S. HRG. 116–76

WHERE ARE THEY NOW: INDIAN PROGRAMS ON THE GAO HIGH RISK LIST

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

MARCH 12, 2019

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WHERE ARE THEY NOW: INDIAN PROGRAMS ON THE GAO HIGH RISK LIST

TUESDAY, MARCH 12, 2019

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:47 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN HOEVEN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. Good afternoon. I call this oversight hearing to order.

We are having votes on the Floor right now. That is why I think it will be a few minutes before more of our Committee members show up. But we are going to get started, so that the Vice Chairman and myself can take turns going back and filling out the votes as well. We appreciate your bearing with us through that process.

I also want to thank the members for accommodating my schedule and others so that we could have the hearing this afternoon instead of tomorrow as originally scheduled. Thank you to the members for agreeing to do that.

Today, the Committee will examine the Government Accountability Office report on High Risk Programs published on March 6th, 2019 as well as the follow-up from the 2017 High Risk List. Unfortunately, the three Indian programs that we will discuss today are the same ones we have had on the list for the past two years. We are working very hard to make sure they get the issues identified addressed.

This is the fourth hearing for the Committee regarding high risk Indian programs. Three hearings were held in the 115th Congress, making today's hearing the first in the new Congress. I expect we will have more as we continue to work on outstanding issues.

Every two years during the start of a new Congress, the Government Accountability Office publishes a report listing Federal programs deemed high risk. These programs are given the designation of high risk due to their vulnerability to abuse, fraud, waste or mismanagement. Three Federal Indian programs, the Bureau of Indian Education, Indian Energy within the Bureau of Indian Affairs, and the Indian Health Service have again been placed on the 2019 High Risk List.

According to the Government Accountability Office, as of December 2018, these programs have a total of 32 outstanding recommendations. To monitor a Federal program's progress on the High Risk List, the Government Accountability Office provides ratings of not met, partially met, or met.

According to the latest list, each of the three programs has partially met the five areas of criteria needed to be addressed to initiate removal from the list. During today's hearing, I expect to hear from each of the witnesses concerning where progress has been made and what needs to be done in order for the three programs to meet all of the criteria.

As Chairman of the Committee, I remain steadfast to holding these Federal agencies accountable to the millions of American Indians and Alaska Natives in the Country that receive services such as education, health care and advancing Indian energy development projects. The functioning of the Bureau of Indian Affairs, the Bureau of Indian Education and the Indian Health Service is important to many, including this Committee, which has oversight authority to ensure the agencies are meeting their purposes without abuse, fraud, waste or mismanagement.

Today's hearing is timely with the recent news of former IHS doctor Stanley Patrick Weber's conviction and sentencing in Federal District Court in Montana for child sex abuse and the upcoming start of his second trial in South Dakota on the same charges. These events must be addressed and we need to get to the bottom of this ordeal. Indian Country deserves better.

As I have mentioned before, I will continue to hold these oversight hearings until each Indian program comes off the High Risk List. I urge all witnesses today to continue working together in addressing the remaining open recommendations.

I welcome the witnesses today. I look forward to discussing the remaining GAO recommendations and the timeliness of getting them addressed.

Before we hear from witnesses, I will turn to Vice Chairman, Senator Udall, for his opening statement.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you, Chairman Hoeven, for scheduling today's hearing to discuss the status of Indian programs on the GAO High Risk List. I appreciate your follow-through on this important topic.

Last Congress, our Committee held three hearings on the GAO High Risk Report for Indian Programs. Each hearing demonstrated that the Federal Government must do better to provide trust and treaty-based services to American Indian and Alaska Native tribes.

The GAO reports that high risk Indian programs have made some notable progress in addressing its open recommendations. However, members of this Committee and tribal leaders are still concerned that this progress is not translating into real change.

Factors such as underfunding, management accountability, and agency transparency continue to pose barriers to efforts by the IHS, the BIE, and the BIA to address high risk areas. As a prac-

tical matter, it is reasonable to ask how effective are IHS, BIE and BIA reforms in response to GAO's High Risk designation.

As the Ranking Member on the Interior Appropriations Subcommittee, I understand that underfunding has a direct impact on nearly every Indian program, but that impact is particularly acute for programs on the High Risk List. In my home State of New Mexico, there are still serious facility and resource issues at a number of BIE, IHS clinics and BIA programs. I have fought to increase funding at all three agencies. But without continued meaningful investments and adequate appropriations, BIE, IHS, and BIA reforms will be less effective.

At the same time, recent high profile events at the BIE and the IHS raise serious questions about management accountability and transparency. At the BIE, the Bureau has a string of unanswered congressional letters, school closures due to asbestos, and the lack of compliance with Federal education laws. It is to the point where I have had to call in BIE and BIA leadership to submit weekly updates directly to my office.

At the IHS, the Weber incident has alarmed many. To speak frankly, it has sickened me. For over 20 years, Mr. Weber used his position of trust and authority as an IHS doctor to prey on young, innocent victims. What he did is a travesty and what IHS didn't do intervene to protect Native children who were patients is unconscionable.

Even though Mr. Weber has been convicted and sentenced for his crimes in Montana and awaits trial in another Federal court for similar crimes, questions remain. Who in IHS leadership failed to document and remove Weber from his position within the Service? To that end, Chairman Hoeven and I sent a letter to the HHS Office of Inspector General, asking it to investigate whether any current or former IHS staff were complicit in, or had knowledge or involvement with Mr. Weber's misconduct.

While we wait for concrete answers, I expect IHS leadership here today to commit to management reform that ensures all future allegations of abuse by medical professionals at IHS facilities are properly investigated, reports against IHS employees who are a danger to patients are not swept under the rug, whistleblowers do not fear for their reputations or their livelihoods.

Above all, today's hearing must be more than just hearing about progress on GAO's recommendations. I need to see evidence of a cultural shift to improve accountability at the IHS, the BIE, and the BIA, and I need to see a commitment to transparency ensuring the Federal Government is upholding trust and treaty responsibilities.

Finally, I will close by noting that the Committee's newly-adopted Rule 4(b), this rule states that if the Administration misses the Committee's 48-hour deadline for submission of testimony, the Administration witness must state on the record why the testimony was late.

Thank you, Admiral Weahkee and Ms. Farb, for submitting your testimony on time. But Mr. Dearman, and Mr. LaCounte, please be prepared to start your testimony with an explanation why you did not comply with the Committee's rule.

I thank you, Mr. Chairman. Thank you to our panel for joining us.

The CHAIRMAN. I would like to thank the Ranking Member.

I, too, want to comment on the BIA not submitting their testimony in a timely way. I was waiting for the introductions to do that. But both for Director LaCounte and Director Dearman, I would ask, in your remarks, please indicate why the testimony wasn't here 48 hours prior as required under the Committee's rules. I would also like a commitment from you that in the future, it will be here 48 hours prior to your testimony. You can respond to those as a part of your testimony.

With that, again, I appreciate all of you being here. Let's begin with Ms. Farb, Director of the Health Care Team, Government Accountability Office here in D.C.

Ms. Farb.

STATEMENT OF JESSICA FARB, DIRECTOR, HEALTH CARE TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; ACCOMPANIED BY FRANK RUSCO. ENERGY GROUP

Ms. FARB. Thank you.

Chairman Hoeven, Vice Chairman Udall and members of the Committee, thank you for the opportunity to discuss the progress the agencies within the Department of the Interior and the Department of Health and Human Services have made since GAO added management of programs that serve tribes and their members to its High Risk List in 2017. The High Risk List is intended to help inform congressional oversight and improve government performance by calling attention to agencies and programs that are vulnerable to mismanagement or are in need of change.

Last week, GAO issued our updated report for 2019. In summary, officials from Indian Affairs, BIE, BIA, and IHS continue to express their commitment to addressing issues that led to the high risk designation. Since we last testified before this Committee in June 2018, we have met with agency leaders numerous times and continue to work with each agency to identify actions they are taking or plan to take to address GAO's concerns.

For our most recent High Risk Report, we determined that these agencies have demonstrated some progress to partially meet each of the criteria for removing a high risk designation. However, additional progress is needed for the agencies to fully address these criteria and related management weaknesses.

Since September 2011, GAO has made more than 50 recommendations to improve Federal programs serving tribes and their members. Thirty-one of these recommendations and one matter for congressional consideration are still open. The distribution of these recommendations by issue area, education, energy, and health care is shown in the figure on display to my right. As you can see, 20 recommendations have been closed. In the past few days, the agencies have provided new information and documentation that may lead to the closure of additional recommendations.

GAO continues to audit these programs and if deficiencies are identified, there will likely be additional recommendations to address. It is important to note that GAO's recommendations identified in this high risk area reflect management weaknesses at the

Federal level. They do not reflect on the performance of programs administered by tribes.

Furthermore, closing recommendations is not enough to get off the High Risk List. Agencies need to identify and address the root causes of management shortcomings. Since 1990, 26 areas have been removed from the High Risk List. These areas were on the list for nine years on average after they were first designated.

As our most recent high risk report indicates, over the past several months the agencies have demonstrated progress to partially, but not fully meet, each of the five criteria for removing a high risk designation. These include leadership commitment, capacity, developing an action plan, monitoring and demonstrated progress. Our current assessment of this is shown in the figure on display to my right.

First, in the area of leadership commitment, leadership at all of the agencies have been receptive to meeting with GAO teams regularly and working to develop a better understanding of what needs to be done to get off the High Risk List. Some of the agencies have also formed working groups or advisory panels to assist with strategic direction and implementation of our recommendations. However, all of the agencies have faced some issues attaining stable, permanent leadership.

Second, to address capacity issues, BIE hired a full-time program analyst to coordinate its working group and help oversee implementation of our recommendations on Indian education. In February 2019, BIA officials told us they had drafted a long-range workforce plan to ensure BIA has staff in place to meet its organizational needs. IHS has established a new Office of Quality which is expected to develop and monitor agency-wide quality of care standards.

However, both BIE and IHS continue to face significant workforce challenges. For example, although BIE is hiring new staff, about 50 percent of all BIE positions have not been filled according to recent documentation. Furthermore, GAO's August 2018 report found that IHS's average overall vacancy rate for clinical care providers was 25 percent.

With regard to action plans, we found that BIE and IHS both completed strategic plans, BIE in August 2018 and IHS just this past month. These plans will provide both agencies with goals and strategies for improving management and oversight of Indian education and health care programs.

In terms of monitoring, we found that Indian Affairs has taken action to monitor corrective measures that address weaknesses with safety at BIE Schools. IHS has taken steps to develop patient experience of care surveys as well as standards for tracking patient wait times.

Finally, despite the increasing number of recommendation closures, substantial work remains in several key areas, including accountability for BIE school safety and school construction projects, continued monitoring of review and response times for oil and gas leases and agreements, and persistent monitoring of patient wait time and quality metrics at IHS. Sustained focus by Interior and HHS in fully implementing these recommendations and continued oversight by Congress are essential to achieving progress.

Chairman Hoeven, Vice Chairman Udall and members of the Committee, this completes my prepared statement. My colleagues and I would be pleased to respond to any questions you may have.

[The prepared statement of Ms. Farb follows:]

PREPARED STATEMENT OF JESSICA FARB, DIRECTOR, HEALTH CARE TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee:

I am pleased to be here today to discuss the status of actions by the Departments of the Interior (Interior) and Health and Human Services (HHS) to address issues that led to the high-risk designation we made related to the federal management of programs that serve tribes and their members. We added this area to our High-Risk List in February 2017 because of our concern about the ability of agencies within these departments to manage (1) education and health care programs that serve tribes and their members and (2) Indian energy resources.[1] In particular, our prior work found numerous weaknesses in how Interior's Bureau of Indian Education (BIE) and Bureau of Indian Affairs (BIA)—under the office of the Assistant Secretary-Indian Affairs (Indian Affairs)—managed education and energy resources and how HHS's Indian Health Service (IHS) managed health care services. We reported that these management weaknesses jeopardized the health and safety of American Indians served by these programs and limited opportunities for tribes and their members to use energy resources to create economic benefits and improve the well-being of their communities. We expressed continued concerns about challenges faced by these agencies in our 2019 High-Risk Report.[2]

In 2016, Congress found in the Indian Trust Asset Reform Act that "through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indians."[3] As further stated in that act, the fiduciary responsibilities of the United States to Indians arise in part from commitments made in treaties and agreements, in exchange for which Indians surrendered claims to vast tracts of land. The act notes that this history of federal-tribal relations and understandings has benefitted the people of the United States and established "enduring and enforceable [f]ederal obligations to which the national honor has been committed." Agencies can improve the efficiency of federal programs under which services are provided to tribes and their members by making improvements to their management and oversight of such programs.

Such improvements would be consistent with the expressed view of Congress as to the federal government's trust responsibilities and would strengthen confidence in the performance and accountability of the federal government.

The focus of this high-risk area is on management weaknesses within federal agencies that administer programs that serve tribes and their members. However, not all federal programs are administered by federal agencies. In accordance with federal Indian policy that recognizes the right of Indian tribes to self-government and that supports tribal self-determination, a number of tribes have elected to take over the administration of certain federal programs and services from BIA, BIE, and IHS. Our recommendations identified in the high-risk area are neither reflective of the performance of programs administered by tribes nor directed at any tribally operated programs and activities.

When we added the federal management of programs that serve tribes and their members to our High-Risk List in February 2017, we cited 39 open recommendations related to this high-risk area. Since then, we added 13 recommendations in two new reports on BIE school safety and construction, and a report on IHS provider vacancy rates.[4] Overall, as of March 2019, 31 recommendations remain open.

My statement today, which is largely based on our March 2019 *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, will ad-

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[1] GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, GAO–17–317 (Washington, D.C.: Feb. 15, 2017).

[2] GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, GAO–19–157SP (Washington, D.C.: Mar. 6, 2019).

[3] Pub. L. No. 114–178, § 101, 130 Stat. 432 (2016)(codified at 25 U.S.C. § 5601).

[4] *See GAO, Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections*, GAO–17–421 (Washington, D.C.: May 24, 2017); GAO, *Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects*, GAO–17–447 (Washington, D.C.: May 24, 2017); and GAO, *Indian Health Service: Agency Faces Ongoing Challenges Filling Provider Vacancies*, GAO–18–580 (Washington, D.C.: Aug. 15, 2018).

dress actions taken and progress made by these agencies to address the five criteria we use for determining whether to remove a high-risk designation (leadership commitment, capacity, action plan, monitoring, and demonstrated progress). For this statement, we also drew on findings from our reports issued from September 2011 through August 2018 and updated that work by reviewing agency documentation and interviewing agency officials. To conduct our previously issued work on which this testimony draws, we reviewed relevant federal laws, regulations, and policies; reviewed agency documentation; and interviewed tribal, federal, and industry officials, among others. More detailed information on the scope and methodology of our work can be found in each of the reports cited in our High-Risk Series reports.[5]

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Since 1990, generally every 2 years at the start of a new Congress, we call attention to agencies and program areas that are high risk due to their vulnerability to mismanagement or that are most in need of transformation.[6] Our high-risk program is intended to help inform the congressional oversight agenda and to improve government performance. Since 1990, a total of 62 different areas have appeared on the High-Risk List. Of these, 26 areas have been removed, and 2 areas have been consolidated. On average, the high-risk areas that were removed from the list had been on it for 9 years after they were initially added.

Our experience with the High-Risk List over the past 29 years has shown that the key elements needed to make progress in high-risk areas are top-level attention by the administration and agency leaders grounded in the five criteria for removing high-risk designations, which we reported on in November 2000.[7] When legislative and agency actions, including those in response to our recommendations, result in our finding significant progress toward resolving a high-risk problem, we will remove the high-risk designation. However, implementing our recommendations alone will not result in the removal of the designation, because the condition that led to the recommendations is symptomatic of systemic management weaknesses. In cases in which we remove the high-risk designation, we continue to closely monitor the areas. If significant problems again arise, we will consider reapplying the high-risk designation. The five criteria for removing high-risk designations are as follows:

- *Leadership commitment.* Demonstrated strong commitment and top leadership support to address the risks.
- *Capacity.* Agency has the capacity (i.e., people and other resources) to resolve the risk(s).
- *Action plan.* A corrective action plan that defines the root causes, identifies solutions, and provides for substantially completing corrective measures in the near term, including steps necessary to implement solutions we recommended.
- *Monitoring.* A program has been instituted to monitor and independently validate the effectiveness and sustainability of corrective measures.
- *Demonstrated progress.* Ability to demonstrate progress in implementing corrective measures and in resolving the high-risk area.

These five criteria form a road map for efforts to improve and ultimately address high-risk issues. Addressing some of the criteria leads to progress, and satisfying all of the criteria is central to removal from the list. Figure 1 shows the five criteria for removal for a designated high-risk area and examples of agency actions leading to progress toward removal.

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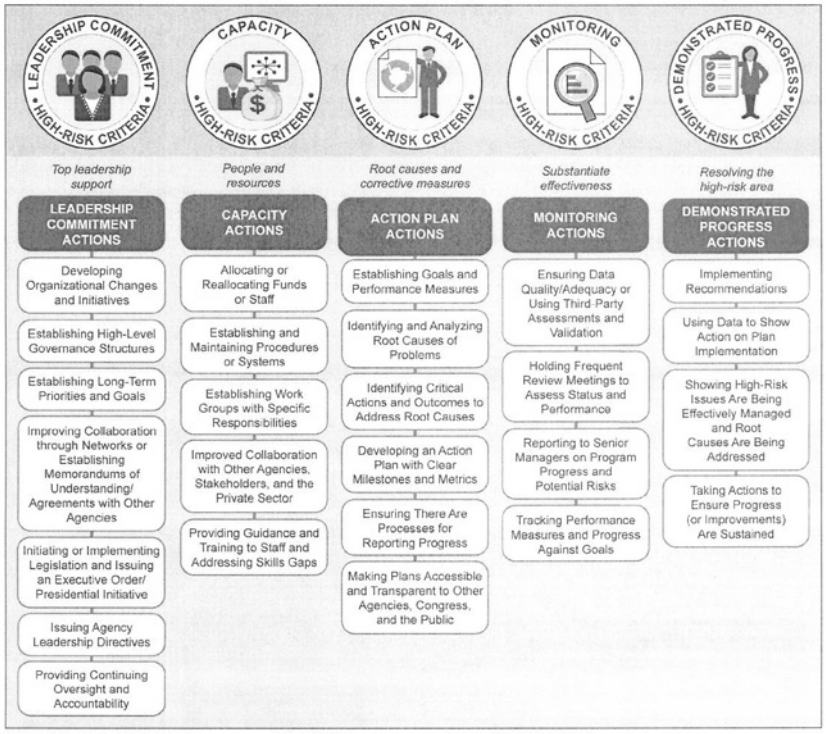
[5] For a list of related reports, see GAO–17–317 and GAO–19–157SP.

[6] In our High-Risk List, we also call attention to agencies and program areas that are high risk due to fraud, waste, and abuse.

[7] GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO–01–159SP (Washington, D.C.: November 2000).

Figure 1: Criteria Agencies Must Meet Before High-Risk Designations Can Be Removed and Examples of Actions Leading to Progress toward Removal



Source: GAO. | GAO-19-445T

Importantly, the actions listed are not "stand alone" efforts taken in isolation of other actions to address high-risk issues. That is, actions taken under one criterion may be important to meeting other criteria as well. For example, top leadership can demonstrate its commitment by establishing a corrective action plan, including long-term priorities and goals to address the high-risk issue and by using data to gauge progress—actions that are also vital to addressing the action plan and monitoring criteria. When an agency meets all five of these criteria, we can remove the agency from the High-Risk List. We rate agency progress on the criteria using the following definitions:

- *Met.* Actions have been taken that meet the criterion. There are no significant actions that need to be taken to further address this criterion.
- *Partially met.* Some, but not all, actions necessary to meet the criterion have been taken.
- *Not met.* Few, if any, actions toward meeting the criterion have been taken.

Agencies Made Some Progress Addressing the Management Weaknesses That Led to the 2017 High-Risk Designation

Officials from Indian Affairs, BIE, BIA, and IHS expressed their commitment to addressing the issues that led to the high-risk designation for federal management of programs that serve tribes and their members. Since we last testified before this committee on June 13, 2018, we met with agency leaders and worked with each agency to identify actions the agencies took or plan to take to address the concerns that contributed to the designation.[8] We determined that Indian Affairs, BIE, BIA, and IHS demonstrated some progress to partially meet each of the criteria for re-

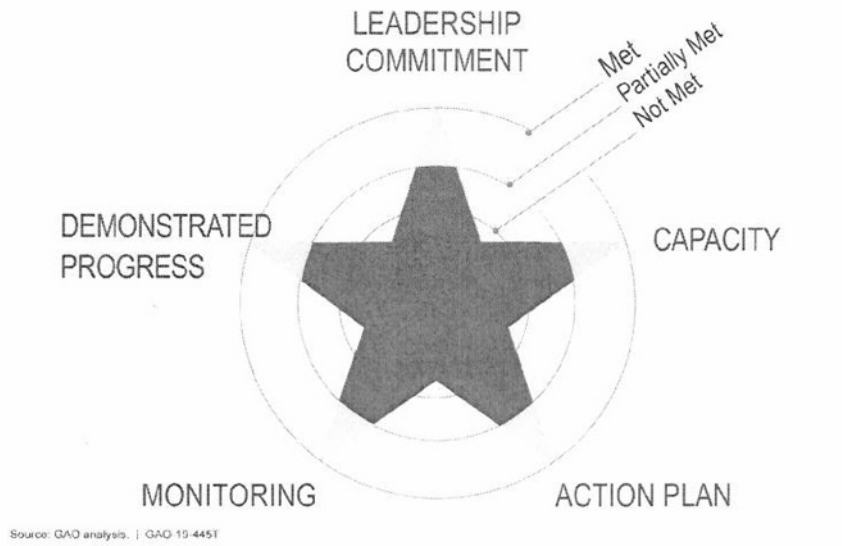
[8] GAO, *High Risk: Agencies Need to Continue Efforts to Address Management Weaknesses of Federal Programs Serving Indian Tribes* GAO-18-616T (Washington D.C.: June 13, 2018).

moving a high-risk designation. However, additional progress is needed for the agencies to fully address the criteria and related management weaknesses.

