease of 40 percent in the veteran population by 2045. She also points out that Vietnam-era veterans concentrate in the Northeast and Midwest, while the Gulf War-era veterans tend to live in the Southeast, and the post-9/11 generation is heavily represented in Texas.⁶ The RAND

Corporation has also noted the changing veteran demographic, stating that in the near future, “[t]he Veteran population will become more concentrated in urban areas, and the relative share of the Veteran population in the Ohio River Valley region will diminish.”⁷ In short, there is an ongoing geographic shift of the veteran population for which the VA must account in its infrastructure planning to better serve current and future veterans.

Further adding to the need for a review, the Government Accountability Office has found that the “VA did not clearly instruct VA medical centers on how to meet the agency’s strategic goal of incorporating veterans’ changing needs and expectations into facility planning.”⁸ This suggests that the VA does not have a clear concept to incorporate the need of its customers—the veterans—into the process of planning its facilities that are intended to serve them. The AIR Commission gives the VA an excellent opportunity to address these infrastructure challenges in a way that improves veteran access and builds both bipartisan and bicameral consensus.

The Asset and Infrastructure Review Commission

The AIR Commission was established as an independent body to evaluate the VA’s decisions and rationale as it modernizes and realigns the infrastructure under its control. As set out by law, the AIR Commission is to exist for two years, with meetings only during 2022 and 2023, including public meetings.⁹ However, there are many activities that need to take place before the commission can start its work.

The law outlines a process that starts with the VA publishing and transmitting criteria that will guide the work of developing the recommendations for infrastructure action. The criteria development had its public comment period from February to May 2021. Since then, the final criteria have been published, in advance of the May 31, 2021, legal deadline.¹⁰

The President is required by law to submit nominations for commission members to the Senate. The deadline for this step was also May 31, 2021. However, thus far President Biden has failed to submit any of the necessary nine names for consideration by the Senate. The President is required to consult congressional leadership and veterans’ services organizations for the nominations, but the prerogative for action resides at the White House.

The next step in the process is for the VA to report to the commission, congressional committees, and the *Federal Register* the recommendations for action. This report is due on January 31, 2022. This is the work that is being currently done at the Department of Veterans Affairs and that will be evaluated by the AIR Commission during all of 2022. The report should

include recommendations for closing chronically underused facilities, building new facilities in areas that are underserved, and largely reconceptualizing how the VA uses its infrastructure to serve the veteran community. The commission then has until January 31, 2023, to submit its final report and analysis to the President.

Once the President evaluates the recommendations, he must approve or disapprove them by February 15, 2023. There is one opportunity for the commission to submit revisions to the President if the initial recommendations are not approved. This opportunity has its last legal deadline on March 30, 2023. Once the recommendations are approved, they move toward implementation unless Congress passes a joint resolution of disapproval.

The process shares some of the institutional fragilities and strengths of the Department of Defense's Base Realignment and Closure (BRAC) process, which served partially as inspiration.¹¹ Among those similarities is the evaluation by an independent commission of experts, which insulates some of the political concerns from the lawmakers and toward the commission itself. This means that the commission must indeed be composed of subject matter experts who understand both the work of the VA and the broader real estate and health care markets. Further, just like for BRAC, stopping the AIR recommendations requires a joint resolution of disapproval by Congress, giving it an increased chance of success once it reaches Congress. All in all, AIR represents an important opportunity for rationalizing the VA's infrastructure and preparing it for the future.

Former Secretary Principi, 2005 Chairman of the Base Realignment and Closure Commission, described the importance of the commission as follows: "The asset and infrastructure review now underway at the VA is a process that will design, improve and implement a comprehensive long-term plan to modernize and realign VA's healthcare infrastructure."¹² Further, because of its independent nature, it will serve to remove some of the politics from the equation and provide a rationale for lawmakers to move beyond their parochial interests of not touching or examining anything in their districts or state.

The AIR Commission ought to be viewed as the best way to orient the VA infrastructure towards the needs of the veterans in the coming years and decades. There needs to be a holistic assessment of the infrastructure that already exists in each area and correlate that to the veteran population that could be served, the type of market analysis that the VA is conducting under AIR.

What Is Holding It Up?

In testimony before the House Committee on Veterans' Affairs, Brett Simms, the Executive Director of the VA's Office of Asset and Enterprise Management, stated: "There are certainly things that are not under VA's control, things like nominations for the AIR Commission that we are still working with the administration on. But we are following the guidelines in statute and the timelines in statute, at this point."¹³ The statement clearly puts the responsibility for the failure to nominate commissioners on the Biden Administration. The process of nominating any individual for a position that needs to go through the advice and consent of the Senate, as is the case for the AIR commissioners, is laborious. Thus, the Administration should prioritize these nominations to allow the work of the commission to be completed in time.

Beyond the nomination of the commissioners, the VA should be fast at work developing the recommendations that the Secretary will present to the public and to the commission now, as well as setting up the necessary structure for the commission to work in 2022.

Recommendations for the Administration

Considering the importance and necessity for improving and changing the VA infrastructure, both Congress and the Biden Administration need to bring the proper focus and attention to the issue. If the Biden Administration is truly invested in serving veterans' health care needs in the 21st century, it should push to enable the AIR Commission.

Therefore, the Administration should:

- **Submit nominations for commissioners to the Senate.** The deadline of May 31, 2021, has passed and every day that the Administration does not submit the nominations it decreases the time that the commissioners will have to prepare and to set up the public portion of the work to be done in 2022. Further, these nominated commissioners should reflect bipartisan views and have broad experience in managing medical real estate to increase the likelihood of a swift Senate confirmation.
- **Embrace the AIR opportunity.** The AIR Commission is a unique opportunity for the VA to assess and improve how it provides care for veterans. As it stands, the Department of Veterans Affairs has

substantial financial burdens in maintaining old facilities. The AIR framework can be invaluable in realigning underused and costly facilities.

- **Center the VA efforts and design on the needs of the veterans.** Part of the recent troubles of the VA started when the department stopped focusing on the needs of the veterans it serves and turned inwards to cater to its own staff.¹⁴ The AIR Commission offers the opportunity to refocus the Department of Veterans Affairs on the veteran.

Conclusion

The AIR Commission is a great chance for the VA to reset and re-evaluate its infrastructure needs. As outlined by former Secretary Principi, “While the practice of VA medicine has evolved, VA’s medical infrastructure has not kept pace. VA facilities are out of step with changes in the practice of medicine, with demographic changes in the veteran population, and with statutory changes in VA’s health care benefits packages.”¹⁵ This is a chance for the VA to be in step with today’s medicine and the needs of the veteran. The Biden Administration must pursue this chance vigorously.

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