

**HIGH RISK, NO REWARD: GAO'S HIGH RISK
LIST FOR INDIAN PROGRAMS**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Hearing held on May 17, 2017	1
Statement of Senator Cortez Masto	56
Statement of Senator Franken	4
Statement of Senator Heitkamp	58
Statement of Senator Hoeven	1
Statement of Senator Udall	3

WITNESSES

Black, Michael S., Acting Assistant Secretary, Indian Affairs, U.S. Department of the Interior	41
Prepared statement	43
Buchanan, Rear Admiral Chris, Acting Director, Indian Health Service, U.S. Department of Health and Human Services	47
Prepared statement	48
Dearman, Tony, Director, Bureau of Indian Education, U.S. Department of the Interior	51
Prepared statement	52
Emrey-Arras, Melissa, Director, Education, Workforce, and Income Security Issues, U.S. Government Accountability Office	5
Prepared statement	8

APPENDIX

National Indian Education Association (NIEA), prepared statement	71
Response to written questions submitted by Hon. Catherine Cortez Masto to:	
Rear Admiral Chris Buchanan	76
Tony Dearman	90
Melissa Emrey-Arras	75
Response to written questions submitted by Hon. Steve Daines to:	
Tony Dearman	89
Melissa Emrey-Arras	74
Response to written questions submitted by Hon. Tom Udall to:	
Michael Black	85
Tony Dearman	90
Rear Admiral Michael Weahkee	77

HIGH RISK, NO REWARD: GAO'S HIGH RISK LIST FOR INDIAN PROGRAMS

WEDNESDAY, MAY 17, 2017

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

The Committee met, pursuant to notice, at 2:30 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. I call this hearing of the Indian Affairs Committee to order. This is an oversight hearing on High Risk, No Reward: GAO's High Risk List for Indian Programs.

Before we get into today's hearing, I want to bring up last week's hearing that turned into a listening session. As the Committee is aware, we had witnesses travel from Arizona and Alaska to provide testimony on their respective bills, S. 825, the Southeast Alaska Regional Health Consortium Land Transfer Act of 2017 and S. 772, the Amber Alert Indian Country Act of 2017.

Since testimony and materials were received at last week's listening session, through no fault of their own, I would be wondering if there is any objection that all testimony and materials from last week's listening session be given the same weight as if the Committee held an actual legislative hearing? I am asking if there is any objection to that?

Senator UDALL. No objection.

The CHAIRMAN. Good. Hearing no objection, all testimony and materials will be a part of the record and given the same weight as a legislative hearing. I thank you for that.

Today, the Committee will examine the Government Accountability Office report on its High Risk List which now includes three Federal Indian programs.

Every two years, at the start of a new Congress, the GAO compiles a list of at-risk Federal programs. These programs are considered high risk because they are vulnerable to fraud, waste, abuse or mismanagement.

For the first time, three Indian issue areas were identified as high risk. These include Indian energy development, education and health care. In fact, the GAO tells us that these high risk areas have 39 open recommendations that have not been satisfied. These

Federal programs are vitally important and affect many tribes and individuals across Indian Country.

These programs affect the safety of school buildings and facilities, the quality of health care, education and the advancement of Indian energy development projects in Indian Country.

Over the years, the GAO has done a tremendous job in examining and bringing to light numerous challenges facing these Federal Indian programs. Some of these problems are very troubling.

For instance, in its 2014 report, the GAO noted that a single audit of a BIE school located in Arizona lost \$1.7 billion in unaccounted Federal funds. Upon further investigation, it was determined this money was illegally transferred to an offshore-bank account in Indonesia.

The incident was referred to the Department of the Interior, Office of Inspector General in July 2014. The IG then asked for the assistance of the Federal Bureau of Investigation, the FBI.

According to the IG, certain bank accounts were hacked, enabling the unauthorized transfer of funds. How could this happen? Who was ultimately responsible for ensuring fraud like this does not happen to BIE-funded schools?

At this point, I would ask for the first chart which illustrates various roles of the BIA, BIE and others in supporting and overseeing the BIE school facilities.