Overall Rating for Improving Federal Management of Programs That Serve Tribes and Their Members

As we reported in the March 2019 high-risk report, when we applied the five criteria for High-Risk List removal to each of the three segments—education, energy, and health care—we determined that Indian Affairs, BIE, BIA, and IHS have each demonstrated some progress. Overall, the agencies have partially met the leadership commitment, capacity, action plan, monitoring, and demonstrated progress criteria for the education, health care, and energy areas. However, the agencies continue to face challenges, particularly in retaining permanent leadership and a sufficient workforce.

Figure 2: Improving Federal Management of Programs That Serve Tribes and Their Members



Source: GAO analysis. | GAO-19-451T

The following is a summary of the progress that Indian Affairs, BIE, BIA, and IHS have made in addressing the five criteria for removal from the High-Risk List.

Leadership Commitment

To meet the leadership commitment criterion for removal of a high-risk designation, an agency needs to have demonstrated strong commitment and top leadership support to address management weaknesses. The following examples show actions Indian Affairs, BIE, BIA, and IHS took to partially meet the leadership commitment criterion.

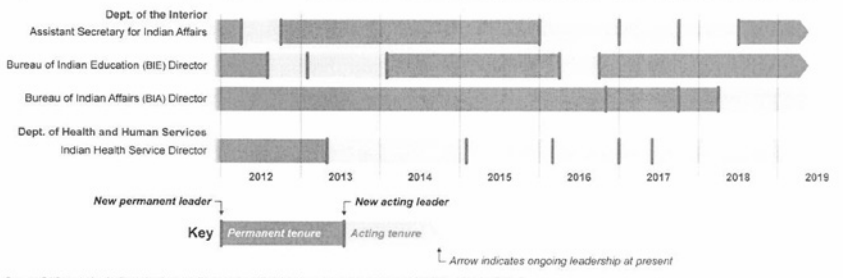
- *Education.* Indian Affairs' leaders have demonstrated commitment to addressing key weaknesses in the management of BIE schools in several ways. For example, the BIE Director formed an internal working group, convened meetings with other senior leaders within Indian Affairs, and publicly stated that his agency is committed to ensuring implementation of our recommendations on Indian education. In addition, the BIE Director and other Indian Affairs leaders and senior managers have met with us frequently to discuss outstanding recommendations, actions they have taken to address these recommendations, and additional actions they could take. We also met with the new Assistant Secretary-Indian Affairs, who expressed her commitment to supporting the agency's efforts to address weaknesses in the management of BIE schools. However, it is important that Indian Affairs leaders be able to sustain this level of commitment to solving problems in Indian education. Since 2012, there have been seven Assistant-Secretaries of Indian Affairs and five BIE Directors. There has also been leadership turnover in other key offices responsible for implementing

our recommendations on Indian education. We have previously reported that leadership turnover hampered Indian Affairs' efforts to make improvements to Indian education.[9] We believe that ensuring stable leadership and a sustained focus on needed changes is vital to the successful management of BIE schools.

- *Energy.* BIA officials demonstrated leadership commitment by, among other things, meeting with us to discuss the agency's progress in addressing our recommendations. In June 2018, a permanent Assistant Secretary for Indian Affairs was confirmed. This action provided an opportunity to improve Indian Affair's oversight of federal actions associated with energy development. According to the BIA Acting Director and the Acting Director for Trust Services, BIA held a number of meetings with the Assistant Secretary to discuss agency action plans for our recommendations. However, BIA does not have a permanent Director, and BIA's Office of Trust Service—which has significant responsibility over Indian energy activities—does not have a permanent Director or Deputy Director. We have seen turnover in these leadership positions as officials have been brought in to temporarily fill these roles. As officials are brought in temporarily, previously identified plans and timeframes for completing some activities have changed, and BIA has found itself starting over on the process to identify or implement corrective actions.
- *Health Care.* IHS officials demonstrated leadership commitment by regularly meeting with us to discuss the agency's progress in addressing our recommendations. In addition, IHS has chartered a policy advisory council that will focus on issues related to strategic direction, recommended policy, and organizational adjustments. According to IHS, this advisory council will, among other things, serve as a liaison among IHS leadership for issues involving strategic direction and policy, as well as monitor and facilitate related policy workgroups. However, IHS still does not have permanent leadership-including a Director of IHS-which is necessary for the agency to demonstrate its commitment to improvement. Additionally, since 2012, there have been five IHS Acting Directors, and there has been leadership turnover in other key positions, such as area directors.[10]

To fully meet the leadership commitment criterion, all agencies will need, among other things, stable, permanent leadership that has assigned the tasks needed to address weaknesses and that holds those assigned accountable for progress. For a timeline of senior leadership turnover in Indian Affairs, BIE, BIA, and IHS from 2012 through March 2019, see Figure 3.

Figure 3: Senior Leadership in Agencies Responsible for Education, Energy, and Health Care Programs Serving Tribes



Source: GAO analysis of information from the Departments of the Interior and Health and Human Services. | GAO-19-445T

Capacity

To meet the capacity criterion, an agency needs to demonstrate that it has the capacity (i.e., people and other resources) to resolve its management weaknesses. Indian Affairs, BIE, BIA, and IHS each made some progress in identifying capacity and resources to implement some of our recommendations, but BIE and IHS continue to face significant workforce challenges. The following examples show actions Indian Affairs, BIE, BIA, and IHS took to partially meet the capacity criterion.

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[9] GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO–13–774 (Washington, D.C.: Sept. 24, 2013).

[10] IHS oversees its health care facilities through a decentralized system of area offices, which are led by area directors.

- *Education.* BIE and other Indian Affairs offices that support BIE schools have made some progress in demonstrating capacity to address risks to Indian education. For example, BIE hired a full-time program analyst to coordinate its working group and help oversee the implementation of our recommendations on Indian education. This official has played a key role in coordinating the agency's implementation efforts and has provided us with regular updates on the status of these efforts. BIE has also conducted hiring in various offices in recent years as part of a 2014 Secretarial Order to reorganize the bureau.[11] For example, it has hired school safety officers and personnel in offices supporting the oversight of school spending. However, about 50 percent of all BIE positions have not been filled, including new positions that have been added as a result of the agency's restructuring, according to recent BIE documentation. Moreover, the agency reported that it has not filled the position of Chief Academic Officer, a top-level BIE manager responsible for providing leadership and direction to BIE's academic programs. Furthermore, BIE has not completed a strategic workforce plan to address staffing and training gaps with key staff, which we previously recommended. Such a plan is important to allow BIE and other Indian Affairs offices to better understand workforce needs and leverage resources to meet them. In February 2019, BIE drafted a strategic workforce plan and reported it is currently gathering feedback on the plan from internal stakeholders. BIE officials indicated they are planning to finalize and implement the plan in 2019.
- *Energy.* In November 2016, we recommended that BIA establish a documented process for assessing the workforce at its agency offices.[12] BIA has taken a number of actions, such as conducting an internal survey to identify general workforce needs related to oil and gas development. This survey information supported staffing decisions for the recently created Indian Energy Service Center. In February 2019, BIA officials told us they have drafted a long-range workforce plan to ensure BIA has staff in place to meet its organizational needs. We will review the plan to determine if the planned actions will help BIA identify critical skills and competencies related to energy development and identify potential gaps.
- *Health Care.* IHS has made some progress in demonstrating it has the capacity and resources necessary to address the program risks we identified in our reports. For example, among other actions, IHS officials stated that the agency is expanding the role of internal audit staff within its enterprise risk management program to augment internal audits and complement audits by the HHS Inspector General and GAO. In addition, IHS has developed a new Office of Quality, which is expected to develop and monitor agency-wide quality of care standards. However, IHS officials told us there are still vacancies in several key positions, including the Director of the Office of Resource Access and Partnerships, and the Office of Finance and Accounting. Additionally, our August 2018 report found that IHS's overall vacancy rate for clinical care providers was 25 percent.[13]

To fully meet the capacity criterion, all of the agencies need to assess tradeoffs between these and other administration priorities in terms of people and resources, and the agencies should provide to decision makers key information on resources needed to address management weaknesses.

Action Plan

To meet the action plan criterion, an agency needs to have a corrective action plan that defines the root causes, identifies solutions, and provides for substantially completing corrective measures in the near term, including steps necessary to implement the solutions we recommended. The following examples show actions Indian Affairs, BIE, BIA, and IHS took to partially meet the action plan criterion.

- *Education.* Among other actions, BIE implemented a new action plan for overseeing BIE school spending, including written procedures and risk criteria, which fully addressed two priority recommendations. Also, BIE completed a strategic plan in August 2018, which we recommended in September 2013.[14]

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[11] U.S. Department of the Interior, *Secretarial Order 3334: Restructuring the Bureau of Indian Education* (Washington, D.C.: June 16, 2014).

[12] GAO, *Indian Energy Development: Additional Actions by Federal Agencies Needed to Overcome Factors Hindering Development*, GAO–17–43 (Washington, D.C.: Nov. 17, 2016).

[13] GAO–18–580.

[14] GAO–13–774.

The plan provides the agency with goals and strategies for improving its management and oversight of Indian education, and establishes detailed actions and milestones for the implementation. However, Indian Affairs has not provided documentation that it has completed action plans on other important issues, such as a comprehensive, long-term capital asset plan to inform its allocation of school facility funds, which we recommended in May 2017. [15]

- *Energy.* In meetings, BIA officials identified actions they have taken towards implementing our recommendations. For instance, BIA officials told us they have recently completed modifications to BIA's database for recording and maintaining historical and current data on ownership and leasing of Indian land and mineral resources—the Trust Asset and Accounting Management System (TAAMS). The officials said that the modifications incorporate the key identifiers and data fields needed to track and monitor review and response times for oil and gas leases and agreements. BIA officials we met with have demonstrated an understanding that addressing long—standing management weaknesses is not accomplished through a single action but through comprehensive planning and continued movement toward a goal. However, the agency does not have a comprehensive action plan to identify the root causes of all identified management weaknesses and address the problems.
- *Health Care.* In February 2019, IHS finalized its strategic plan for fiscal years 2019 through 2023, and is developing a related work plan to address certain root causes of management challenges and define solutions and corrective measures for the agency. The strategic plan divides these challenges into three categories: (1) access to care, (2) quality of care, and (3) program management and operations. We will examine the strategic plan and IHS's work plan, once issued, to determine whether they contain the needed elements of an action plan.

To fully meet the action plan criterion, a comprehensive plan that identifies actions to address the root causes of its management shortcomings would have to come from top leadership with a commitment to provide sufficient capacity and resources to take the necessary actions to address management shortcomings and risks.

Monitoring

To meet the monitoring criterion, an agency needs to demonstrate that a program has been instituted to monitor and independently validate the effectiveness and sustainability of corrective measures. We have been working with the agencies to help clarify the need to establish a framework for monitoring progress that includes goals and performance measures to track their efforts and ultimately verify the effectiveness of their efforts. The following examples show actions Indian Affairs, BIE, BIA, and IHS took to partially meet the monitoring criterion.

- *Education.* Indian Affairs, in consultation with Department of Interior's Office of Occupational Safety and Health, has taken actions to monitor corrective measures that address weaknesses with the agency's safety program—which covers safety at BIE schools. However, the agency has not yet demonstrated that it is monitoring several other areas, such as whether relevant employees are being held to the agency's required performance standards for safety inspections.
- *Energy.* BIA has taken steps to improve monitoring by holding frequent meetings to assess its progress in implementing our recommendations. However, BIA has not yet taken needed steps to monitor its progress in addressing the root causes of management weaknesses.
- *Health Care.* IHS has taken some steps toward monitoring the agency's progress in addressing the root causes of their management weaknesses. In addition to developing its new Office of Quality, IHS has taken steps to develop a patient experience of care survey, as well as standards for tracking patient wait times. These efforts should be reflected in the agency's corrective plan, as part of an overall framework for monitoring progress that includes goals and performance measures to track their efforts and ultimately verify the effectiveness of their efforts.

To fully meet the monitoring criterion, the agencies need to establish goals and performance measures as they develop action plans and take further actions to mon-

[15] GAO–17–447.

itor the effectiveness of actions to address root causes of identified management shortcomings.

Demonstrated Progress

To meet the demonstrated progress criterion, an agency needs to demonstrate progress in implementing corrective measures and in resolving the high-risk area. The following examples show actions Indian Affairs, BIA, and IHS took to partially meet the demonstrated progress criterion.

- *Education.* As of February 2019, Indian Affairs had addressed 11 of the 23 outstanding education recommendations we identified in our September 2017 testimony. Three of these recommendations were closed after the June 2018 hearing, including a recommendation from our 2013 report for BIE to develop a strategic plan and two recommendations from our 2017 report on improving the oversight and accountability for BIE school safety inspections.[16] Overall, Indian Affairs' efforts since we issued our High-Risk List update in February 2017 represent a significant increase in activity implementing our recommendations.[17] Substantial work, however, remains to address our outstanding recommendations in several key areas, such as in accountability for BIE school safety and school construction projects. For example, Indian Affairs has not provided documentation that the inspection information its personnel collect on the safety of BIE schools is complete and accurate.[18] As of late February 2019, 12 recommendations related to this high-risk area remain open and Indian Affairs concurred with all 12 recommendations. For a full description of the status of these open recommendations, see in table 1 in appendix I.
- *Energy.* BIA has shown significant progress developing data collection instruments and processes needed to track and review response times for a number of different actions associated with energy development. For example, in our June 2015 report, we recommended that BIA take steps to improve its geographic information system (GIS) capabilities to ensure it can verify ownership in a timely manner.[19] We closed this recommendation as BIA has made significant progress in enhancing its GIS capabilities by integrating map-viewing technology and capabilities into its land management data system. In addition, we recommended that BIA take steps to identify cadastral survey needs.[20] BIA's enhanced map-viewing technology allows the bureau to identify land boundary discrepancies, which can then be researched and corrected. To address the recommendation, BIA identified unmet survey needs that were contained within the defunct cadastral request system. BIA developed a new mechanism for its regions and agency offices to make survey requests and a new database to maintain survey requests. In fall 2018, BIA completed enhancements to TAAMS that will allow the agency to track timeframes and status of oil and gas revenue-sharing agreements-called communitization agreements (CA) through the review process. BIA held training on the enhancements in November 2018 and requested staff input information on any newly submitted CAs in the system. In a meeting on February 25, 2019, the Acting Director of BIA said that BIA had also completed efforts to modify TAAMS, incorporating the key identifiers and data fields needed to track and monitor review and response times for oil and gas leases and agreements. We believe these actions show significant progress in addressing management weaknesses associated with outdated technology and data limitations for tracking and monitoring the review and approval of energy related documents. However, BIA needs to collect data from its updated system, develop timeframes, and monitor agency performance to close open recommendations. For a full description of the status of the agency's open recommendations, see in table 2 in appendix II.
- *Health Care.* IHS has made progress in implementing corrective actions related to the management of health care programs. Specifically, since our 2017 High-Risk Report, IHS implemented four of our 13 open recommendations. For example, in response to our April 2013 recommendation, to ensure that IHS's payment rates for contracted services do not impede patient access to physician and other nonhospital care, IHS developed an online tool that enables the agency

[16] GAO–13–774, GAO–17–421.
[17] GAO–17–317.
[18] GAO, *Indian Affairs: Key Actions Needed to Ensure Safety and Health at Indian School Facilities*, GAO–16–313 (Washington, D.C.: Mar. 10, 2016).
[19] GAO, *Indian Energy Development: Poor Management by BIA Has Hindered Energy Development on Indian Lands*, GAO–15–502 (Washington, D.C.: June 15, 2015).
[20] A cadastral survey is, in effect, the public record of the extent, value, and ownership of land.

to track providers that do not accept IHS's payment rates. As of March 2019, six out of the 13 recommendations in our 2017 High-Risk Report remain open, and we have added one additional recommendation—for a total of seven open recommendations related to this high-risk area. IHS officials told us that they plan to complete the implementation of additional recommendations in 2019. For a full description of the status of the agency's open recommendations, see in table 3 in appendix III.

To fully meet the demonstrating progress criterion, agencies need to continue taking actions to ensure sustained progress and show that management shortcomings are being effectively managed and root causes are being addressed.

In conclusion, we see some progress in meeting all of the criteria, at all agencies, especially related to education programs. However, permanent leadership that provides continuing oversight and accountability is needed. We also see varying levels of progress at all of the agencies in understanding what they need to do to be removed from the High-Risk List, and identifying steps that can be incorporated into corrective action plans. We look forward to working with the agencies to track their progress in implementing a framework for monitoring and validating the effectiveness of planned corrective actions. Among the greatest continuing challenges for the agencies is developing sufficient capacity, including demonstrating that they have the people and other resources required to address the deficiencies in their programs and activities. This challenge cannot be overcome by the agencies without a commitment from their leadership and the administration to prioritize fixing management weaknesses in programs and activities that serve tribes and their members. Sustained congressional attention to these issues will help ensure that the agencies continue to achieve progress in these areas.

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have.

Appendix I: Status of Open Recommendations to the Department of the Interior on Indian Education

As of late February 2019, 12 of the 23 recommendations to the Department of the Interior on Indian education we identified in our September 13, 2017, testimony remain open.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education

Category and recommendation	Report number and date	Status
Management challenges facing Bureau of Indian Education (BIE) The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to revise its strategic workforce plan to ensure that employees providing administrative support to BIE have the requisite knowledge and skills to help BIE achieve its mission and are placed in the appropriate offices to ensure that regions with a large number of BIE schools have sufficient support.	GAO–13–774 September 2013	Interior agreed with this recommendation. In February 2019, BIE drafted a strategic workforce plan and reported it is currently gathering feedback on the plan from various internal offices. BIE officials indicated they are planning to finalize and implement the plan in 2019. BIE developed the draft plan to also address another workforce plan recommendation in our November 2014 report (see below). We will continue to monitor the agency's efforts to implement these recommendations.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education—Continued

Category and recommendation	Report number and date	Status
BIE's oversight of school spending The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop a comprehensive workforce plan to ensure that BIE has an adequate number of staff with the requisite knowledge and skills to effectively oversee BIE school expenditures.	GAO–15–121 November 2014	Interior agreed with this recommendation. In February 2019, BIE drafted a strategic workforce plan and reported it is currently gathering feedback on the plan from internal offices. BIE officials indicated they are planning to finalize and implement the plan in 2019. BIE developed the draft plan to also address another workforce plan recommendation in our September 2013 report (see above). We will continue to monitor the agency's efforts to implement these recommendations.
Safety and health at Indian school facilities To support the collection of complete and accurate safety and health information on the condition of BIE school facilities nationally, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to ensure that all BIE schools are annually inspected for safety and health, as required by its policy, and that inspection information is complete and accurate.	GAO–16–313 March 2016	Interior agreed with this recommendation. In September 2018, Indian Affairs provided documentation that it had completed fiscal year 2018 safety inspections of all BIE schools. The agency also reported that it is taking steps to oversee the quality of school inspections, but it has not provided us with documentation that indicates inspection information agency personnel collect and report to schools is complete and accurate. We will continue to monitor the agency's performance in this area.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education—Continued

Category and recommendation	Report number and date	Status
To ensure that all BIE schools are positioned to address safety and health problems with their facilities and provide student environments that are free from hazards, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop a plan to build schools' capacity to promptly address safety and health problems with facilities. Such a plan could prioritize assistance to schools to improve the expertise of facility staff to maintain and repair school buildings.	GAO–16–313 March 2016	Interior agreed with this recommendation. In June 2018, Indian Affairs provided us with documentation on its efforts to build schools' capacity to address safety and health problems with their facilities. In particular, the agency updated its Service Level Agreement between BIA and BIE, which details their roles and responsibilities for inspecting and providing technical assistance to BIE schools, among other areas. However, Indian Affairs' documents provided little information on how it plans to support BIE school personnel in fixing safety hazards in their facilities. In our 2016 report, we found that school personnel often lack the necessary technical expertise to address safety hazards in school buildings. Further, the agency did not include information on whether it has staffed regional offices with specialists to assist schools with safety and facility issues. In September 2018, we requested additional information from Indian Affairs on this recommendation but the agency had not provided it as of February 2019. We will continue to monitor its efforts on this recommendation.
The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop and take corrective actions, in consultation with Interior's Designated Agency Safety and Health Official, to address BIA safety program weaknesses identified in prior Interior evaluations.	GAO–17–421 May 2017	Interior agreed with this recommendation.In August 2018, Indian Affairs reported that it developed a corrective action plan, in consultation with Interior's Designated Agency Safety and Health Official, and taken some corrective actions identified in the plan. However, it did not provide documentation that correction actions in other important areas had been completed, such as signed management statements of commitment to safety and regional analysis and plans for correcting safety deficiencies. In September 2018, we requested additional information from Indian Affairs on this recommendation but the agency had not provided it as of February 2019. We will continue to monitor its efforts on this recommendation.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education—Continued

