Congress of the United States
Washington, DC 20515

May 13, 2016

The Honorable Sylvia M. Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Burwell:

We write to ask for additional information regarding the recent system improvement agreements executed by the Centers for Medicare and Medicaid Services (CMS) and the Indian Health Service (IHS). As we understand, these agreements were designed to avert the imminent loss of CMS reimbursement due to non-compliance at multiple IHS facilities in the Great Plains Area.

As you are aware, in 2010, Senator Byron Dorgan (D-ND), then-Chairman of the Senate Committee on Indian Affairs, produced a report outlining many of the same issues identified this Congress through investigation by the Senate Committee on Indian Affairs.[1] Recent congressional investigations made clear that despite significant examination and documentation of the systemic problems at IHS, the agency was still not providing tribal citizens access to safe, quality health care.

During a recent briefing for congressional staff, the Acting Director of the IHS presented a system improvement agreement, which we understand is intended to improve the quality of care at IHS facilities in the Great Plains Area. We want to be helpful in this endeavor, but must also ensure that this approach is viable and responsive to the needs of impacted tribes. Unfortunately, during this recent briefing, more questions were raised than answered.

So that we may assist the Department in its work to improve the quality of care in the Great Plains and be responsive to Indian tribes, we hope your staff can respond in writing to the following questions.

1. Please identify and provide the specific legal authority and legal opinion IHS has relied upon to implement the Rosebud system improvement agreement to contract with a hospital management firm and place federal employees under the direction of private hospital management.

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[1] Byron L. Dorgan, Chairman of S. Comm. on Indian Affairs, 111th Cong., Rep. on *In Critical Condition: The Urgent Need to Report the Indian Health Service's Aberdeen Area* (Comm. Print 2010); *In Critical Condition: The Urgent Need to Reform The Indian Health Service's Aberdeen Area: Oversight Hearing before the S. Comm. on Indian Affairs*, 111th Cong. (2010); *Reexamining the Substandard Quality of Indian Health Care in the Great Plains: Oversight Hearing before the S. Comm. on Indian Affairs*, 114th Cong. (2016).

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2. What is the estimated cost associated with executing the Rosebud agreement? What is the estimated cost associated with executing the similar systems improvement agreement regarding the Pine Ridge facility? This is an essential piece of information for potential private partners to know when considering whether or not to bid.
3. Will tribes be consulted about the decision of whether to extend these agreements?

As you know, workforce recruitment and retention has been a significant challenge for IHS in the Great Plains Area and nationally, yet the system improvement agreements appear to provide little information about how the IHS plans to improve staff recruitment and retention. The new system improvement plan requires the IHS to "identify needs, barriers, and potential resources and actions to design and implement an effective long term workforce development strategy..."

4. Can you explain with specificity each workforce-related barrier identified by the IHS?
5. Please explain in detail this administration's current strategy for IHS staff recruitment and retention. If a strategic plan exists, we would welcome a continuing dialogue on how to best address these issues.

Finally, we understand that IHS continues to suffer from significant vacancies, both in the Great Plains Area and nationally.

6. So that we may better understand the nature and scope of this problem, please identify the number and type of vacancies in each IHS Area.
7. Additionally, please identify the comparative cost of filling the same vacancies with full time equivalent employees.

The speed and efficacy with which your Department and its agencies act directly impacts patient care and safety in the IHS system. We look forward to your prompt response to these questions by June 1, 2016.

Sincerely,

John Thune
United States Senator

John Barrasso
United States Senator

M. Michael Rounds
United States Senator

Kristi Noem
Member of Congress