The chart to my right shows how bureaucratic the BIE has become. For instance, the chart shows the multiple layers of offices that support and oversee BIE school facilities between the BIA, the Department, the Deputy Assistant Secretary for Management, and the BIE itself. The lack of oversight and cyber security is problematic but appears to be only a part of the problem.

The GAO also issued a 2015 GAO report highlighting additional management challenges in education. Health care services also face significant issues. Since 2011, the Government Accountability Office has issued seven reports on the IHS, Indian Health Services. These reports related to improving oversight on the quality of care provided to Indian patients, improving the Purchased Referred Care Program, examining the enrollment of Indians in health care coverage expansion, and improving patient wait times at IHS facilities.

One report found that Indian patients had waited six weeks for an initial visit with a family medicine physician. There appeared to be an even longer wait time of three to four months for an Indian patient to see an internal medicine physician.

From data gathered from these seven reports, the GAO has made 14 recommendations to improve the Indian Health Services. These recommendations remain open. For one recommendation on staffing, the IHS disagreed and continues to not implement the GAO recommendation.

Although the Indian Health Service has acted upon some recommendations, such as adopting Medicare-like rates for non-hospital services and improving data collection for the Purchase Preferred Care Program, more needs to be done.

Finally, the GAO has confirmed what Indian tribes have experienced about lost opportunities when they wanted to develop their energy resources. These problems were outlined in the 2015 GAO

report which highlighted poor management and oversight of energy resources and development at the Bureau of Indian Affairs.

For instance, in 2016, the GAO found many BIA offices had high vacancy rates for key energy development positions. According to the GAO, some offices reported not having staff with key skills to review energy-related documents.

Perhaps this is why one tribe said it took the BIA eight years to approve right-of-way agreements. This tribe said these delays cost an estimated \$95 million in lost revenue.

Our next charts illustrate the longer approval process for renewable and oil and gas Indian energy projects versus private lands. These charts show bureaucratic approval processes for an Indian tribe to develop their own energy resources. This needs to change.

That is why I have introduced S. 245, the Indian Tribal Energy Development and Self Determination Act of 2017. This bill directs the Department of the Interior to provide Indian tribes with technical assistance in planning their energy resource development programs.

The legislation cuts red tape and makes it easier for Indian tribes to develop their own resources. It also streamlines the process for approving tribal energy resource agreements and making this process more predictable for Indian tribes.

Money made from developing Indian resources, whether coal, oil, natural gas, wind or solar, for example, can have a significant impact on tribal communities. These energy projects could create high-paying jobs and bring revenue to tribal governments.

It is unacceptable that the trustee would inhibit and even prevent the tribes from engaging in healthy communities or economic development, whether it is energy or otherwise. Through misplaced, misguided policies, or mismanagement, these agencies should be ensuring that their tribes actually have opportunity and that they are thriving and prosperous and not continuing to suffer or miss opportunities. Indian communities deserve better than they are receiving right now.

I want to welcome our witnesses today. I look forward to hearing from all of you on these important issues.

Before I turn to our witnesses, I want to turn to Vice Chairman Udall for his opening statement.

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

Senator UDALL. Thank you, Chairman Hoeven, for holding this very important oversight hearing on GAO's 2017 High Risk Report.

The Federal Government has treaty and trust responsibilities to provide vital services, including health care and education, to Native American and Alaska Native tribes. Fulfillment of these responsibilities is both a moral and a legal obligation.

As the Congress' oversight partner, the GAO plays an important role. It dedicates time and resources to thoroughly reviewing the delivery of Indian programs within the BIA, BIE and IHS. The review helps identify where we are falling short of meeting responsibilities.

For years, GAO's work has provided evidence of something many tribal communities have long reported, that management chal-

allenges and funding barriers at these agencies reduce the effectiveness of tribal programs.

Their findings shed light on the need for increased management oversight, infrastructure investment and workforce development. Their decision to include Indian programs on the High Risk List underscores the need to redouble this Committee's efforts to uncover the systemic challenges plaguing BIE schools, IHS facilities and the BIA's leasing program.

When I met with Comptroller General Dodaro last week, he explained what the high designation means and the outcomes associated with such a designation. In my view, this designation presents the Committee with an opportunity. An opportunity to do better by not only recognizing the administrative challenges to effectively running these programs but also by committing resources and expertise tailored to address them.