Category and recommendation	Report number and date	Status
The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to assign responsibility to a specific office or official to develop and implement a plan to assess employees' safety training needs and monitor employees' compliance with Indian Affairs' safety training requirements.	GAO–17–421 May 2017	Interior agreed with this recommendation.In May 2018, Indian Affairs reported that it had completed a draft training plan and noted that it had submitted the plan to management for review. In February 2019, Indian Affairs reported that its training plan for safety personnel was waiting to be approved and signed by management. We will continue to monitor Indian Affairs' efforts to implement this recommendation.
The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to ensure that BIA's employee performance standards on inspections are consistently incorporated into the appraisal plans of all BIA personnel with safety program responsibilities.	GAO–17–421 May 2017	Interior agreed with this recommendation. In February 2019, Indian Affairs reported that the appraisal plans for agency safety personnel responsible for inspecting BIE schools had been updated with the agency's performance standards for inspections. However, it did not provide documentation that this action was taken per our request. We will continue to monitor Indian Affairs' efforts to implement this recommendation.
The Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to use information gathered from monitoring the timeliness of school safety inspection reports to assess the performance of employees with safety program responsibilities and hold them accountable.	GAO–17–421 May 2017	Interior agreed with this recommendation. In May 2018, Indian Affairs reported that its Safety Office will assist safety supervisors in tracking inspectors' performance on report timeliness, consistency and accountability of inspection services. As of February 2019, we have not received documentation that the agency is taking this action. We will continue to monitor Indian Affairs' efforts to implement this recommendation.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education—Continued

Category and recommendation	Report number and date	Status
Oversight of BIE school construction projects To ensure accountability for BIE school facility funds, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop a comprehensive long-term capital asset plan to inform its allocation of school facility funds. Such a plan should include a prioritized list of school repair and maintenance projects with the greatest need for funding.	GAO–17–447 May 2017	Interior agreed with this recommendation. In August 2017, Indian Affairs reported that its Office of Facilities, Property, and Safety Management was undergoing a reorganization to establish a work group focused on asset management and will continue to work with the Office of Management and Budget to develop a capital asset management plan. Indian Affairs reported a target date of June 30, 2018, for implementing this recommendation. As of February 2019, the agency had not provided documentation that it had completed a comprehensive long-term capital asset plan. We will continue to monitor Indian Affairs' efforts to implement this recommendation.
To ensure accountability for BIE school facility funds, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop and implement guidance for its project managers and contracting officers regarding effective use of accountability measures.	GAO–17–447 May 2017	Interior agreed with this recommendation. In August 2017, Indian Affairs reported that it had taken several actions, including establishing new oversight mechanisms, hiring staff with expertise in construction contracting, and administering training for contracting staff, among other actions to enhance the use of accountability measures in contracting. In October 2018, Indian Affairs reported that it had taken additional actions, including providing formal meeting and training events on construction and project management and conducting a review of contracting warrants to ensure that those possessing construction capability had obtained necessary training. Indian Affairs also requires additional management and legal reviews of certain construction contracts and has established multiple award construction contracts to streamline the construction contracting process and ensure that accountability measures are included in the base contracts. Indian Affairs adopted a construction contract checklist to aid the construction contracting team and developed a new letter outlining roles and responsibilities for the project managers. As of February 2019, we were evaluating the agency's documentation regarding the implementation of this recommendation.

Table 1: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior (Interior) on Management and Oversight of Indian Education—Continued

Category and recommendation	Report number and date	Status
To ensure accountability for BIE school facility funds, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to improve oversight and technical assistance to tribal organizations to enhance tribal capacity to manage major construction projects.	GAO–17–447 May 2017	Interior agreed with this recommendation. In August 2017, Indian Affairs reported that its Division of Facilities Management and Construction will develop a project tracking and monitoring process for all projects above a certain monetary threshold. Additionally, Indian Affairs reported that this office will work with BIA and BIE officials to identify common challenges that tribes face in managing projects and provide appropriate technical assistance. Indian Affairs reported a target date of June 30, 2018, for implementing this recommendation. As of February 2019, the agency had not provided documentation that it had taken these steps. We will continue to monitor Indian Affairs' efforts to implement this recommendation.
To ensure accountability for BIE school facility funds, the Secretary of the Interior should direct the Assistant Secretary-Indian Affairs to develop and implement guidance for maintaining complete contract and grant files for all BIE school construction projects.	GAO–17–447 May 2017	Interior agreed with this recommendation. In February 2019, Indian Affairs reported that it drafted an internal policy and guidance on maintaining contract files, which were undergoing internal review. We will continue to monitor Indian Affairs' efforts to implement this recommendation.

Source: GAO–19–445T

Appendix II: Status of Open Recommendations to the Department of Interior on Indian Energy

As of February 2019, 12 of the 14 recommendations to the Department of Interior's Bureau of Indian Affairs cited in our 2017 High-Risk Report remain open.

Table 2: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) on Management and Oversight of Indian Energy Resources

Category and recommendation	Report number and date	Status
BIA's data and technology BIA should work with the Bureau of Land Management (BLM) to identify cadastral survey needs.	GAO–15–502 June 2015	BIA requested each of its 12 regions to review and identify historic survey requests that were contained within a defunct cadastral request system to determine if the requests are still valid. According to BIA officials, BIA and BLM identified about 1,900 survey requests that were not funded. BIA developed a new database that includes this inventory and new survey requests since 2015. BIA also developed a mechanism for its regions and agency offices to make new survey requests. According to BIA officials, the agency has limited funding for cadastral surveys and conduct surveys that are needed for litigation purposes and those surveys that are mandated. Officials said that BIA and BLM coordinators meet bimonthly. We believe these actions address the recommendation and are in the process of closing this recommendation.
BIA's oversight of its review process for energy related documents BIA should develop a documented process to track its review and response times.	GAO–15–502 June 2015	In a meeting on February 25, 2019, the Acting Director of BIA said that the agency had completed efforts to modify TAAMS, incorporating the key identifiers and data fields needed to track and monitor review and response times for oil and gas leases and agreements and communitization agreements (CA). BIA is also in the process of revising its Fluid Minerals Handbook to establish a standard methodology for processing new leases. We have meetings planned with BIA to observe the tracking and reporting capabilities of the updated system. We also will discuss the status of actions to track and monitor realty transactions and other energy-related documents, such as rights of way agreements.
BIA should enhance data collection efforts to ensure it has data needed to track its review and response times.	GAO–15–502 June 2015	BIA identified the same actions to implement this recommendation as the prior recommendation, and we will be reviewing these actions.

Table 2: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) on Management and Oversight of Indian Energy Resources—Continued

Category and recommendation	Report number and date	Status
BIA should establish required timeframes for the review and approval of Indian CAs to ensure a more timely CA process.	GAO–16–553 June 2016	In a meeting on February 25, 2019, BIA officials told us the agency has drafted suggested timeframes for the review and approval for the Indian CAs for both BIA and BLM. BIA is revising the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures to include these timeframes. The officials said that the Indian Energy and Minerals Steering Committee (IEMSC) will meet in May 2019 and discuss the proposed timeframes. IEMSC is a committee within Interior that includes senior managers from BIA, BLM, and other agencies with a focus on Indian trust energy and mineral policies and issues. When BIA establishes required timeframes for the review approval of CAs, this recommendation will be closed.
BIA should develop a systematic mechanism for tracking Indian CAs through the review and approval process to determine, among other things, whether the revised CA process meets newly established timeframes.	GAO–16–553 June 2016	In April 2017, BIA began tracking CAs through the review and approval process in a centralized spreadsheet while the agency modified TAAMS. In the fall of 2018, BIA completed enhancements to TAAMS that will allow the agency to track timeframes and status of Indian CAs through the review process. BIA held training on the enhancements with realty staff in November 2018 and requested staff input information on any newly submitted CAs in the system. We believe these actions address most of the recommendation. Once timeframes have been established and monitored, we believe this will be fully addressed.
BIA should assess whether the revised CA process is achieving its objective to improve the timeliness of the review and approval of Indian CAs, and if not, make changes as appropriate.	GAO–16–553 June 2016	In a meeting on February 25, 2019, the BIA Acting Director and other officials said that they have collected data since April 2017 on the timeframes of the review and approval of CAs and have been assessing efforts to streamline the process. In addition, the officials said that the Indian Energy and Minerals Steering Committee (IEMSC) will meet in May 2019 and this topic will be discussed. When BIA provides documentation on their assessment of the revised process, we will be able to close this recommendation.

Table 2: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) on Management and Oversight of Indian Energy Resources—Continued

Category and recommendation	Report number and date	Status
BIA's collaboration and communication BIA should include the other regulatory agencies in the Service Center, such as FWS, EPA, and the Corps, so that the Indian Energy Service Center (Service Center) can act as a single point of contact or a lead agency to coordinate and navigate the regulatory process.	GAO–17–43 November 2016	In a meeting on February 25, 2019, the BIA Acting Director said the agency has formal agreements with Interior's Fish and Wildlife Service (FWS), the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps). We plan to obtain and review these agreements. In addition, we plan to visit the Service Center to discuss agency roles and coordination.
BIA should establish formal agreements with Interior's Office of Indian Energy and Economic Development (IEED) and the Department of Energy (DOE) that identify, at a minimum, the advisory or support role of each office involved with the Service Center.	GAO–17–43 November 2016	BIA prepared an addendum to expand an existing memorandum of understanding between DOE and IEED to include the Service Center. DOE has not yet approved the agreement. However, the existing memorandum of understanding between DOE and IEED does not identify the role for these agencies as related to the Service Center. We plan to visit the Service Center to discuss agency roles and coordination.
BIA should establish a documented process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center activities.	GAO–17–43 November 2016	On June 13, 2018, the Acting Director of BIA testified before the Senate Committee on Indian Affairs that the Service Center developed a process that allows key agencies to provide input and requests for service. The Acting Director reported that the process includes guidance on the prioritization of task orders and that Service Center officials began using an intake form in August 2017 to obtain input regularly from stakeholders. We plan to visit the Service Center to learn about this process and any others the Service Center may have to obtain input regularly from stakeholders.

Table 2: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) on Management and Oversight of Indian Energy Resources—Continued

Category and recommendation	Report number and date	Status
BIA should document the rationale for key decisions related to the establishment of the Service Center, such as alternatives and tribal requests that were considered.	GAO–17–43 November 2016	BIA reported it has taken actions needed to implement our recommendation. On May 17, 2017, the Acting Assistant Secretary-Indian Affairs testified before the Senate Committee on Indian Affairs that Interior considers this recommendation implemented because (1) the development of the Service Center was the result of a concept paper produced by a multi-agency team and (2) a multi-agency team held a tribal listening session, received written comments, and conducted conference calls in an effort to gather input from relevant stakeholders. BIA's actions have not resulted in documentation on the alternatives considered, whether tribal input and requests were considered, and the rationale for not incorporating key suggestions. Without documentation on alternatives considered in establishing the Service Center, it is unclear whether requests from stakeholders were appropriately considered. Since BIA has not provided this documentation, we plan to close this recommendation as unimplemented.

Table 2: The Status of Open Recommendations in Prior GAO Reports to the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) on Management and Oversight of Indian Energy Resources—Continued

Category and recommendation	Report number and date	Status
BIA's workforce planning BIA should incorporate effective workforce planning standards by assessing critical skills and competencies needed to fulfill BIA's responsibilities related to energy development and by identifying potential gaps.	GAO–17–43 November 2016	BIA has taken a number of actions, such as conducting an internal survey to identify general workforce needs related to oil and gas development. This survey information supported staffing decisions for the Indian Energy Service Center. On June 13, 2018, the Acting Director of BIA testified before the Senate Committee on Indian Affairs that the BIA conducted a multi-agency survey to collect workforce data on needs for energy and minerals management. According to the Acting Director of BIA, the survey information confirmed needs across agencies in the areas of engineering, engineering technicians and environmental science disciplines. He also stated that BIA would work to develop effective workforce standards to address the need for the skills and competencies needed for energy development. In a meeting on February 25, 2019, BIA officials said that the Office of Trust Service has developed a long-range workforce action plan. The plan includes proposed actions to identify potential gaps in the workforce and determine future needs. We plan to gather additional information and review the workforce action plan to determine if these actions result in BIA identifying critical skills and competencies needed to fulfill BIA's responsibilities related to energy development and identifying potential gaps agency offices.
BIA should establish a documented process for assessing BIA's workforce composition at agency offices taking into account BIA's mission, goals, and tribal priorities.	GAO–17–43 November 2016	We plan to gather additional information and review the workforce action plan to determine if it establishes a process for assessing BIA's workforce composition at agency offices.

Source: GAO–19–445T

Appendix III: Status of Open Recommendations to HHS on the Indian Health Service

As of March 2019, six out of the 13 recommendations in our 2017 High-Risk Report remain open, and we have added one additional recommendation-for a total of seven open recommendations related to this high-risk area.

Table 3: Status of Open Recommendations in Prior GAO Reports to the Department of Health and Human Services (HHS) on Management and Oversight of the Indian Health Service (IHS)

Category and recommendation	Report number and date	Status
Estimating Purchased/Referred Care (PRC) program needs To develop more accurate data for estimating the funds needed for the PRC program and improving IHS oversight, the Secretary of Health and Human Services should direct the Director of IHS to develop a written policy documenting how IHS evaluates need for the PRC program and disseminate it to area offices and PRC programs to ensure they understand how unfunded services data are used to estimate overall program needs.	GAO–11–767 September 2011	HHS agreed with our recommendation. In March 2019, IHS officials reported that updates to the PRC chapter of the Indian Health Manual had been completed that address this recommendation, and that the updated manual would be posted to the IHS website shortly. We will review the updated PRC chapter of the Indian Health Manual once it is posted.
To develop more accurate data for estimating the funds needed for the PRC program and improving IHS oversight, the Secretary of Health and Human Services should direct the Director of IHS to provide written guidance to PRC programs on a process to use when funds are depleted and there is a continued need for services, and monitor to ensure that appropriate actions are taken.	GAO–11–767 September 2011	HHS agreed with our recommendation. In March 2019, IHS officials reported that updates to the PRC chapter of the Indian Health Manual had been completed that address this recommendation, and that the updated manual would be posted to the IHS website shortly. We will review the updated PRC chapter of the Indian Health Manual once it is posted. We will also review IHS's monitoring of actions taken after this guidance is issued.
Ensuring equitable allocation of PRC program funds To make IHS's allocation of PRC program funds more equitable, the Secretary of Health and Human Services should direct the Director of the Indian Health Service to develop written policies and procedures to require area offices to notify IHS when changes are made to the allocations of funds to PRC programs.	GAO–12–446 June 2012	HHS agreed with our recommendation. In March 2019, IHS officials reported that updates to the PRC chapter of the Indian Health Manual had been completed that address this recommendation, and that the updated manual would be posted to the IHS website shortly. We will review the updated PRC chapter of the Indian Health Manual once it is posted.

Table 3: Status of Open Recommendations in Prior GAO Reports to the Department of Health and Human Services (HHS) on Management and Oversight of the Indian Health Service (IHS)—Continued

Category and recommendation	Report number and date	Status
Improving IHS's PRC program In an effort to ensure that IHS has meaningful information on the timeliness with which it issues purchase orders authorizing payment under the PRC program and to improve the timeliness of payments to providers, the Secretary of the Department of Health and Human Services should direct the Director of IHS to: (1) modify IHS's claims data system to separately track IHS referrals and self-referrals, revise the Government Performance Results Act measure for the PRC program so that it distinguishes between these two types of referrals, and establish separate timeframe targets for these referral types; and (2) improve the alignment between PRC staffing levels and workloads by revising its current practices, where appropriate, to allow available funds to be used to pay for PRC program staff.	GAO–14–57 December 2013	HHS agreed with the first part of this recommendation. As of December 2018, IHS officials told us that it had implemented the first part of this recommendation by developing two new Government Performance and Results Act (GPRA) measures that recognize the differences in payment processes for the two types of referrals in the PRC program. Officials reported that IHS is tracking and monitoring progress towards reaching both these targets, and will report its performance annually in the Congressional Justification. Regarding the second part of this recommendation, in March 2019, IHS officials reported that updates to the PRC chapter of the Indian Health Manual had been completed that address this recommendation, and that the updated manual would be posted to the IHS website shortly. We will review the updated PRC chapter of the Indian Health Manual once it is posted.
Improving IHS oversight of patient wait times To help ensure that timely primary care is available and accessible to American Indian and Alaska Native people, the Secretary of HHS should direct the Director of IHS to monitor patient wait times in its federally operated facilities and ensure corrective actions are taken when standards are not met.	GAO–16–333 March 2016	HHS agreed with our recommendation. IHS officials stated in March 2019 that they were updating the agency's patient wait time standards to include emergency department wait times, and the agency was working to develop system-wide capacity for data measurement and monitoring. Once the standards are fully developed and monitoring is underway, IHS will also need to ensure corrective actions are taken when standards are not met. We will review IHS's monitoring of patient wait times, as well as corrective actions taken, after these procedures have been established and implemented.

Table 3: Status of Open Recommendations in Prior GAO Reports to the Department of Health and Human Services (HHS) on Management and Oversight of the Indian Health Service (IHS)—Continued

Category and recommendation	Report number and date	Status
Improving IHS oversight of quality of care To help ensure that quality care is provided to American Indian and Alaska Native people, the Secretary of HHS should direct the Director of IHS to, as part of the implementation of its quality framework, ensure that agency-wide standards for the quality of care provided in its federally operated facilities are developed, that facility performance in meeting these standards is systematically monitored over time, and that enhancements are made to its adverse event reporting system.	GAO–17–181 January 2017	HHS agreed with this recommendation and reported that agency-wide measures, goals and benchmarks have been developed, and that they build on best practices and external benchmarks from comparable organizations. HHS also has a system-wide dashboard of performance accountability metrics, for use at the enterprise, area, and facility levels. In addition, IHS awarded a contract to a software development firm in December 2018 to design a new adverse event reporting and tracking system for the agency. We will review IHS's monitoring of facility performance, and its new adverse event reporting system when they are completed.
Improving IHS decisionmaking about resource allocation and provider staffing The Director of IHS should obtain, on an agency-wide basis, information on temporary provider contractors, including their associated cost and number of full-time equivalents, and use this information to inform decisions about resource allocation and provider staffing.	GAO–18–580 August 2018	HHS agreed with this recommendation. In its comments on our report, HHS stated that IHS plans to update its policies to include a centralized reporting mechanism requirement for all temporary contracts issued for providers. HHS also stated that, upon finalization of the policy, IHS will broadly incorporate and implement the reporting mechanism agency-wide and maintain it on an annual basis. We will update the status of this recommendation when we receive additional information.

Note: IHS's PRC program, as it is currently known, was previously referred to as the Contract Health Services (CHS) program in prior GAO reports. Source: GAO–19–445T

The CHAIRMAN. Thank you, Director Farb. We appreciate it.
Director Dearman.

STATEMENT OF TONY DEARMAN, DIRECTOR, BUREAU OF INDIAN EDUCATION, U.S. DEPARTMENT OF THE INTERIOR

Mr. DEARMAN. Good afternoon Chairman Hoeven, Vice Chairman Udall and members of the Committee.

Thank you for the invitation to appear again on behalf of the Bureau of Indian Education to discuss our ongoing work to address the high risk designation from the Government Accountability Office.

As of today, I am happy to report that BIE has closed nine of the thirteen overdue recommendations since the first high risk hearing in 2017. The BIE has also closed two recommendations from GAO–17–421, for a total of eleven recommendation closures.

The BIE continues to work collaboratively with our GAO colleagues to address all remaining recommendations, including those issued in 2017.

As I have testified before, the BIE views the GAO reports as a constructive tool to improve our agency and help the students we are committed to serve. Today, I would like to update you on our progress and provide you with our plans to address the remaining outstanding recommendations. Regarding GAO Report 13–774, BIE has completed implementation of all but one recommendation in this report, including the BIE's first ever five-year strategic direction. The direction is a culmination of a year of hard work, planning and substantive consultation with tribes and will, for the first time, provide a comprehensive road map for BIE.

BIE purposely delayed implementation of the two outstanding recommendations regarding a strategic workforce plan until finalizing the direction. Following publishing of the direction in mid-August, the BIE conducted an exhaustive analysis of its available human resources data to create a working draft of the workforce plan.

In an ongoing effort to work early and often with GAO on all of our high risk-related projects, we provided GAO with the draft in mid-February. I am happy to report that the BIE received GAO's feedback last week and we are working to incorporate their expert input.

BIE initially anticipated completing the workforce plan prior to the hearing. However, the recent shutdown delayed the completion date. We expect to complete this process in the coming weeks and look forward to formally closing the two workforce plan recommendations soon thereafter.

It is worth highlighting here that the department previously considered BIE's workforce plan recommendation in 13–774 closed. However, following BIE's meeting with GAO on June 17th and August 16th of 2017, GAO provided clarification regarding its expectations. As a result, the BIE and the department agreed that its previous work did not fully address GAO's recommendation and agreed to reinitiate work on its strategic workforce plan.

Regarding GAO–16–313, BIE successfully implemented Recommendations II and IV, and GAO permanently closed the recommendations in early 2018.

BIE and its Indian Affairs partners continue to work implementing GAO's two remaining recommendations. In addition, BIE and BIA once again administered safe school audits with a 100 percent completion rate in 2018. We are on track to complete 100 percent of the inspections in 2019 and are monitoring whether schools have established required safety committees.

We are also working to ensure employee performance standards regarding inspections are consistently incorporated into the appraisal plans of personnel with safety program responsibilities. Personnel are on schedule to require safety inspectors to formally document when inspection reports are delivered to schools, as well as establish a process to routinely monitor the timeliness of such reports.

Further, BIE staff and its Indian Affairs partners drafted and recently implemented the Indian Affairs Safety, Health and Accessi-

bility Inspection Evaluation Guidelines, which will comprehensively address many of the GAO safety-related recommendations outlined in subsequent reports released in 2017.

Chairman Hoeven, Vice Chairman Udall and members of the Committee, thank you for the opportunity to present testimony today and to provide the Committee an update regarding our work with GAO. Work remains. The BIE continues to make progress and is committed to addressing all GAO recommendations to improve services to our students.

Thank you for your time and I would be honored to answer any questions.

[The prepared statement of Mr. Dearman follows:]

PREPARED STATEMENT OF TONY DEARMAN, DIRECTOR, BUREAU OF INDIAN EDUCATION, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. Thank you for the invitation to appear again on behalf of the Bureau of Indian Education (BIE) to discuss our ongoing work to address the high-risk designation from the Government Accountability Office (GAO) in the High Risk Report (GAO–17–317 High Risk Series). GAO's recently issued report, GAO–19–157SP,provides the updated status of the Department's efforts to address these recommendations.

Since the first High Risk hearing in 2017, the BIE has worked to address all outstanding recommendations, with nine of the thirteen overdue recommendations permanently closed. Additionally, the BIE has closed two separate recommendations from GAO–17–421, for a total of eleven recommendation closures. The BIE continues to work collaboratively with our GAO colleagues to address all remaining GAO recommendations, including those issued in 2017, to improve our services to Indian students. Such work has already proven effective as evidenced by our newly implemented Strategic Direction and comprehensive fiscal monitoring policy, both of which have substantially improved our managerial effectiveness and our ability to serve schools and Indian students.

As I previously testified, the BIE team views the GAO reports as a constructive tool to improve our agency and help the students we are committed to serve. As such, I will update you on headway made in the following areas:

1. GAO High Risk Status for BIE
2. GAO Recommendations: Status & BIE Next Steps

GAO High Risk Status for BIE

In February 2017, the GAO released its High Risk Report (GAO–17–317 High Risk Series) designating BIE as a high-risk agency. The GAO highlighted persistent weaknesses noted in previous reports that inhibit the agency from efficiently executing its mission to serve Indian students:

- Indian Affairs' (IA) oversight of school safety and construction, as well as how BIE monitors the way schools use Interior funds;
- The impact of limited workforce planning in several key areas related to BIE schools;
- The effects of aging BIE school facilities and equipment and how such facilities contribute to degraded and unsafe conditions for students and staff; and
- How the lack of internal controls and other weaknesses hinder IA's ability to collect complete and accurate information on the physical conditions of BIE schools.

BIE considers GAO recommendations a roadmap to establish and maintain comprehensive internal policies and procedures that support service delivery, ensure accountability, and provide organizational stability.

GAO Recommendations: Status and BIE Next Steps

Since I started as the Director, BIE has prioritized resources and critical personnel to refocus our efforts in addressing the longstanding, systemic issues outlined in GAO reports that will ultimately improve our ability to serve Indian students.

GAO–13–774–INDIAN AFFAIRS: Better Management and Accountability Needed to Improve Indian Education (September 2013).

GAO made five recommendations:

I.) Develop and implement decisionmaking procedures, which are documented in management directives, administrative policies, or operating manuals;

II.) Develop a communication strategy;

III.) Appoint permanent members to the BIE-Education committee and meet on a quarterly basis;

IV.) Draft and implement a strategic plan with stakeholder input; and

V.) Revise the BIE strategic workforce plan.

BIE completed implementation of all but one recommendation in this report, recommendation five, including the BIE's first five-year Strategic Direction (Direction). The BIE designed the Direction to increase BIE's ability to improve its services to Indian students by organizing management activities, setting priorities, and ensuring efficient and effective utilization of staff and resources, while also working collaboratively with Tribes, school boards, employees, and other stakeholders. As BIE implements the Direction, it is providing quarterly updates online regarding progress and will institute a mid-cycle status update during Year Three of the implementation. As part of each yearly evaluation of milestones and actions, the BIE will notify Tribes, school boards, employees and other stakeholders about annual reporting to inform their feedback and gather input for the mid-cycle status update during Year Three.

Recommendation V—BIE purposefully delayed implementation of recommendation five until finalizing the Direction to ensure alignment of the two planning documents. Following publication of the Direction, the BIE initiated the collection and analysis of its available human resources data. BIE initially projected its completion date by this hearing. However, the recent shutdown delayed the completion date. We provided a first draft to our GAO colleagues to review and provide substantive edits on February 19, 2019. GAO provided us with their comments and feedback on March 4, 2019. We are now working to incorporate feedback into the final plan. We expect to complete this process in the coming weeks and look forward to formally closing this recommendation soon thereafter.

GAO–15–121–INDIAN AFFAIRS: Bureau of Indian Education Needs to Improve Oversight of School Spending (November 2014).

GAO made four recommendations:

I.) Develop a comprehensive workforce plan;

II.) Implement an information sharing procedure;

III.) Draft a written procedure for making major program expenditures; and

IV.) Create a risk-based approach in managing BIE school expenditures.

As is the case with the previous GAO report, the BIE completed implementation of all but recommendation one. It is worth highlighting the recently published BIE High Risk Fiscal Oversight Policy and Handbook. For the first time, the BIE established a comprehensive fiscal monitoring protocol, which coordinates efforts and technical assistance to schools across the organization. As a result, GAO permanently closed recommendations two, three, and four.

Recommendation I—During the early stages of the current BIE reform, IA conducted an initial workforce study. Following BIE's meetings with GAO on June 17, 2017 and August 16, 2017, GAO provided clarification regarding its expectations. As a result, the BIE's strategic workforce plan referenced under GAO–13–774 will fully address recommendation five from GAO–13–774 as well as recommendation one from GAO–15–121. As such, the BIE plans to formally close this recommendation in the coming weeks.

GAO–16–313–INDIAN AFFAIRS: Key Actions Needed to Ensure Safety and Health at Indian School Facilities (March 2016)

GAO made four recommendations:

I.) Ensure that all BIE schools are inspected as well as implement a plan to mitigate challenges;

II.) Prioritize inspections at schools where facility conditions may pose a greater risk to students;

III.) Develop a plan to build schools' capacity to promptly address safety and health problems with facilities and improve the expertise of facility staff to maintain and repair school buildings; and

IV.) Consistently monitor whether schools have established required safety committees.

BIE successfully implemented recommendations two and four, and GAO permanently closed the recommendations in early 2018. BIE and its IA partners continue its work implementing GAO's two remaining recommendations contained in GAO–16–313.

Recommendations I and III—BIE is collaborating with partners from across IA to address its remaining safety-related GAO recommendations. Through an IA collaborative working group to address outstanding safety issues, BIE and IA administered safe school audits with a 100 percent completion rate in 2016, 2017, and 2018. We are on track to complete 100 percent of inspections in 2019 and are monitoring whether schools have established required safety committees.

Regarding 16–313 recommendation one, the IA Deputy Assistant Secretary—Management (DAS–M) has provided a closure package to GAO. GAO has communicated to DAS–M that it will monitor implementation of the submitted plan over the remainder of 2019 and will provide final closure by December 31, 2019. Regarding 16–313 recommendation three, DASM plans to submit a formal closure package to GAO by March 29, 2019.

We are also working to ensure that employee performance standards regarding inspections are consistently incorporated into the appraisal plans of personnel with safety program responsibilities. Personnel are on schedule to require safety inspectors to formally document when inspection reports are delivered to schools as well as establish a process to routinely monitor the timeliness of such reports. Further, BIE staff and its IA partners drafted and recently implemented the *"Indian Affairs Safety Health and Accessibility Inspection/Evaluation Guidelines"*, which will comprehensively address many of GAO's safety-related recommendations outlined in subsequent GAO reports released in 2017.

Conclusion

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for the opportunity to present testimony today and provide the Committee an update regarding our work with GAO. Work remains, but BIE continues to make progress and is committed to addressing all GAO recommendations to improve services to our students. Thank you for your time, and I would be honored to answer any questions you may have.

The CHAIRMAN. How about in regard to the lateness of your testimony? Would you comment in that regard?

Mr. DEARMAN. Senator, we apologize for the lateness of our testimony. We have a lot of moving parts right now in making sure that the recommendations are closed, because there are a lot of departments and Indian Affairs partners that are included in assisting in closing the GAO's recommendations. We wanted to make sure that the information provided was accurate. We do have a review process with the department.

I will definitely take back the concern with the department. I will make certain we meet the deadline for the next hearing.

The CHAIRMAN. Thank you.

Director LaCounte.

STATEMENT OF DARRYL LACOUNTE, ACTING DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. LACOUNTE. Good afternoon, Chairman Hoeven and Vice Chairman Udall. Thank you for the opportunity to present a new update on behalf of the Department of the Interior regarding Indian Affairs' role in the development of Indian energy and our con-

tinued commitment to address the high risk designation in the Government Accountability Office High Risk Report. Thank you.

I apologize, too, on behalf of the department for our late submission of the written testimony. The department has been working hard right up to the last evening to include all actions taken to address the GAO recommendations in order to give the Committee the most up-to-date, accurate picture.

There are some new folks involved in the process and I am confident everyone involved will learn from this. I am really confident that when I am the witness, I will speak a little louder as the deadline nears. But to be honest with you, I really don't know why it is late.

Approximately one year ago in February 2018, I began in an acting capacity as the Deputy Bureau Director for Trust Services and soon transitioned into the Acting Bureau Director. As I stated in my testimony in June 2018, my priority was not just to address the GAO recommendations in the High Risk Report, but to ensure we fully enhance our systems, so that implementation has proven significant results well into the future.

The Indian Energy Service Center has processed 21 new communitization agreements as recommended in GAO's 16–553 since September of 2018, which is a reflection of our dedication and commitment to assure we advance economic opportunities and technical support in full partnership with tribes and tribal members developing their energy resources.

My staff and I have also worked diligently to reestablish and improve communications with GAO. I feel we have been very successful in developing a productive relationship with our newly-designated point of contact at GAO. Regular communication with a consistent staff provides much needed coordination to close the High Risk List recommendations as well as improve the overall process to address other issues.

We agreed to meet with GAO at the Indian Energy Service Center for a site visit later this month to demonstrate our system enhancements and streamlined processes related to those recommendations. I will go off my script a little bit and invite anyone from this Committee to join in that. We look forward to progressing together.

As the Committee is aware, the GAO made 14 recommendations to the Bureau of Indian Affairs within three separate reports. The department agreed with GAO's recommendations and endeavored to address them by committing to and implementing widespread reform to help foster energy independence among tribes who are interested in developing their resources. We are confident that all 14 recommendations have been addressed and believe they should be closed as our solutions to these findings have been implemented throughout the Bureau.

As indicated in my previous update, the BIA had closed Recommendations 1 and 5 and really, the GAO has closed 1 and 5. I also indicated I was aggressively prioritizing the closing out of Recommendations 2, 3, 4 and 6 by the end of September 2018. Our goal was to close the remaining Recommendations 7 through 14 by the end of the calendar year.

We provided closure packages for all of the outstanding recommendations to the Indian Affairs Division of Internal Evaluation and Assessment by the end of September 2018. We also provided follow-up information as requested for closure by the end of December 2018. We will work with our partners to ensure the process is complete for closure. Additionally, we look forward to improving our own evaluation and reporting capacity and structure within Indian Affairs through this process.

Again, thank you for the opportunity to provide an update on our progress in addressing the GAO recommendations from past reports and the GAO–17–317 high risk series. I would be glad to answer any questions the Committee may have.

[The prepared statement of Mr. LaCounte follows:]

PREPARED STATEMENT OF DARRYL LACOUNTE, ACTING DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. Thank you for the opportunity to provide an update on behalf of the Department regarding Indian Affairs' role in the development of Indian energy and our continued commitment to address the high risk designation in the Government Accountability Office (GAO) High Risk Report (GAO–17–317 High Risk Series). GAO's recently issued report, GAO–19–157SP, provides the updated status of the Department's efforts to address these recommendations.

As the Committee is aware, the Department agreed with GAO's recommendations and we continue to address the recommendations by implementing widespread reform to help foster energy independence among Tribes who are interested in developing their resources. As the High Risk report notes, GAO made fourteen recommendations to the Bureau of Indian Affairs (BIA), in three reports. As of June 13, 2018, Recommendations 1 and 5 had been closed. BIA made a commitment to close Recommendations 2, 3, 4, and 6, by the end of September 2018, and Recommendations 7, 8, 9, 13, and 14 by the end of the calendar year.

The GAO recommendations are incorporated into our operations and have proven to benefit our modernization initiatives and improve efficiencies while building progressive relationships in collaboration with parties engaged in Indian energy.

GAO 15–502

Recommendation 1: To ensure it can verify ownership in a timely manner and identify resources available for development, BIA should take steps to complete its GIS mapping module in TAAMS.

As announced in my last visit on June 13, 2018, the Indian Affairs GIS Map Viewer has been deployed as of August 31, 2017. BIA addressed the requirements for this Recommendation, and is closed as of February 22, 2018.

Recommendation 2: To ensure it can verify ownership in a timely manner and identify resources available for development, BIA should work with Bureau of Land Management (BLM) to identify cadastral survey needs.

The BIA and the BLM established a Reimbursable Service Agreement between the two agencies to deliver the much needed survey-related products and services. BLM and BIA established a database that contains the information necessary to identify ownership. An intake mechanism was developed by the Indian Energy Service Center for making new survey requests.

Specifically, BIA and BLM established a Reimbursable Service Agreement (RSA) for Cadastral Surveys complete for Fiscal Years 2015, 2016, 2017, and 2018; established the Cadastral Survey Inventory established in 2015, completed the BIA Guidance on October 10, 2018; and completed the Cadastral Survey Implementation on October 1, 2018. Implementation and full deployment of the cadastral survey process was complete in 2018.

Recommendation 3: To improve the efficiency and transparency of its review process, BIA should develop a documented process to track its review and response times.

System enhancements in the Trust Asset and Accounting Management Systems (TAAMS) were developed to track Mineral Leases from submission, approval, and recordation. As of September 30, 2018, the module was complete and implemented in the suite of TAAMS Modules. The module provides transparency in tracking and

monitoring the status of a Mineral Lease throughout the review and approval process. In addition BIA provided TAAMS Minerals Module Training Guides and Webex Training, where we tracked attendance to ensure delivery of information and support.

The BIA updated the 2012 Fluid Minerals Handbook (52 IAM X–H, to assist Staff in the review and approval of new Oil and Gas Leases. The Handbook establishes a standard for processing new leases, whether the result of a lease advertisement and sale or the result of negotiations between the parties to the lease. It includes new or updated flowcharts and templates, language and content updates and corrections. The Handbook is complete and currently in the final stages of clearance for release by our Regulatory Affairs office, which is expected in early May 2019.

Recommendation 4: To improve the efficiency and transparency of its review process, BIA should enhance data collection efforts to ensure it has data needed to track its review and response times.

As in Recommendation 3, BIA developed system enhancements to TAAMS and updated the Fluid Minerals Handbook. TAAMS can now track mineral leases from submittal to approval and recordation. This tool adds to the BIA agencies' transparency in identifying the status of a mineral lease throughout the review and approval process. Management can also access TAAMS and determine the status of a lease. The TAAMS Enhancement request was approved by the TAAMS Change Management Board (TCMB) in 2017, and the enhancements were incorporated into the system by September 30, 2018.

The BIA has the capability of capturing key dates along the review and approval process for a lease package, including, but not limited to, the initial receipt, confirmation of a complete lease package, approval and recording of the leases. This module has been completed and added to the suite of modules in TAAMS as of September 30, 2018.

Recommendation 5: Provide additional energy development-specific guidance on provisions of Tribal Energy Resource Agreement (TERA) regulations that tribes have identified to Interior as unclear.

In the last testimony, we reported that our Department's Office of Indian Energy and Economic Development (IEED) placed on its web site guidance to tribes seeking an approved TERA or which seek to assume energy-related administrative functions under Public Law 93–638 on August 31, 2017. As a result, the GAO closed Recommendation 5 on March 8, 2018.

GAO 16–553

Recommendation 1: Establish required timeframes for the review and approval of an Indian Communitization Agreement (CA) to ensure a more timely CA process.

As communicated previously, the Department continues its work to ensure timely review and approval of Indian Communization Agreements (CA). A National Policy Memorandum (Memorandum) was issued that establishes a tracking mechanism to monitor the existing timeframes for review and approval of Indian CAs. The TAAMS CA system enhancements were completed by September 30, 2018.

The process is outlined in the Standard Operating Procedure (SOP) and supported by the intent of the Interagency Agreement. The Interagency Agreement is signed by BIA, BLM, OST, ONRR and IEED to process federal Indian energy transactions. SOP training specific to Indian Oil and Gas Leasing Activities was held on June 12–13, 2018, at the National Indian Training Center in Albuquerque, New Mexico. Additionally, we held another training on December 11–12, 2018, at the Federal Center in Lakewood, Colorado.

Recommendation 2: Develop a systematic mechanism for tracking Indian CAs through the review and approval process to determine, among other things, whether the revised CA process meets newly established timeframes.

A national tracking mechanism was established to identify timeframes and captures the status of transactions in the system of record, TAAMS. This tool adds to the agencies' transparent identification of the status of any CA application within the review process. The system has the capability of capturing key dates along the review and approval process for a CA package, including, but not limited to, the initial receipt, confirmation of a complete package, technical review request sent to BLM, and the recommendation received from BLM.

BIA developed and implemented the tracking functionality Bureau-wide through TAAMS effective September 30, 2018. With the system enhancements in TAAMS, BIA tracks CAs from submittal to approval and recordation. This CA suite of modules in TAAMS is complete as of September 30, 2018.

Recommendation 3a: Assess whether the revised CA process is achieving its objective to improve the timeliness of the review and approval of Indian CAs, and if not, make changes as appropriate.

This recommendation is consistent with activity completed in relation to other recommendations. As of September 30, 2018, the Communitization Agreement (CA) tracking module was added to the Trust Asset and Accounting Management System (TAAMS) to expedite the review and approval of Indian CA's. The CA module provides agency wide transparency on the status of any CA application process.

The BIA has the capability of capturing key dates during the review and approval process, including, but not limited to, the initial receipt, confirmation of a complete package, technical review request sent to the Bureau of Land Management (BLM), and recommendations received from BLM. SOP training specific to Indian Oil and Gas Leasing Activities was held on June 12—13, 2018, and December 11–12, 2018.

As previously reported, since 2017, BIA has utilized a Google Tracking Sheet to track national Indian CA's from submission to approval. The Google Tracking Sheet was BIA's interim approach to track the approval of CA's, gather information on timeframes and status, and establish a baseline to ensure improvement of timeliness of the Indian CA review and approval process. Data from the Google Tracking Sheet is important and utilized to track timeframes in TAAMS to assist in establishing metrics for processing agreements.

GAO 17–43

Recommendation 3: Include the other regulatory agencies in the Service Center, such as FWS, EPA, and the Army Corps of Engineers, so that the Service Center can act as a single point of contact or a lead agency to coordinate and navigate the regulatory process.

The Indian Energy Service Center (IESC) fosters and establishes working relationships with other federal agencies to enhance Indian Energy opportunities. The BIA is committed to collaborating and establishing formal Memorandum of Understanding (MOUs) with other federal agencies to expedite oil and gas development. The purpose of the MOU is to enhance cooperation, efficiency, and effectiveness of Energy and Mineral issues.

In 2017, the IESC submitted formal invitations to each agency regarding the implementation of MOUs with the United States Fish & Wildlife Service (USFWS), Environmental Protection Agency (EPA), and United States Army Corps of Engineers (USACE). As a result of the formal invitations, IESC participated in several conference calls and meetings with each agency to discuss the request of the Government Accountability Office (GAO) and the benefits of the formal MOUs.

On January 10, 2018, the United States Army Corps of Engineers (USACE) signed the MOU with IESC. On June 1, 2018, the U.S. Fish and Wildlife Service's Principal Deputy Director also signed the MOU with IESC. On June 14, 2018, the Environmental Protection Agency approved the MOU with IESC.

Recommendation 4: Establish formal agreements with IEED and DOE that identify, at a minimum, the advisory or support role of each office.

A formal MOU was established between the Office of Indian Energy and Economic Development (IEED) and the Department of Energy (DOE) on June 21, 2016. On August 9, 2018, an Addendum to the MOU between IEED and DOE was approved by myself, the Acting Director of the Bureau of Indian Affairs. On September 5, 2018, the Addendum to the MOU with IEED and DOE was approved by the Assistant Secretary—Indian Affairs. The purpose of the addendum was to invite the Bureau of Indian Affairs—Indian Energy Service Center to participate in the MOU between IEED and DOE.

Recommendation 5: Establish a documented process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center activities.

In my last report, I testified the IESC developed a process that allows key agencies to provide input and requests for service received on behalf of tribes from the IESC. The process includes guidance on the prioritization of task orders. The Executive Management Group of the IESC is comprised of the directors of the BIA, BLM, ONRR, and Office of the Special Trustee for American Indians (OST). The IESC began utilizing the intake forms in August 2017 to obtain input regularly from stakeholders. IESC is on target to close this recommendation. This process is still in use, and this recommendation can be closed.

Recommendation 6: Document the rationale for key decisions related to the establishment of the Service Center, such as alternatives and tribal requests that were considered.

The Department created the Indian Energy & Minerals Steering Committee (IEMSC), which is a group that helps to ensure that the Department meets its trust responsibility to federally recognized Indian tribes and the individual Indian mineral owners. The IEMSC is an inter-agency forum for Indian energy and mineral resource development, royalty management coordination, and information exchange. This committee is comprised of senior representatives from the BIA, BLM, ONRR, OST, and the Solicitor's Office.

Recommendation 7: Incorporate effective workforce planning standards by assessing critical skills and competencies needed to fulfill BIA's responsibilities related to energy development and by identifying potential gaps.

As the Acting Director, I identified the top workforce planning priorities with the goal of the most effective development and execution of workforce planning, so that the organization is able to leverage its human capital to accomplish its strategic goals. The Office of Trust Services (OTS) developed metrics to capture benefits or challenges in workforce planning.

To ensure the most efficient and cost-effective workforce, the BIA requires competent staff with technical skills for Energy and Mineral Development on Indian lands. As previously reported, a multi-agency survey was collected in order to better understand and to align with workforce needs for energy and minerals management. The information gleaned from the survey confirmed common needs across agencies in the areas of engineering, engineering technicians and environmental science disciplines at the forefront of identifying the availability of the resources for economic development.

Based on responses to the survey and current data, BIA attrition over the past five years has resulted in a potential gap of 33 to 50 Engineers, Engineering Technicians, and Environmental Scientists in BIA Trust operations. Current retirement statistics project that 59 percent of the employees who occupy these positions are eligible for retirement now or within 5 years.

The OTS workforce planning consists of developing and implementing an Energy and Minerals Student Internship Program. The purpose is to address skills gaps across Indian country. This will contribute to an overall national strategy to attract, recruit, train, develop, and retain highly qualified Indian and Alaskan Natives within the BIA, Tribes, or Tribal Enterprises.

Approximately 20 Pathways Student internship positions for engineering and engineering technician career fields have been approved and will be funded by the OTS this Fiscal Year. Selections and recruitment is targeted for March 29, 2019.

Recommendation 8: Establish a documented process for assessing BIA's workforce composition at agency offices taking into account BIA's mission, goals, and tribal priorities.

In previous testimony, we indicated it was assessing the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. The BIA continues to identify and assess its energy and minerals workforce composition using data collected from a multi-agency survey to develop a strategy to implement a large scale process that ensures that current decisions and actions impacting the workforce are aligned with short and long-term strategic needs for energy and minerals management. OTS prepared an Indian Energy and Minerals Workforce Planning Action Plan dated August 9, 2018 and is prepared to close this recommendation.

Conclusion

Thank you for the opportunity to present an update on our progress in addressing the GAO recommendations from past reports and the GAO High Risk Report. The BIA is confident that all of these recommendations have been addressed and believe they should be closed. We look forward to improving our own evaluation and reporting capacity and structure within Indian Affairs through this process. I would be glad to answer any questions the Committee may have.

The CHAIRMAN. Thank you, Director LaCounte.

Admiral Weahkee.

STATEMENT OF REAR ADMIRAL MICHAEL WEAHKEE, PRINCIPAL DEPUTY DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. WEAHKEE. Good afternoon, Chairman Hoeven, Vice Chairman Udall and members of the Committee.

I am Rear Admiral Michael Weahkee, Principal Deputy Director of the Indian Health Service. I am pleased to appear before this Committee again to provide testimony regarding IHS programs identified by the U.S. Government Accountability Office's 2019 High Risk Report that was just released last week.

I would like to take this opportunity to restate that our continued priority and goal at IHS is to provide high quality health care for American Indians and Alaska Natives. IHS is committed to making improvements and ultimately, to being removed from the GAO's High Risk List.

Although IHS is still on the list, we have made significant progress since the GAO's 2017 Report was published. Since that time, GAO has closed seven of their recommendations to IHS. Earlier this month, IHS requested closure of an additional four open recommendations after issuing updates to our Indian Health Manual's Purchased and Referred Care Chapter.

Since June 2018, IHS has realized significant progress in making improvements to quality care for American Indians and Alaska Natives. These improvements include implementing credentialing and privileging software agency-wide for all providers and awarding a new contract for an adverse events reporting and tracking system that replaces an older legacy system. IHS also started work on modernizing our electronic health record system. In collaboration with the Department of Health and Human Services' Office of the Chief Technology Officer, we are completing a Health Information Technology Modernization Research Project to inform us about options to replace or modernize our existing infrastructure.

In February of 2019, IHS released a new strategic plan for fiscal years 2019 to 2023, which will help guide ongoing efforts to provide health care for American Indians and Alaska Natives throughout the United States. This plan details how the IHS will achieve its mission through three strategic goals, which are each supported by several objectives and dozens upon dozens of strategies. This plan continues to elevate and institutionalize the work that was previously included in the IHS Quality Improvement framework.

Our Indian Health Service's new Office of Quality was formally established in January 2019, and our new Deputy Director for Quality Healthcare was selected and on-boarded at IHS headquarters in November of 2018. The Office of Quality will include four divisions: Enterprise Risk Management, Quality Assurance, Innovation and Improvement, and Patient Safety and Clinical Risk Management. The Office of Quality supports IHS hospitals and health centers by providing resources and tools for quality assurance and improvement to attain and maintain compliance with CMS certification standards and with Joint Commission accreditations.

Accreditation and certification surveys have been conducted at 26 IHS facilities in nine IHS areas. As a result, as of the third quarter of 2018, 96 percent of IHS hospitals were fully accredited or CMS certified, and 97 percent of our Indian Health Service health centers were accredited.

IHS understands the importance of having permanent leadership in key positions throughout the agency. In the past year, the Indian Health Service has filled eight Senior Executive Service posi-

tions, which includes two headquarters senior leadership positions, two area director positions, and four headquarters office director positions.

As the Committee knows, recruitment and retention of health care professionals is a challenge for the Indian Health Service and other health care organizations serving rural and remote locations. To meet these challenges, the IHS has offered legislative proposals in the fiscal year 2019 IHS Congressional Justification for discretionary use of all Title 38 personnel authorities, half-time obligations for loan repayment and scholarship recipients, and tax exemption for these recipients.

Since implementation of the PRC rates regulations in October 2016, the PRC program has realized a $1.188 billion increase in purchasing power according to our fiscal intermediary. This purchasing power has allowed our PRC programs to pay for additional services and fund more medical priority levels than ever before, which improves access to care for our patients.

In closing, there are a few updates regarding the Pine Ridge Indian Hospital that I believe are important to mention to this Committee. On February 26, 2019, the Joint Commission Resources was onsite at the Pine Ridge Hospital to conduct a review of compliance in preparation for an accreditation survey. IHS is preparing to send a request by the end of March to CMS for a recertification survey visit at the Pine Ride Hospital.

As the Acting Principal Deputy Director and the lead of the agency, I am very proud of the dedication and commitment of our IHS team at all levels of the agency who have focused on and accomplished the objectives of the action plan during this past year. These actions demonstrate that the IHS is taking its challenges seriously, and is continuing to take assertive and proactive steps to address them.

I want to thank you for your commitment to improving quality, safety and access to health care for American Indians and Alaska Natives.

I am happy to answer questions you might have.

[The prepared statement of Mr. Weahkee follows:]

PREPARED STATEMENT OF REAR ADMIRAL MICHAEL WEAHKEE, PRINCIPAL DEPUTY DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good afternoon, Chairman Hoeven, Vice-Chairman Udall, and Members of the Senate Committee on Indian Affairs. I am RADM Michael D. Weahkee, Principal Deputy Director of the Indian Health Service (IHS). I am pleased to appear before this Committee again to provide testimony regarding IHS programs identified by the U.S. Government Accountability Office (GAO) High Risk Report recently released on March 6, 2019. Our continued priority and goal at IHS is to provide quality care.

IHS is a unique agency within the Department of Health and Human Services (HHS). It is the only HHS agency whose primary function is direct health care delivery. IHS was established to carry out the responsibilities, authorities, and functions of the United States in providing health care services to American Indians and Alaska Natives. The mission, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. The IHS system consists of 12 area offices, which oversee 170 service units that provide care at the local level. Health services are provided through facilities managed by IHS, by Tribes and tribal organizations under authorities of the Indian Self-Determination and Education Assist-

ance Act, and through contracts and grants awarded to urban Indian organizations authorized by the Indian Health Care Improvement Act.

Demonstrated Progress

IHS is committed to making improvements and ultimately to being removed from the GAO's High Risk list. The GAO released its most recent High Risk Report on March 6, 2019. Although IHS is still on the list, we have made significant progress since the GAO's High Risk report published on February 15, 2017. Since that time, GAO has closed seven recommendations. Earlier this month, IHS requested closure of four recommendations after issuing updates to the Indian Health Manual, Purchased/Referred Care (PRC) chapter. The remaining two recommendations cited in the 2017 report require continued IHS monitoring of the actions implemented before we formally ask the GAO to close them. In the March 6, 2019 report, GAO cites one additional recommendation that was not cited in the 2017 report, and IHS is moving forward with actions to implement this recommendation.

Since June 2018, IHS has realized significant improvements to quality care for American Indians and Alaska Natives. These improvements include developing and implementing an IHS Strategic Plan for Fiscal Year 2019–2023, establishing an Office of Quality, implementing credentialing and privileging software agency-wide for all applicants, and awarding a new contract for an adverse events reporting and tracking system that replaces an older legacy system.

IHS also started work on modernizing our electronic health record system. In collaboration with the HHS Office of the Chief Technology Officer, we are completing a Health Information Technology (HIT) Modernization Research Project to inform IHS regarding options to replace or modernize our existing HIT infrastructure.

Leadership Commitment

IHS leadership is committed to making progress on addressing GAO's recommendations and continues to press forward in working partnership with GAO. Since last June, IHS has met four times with key GAO officials to describe action plans for closing-out the recommendations and to review our activities to meet the criteria to be removed from the High Risk list. IHS is focused on implementing change across the agency to strengthen our ability to ensure quality health care.

In February 2019, IHS released the Strategic Plan for Fiscal Years 2019–2023. The Strategic Plan will help guide ongoing efforts to provide health care for American Indians and Alaska Natives throughout the United States. The plan details how the IHS will achieve its mission through three strategic goals, which are each supported by objectives and strategies.

- *Goal 1:* To ensure that comprehensive, culturally appropriate personal and public health services are available and accessible to American Indian and Alaska Native people.
- *Goal 2:* To promote excellence and quality through innovation of the Indian health system into an optimally performing organization.
- *Goal 3:* To strengthen IHS program management and operations.

This Strategic Plan reflects the feedback received from Tribes, tribal organizations, urban Indian organizations, IHS staff, and other stakeholders. This plan continues to elevate and institutionalize the work previously included in the IHS Quality Improvement framework.

IHS leadership, along with HHS, seeks to innovate the delivery of care the IHS provides to meet the health needs of tribal communities not fully addressed by the traditional hospital model in some locations IHS serves. Our facilities are predominately in rural locations with limited access to services for the population, or in urban areas where the services provided are duplicative of those available in private sector facilities. As a result, our hospitals tend to have low utilization of inpatient services. To address this, we could transition from full hospital services to an ambulatory care center with 24/7 urgent care or to a critical access hospital where appropriate. Through this transition we could reallocate staff and resources from expensive and lightly used inpatient services to more cost-effective and heavily used primary care services.

Last month, I participated in the first HHS Intradepartmental Council on Native American Affairs meeting under the current administration. The council is comprised of HHS Operating Division and Staff Division senior officials. The council discusses strategies, priorities and recommendations on new partnerships and intradepartmental collaboration relating to American Indians and Alaska Natives. This is an exciting step in broadening our partnership throughout the Department and with other Federal agencies outside of HHS.

Progress on Improvements in Quality Care

IHS's new Office of Quality was formally established in January 2019 and our new Deputy Director for Quality Healthcare was selected and on-boarded in November 2018. The Office of Quality will include four divisions: Enterprise Risk Management (ERM), Quality Assurance, Innovation and Improvement, and Patient Safety and Clinical Risk Management. Six current staff in quality assurance, quality improvement, patient safety and clinical risk management roles are transitioning to the new Office of Quality. ERM has begun transitioning to the new Office of Quality, which will be completed by the end of fiscal year 2019. Five new positions for the Office of Quality have been announced, and IHS plans to interview and hire within the next two months. During the transition of staff and ERM, IHS anticipates all current work will continue without disruption.

The Office of Quality supports IHS hospitals and health centers by providing resources and tools for quality assurance and improvement to attain and maintain compliance with Centers for Medicare & Medicaid Services (CMS) regulations and accreditation standards. Accreditation and Certification surveys have been conducted at 26 IHS facilities in nine IHS areas. As a result, in the third quarter of 2018, 96 percent of IHS hospitals were fully accredited or CMS certified, and 97 percent of IHS health centers were accredited.

Improving access to care is a top priority for the agency. Wait times are one component of access to care, and an important measure of the patient experience. In 2017, IHS published IHS Circular Number 17–11 establishing wait time standards for direct care IHS facilities. Facilities are already using data to drive measureable improvements in wait times. The published IHS Wait Time Standards are undergoing improvement to add wait time standards for emergency department settings. IHS is working toward further automating data collection and reporting capabilities to improve monitoring and accountability.

Monitoring

As mentioned in prior testimony to this Committee, IHS finalized the National Accountability Dashboard for Quality (NADQ) on February 20, 2018. Since finalization, we've completed a Fiscal Year (FY) 2018 Quarter 3 report that was released October 9, 2018. With the release of the 2018 Quarter 4 report in March 2019, the NADQ will have successfully completed a full year of reporting. The dashboard is a valuable reporting tool that enables IHS headquarters and area offices to have a near real-time view of health care hospitals and health centers functioning across the system. Over time, this will facilitate implementation and monitoring of quality care measures. As IHS continues to implement the NADQ, we anticipate the results will demonstrate sustained improvements in the nine key metrics tracked in the dashboard including accreditation and an active quality improvement program.

Organizational Capacity

IHS understands the importance of having permanent leadership in key positions throughout the agency. In the past year, IHS has filled eight Senior Executive Service positions, which includes two senior staff positions, two area director positions, and four headquarter office director positions. In addition, IHS continues its leadership training program designed to prepare selected IHS individuals to serve in leadership positions at the service unit, area, and headquarters levels. The leadership training program has had three cohorts since the summer of 2017 with nearly 100 total participants completing the training. The next cohort starts in March 2019.

Recruitment and retention of health care professionals is a challenge for IHS and other health care organizations serving rural locations. To meet these challenges, IHS offered legislative proposals in the FY 2019 IHS Congressional Justification for discretionary use of all Title 38 personnel authorities, half-time obligations for loan repayment and scholarship recipients, and tax exemption for these recipients.

Purchased/Referred Care Improvements

IHS continues to improve and increase access to care for our beneficiaries through outreach, education, and enrollment activities. The national PRC program set targets for local programs to ensure that IHS is able to provide access to our patients in the most cost effective manner. All levels of PRC management frequently monitor progress towards meeting these targets, and IHS started doing internal quarterly monitoring in September 2018 to look at root causes for not meeting the targets. Initial analysis identified two caveats to the measure that are beyond IHS control: 1) the time it takes from authorization to appointment availability is significant, and 2) the time it takes for a provider to file a claim is significant.

Since implementation of the PRC rates regulations in October 2016, the PRC program has realized a $1.188 billion increase in purchasing power according to the fis-

cal intermediary. This purchasing power has allowed PRC programs to pay for additional services and fund more medical priority levels than ever before, which improves access to care for our patients.

In closing, there are a few updates regarding the Pine Ridge and Rosebud IHS Hospitals that are important to mention to this Committee. On February 26, 2019, The Joint Commission Resources was onsite at the Pine Ridge Hospital to conduct a review of compliance in preparation for an accreditation survey. IHS is preparing to send a request by the end of March to CMS for a recertification survey of the Pine Ridge Hospital. There are a few recent key personnel changes at the Pine Ridge Hospital. We have hired a full time Clinical Director as of January 20, 2019. We have also put in place an acting Director of Nursing and an acting Administrative Officer in the past month.

At the Rosebud Hospital, we hired a new Chief Medical Officer, Chief Nurse Officer, Chief Quality Manager, and a Federal Emergency Department Nurse supervisor. We have two additional Nurse Case managers awaiting acceptance of employment offers, and three new Registered Nurses, an OB/GYN physician, and a psychologist on board. We have also made improvements in Outpatient Clinic access at the Rosebud Hospital, which include extending outpatient hours, a workflow redesign to gain efficiency, and tele-health for outpatient clinics including Emergency Department, Cardiology, Endocrinology, Behavioral Health, Rheumatology, and Neurology. Also, facility projects for improvements include the following: dental renovation, HVAC system replacement with a start date Summer 2019, and a 19 unit housing complex with a completion date projected for May 2019.

We have improved our tribal consultation at Rosebud with weekly meetings between the Rosebud Sioux Tribe (RST) Health Administrator, RST Health board members, and Rosebud Hospital leadership. The RST Council and health board attend hospital meetings monthly.

We have also continued to reach out and support our tribal partners in the Winnebago Tribe of Nebraska and the Omaha Tribe of Nebraska. IHS has offered the Winnebago Tribe technical assistance since it assumed control of the hospital in June 2018. In December 2018, I traveled along with other senior IHS staff to meet with both Tribes for a tour of the Twelve Clans Unity Hospital.

I am very proud of the dedication and commitment of our IHS team at all levels of the agency; who have focused on and accomplished the objectives of the action plan during this past year. These actions demonstrate that IHS is taking its challenges seriously, and is continuing to take assertive and proactive steps to address them.

Thank you for your commitment to improving quality, safety, and access to health care for American Indians and Alaska Natives. I am happy to answer your questions.

Senator UDALL. [Presiding.] Thank you to the panel for your testimony today.

Admiral, I do not think you mentioned anything about the Dr. Weber incident in your testimony, is that correct?

Mr. WEAHKEE. Yes, sir, that is correct.

Senator UDALL. I wanted to focus on that for a little bit.

First of all, I believe there is a documentary that has come out. I asked my Indian Affairs staff if they had watched it. I was wondering if you had watched it. It is a Wall Street Journal, PBS, I think, yes a Frontline, PBS, Wall Street J Journal documentary that came out on February 12th.

Mr. WEAHKEE. Yes, sir, I have seen it, and actually took part as an interviewee with the Wall Street Journal and PBS.

Senator UDALL. So you are very familiar with it. I am going to see it. I haven't seen it yet but they told me it was very hard to watch. I think that is consistent with some of the questions I think I am going to ask.

As I stated in my opening, I find the failure of IHS to address the multiple reports of Dr. Weber's abhorrent conduct with young IHS patients appalling. IHS officials reportedly ignored reports, re-

taliated against employees who tried to raise the alarm, and left Native children in the hands of a predator.

Has the Service determined why Dr. Weber wasn't fired after the Billings Area leadership became aware of his misconduct? Why was he allowed to remain an IHS employee and transfer to the Great Plains Area?

Mr. WEAHKEE. Thank you, Senator, for the question.

The Indian Health Service has been working hard to gather as many facts as we have access to about Dr. Weber's tenure with the agency. It stretches all the way back to 1986, so we are talking about 33 years in the past. The particular time when he was in Montana was 1992 to 1995, so even that, we are looking back 25 or so years ago. Many of the employees who were in place at the time have since retired or moved on.

We have committed to conducting, via a third party contractor or vendor, what we are framing as a medical quality assurance review. We are going to have somebody who can come in and look objectively not only at the Indian Health Service records. We know who the people were in charge at the time in these various places, but we would like somebody to come in and interview not only our own employees, but community members, tribal members, law enforcement, and others.

Much of what we learned about the case we learned from our partners at the Office of Inspector General and through the investigations conducted by the Federal Bureau of Investigation and the South Dakota Medical Board. We are gathering as much information as we can but we do not have the answers to those types of questions yet at this time.

Senator UDALL. So the two questions that I asked, why he wasn't fired after the Billings Area leadership became aware of his misconduct, you don't know the answer to that yet?

Mr. WEAHKEE. Not yet, sir.

Senator UDALL. But you are going to get an answer for me.

Mr. WEAHKEE. Absolutely.

Senator UDALL. Why was he allowed to remain an IHS employee and transfer to the Great Plains Area? Do you have an answer for that?

Mr. WEAHKEE. Well, we do know there were a couple of investigations conducted previously, again, one of those by the FBI themselves. There was not enough evidence gathered at the time to substantiate allegations. So we want to look back and really determine who knew what. And getting back to the issue of the culture of the agency, if there were individuals who knew and they didn't push that information out to either law enforcement or to others within the supervisory chain, why.

As I had mentioned in the PBS Frontline story, I would consider those individuals who may have had knowledge and didn't push that forward as being complicit in the actions of Dr. Weber.

Senator UDALL. As far as I am concerned, management at every level failed to do their jobs and their duties under Federal law. This is unconscionable and unacceptable.

Now, something similar has happened before that I want to just note here. This failure aligns with the concerns raised in this Committee's report of 2010 called the Dorgan Report, that IHS manage-

ment does not follow Federal employee misconduct procedures and instead, transfers problem employees and assists in a system colloquially referred to as pass the lemon.

What that report looked at is, the idea that you see some misconduct and rather than dealing with it, it is just passed on to someplace else in the system. So I hope when you come back and answer those questions that I have just asked, that we are not finding ourselves in that situation.

How is IHS working to make sure service units and area management do their job to document and address Federal employee misconduct?

Mr. WEAHKEE. Thank you, Senator Udall.

What we have done, and I would just first like to start by committing to you that it will not be tolerated to pass that bad lemon while I am in this seat. We are going to put the infrastructure in place to ensure that is sustainable for the agency moving forward.

Senator UDALL. Will you also commit that you are going to protect whistleblowers, and make sure if they come forward, that they are not retaliated against? Now is your opportunity to talk to all of your employees, the ones that not only watch you today, but hear through various channels in the Indian Health Service as to what has happened here. Will you commit to that?

Mr. WEAHKEE. Absolutely, yes, sir. We have been messaging that since the sentencing took place when Dr. Weber was convicted and sentenced. We have made sure that messaging has gone out broadly.

We envision over this next year conducting a series of town halls throughout the Indian Health Service, so that I can meet directly with employees and relay that message personally. We will also be shooting videos so that we capture as many of our 15,400 employees as possible.

Some of the other actions that we have taken, we have implemented new policies which provide even higher ethical standards for our health care providers and others. We have also made it mandatory that not only are licensed health care providers who, as a part of their licensing requirements are mandatory reporters, we have made every single Indian Health Service employee a mandatory reporter. And with that goes the protection.

We want to institute what is called a just culture, so that every employee not only feels that they can bring issues forward and not fear retaliation or reprisal, but that they are actually celebrated when they do so, when they point something out that does not quite look right, needs to be fixed, that they bring those items forward. We dedicate the resource and time to fix them, and that those individuals are thanked for doing that.

We have also, as I had mentioned in the opening testimony, implemented the National Credentialing Software System. That enables us to have quick, ready access to our physicians' and other providers' medical credential files. Those files can be viewed not just at the location to which they are assigned, but at the area offices and headquarters level as well and there is portability of those records. A number of actions are underway.

Senator UDALL. Thank you. I appreciate that.

Senator Lankford, you are up in the questioning box.

STATEMENT OF HON. JAMES LANKFORD,
U.S. SENATOR FROM OKLAHOMA

Senator LANKFORD. Thank you. By the way, I think Senator Daines from Montana set the temperature in this room today to a temperature that is close to his preference on that. I don't know if you have noticed, but it is definitely north of Oklahoma temperature in here.

Senator DAINES. It is refreshing.

Senator LANKFORD. It is refreshing and keeps everybody going.

Thank you all for being here. Thanks for the ongoing work. Obviously, we have questions, as we should. GAO has brought up some good things to be able to bring for conversation. I am going to bring a couple of them as well.

Let me ask the question that is really my favorite that some of you have not heard me ask before. For GAO, tell me where it is working. You are identifying areas where it is incomplete. Where is it working in the Country? Where do you see coordination and cooperation really happening or making progress?

Ms. FARB. I will start and I may invite my colleagues up to join me, because I focus on the health care area.

Where it is working for us with regard to IHS is the regular meeting to talk about the recommendations, to have the time to explain to them what we are seeing and sort of the underlying root cause problems that lead to the recommendations, so having that ability. We are not just focused on closing recommendations. We are focused on improving the management and oversight. So what has been working for us is in the last year and a half, they have been doing a number of things that Admiral Weahkee mentioned to address the recommendations, but also to sort of address the broader management challenges.

Senator LANKFORD. Do you see progress?

Ms. FARB. Yes, we see progress, but there is still, as a classic GAO statement, there is work remaining to be done.

Senator LANKFORD. I just met with Gene Dodaro last week. I said do as much as you can to make your statements as blunt as possible and so they are clear, not safe, but clear.

Where do you see, whether it be energy, education, or in health care, the greatest amount of progress or a success story that GAO can tell? This is an area that was raised; this is a success story to tell.

Ms. FARB. I think on the quality front as well as the patient wait time front, the two systems that IHS has now put in place, those are addressing problems we found historically to be an issue. And so those two efforts, I think, again, we have to watch over time to see how that plays out, but those are addressing it. I do not know if my colleagues want to address that or energy.

Senator LANKFORD. Just identify your name when you step up.

Mr. RUSCO. My name is Frank Rusco. I am in the Energy Group at GAO.

Where we see the most progress, and what I would call hopefulness, is where tribes have been able to take more control and more self-determination over the process. For example, I think we are going to see for the first time a tribe enter into a full TERA agreement.

Senator LANKFORD. How long has that taken to have the first tribe do that?

Mr. RUSCO. This will be the first and it hasn't happened for, I don't know, nine years. I don't know when that was.

Mr. LACOUNTE. It was 2005.

Mr. RUSCO. In 2005, okay, thank you. Thirteen years.

Senator LANKFORD. So yes, fourteen years, let's say.

Mr. RUSCO. Yes.

Senator LANKFORD. And it is not done yet. It is getting close?

Mr. RUSCO. It is not done. Yes.

Senator LANKFORD. So the question is, how do we have a second one and does it take another 14 years to have a second one? Do you feel like the process is in place and the test has been done for the first one to have kind of autonomy to be able to make those decisions? Is the bureaucracy resolved enough that it a second one would take less than 14 years?

Mr. RUSCO. I hope so. I think the bureaucracy still needs work. The tribe that is going to do this has a huge amount of experience in the oil and gas business, and the tribe has huge experience in self-determination mechanisms. Both of those need to happen.

Senator LANKFORD. Do you think I should bug the Acting Director about that and see what he thinks?

Mr. RUSCO. Absolutely.

Senator LANKFORD. I think I am going to. What do you guess, because the energy side is one of the areas that I have several tribes in my State that really want to increase their energy footprint and be able to engage in this. But the bureaucracy has been so difficult for them that they just do not know if it is worth it to be able to go through it.

How does this get better and how does a second tribe go through this in less than 14 years?

Mr. LACOUNTE. Congress just made it better, to where I don't think that that is going to happen. The amendments to the TERA Act itself, I think, are going to take care of that problem. In speaking with Senator Hoeven's assistant just earlier, I was surprised to hear that the Osage Nation is looking at a TERA agreement.

Senator LANKFORD. The Osage Nation has looked at that for a very long time, though. It has been something they have looked at and decided, not worth the trouble. They are one of those folks that I hope can lean and actually execute it.

Mr. LACOUNTE. I am pretty familiar with the Osage and I am surprised to see that is the place they are going to try it. But I am excited to see it too, and we will do everything we can to help them out.

Senator LANKFORD. That would be terrific. Let us know what we can do to be able to help on the other end of that as well, to be able to stay productive and engaged through the process.

Admiral, I do want to be able to ask you a question as well. On the health care side, some of the tribes are doing joint ventures. In my State, if you want to go to a really beautiful new hospital, I can take you to some of the joint venture hospitals that some of the tribes have built in cooperation with the communities and municipalities around them. They are phenomenal facilities.

The question becomes how frequently tribes can engage in that contract relationship, how often they can come back and say, we want to do another joint venture? Is there flexibility in that? Or is there the ability to say, I am sorry, you can do one or so every four or five years, but we do not really want to come back? Are there that many requests coming in for joint ventures on health care facilities that it is bogging down the system?

Mr. WEAHKEE. Thank you, Senator Lankford.

With regard to the joint venture program, I completely agree. The Cherokee Nation is building a beautiful outpatient facility. Muskogee Creek just completed a facility. Joint ventures are absolutely a great program.

There is a correlation between the amount of funds that we receive through our health care facility construction program and the number of joint venture projects that we can fund. It has been about every two to three years that we will put out a solicitation and requests for proposals.

I do believe, in speaking with our Office of Environmental Health and Engineering director, Gary Hartz, this year that we will likely put out a solicitation in 2019. We do receive many more applications than we can fund. There is always a surplus of applications or projects that we cannot get to because of lack of funds for that program. But I would agree, a very successful program. We go into an agreement for 20 years that we will staff that project, and we have many success stories out there as a result.

Senator LANKFORD. We would like to be able to maintain those success stories.

Mr. Chairman, may I ask one final question?

Senator UDALL. Please.

Senator LANKFORD. Thank you.

Mr. Dearman, can I ask about deferred maintenance and what you need? In BIE, that has been one of the concerns, the amount of deferred maintenance that is kind of scattered around the Country and the process to actually get to it.

Is there a prioritization, is it each facility has a priority list, is there a national priority list, is there, basically, a check-off list to say, we know this is coming five years from now, or we know this is ten years overdue, twenty years overdue and we are working through that process? How do you prioritize those things on deferred maintenance?

Mr. DEARMAN. Thank you, Senator.

I am really thankful that Assistant Secretary Tara Sweeney, when she came in, she really sat all of us down, she sat us down, BIE and BIA and DASM down. And we really started looking at who has their hands in our facilities. As you are well aware, BIE has always worked with BIA and DASM to address facility issues.

Right now we are looking at streamlining all the services to our schools. But to get to that point, we have to make sure the data is in our system. We call that our Maximo system, that all those schools enter their deferred maintenance or projects that need to be done.

DASM has actually started pulling all the what we call facility condition index reports where the schools enter it, and we are starting to prioritize our schools based on that. However, as we are

going around doing the safety inspections, and this is the first year that BIE is doing all the safety inspections, we are really working with the schools to make sure that all the data is entered in the Maximo system along with working with BIA's regional facilities.

Before we prioritize any school replacement, we have heard loud and clear our tribes want to be involved in that. They want to have consultation. But we are really starting to compile the data right now and looking at all the needs.

Senator LANKFORD. What are you using as your safety standard? Is that a national standard you are using, or is that State fire code? What is the standard you are choosing to use for your safety standard?

Mr. DEARMAN. That is a very good question, because that is part of the GAO findings and recommendations. We are working again with the Deputy Assistant Secretary of Management, their shop, to make sure that the policy set forward is for BIE and BIA. So there is policy that we are putting out. I am not real familiar with what standards they are utilizing to create the policy, but we are creating policy and putting it in our Indian Affairs manual.

Senator LANKFORD. Obviously, it helps on a national level or even on the State level, where there are multiple campuses in the State, that there is a consistency of what is considered safe and what is not, and what is a fire code violation, an electrical violation, plumbing or whatever it may be, to be able to know where to prioritize that, having either a national standard or at least a State fire marshal type standard to say, we are all going to work from a common set looking around the entire State or region to be able to know what we are dealing with. At times, there has been some pushback to having that, just saying, hey, this doesn't necessarily apply in different places. But we have to have some standard that we are working with that is consistent or you cannot prioritize the projects.

Mr. DEARMAN. Yes.

Senator LANKFORD. We look forward to maintaining that dialogue and seeing where that goes. What is the time period when you think that is done?

Mr. DEARMAN. I would have to go back to the department and find out.

Senator LANKFORD. Please just contact us and let us know what the date is when you look like you are going to have all that information, and then start to be able to make the decisions from there.

Mr. DEARMAN. Okay.

Senator LANKFORD. Thank you. Thank you, Mr. Chairman.

Senator UDALL. Thank you, Senator Lankford.

Ms. Farb, you heard the discussion about the Indian Health Service doctor and what happened in terms of abuse. Referring to that and thinking of that, has the GAO ever done a review of IHS's management's documentation of employee misconduct and use of transfers, administrative leave and duty reassignments?

Ms. FARB. Not to my knowledge have we done that kind of study. We have definitely looked at, in other programs, issues like credentialing like Admiral Weahkee referred to. We looked at that in the VA program and found lots of issues. We have a whole body of work on that.

For IHS specifically, we have not looked at transfers of employees or documentation of those types of issues, but we would be happy to take a look into that if that is something that the Committee is interested in.

Senator UDALL. And you would be willing to work with my staff to start on that work?

Ms. FARB. Absolutely.

Senator UDALL. Great. Thank you.

Mr. Dearman and Mr. LaCounte, between 2012 and 2018, the Department of Interior spent $1.2 million to fix the fire alarm and lighting protection systems at the Pine Hill School in New Mexico. It's my understanding the major contributing factor for these costs and timeline overages was inaccurate project scoping and contracting. GAO documented similar issues with contracting in a 2017 report.

What is Interior doing to increase management oversight of procurement personnel and contracting officers?

Mr. LACOUNTE. I am not aware of the $1.2 million. I almost wonder if that is the $1.2 million provided to the school for maintenance. Whether it was used on those systems or not, I don't know the answer to that.

To address the contracting issues in this particular situation, obviously, you are very familiar with, we have put that process directly at the central office to handle the Pine Hill School at this time. Going down the road, in the future, the BIE will have its own administrative staff, including contracting officers, which I believe will make that much more effective, because they will be directly responsible to the BIE as opposed to having a layer between BIE and BIA. Even though Mr. Dearman and I work very well together, in the past, we know that was not the case. I think that, in and of itself, will make things much stabler into the future. To that, I would defer to Mr. Dearman.

Mr. DEARMAN. Senator Udall, thank you for the question.

I really think it is a lack of communication and understanding the system that goes all the way back to 2012. Again, like I said earlier, Assistant Secretary Sweeney sat us all down and really started looking at who does what within our system to take care of our schools.

It was a learning process. It was a very good process, and I really appreciate your support in making sure things are getting done. But things are getting done now because of the leadership she has provided BIA and BIE that should have been done years ago.

As far as going back, we have been communicating with the school board, with the school leaders. We have to really make sure that we are coordinating the communication between bureaus as well. We have actually been meeting with Ramah School, we had a meeting with them last week and we met with your staff. One of the things they are requesting is to be able to handle their own contracts. We are discussing that, we have had BIA involved and we are working with the school.

I really think improving communication and making sure we are there to assist the tribes that may need a little bit more help with contracting would eliminate that, really being at the table with them. And we have increased our regular meetings with Ramah,

the school board and the school leaders. I know BIA is meeting with them, BIE is meeting with them. We at least touch base bi-weekly and as needed. DASM is going down as well. So that kind of communication is needed and is established now.

Senator UDALL. Great.

Mr. LaCounte, the June 2018 DOI–OIG report revealed that the BIE and BIA spent $1.2-plus million. That was documented in their report. Will both of you commit that you will meet with my staff this month to discuss contracting oversight for BIE facilities projects?

Mr. DEARMAN. Yes.

Mr. LACOUNTE. Yes.

Senator UDALL. Thank you.

Mr. DEARMAN. Senator, may I update you on one thing?

Senator UDALL. Please, go ahead.

Mr. DEARMAN. We are in the process of taking over contracts within BIE. That is also really going to help us. It will help us establish timelines and more consistency in servicing our schools.

I know Mr. LaCounte alluded to that. We have been working with GAO and discussing that. We are in the process of taking over contracting.

Senator UDALL. Great. Thank you both very much.

Mr. Chairman, I yield back.

The CHAIRMAN. [Presiding.] Senator Cortez Masto.

STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA

Senator CORTEZ MASTO. Thank you.

Let me also echo some of the concerns I heard from the Ranking Member earlier with respect to Dr. Weber. I am hoping we are having a hearing on this. It is outrageous to me that it went on so long, the predatory nature of this doctor, nobody came forward, and it continued over so many years. I just want to put that on the record. I am looking forward to further hearing, understanding what happened, and the accountability and how we are going to prevent this from happening in the future.

Let me jump back to the working relationship between BIE and IHS. Director Dearman, in previous testimonies, you have mentioned that your office is diligently working to address the varying and developing needs of our students, including behavioral and mental health support services. Can you please talk a little bit further about this partnership with IHS and how you are planning to overcome some of the IHS limitations that were outlined in the GAO report?

Mr. DEARMAN. Yes. Thank you, Senator.

We have established meetings with IHS. As a matter of fact, two weeks ago, we were at IHS discussing the MOA that is servicing our schools. As you are well aware, a lot of our schools are so isolated, one size does not fit all. We really have to go in and work with IHS to see what resources are available, whether they be tribal or government resources, and providing training. For example, right now we are working on regional training to really deal with suicidal ideations or behavioral health within our system.

Last year alone, we had 26 suicide attempts. That was just captured with our BIA-operated and maybe a few of our tribally-controlled that choose to report to us. We had two suicide completions.

As we have stated, until we get our emotionally and physically our students healthy, they are not going to learn. We really are establishing strong rapport and strong relationships to where we are individualizing the services that each school and region receives from IHS.

Senator CORTEZ MASTO. Admiral, can you elaborate a little bit more on the IHS involvement?

Mr. WEAHKEE. Yes, ma'am. So, the umbrella agreement that we have here at the national level enables local level agreements to be made. As Mr. Dearman mentioned about one size not fitting all, we do really need to look at and tailor the services as best meets the needs for the Supai in the bottom of the Grand Canyon or those living in Riverside County, Los Angeles, which is an urban site in metropolitan LA. The needs are very different and the settings. So really tailoring those agreements at the local level is vitally important.

Senator CORTEZ MASTO. I do not mean to interrupt but I only have so much time.

So you are in the process of setting forth those strategic plans, and you are working with local law enforcement, and local mental health and whoever else is necessary to address this issue, if it exists? And I realize not all of our Native American communities have law enforcement.

Are you putting in place those strategic plans? And do you have, looking at the map as a region and actually going after and addressing all of those concerns with respect to our students?

Mr. DEARMAN. As far as the schools what we are doing, Senator, is, matter of fact, right before the meeting, I met with Charlie Addington, who is the Director of OJS, Bureau of Indian Affairs. We are looking at our schools, and who has jurisdiction, and what law enforcement services they have.

We are also looking at some of our security contracts that some of our schools utilize. Instead of using them for contracts outside of the government, but utilizing our own OJS officers and hiring to where we have more control. We are addressing that. We have been questioned, too, that as part of our strategic direction, that was not one of the six goals identified through tribal consultation. But that does not mean we are not addressing it, because we are.

Senator CORTEZ MASTO. Okay. I appreciate that.

And do you have the resources? Does the current budget that the Administration has put forth, does it provide the resources that are necessary to achieve this goal you have set?

Mr. DEARMAN. With the current budget, the way it will work with our schools is the schools will take it from their budgets. An example would be that some of the schools receive funding for security purposes. And some of the schools, we have a line item just for school security and safety that we really distribute out to the schools that will identify a need. But it depends on the amount of resources that the schools generate, based on the ADM, student enrollment.

Senator CORTEZ MASTO. So let me just say this. There are two BIE schools in Nevada, the Duck Water Shoshone Elementary School and the Pyramid Lake Junior-Senior High School. If I come and talk with them about their needs, will they tell me that you have reached out to them on this very issue when it comes to mental health and behavioral health issues for their students?

Mr. DEARMAN. I am not sure if the two sides would, because they are both tribally-controlled. We assist tribally-controlled as needed. Anytime anything happens, we try to reach out to the tribally-controlled schools and see if they want our assistance.

Senator CORTEZ MASTO. Thank you. I appreciate that.

I notice my time is up.

The CHAIRMAN. Admiral Weahkee, in information you provided to this Committee regarding Dr. Weber, you included hiring of an independent contractor to review the agency and its personnel involvement in handling of the matter. Can you explain to the Committee what the Indian Health Service intends to do with the findings of this investigation, and how Indian patients can be assured that they will receive safe, reliable health care going forward and that we don't have a repeat of this incident?

Mr. WEAHKEE. Thank you, Senator Hoeven.

What we hope to do, objectively, again, with the third-party eye, is to have somebody look back and determine where the missed opportunities took place. We want to make sure that we gauge things against the policies that were in place at the time. Were those policies followed? If not, where the breakdowns occurred and who should be held accountable for those policies not being put into place.

Ultimately, the goal is to fill in those gaps, make sure that we have policies, that people know what the policies are, that we are training on them, and that we are creating the culture of accountability and the just culture I mentioned of people not fearing retaliation for reporting up.

The CHAIRMAN. Are you confident you are taking all necessary steps to make sure you do not have a repeat, that if you have any issues right now going on right that you may not be aware of, and that you don't have a repeat of this type of instance in the future?

Mr. WEAHKEE. Senator, I do know as a result of the scrutiny and the level of marketing, if you will, that we have done to our complaint hotline, we have become aware of additional instances of issues that needed to be resolved. And we have moved forward on several termination actions as a result. We have made several referrals to the IG in the last several months about matters that have come to our attention after identifying the issues needed to be reported immediately.

The CHAIRMAN. And you will provide that information to our Committee, make sure they are fully addressed, and that you have all necessary systems in place to avoid any repeat of this type of incident to the maximum extent possible?

Mr. WEAHKEE. We absolutely do, sir, yes, sir.

The CHAIRMAN. According to the March 2019 High Risk Series Report, the Indian Health Service planned to complete implementation of all of the outstanding recommendations by 2019. So these

have been open for two years. As you know, this is our fourth hearing on these findings.

Please detail for me when you expect to have those closed out. As I have said, we will have hearings until they are all closed out. What do you anticipate the timeline to be for the remaining findings?

Mr. WEAHKEE. Thank you, Senator.

Many of the older recommendations were from our Purchased and Referred Care Program or what was previously known as our Contract Health Service Program. Those were the oldest of our recommendations. The vast majority of those have been addressed.

With the publication of our revised policy, we have made the request to GAO that they close those out. When those are closed out, we are basically left with three open recommendations, two of those being patient wait times and quality care initiatives that we have put into place that just need to be monitored over time to ensure the changes we have made are sustained and lasting.

The third is a relatively new recommendation that we received related to workforce and the need to look at how much resource we are spending on contract providers. We are putting in place the ability to track how much we are spending on contract providers versus bringing those providers on full time.

Hopefully, with the GAO seeing our good progress, we will have all of those closed within a very short few months. We have been monitoring patient wait times for almost a year now, but they need to see that we have some sustainability there.

The CHAIRMAN. Director Farb, does that square with what you anticipate is realistic for addressing those recommendations?

Ms. FARB. Yes, sir. They submitted documentation during the course of planning for this hearing. We have not reviewed all of it. I believe it is possible that three of those recommendations may be ready to be closed.

There is another one that involves some monitoring. We want to make sure we understand what is being done to address that. What Real Admiral Weahkee mentioned in terms of the remaining three recommendations, that is correct. That is what we are looking for, sort of monitoring over time to make sure we are doing what we say we are doing.

The CHAIRMAN. I have some additional questions but I am going to turn to Senator Tester at this point.

STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Mr. Chairman and Ranking Member, for having this hearing.

I am going to talk about staffing for a second with Tony and the Admiral. I will start with Tony.

How would you assess your overall staffing and education in the schools?

Mr. DEARMAN. At the school level, that fluctuates, that varies. Above the school, what I call our support, our technical assistance, we are at 49 percent. But I would have to go back, Senator, and get you the exact numbers.

Senator TESTER. Teachers in the classroom?

Mr. DEARMAN. I would have to go back and get the figures.

Senator TESTER. Would it be, do you think, higher than 49 percent?

Mr. DEARMAN. Yes, it would definitely be higher than 49 percent. The thing with that is we would only be able to capture the BIE-operated. But yes, it would be higher than 49 percent.

Senator TESTER. That is all I want, the BIE staff. The other guys, that is your problem. The others is their problem. I would love to know where it is at for a couple of reasons. If you don't have teachers in the classrooms, and good teachers in the classrooms, we have a problem.

Have you guys been able to do any sort of assessment as to the teachers you have and their ability to relate with Native American culture?

Mr. DEARMAN. Thank you, Senator. That is one of the problems that we have been discussing with our tribes. We really feel like that is one of the reasons we have such a high turnover, because a lot of the teachers don't understand the community or culture that they are going into. As we have been meeting with tribes and our schools, we really encourage our teachers to get involved in the community actions. We have developed, working with GAO, and we are fixing to submit by the end of this month, the workforce plan which really takes a deep dive into our entire workforce.

Senator TESTER. And I am assuming, I mean, the President's budget just came out yesterday, but I am assuming that we will probably have a hearing on that budget at some point in time. I am assuming you are not at 100 percent on your teachers.

Mr. DEARMAN. No, sir, we are not.

Senator TESTER. Okay. That budget going forward, and you can say, I do not know, we will look into it, if you don't know, because we will have a hearing on it. Did you make allowances to make sure you had the budget to be able to hire 100 percent of what you need?

Mr. DEARMAN. The majority of our staff at the school level is hired through ISEP. Looking at the current budget, we are looking at about $1 less WSU that is submitted for our schools.

Senator TESTER. Tell me what ISEP is.

Mr. DEARMAN. ISEP is what a majority of our schools would utilize.

Senator TESTER. What does that mean? What is that acronym?

Mr. DEARMAN. Indian Student Equalization Program. That is what the majority of our schools would utilize to hire staff.

Senator TESTER. Gotcha. That is the line item. You said that line item is what?

Mr. DEARMAN. With the feds and its proposed budget?

Senator TESTER. Yes.

Mr. DEARMAN. It is about $1 less than last year per student, WSU.

Senator TESTER. Okay. Does that get you where you need to be?

Mr. DEARMAN. We can, we are, again, Senator —

Senator TESTER. So, this is not the Appropriations Committee but this is the authorizing, I believe, the last time I checked. We kind of need that stuff. And I will tell you why it is so important.

The CHAIRMAN. You are on the Approps Committee.

Senator TESTER. I am and so are you. So we can work together on that.

But why it is important, is that if we want to, in my opinion, if we want to get poverty out of Indian Country, one of the foundational blocks is a good education. If we do not have that foundational block, it doesn't matter what we do. I believe we are still going to have problems. So take a look at that.

As long as I have you and the mic is hot, what about the construction budget? Is that in your bailiwick too? Is that in your oversight or purview?

Mr. DEARMAN. It is not. We work with DASM.

Senator TESTER. Okay. Darryl, is that part of yours? No? I can hear that sigh of relief now. Okay, go ahead.

Mr. DEARMAN. I can address part of that, Senator. Again, the department supports the President's budget, as you are aware. We realize that with the shortcomings in the construction piece with the proposed budget, we really are looking forward to working with Congress with the infrastructure.

Senator TESTER. Here is the deal. You have to support the President's budget; he is your direct boss. We are over here as one of those branches of government that you have to deal with. But we cannot fix it unless we know why to fix it. We are not going to just throw a number at the wall. And by the way, I would love to have, if you could just get back to us on where you are for teacher staffing, not talking aides, secretaries, just classroom teachers, that would be great.

Admiral, good to see you again. Kind of the same question. How are you on staffing, where are you? Are you at 50 percent or 75 percent? If you do not have it, I will make the same request to you.

Mr. WEAHKEE. Thank you, Senator Tester.

Overall, our vacancy rate is 20 percent across all job categories in the agency. When we speak specifically about health care providers, we get up into the 30 to 32 percent depending on which profession we are talking about. Our hardest to fill are our physicians, nurse practitioners, physician assistants.

Senator TESTER. Let me ask a couple things on that. Do you have the numbers on your general practitioners, where they would be?

Mr. WEAHKEE. I would say 29 percent.

Senator TESTER. I am sorry I am going over time. You can gavel me out at any time.

Are you guys able to use physician assistants and nurse practitioners to fill some of those slots?

Mr. WEAHKEE. We have used that strategy to the extent that we are able. There are instances where you must have a physician to provide oversight for a PA and in some States, a nurse practitioner as well.

Senator TESTER. Depending on the State or are they all that way?

Mr. WEAHKEE. Depending on the State for the nurse practitioners.

Senator TESTER. I serve on the VA Committee and they are always talking about by the time we get done hiring, getting all the questions asked on a doc, several months have passed and that doc already has a job somewhere else, getting a paycheck.

Do you also have that problem at IHS?

Mr. WEAHKEE. We have had that problem historically. Some of the quality improvement efforts that we are putting in place, like the credentialing software system, it is helping to alleviate that, especially for those providers already in-house.

Senator TESTER. So average time, and I could ask this question of Tony also. You can get me this if you can, Tony. Average time it costs from the time a job opens and you get applicants to the time you get it filled, any metrics on that?

Mr. WEAHKEE. We use an 80-day benchmark for the hiring process, but when you build in the required background investigations and the credentialing process, six months is a best-case scenario.

Senator TESTER. Are there things we can do as Congress to help cut that time down, to cut some of the red tape? Docs are hard to get. They are hard to get in the private sector, they are hard to get everywhere. I can't imagine a doctor standing around for six months waiting for IHS, VA or any other Federal agency, as far as that goes, to say, yes, we are going to hire you.

Mr. WEAHKEE. We can look to what the private sector does. They send individuals out to job fairs and they have a contract in hand. They can negotiate a salary and get a signature on the spot. We don't necessarily have that ability within the Federal Government.

Senator TESTER. Assuming it is welcome if we could cut down some of the time, though, right?

Mr. WEAHKEE. I am sorry, sir?

Senator TESTER. You would welcome the opportunity if we could cut down some of the time?

Mr. WEAHKEE. Absolutely.

Senator TESTER. I want to thank you all. Jessica and Darryl, I am sorry I didn't pick on you guys. I appreciate you all being here. Thank you very much for the work you do. We will follow up later on the budget. Thank you very much.

The CHAIRMAN. Did you get in all your questions?

Senator TESTER. Yes. I never get all my questions in, but I am done.

The CHAIRMAN. I have just a couple more. Then I will turn to Senator Cortez Masto to finish up.

Director Dearman, I think Senator Tester was getting at the same thing I wanted to address. That is your staffing and your vacancies. Do you feel like you are making progress on filling those vacancies? The other thing is, do you feel you are on top of any work environment issues as far as any concerns about hostile work environment or any of those things, which may go to turnover? So if you could kind of you address both those.

Mr. DEARMAN. We are working on capacity. When I became director, I believe we were at about 43 percent staff. Right now, we are about 49. We are thinking out of the box and looking at ways of how we can actually recruit and retain people. And we are looking at incentives as far as recruitment and retention incentives. We are looking at advertising positions outside of areas, out in the communities where we actually have more Indian applicants.

And where we really don't have capacity, we are actually utilizing contracts. An example of that, Senator, is, one of the issues we are talking about is bringing on people. In one of the OIG find-

ings, they documented that we were not completing our background checks.

What we have done is we have contracted with the Interior Business Center, which is really coming in, helping us get caught back up while we build up our capacity. So we are not using our capacity as an excuse, by no means, but we are continuing to work on our capacity through the hiring process.

The CHAIRMAN. Any work environment issues, do you feel you are addressing them fully and properly and expeditiously?

Mr. DEARMAN. I really feel like we are on top of that issue. The department has actually mandated that all of our employees go through harassment training. We are constantly getting out there and making sure that our employees are aware that if they feel they are harassed or in a bad environment, there is a process of reporting. So all of our employees, all the way down to the school level, are aware of that.

The CHAIRMAN. Thank you.

Director LaCounte, we just passed the Tribal Resource Energy Agreement about helping our tribes across the Country develop their energy resources, traditional, renewable or whatever, based on what they want to do. It is up to you to help them implement that. How is that proceeding?

Mr. LACOUNTE. Within Indian Affairs, there is a branch that is called Indian Energy and Economic Development. They work directly for the Assistant Secretary. It is their charge to get out and work hand in hand with any tribes who have applied for any type of TERA agreement or even go out and promote.

They don't work directly for me but they do work for Indian Affairs and the Assistant Secretary. It is their charge to do it. That is probably their priority right now, to take what you have done and share the knowledge, provide the training and the assistance to help tribes if they are interested in doing so, but more so, making them aware of the changes that have been made and why it is much more attractive than it was prior to the amendments.

The CHAIRMAN. You have 12 outstanding findings from the GAO High Risk Report. Obviously, that is a concern. Tell me how you are going to get those resolved and in what kind of timeline?

Mr. LACOUNTE. I will do the best I can to get them resolved. I am fully confident that we have done everything that we can within BIA, including implementing the solutions in the field. They are actually using them.

Unfortunately, I understand that no job is finished until the paperwork is done, but I had no idea the paperwork was going to be as big as the job itself. That is what I am finding out. But I am fully confident we have done what we need to do and it is working in the field. I am going to do what we can.

I talked with Mr. Rusco from GAO earlier today. We met with them the week before last. He advised me that I was not so good at hiding my frustration as I thought I was within that meeting. I will work harder on that, but I am going to work hard on getting these things closed out because I am very frustrated.

The CHAIRMAN. I share the concern on paperwork sometimes, but it is very important that the underlying issue is fully addressed and that we know it is fully addressed.

So with that, I will turn to Director Farb, your sense of the timeline to get these 12 remaining findings resolved? Are you making progress and what is your sense of what the realistic timeframe is to get them addressed and the paperwork done?

Ms. FARB. I am going to ask my colleague, Frank Rusco, who represents the Indian Energy Issue Portfolio to come and answer that question.

Mr. RUSCO. Thank you. I am Frank Rusco.

We got, I will call it an avalanche of paperwork about two weeks ago from the department. We looked through a lot of it. We still have some questions about whether the intent of the recommendation has fully been met. We do need to go out in the field and see, as Mr. LaCounte says, how it is working in practice.

We saw a number of things that we are still concerned about. We need to see timelines set for certain activities. Then we need to see monitoring to make sure the different offices and agencies are meeting the timelines that they have set.

The CHAIRMAN. Do you have an estimate as to what is realistic to wrap up these 12?

Mr. RUSCO. I don't. We are going out at the end of the month to the Indian Energy Service Center. We will also talk to the Indian Energy and Economic Development folks and we will ask them how things are working in the field. If they are, then there are a number of those recommendations that will be closed. I am going to say four or five. The other things, we just need to sit down and talk further with BIA to see if they can show us how things are actually implemented.

The CHAIRMAN. As you get a sense of that, would you please provide a follow-up summary to our staff, our Committee?

Mr. RUSCO. Absolutely. Will do.

The CHAIRMAN. Thank you.

With that, Senator Cortez Masto.

Senator CORTEZ MASTO. Actually, I am good. I will submit my question for the record. Thank you.

The CHAIRMAN. All right. Then if there are no more questions for today, members may also submit follow-up questions for the record. The hearing record will be open for two weeks.

I appreciate your being here. It is very important that we get these remaining issues addressed. They are important. Obviously, we will do everything we can to get them done in a timely way, as well as making sure they are fully covered.

Thank you to the GAO for your work and being here today as well.

With that, our hearing is adjourned.

[Whereupon, at 4:08 p.m., the Committee was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO TONY DEARMAN

Questions. Director Dearman has previously mentioned that his office is diligently working to address the varying and developing needs of students in the two BIE schools in Nevada, including behavioral and mental health support services. Explain further about this partnership with IUS and how you're planning to overcome some of the IHS limitations that were outlined in the GAO report?

How did the shutdown affect your ability to address the challenges raised by GAO? Are there any long-term ramifications that we should be watching out for?

Answers. The Bureau of Indian Education (BIE) is committed to creating positive, safe, and culturally relevant learning environments where students gain the knowledge, skills, and behaviors necessary for physical, mental, and emotional well-being. BIE recognizes the importance of student mental and behavioral health and has identified it as one of its six Strategic Direction goals. BIE is especially proud that the final student mental and behavioral health goal includes several action items that were offered by Tribes and Indian Country leaders during the Tribal consultation process last year.

One critical component of Goal Two of the Strategic Direction is mental and behavioral health professional development and training. Over the course of the last year of implementation of Goal Two, the BIE has certified approximately 329 staff members in Youth Mental Health First Aid. The Youth Mental Health First Aid training consists of an 8-hour public education program that introduces participants to the unique risk factors and warning signs of mental health problems in adolescents, builds understanding of the importance of early intervention, and teaches individuals how to help an adolescent in crisis or experiencing a mental health challenge. The training utilizes real world role-playing and simulations to demonstrate how to assess a mental health crisis; select interventions and provide initial help; and connect young people to professional, peer, social, and self-help care.

Additionally, in December 2016, the Indian Health Service (IHS) and BIE entered into an interagency agreement intended to increase access to mental and behavioral health services for students attending BIE-funded schools. Under this 1 0-year agreement, the agencies will work collaboratively to establish local partnerships through Memoranda of Agreement among local IHS mental health programs and BIE-funded schools in order to provide on-site mental health assessment and counseling services to BIE students.

With regard to the recent lapse in appropriations and subsequent shutdown, work related to GAO closures and the Strategic Direction paused for the duration of the lapse. This resulted in a delay to GAO and Strategic Direction work. Specifically, during the month prior to the shutdown, five percent ofBIE's Strategic Direction actions were reported as being behind schedule. In the month following the closure, 36 percent of Strategic Direction actions were reported as behind schedule, an increase of 31 percent. However, the BIE has refocused its efforts and is working to catch up on its Strategic Direction work commitments as quickly as possible. Currently, 28 percent of Strategic Direction actions are behind schedule and the BIE is continuing to work hard every day to close this gap and deliver on its year-one Strategic Direction milestones.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO DARRYL LACOUNTE

Question 1. According to GAO, "BIA officials said the agency does not have the staff or resources to implement a comprehensive workforce planning system to ensure it has staff in place at its agency offices to meet its organization needs." Does the President's budget include the resources that you need to make those assessments? If not, why not? If so, when can we expect this workforce evaluation?

Answer. As indicated during the March 2019 SCIA Hearing on the GAO High Risk Designation ofBIA, the BIA continues to prioritize filling vacancies. Workforce planning is ongoing. We have worked closely with Indian Affairs Human Capital and Budget staff, as well as BIA subject matter experts, to conduct an assessment. As with any budget scenario, resources are identified for priorities.

The BIA Office of Trust Services, and Indian Energy Service Center have finalized the draft workforce evaluation, which will be the guiding comprehensive internal document by calendar year end.

Question 2. How did the shutdown affect your ability to address the challenges raised by GAO? Are there any long-term ramifications that we should be watching out for?

Answer. The shutdown did not create long-term ramifications for the Indian Energy Service Center. Some activities, like the Mineral User Group meeting, which was scheduled for January 2019, had to be rescheduled. In addition, the processing of permits and leases were halted, but activities resumed when the shutdown ended. While the shutdown did create a backlog of work, the backlog is being addressed and the staff is attempting to resume a normal workload.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO JESSICA FARB

Questions. In its 2017 High Risk Report, GAO noted that insufficient reimbursements for health services delivered by providers outside ofiHS led to "gaps in services (that] sometimes delay diagnoses and treatments, which can exacerbate the severity of a patient's condition and necessitate more intensive treatment." The 2019 High Risk Report says IHS has taken steps to identify providers who don't accept the Service's low reimbursement rates. To what portion of the underlying issue do you attribute awareness of providers who don't accept IHS rates, versus low reimbursement rates that have created narrow networks of providers? How much would IHS have to increase reimbursements to address the issue? When you're evaluating the progress of these agencies in meeting their targets, how do you measure or account for the sustainability of their solutions? How do we make sure that agencies don't backtrack in areas where they've made improvements?

How did the shutdown affect your ability to address the challenges raised by GAO? Are there any long-term ramifications that we should be watching out for?

Answers:

GAO has recommended that IHS increase reimbursements and decrease payments

Increasing third-party reimbursements. When services are not available at federally operated or tribally operated facilities, the Indian Health Service (IHS) may pay for services provided through external providers through its Purchased/Referred Care (PRC) program. The PRC program is funded through annual appropriations and must operate within the limits of available appropriated funds. In our 2017 High Risk Report, we reported that although funding appropriated for the PRC program had recently increased, the program is unable to pay for all eligible services. We also reported that gaps in services sometimes delay diagnoses and treatments, which can exacerbate the severity of a patient's condition and necessitate more intensive treatment. We concluded that one way for IHS to increase the funding available for eligible services was to increase its third-party reimbursements from programs such as Medicaid.[1] The Patient Protection and Affordable Care Act (PPACA) expanded or created new health care coverage options, including a state option to expand Medicaid eligibility to individuals with incomes at or below 138 percent of the federal poverty level. We estimated that PPACA's new coverage options may allow hundreds of thousands of American Indian/Alaska Native people to obtain health care benefits for which they were not previously eligible, assuming all states expanded their Medicaid programs. We reported that, if American Indian/Alaska Native people enroll in one of these options and choose to receive care through IHS, increased revenue from third party payers such as Medicaid could free up IHS resources and help alleviate pressure on the IHS budget.

Reducing payment rates. In addition to the potential financial benefits of increasing its third-party reimbursements, in 2013, we found that IHS could achieve cost savings that it could then direct toward additional patient care if it reduced

[1] *Indian Health Service: Most American Indians and Alaska Natives Potentially Eligible for Expanded Health Coverage, but Action Needed to Increase Enrollment*. GAO–13–553. Washington, D.C.: September 5, 2013.

its PRC payment rates for physician and nonhospital care. We found that in 2010, the PRC program primarily paid physicians at their billed charges, which were significantly higher than what Medicare and private insurers would have paid for the same services.[2] Specifically, we estimated that the PRC program paid twice as much as what Medicare would have paid and about one and a quarter times as much as what private insurers would have paid for the same physician services provided in 2010. We concluded that setting PRC program physician and other nonhospital payments at rates consistent with Medicare would enable IHS to achieve needed savings that could be used to expand patient access to health care. In response, the Department of Health and Human Services issued a final rule on March 21, 2016 to apply Medicare payment rates to all physicians and other nonhospital services provided through PRC—saving the agency over $18 million. Given the possibility this change could affect access to care in certain areas if providers do not accept the lower payment rates, we recommended that IHS monitor PRC program patient access to physician and other nonhospital care. In response to this recommendation, IHS developed an online tool that enables the agency to track providers that do not accept IHS's payment rates. While we have not done work to address the issue of lower payment rates creating narrow provider networks, we recommended that IHS monitor patient access in order to help ensure that does not happen. We also have ongoing work looking at how Medicaid expansion has affected health care coverage and services for American Indians and Alaska Natives.

GAO's recommendation follow-up procedures

Agencies have a responsibility to monitor and maintain accurate records on the status of our recommendations. These requirements are detailed in two OMB circulars—OMB Circular A–50 and OMB Circular A–123. Among the requirements included are that the agencies (1) appoint a top-level audit follow-up official, (2) maintain accurate records on the status of recommendations, and (3) assign a high priority to following up on audit recommendations.

Although agency officials are responsible for resolving audit findings and recommendations, GAO's continued attention to recommendations can help bring about the benefits of the audit work. We actively monitor the status of our open recommendations—those that remain valid but have not yet been implemented—and post our findings to a recommendations database, which is updated regularly and publicly available at *https://www.gao.gov*. The database records information on recommendations and on whether timely and appropriate corrective actions have been taken.

Because agency personnel serve as a primary source of information on the status of recommendations, we request that the agency also provide us with a copy of the agency's statement of action to serve as preliminary information on the status of open recommendations. We follow up by discussing the status of recommendations with cognizant agency officials; obtaining copies of agency documents supporting the recommendations' implementation; and performing sufficient work to verify that the recommended actions are being taken and, to the extent possible, that the desired results are being achieved.

A recommendation is closed when it has been implemented, when actions have been taken that essentially meet the recommendation's intent, or when circumstances have changed and the recommendation is no longer valid. GAO staff obtain verification, with sufficient supporting documentation, that an agency's reported actions are being implemented adequately before closing out a recommendation. GAO staff may interview agency officials, obtain agency documents, access agency databases, or obtain information from the agency's Office of the Inspector General. Follow-up records are retained for 5 fiscal years from the fiscal year that a product's last recommendation is closed. However, sustained congressional attention is needed to ensure initial agency implementation and to prevent agencies from backsliding.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO REAR ADMIRAL MICHAEL WEAHKEE

Question 1. In its 2017 report, GAO noted that insufficient reimbursements for health services delivered by providers outside of IHS led to "gaps in services [that] sometimes delay diagnoses and treatments, which can exacerbate the severity of a patient's condition and necessitate more intensive treatment." The 2019 report says

[2] *Indian Health Service: Capping Payment Rates for Nonhospital Services Could Save Millions of Dollars for Contract Health Services.* GAO–13–272. Washington, D.C.: April 11, 2013.

IHS has taken steps to identify providers who don't accept the Service's low reimbursement rates. What else is IHS doing to address this access question? Has IHS considered increasing reimbursements for these services?

Answer. The 2017 GAO report quoted in the question explains that Purchased/Referred Care (PRC) funding is provided through annual appropriations, which has increased in recent years. However, despite these increases, GAO states, "the [PRC] program is unable to pay for all eligible services, and that these gaps in services sometimes delay diagnoses and treatments, which can exacerbate the severity of a patient's condition and necessitate more intensive treatment." See GAO report 17–317, page 209–210, available at *https://www.gao.gov/assets/690/682765.pdf*. The GAO did not identify insufficient reimbursements for non-IHS provided health care as the cause for the gaps in service.

In May 2016, IHS established a regulation on capping payment rates for physicians. See 42 C.F.R. Part 136, Subpart I—*Limitation on Charges for Health Care Professional Services and Non-Hospital-Based Care*. This rule implemented a methodology and payment rates for the IHS PRC to apply Medicare payment methodologies to all physician and other health care professional services and non-hospital-based services. Specifically, it allows health programs operated by IHS, tribes, tribal organizations, and urban Indian organizations (collectively known as I/T/U programs) to negotiate or pay non-I/T/U providers based on the applicable Medicare fee schedule, prospective payment system, and Medicare Rate in accordance with a Medicare waiver, the amount negotiated by a repricing agent, or the provider or supplier's most favored customer rate. In accordance with this new regulation, I/T/U programs may negotiate a higher rate with those providers that refuse to accept Medicare methodology for payment, using the providers most favored customer rate as a ceiling in most cases.

Question 2. In view of issues faced by providers like the Paiutes in Nevada, IHS has started work on modernizing s its electronic health record system. While the Paiute clinic in my state is not an IHS clinic, they do utilize the electronic records system which, from their perspective, has been slow to see improvements. When should facilities expect to see positive changes or improvements to the existing HIT infrastructure? What is IHS doing to ensure that input from tribes running their own facilities is taken into account?

Answer. The IHS uses the Resource and Patient Management System (RPMS) to manage clinical, financial, and administrative information in federal hospitals and clinics, as well as in some tribal and urban health programs. The RPMS is currently installed in over 400 separate locations and is patched by local staff who are responsible for maintaining the system. Enhancements are provided by IHS Office of Information Technology (OIT) through a combination of federal staff, contract developers, and shared code made available from the Department of Veterans Affairs through a memorandum of understanding.

In RPMS development, requests for changes to the software are evaluated by informatics staff, subject matter experts, and the IHS Chief Medical Officer to address requested improvements, regulatory compliance, and audit findings. New software is released to the over 400 locations incrementally throughout the year as individual update packages are released. The most recent package was released in December 2018. In FY 2018, OIT released 110 minor enhancements and 5 comprehensive software package releases. A new Electronic Prescribing of Controlled Substances package will be released in the summer of 2019 that creates new functionality to support the IHS Opioid initiatives.

IHS has started efforts to modernize its health information technology (HIT) infrastructure. This effort will include substantial changes to the existing RPMS, or purchasing and implementing a commercial option. This first step for IHS is completing the HHS sponsored IHS HIT Modernization Research Project that began in October 2018 and will conclude in September 2019. The research project will inform IHS about the requirements and challenges that IHS needs to address in order to modernize its HIT system. The IHS is developing a modernization plan that addresses the technical design, operating plan, and funding strategy. The IHS will continue to support the current RPMS as well as develop a long-term plan to modernize and sustain its HIT investments.

Additionally, the FY 2020 Budget proposes $25 million for IHS to begin transition to a new and modernized Electronic Health Record system. This funding will lay the groundwork to improve the quality of care, reduce the cost of care, promote interoperability, simplify IT service management, increase the security of patient data, enhance cybersecurity, and update infrastructure across rural locations to enable a successful Electronic Health Record transformation.

The IHS has established and funds advisory committees composed of members of tribes, tribal organizations, and representatives of the Federal Government to en-

sure participation on addressing issues such as RPMS and the HIT modernization effort, including the Direct Service Tribal Advisory Committee and the Tribal Self-Governance Advisory Council. In addition, IHS established the Information System Advisory Council (ISAC) to guide the development of a co-owned and co-managed Indian health information infrastructure and information systems.

With tribal partners, the ISAC examines the larger question of our HIT platforms. The ISAC has a chartered responsibility to make technology recommendations and priorities to the IHS Director. IHS concurrently engages in tribal consultation and urban confer to gather input and assist our decisionmaking process. This process has included several listening sessions combined with a broad array of stakeholder and community engagements. Feedback from the ISAC, listening sessions, and engagement with HHS and other Federal programs will ultimately converge to provide the IHS with good information to help determine a best path forward.

Question 3. The report discussed the importance of appropriate and level staffing, particularly the need to efficiently replace key personnel as vacancies become apparent. Health workforce issues as a significant challenge across all of our rural communities. The President's budget that was released yesterday included "investments in new programs to improve patient care through recruitment and retention of health care professionals." Please provide additional detail on those programs and how they will help bring health care providers to rural communities like those in Nevada. What actions can we take in Congress to help you meet those needs?

Answer. Investments in new programs will be used to support a range of recruitment and retention strategies aimed to enhance and support the IHS mission. Initiatives include, but are not limited to, housing subsidies, U.S. Code Title 38 compensation, increases in the number of IHS loan repayment and scholarship awards, use of other Federal loan repayment programs, and the expansion of IHS recruitment and outreach activities.

Recruitment and retention of employees is a high priority for the IHS. To successfully recruit and retain health care professionals, IHS must provide competitive employment packages. As requested in the Fiscal Year 2020 Budget, IHS could use housing subsidies for civilian health professionals that are assigned or accept staff quarters. A housing subsidy would be offered equivalent to the amount charged by General Services Administration (GSA). Health professionals not assigned to staff quarters would be offered housing subsidies based on a mileage rate of the nearest location where housing is available as determined by the agency. The housing subsidy is designed to offset GSA rental rates or to reduce the cost of commuting and renting homes in adjacent communities. This subsidy will be a significant tool to aid in the overall recruitment and retention of civilian health professionals and aligns with the basic allowance for housing program that is offered to U.S. Public Health Service Commissioned Corps officers assigned to the IHS.

IHS has the delegated authority to use Title 38 of the U.S. Code, Chapter 74—*Veterans Health Administration—Personnel*, for compensation purposes, including IHS-developed Title 38 pay tables. IHS currently has ten Title 38 pay tables. Consistent with the Fiscal Year 2020 Budget request, IHS can develop additional Title 38 pay tables or increase current pay. More competitive pay can help reduce IHS vacancy and turnover rates.

Recruitment and retention of health care professionals is a challenge for IHS and other health care organizations serving rural locations. To address these challenges, the FY 2020 Budget for IHS includes legislative proposals to provide IHS discretionary use of all U.S. Code Title 38 personnel authorities, half-time obligations for loan repayment and scholarship recipients, and tax exemption for these recipients.

Question 4. How did the shutdown affect your ability to address the challenges raised by GAO? Are there any long-term ramifications that we should be watching out for?

Answer. Over the 35-day lapse in appropriations that started on December 22, 2018 and ended January 25, 2019, IHS continued to provide direct clinical health care services as well as referrals for contracted services that cannot be provided through IHS clinics. However, IHS could only perform national policy development and issuance, oversight, and other functions necessary to meet the immediate needs of the patients, medical staff, and medical facilities. IHS was unable to provide the majority of funds to Tribes and Urban Indian Health programs. The government lapse in appropriations created multiple disruptions to direct operations of IHS facilities including delay in training staff on various clinical and administrative topics, staffing critical clinical and administrative vacancies at IHS facilities, recruitment of health care professionals, facility maintenance and repair, and the inability to restock critical medical supplies and services at various health care facilities.

In addition to the operational impacts listed here, the lapse in appropriations significantly impacted IHS health care team morale, among other psychological impacts. Employees across the Indian health care system were concerned about how to pay their rent, how to feed their families, how to pay for gas to get to work, how to pay their childcare costs, etc.

Despite these setbacks, the IHS health care team is resilient, dedicated to our mission, and will continue to work to mitigate any and all impacts experienced by the government lapse in appropriations. We are focused on our priority and goal to provide quality care.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO TONY DEARMAN

Elementary and Secondary Education Act Compliance

Question 1. As part of the BIE's efforts to develop a 'state plan' to define standards, assessments, and accountability systems for BIE-funded schools consistent with Section 1111 of the Elementary and Secondary Education Act, the Bureau established a Standards, Assessments, and Accountability System Negotiated Rulemaking Committee. The BIE's website indicated that the Committee would meet four times, but the recent partial government shutdown caused a delay in the final meeting. Will the Bureau's delay of the final meeting of the Committee result in any complications with completing the rulemaking process in time to meet the deadlines agreed upon by the Department of the Interior and the Department of Education?

Answer. The partial appropriations lapse did not further delay the implementation of the rulemaking process. The Committee met four times in person and numerous times as subcommittees and in April 2019 delivered a Final Consensus Report to the Bureau of Indian Education that summarizes recommendations for regulations to implement the unified requirements for standards, assessments, and accountability systems for BIE-funded schools and other aJternative requirements.

Presently, the Bureau of Indian Education (BIE) is completing the rulemaking process. BIE is coordinating regularly scheduled meetings with the Department of Education (ED) and working with ED-funded comprehensive centers to ensure that ED is aware of expected deliverables and timelines for implementation. BIE estimates a 3-month review process prior to publication of the final rule. As such, BIE estimates publication of the Final Rule within a December 2019 to January 2020 timeframe. While the BIE's anticipated timeframe for full implementation of its standards, assessments, and accountability system will not occur until school year 2020–2021, ED understands that is now the timeframe and is providing technical assistance and recommendations for implementation, as well as support to BIE as it works with its schools to ensure that schools, tribes, and local stakeholders are properly notified and prepared for the planned rollout of implementation.

Question 1a. When does the Bureau anticipate publishing or making public the recommendations of the Committee?

Answer. The Committee's recommendations were published on the BIE website in April 2019 and are publicly available at *https://www.bia.gov/sites/bia.gov/files/assets/as-ia/raca/pdf/BIE-NRM-Final-Report-V8_508.pdf.*

Question 1b. Will tribal leaders, tribal school board officials, BIE student families, and other relevant stakeholders have an opportunity to provide feedback or suggestions to improve any newly proposed standards, assessments, and accountability systems?

Answer. BIE published the proposed Standards, Assessments, and Accountability System rule on June 10, 2019. *See* 84 F.R. 26785. The proposed rule provided 30 days for submission of public comments. In addition, BIE held 6 tribal consultation sessions at locations around the country. The BIE is currently analyzing the comments that were received concerning the proposed rule and anticipates publication of a final rule that takes those comments into consideration within three months. Beyond the stakeholder engagement throughout the rulemaking process, as the BIE develops and finalizes plans for requirements for standards, assessments, and accountability system, including an agency "State Plan" pursuant to the final rule, BIE intends to solicit input from stakeholders through focus groups and consultation with Tribes and other stakeholders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO REAR ADMIRAL MICHAEL WEAHKEE

Management Accountability

Question 1. During the hearing, I asked you about IHS's failure to address the widespread reports of abuse of Native American children and misconduct by one of its former employees, Dr. Stanley Weber. At the time, you could not provide me with an explanation of why IHS's allowed Dr. Weber to transfer from the IHS Billings Area to the IHS Great Plains Area after leadership became aware of his misconduct. Please provide the Committee with any known facts surrounding Dr. Weber's move from the Billings Area to the Great Plains Area;

Answer. Dr. Weber transferred from the Billings Community Hospital in Browning, Montana, to the Pine Ridge Service Unit in South Dakota, on June 8, 1995. The Indian Health Service (IHS) is organizing an intensive medical quality assurance review of internal IHS past actions related to this provider. Questions involving historical issues and facts will be fully addressed through this review.

Question 1a. Please provide the Committee with an update on IHS's investigation on the Dr. Weber case.

Answer. On February 22, 2019, IHS posted a solicitation for a medical quality assurance review of IHS policies and procedures with respect to reporting allegations of sexual abuse of IHS patients by IHS clinical staff. IHS intended to post this solicitation much sooner, but the timeline was extended as a result of the lapse in appropriations that started on December 22, 2018 and ended January 25, 2019. IHS is proceeding through the required acquisition process and anticipates awarding a contract in May 2019. The contractor will be required to submit a final written report, with recommendations for improvement, to IHS within 180 days of the contract award date.

Question 1b. Please provide the Committee with a description of current Service Area and Service Unit procedures for documenting and addressing federal employee misconduct, including any safeguards that would prevent the transfer of federal employees suspected of misconduct from one Service Area or Unit to another.

Answer. IHS health care providers are Federal employees and are therefore required to adhere to all Federal laws, regulations, rules, and standards of conduct. When established standards of conduct are violated, or the rules of the workplace are disregarded, corrective action is warranted to motivate employees to conform to acceptable standards of behavior and prevent prohibited and/or unsafe activities. Depending on the level of misconduct, the preponderance of evidence to support the misconduct, and the nexus between the misconduct and the employee's job and the IHS mission, we will remove a health care provider that has committed any egregious and/or abusive misconduct.

The IHS follows the Department of Health and Human Services (HHS) policy Chapter 5–10: Responsibility and Procedure for Reporting Misconduct and Criminal Offenses, which outlines policies, procedures, and assignments of responsibility for reporting allegations of criminal offenses committed at any location within IHS. The IHS reports any allegations of criminal misconduct to the HHS Office of Inspector General (OIG) and cooperates during any investigation initiated by the OIG. The IHS works in partnership with the OIG to ensure Area and Service Unit leaders are informed of any allegations of criminal misconduct and take any immediate actions necessary, such as removing an employee from the facility while an investigation is conducted.

The IHS policy, "Ethical and Professional Conduct of Health Care Providers" (IHM Part 3, Chapter 23, established in 2004), establishes the policy, procedures, and responsibilities for IHS personnel, supervisors, and management officials regarding the conduct of health care providers *https://www.ihs.gov/IHM/pc/part-3/p3c23/*. This policy serves as an adjunct to, and not as a substitute for, "The Standards of Ethical Conduct of Employees of the Executive Branch," the HHS "Supplemental Standards of Ethical Conduct for Employees," and the Commissioned Corps "Standards of Conduct."

All IHS employees are required to complete the Notification and Federal Employee Anti-Discrimination and Retaliation Act (No FEAR Act) training. This mandatory training provides notice to federal employees of the rights and protections available to them under federal antidiscrimination, whistleblower protection, and retaliation laws. The course is available to all employees, on-line, through the HHS Learning Management System. The No FEAR Act of 2002 requires that each federal agency be accountable for violations of anti-discrimination and whistleblower protection laws and provide mandatory training to employees every two years and within

ninety days of entering on duty for new employees regarding their rights under the law.

On February 20, 2019, IHS issued a new policy, "Protecting Children from Sexual Abuse by Health Care Providers" (available at *https://www.ihs.gov/ihm/pc/part-3/p3c20/*), that expands and reiterates existing policy to require any IHS staff member to report any incident or reasonable suspicion of sexual abuse of a child by a health care provider directly to the proper child protective and/or law enforcement authorities. It also requires any IHS staff member to report any incident or reasonable suspicion of sexual abuse of a child directly to their supervisor, the Chief Executive Officer, or alert the next supervisor in the chain of command if the first line supervisor is the one suspected of child sexual abuse. The new policy specifically outlines a supervisor's responsibilities for protecting children from sexual abuse by health care providers.

Additionally, this section also directs all IHS Staff to document a report they make in the IHS Incident Reporting System within five business days. In short, this requires all IHS employees to report any incident or reasonable suspicion of sexual abuse of a child by a health care provider that they observe or reasonably suspect.

Allegations brought to the attention of medical staff are recorded in the provider's credentialing file, then evaluated and managed in accordance with the facility's bylaws, which adhere to the Centers for Medicare & Medicaid Services (CMS) Conditions of Participation. 42 C.F.R. § 482.22 (a)(2) states that medical staff must examine the credentials of all eligible candidates for medical staff membership and make recommendations to the hospital's governing body on the appointment of these candidates in accordance with state law, including scope-of-practice laws, and the medical staff bylaws, rules, and regulations. A candidate who has been recommended by medical staff and has been appointed by the governing body is subject to all medical staff bylaws, rules, and regulations, in addition to CMS regulations. Under CMS rules, the hospital's governing body is responsible for organization and conduct of the medical staff.

The transfer of an IHS provider, or any IHS employee, from one IHS facility to another is not a valid solution for misconduct within the federal employee discipline system. The IHS relies on the HHS Instruction 752, "Corrective Action, Discipline and Adverse Actions," dated March 20, 2009. This instruction clarifies roles and responsibilities for managers when addressing employee misconduct in the workplace. It also establishes guidance and criteria to ensure that corrective action is consistent with good management practices.

For Commissioned Corps officers, reasons for transfer have not been tracked, and are therefore not available. In recent history, since 2017, Corps officers at IHS who have sustained allegations of serious misconduct have not been permitted to transfer within the IHS and have been referred to Commissioned Corps Headquarters for potential adverse action, up to and including involuntary termination (if active duty service is less than 20 years) or retirement (if active duty service is over 20 years).

Staffing Recruitment and Retention

Question 2. Last September, GAO released a new report on staffing challenges at IHS. This report confirms the concerns I raised at our last high risk hearing about the high clinical vacancy levels in the Navajo and Albuquerque Areas. It also concluded that the Service has trouble developing competitive salary packages and attracting new staff because of facility conditions. Does IHS have the resources it needs to offer more competitive salaries in these high-vacancy areas?

Answer. Recruitment and retention of health care professionals is a challenge for IHS and other health care organizations serving rural locations. To address these challenges, the FY 2020 Budget for IHS includes legislative proposals to provide IHS discretionary use of all U.S. Code Title 38 personnel authorities, half-time obligations for loan repayment and scholarship recipients, and tax exemption for these recipients.

The IHS is working with the HHS Office of the Assistant Secretary for Health to improve the recruitment and retention of U.S. Public Health Service Commissioned Corps officers using existing authorities.

Question 2a. Are there enough human resource personnel to develop special pay tables for these regions?

Answer. The IHS is committed to authorizing Title 38 pay tables, as necessary, to recruit and retain quality medical providers. Currently, there are ten IHS Title 38 pay tables. Additional OHR staff would be needed to develop and manage a larger number of pay tables.

Question 2b. Do you agree with the report's conclusion that aging facilities and medical equipment frustrate the Service's recruitment efforts?

Answer. There are specific instances in which the age of our facilities and outdated medical equipment have been pointed to as factors in candidates' decisions not to pursue employment with our Agency. In addition, other contributory factors include remote locations, lack of suitable housing options, family requirements, spousal employment opportunities, and local amenities.

Question 2c. Are there any Office of Management and Budget employee rules and regulations that limit the ability of the Service to recruit and retain clinical personnel (e.g., prohibitions on utilizing three day, 12-hour shift schedules commonly utilized in the healthcare industry for nurses)?

Answer. The IHS is not aware of any Office of Management and Budget employee rules and regulations that limit our ability to recruit and retain clinical personnel. IHS has the authority to use U.S. Code Title 5 (Government Organization and Employees) and Title 38 (Veterans' Benefits) work schedules for our clinical personnel. Under Title 38, there is flexibility for clinical personnel work schedules to include the Baylor plan for nurses (i.e., 24 hours over a weekend equals a 40 hour schedule).

The challenge comes with the additional administrative burden required by the IHS to exercise the Title 38 authorities that have been delegated to HHS. Currently, the Agency must submit individual requests to exercise a specific authority delegated to the Department, which in some cases requires months of work to develop and justify the request. This work would be alleviated with the direct delegation of Title 38 authority to the Agency.

IHS does not have the authority to use Title 38 for employee leave of absence, e.g., annual leave accrual. However, the Department of Veterans Affairs provides an automatic one day of annual leave accrual per pay period for physicians, dentists, podiatrists, and optometrists regardless of their work history. Nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries also earn eight hours of annual leave per pay period under Title 38.

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