That will enable us to do our part to uphold the Federal Government's trust responsibilities to tribes. Budgets are a direct demonstration of our priorities, just as we have come here today to ask for more accountability from program administrators. Members of this Committee must join together to fight for more funding for schools, hospitals, teachers and nurses.

I look forward to working with my colleagues on this Committee. Many of them, like Senator Murkowski and Chairman Hoeven, are fellow appropriators. That gives us multiple ways we can work to ensure that the Senate continues to pursue these important issues.

I am hopeful that we can work together to ensure tribal programs achieve the success these communities deserve.

Mr. Chairman, thank you again for holding this hearing. I look forward to the testimony. I thank the witnesses for being here today.

The CHAIRMAN. Thank you, Vice Chairman Udall.

I would ask if other members wish to make an opening statement at this point?

**STATEMENT OF HON. AL FRANKEN,
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Thank you, Mr. Chairman. I thank you both for calling this important hearing.

Once I got to the Senate, I started harping on the Bug-O-Nay-Ge-Shig School on Leech Lake Reservation in Minnesota. Students at the Bug-O-Nay-Ge-Shig School had to face really horrendous conditions in their classrooms. This was a pole barn. If the wind was blowing more than 30 miles an hour, they had to leave the school. This could be in the dead of winter and they had to go outside in 30 to 40 degrees below weather. There were sewer problems; there were rodents; there was cold and dangerous wiring.

A few years ago, I convinced then Interior Department Secretary Sally Jewell to visit the school. Once she saw it for herself, saw what the teachers and students went through, she saw the need and I am thrilled that we are able to finally get the funding to replace the school.

This took a lot of work from lawmakers, from the tribe, from the community there, and from the Obama Administration. Construc-

tion is now underway. When school starts in the fall, they will have a new school.

I know there are many, many Indian reservations across the country that are dealing with similar school buildings in poor condition. It is unjust to expect Indian students to succeed academically if we fail to provide them with the proper environment to achieve that success.

Children in Indian schools must be able to learn in a modern environment with modern facilities like a lab. This school did not have a lab. They need an environment that says we care about you. This is one issue we are dealing with at today's BIE.

That is why I work so hard to get the resources. The Vice Chairman talked about the appropriators. We, on this Committee, owe it to Indian Country and to the Native community to talk about the underfunding.

We are talking about dysfunction in the organizations but some of this is circular. It is very hard to get doctors to come to practice in Indian Country if their spouses does not like the schools or housing.

I applaud the Chairman for talking about energy development. I finally got some money from the Loan Guarantee Program, the guarantee part finally happened, and we got \$9 million that can be leveraged up to about \$80 million of activity.

Thank you for being here today. Let us make these agencies work more efficiently, but let us not pretend that inadequate funding does not affect the ability for these agencies to attract the kind of people they need and attract the kind of people on the ground they need in Indian Country.

Thank you, Mr. Chairman.

The CHAIRMAN. Are there other opening statements? If not, I would defer to the members for their questions. I am sorry, I am getting ahead of myself.

Senator FRANKEN. Mr. Chairman, I think we should go to the testimony first.

[Laughter.]

The CHAIRMAN. We are going to follow Senator Franken's recommendation.

Senator FRANKEN. Thank you.

The CHAIRMAN. And go to the testimony first, that is a good idea.

Again, I want to welcome all of you. Thank you for being here. I would ask that you hold your remarks to about five minutes. Obviously, your full written testimony will be made a part of the record.

We will start with Ms. Emrey-Arras.

**STATEMENT OF MELISSA EMREY-ARRAS, DIRECTOR,
EDUCATION, WORKFORCE, AND INCOME SECURITY ISSUES,
U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Ms. EMREY-ARRAS. Thank you, Chairman Hoeven, Vice Chairman Udall, and members of the Committee.

Thank you for inviting me here today to discuss a new area we have added to our High Risk List this year: improving Federal management of programs that serve tribes and their members.

We added this area to our High Risk List this past February in response to serious problems in Federal management and oversight of Indian education, energy resources and health care programs, which were highlighted in several of our prior reports. Overall, our High Risk Program has served to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical services to the public.

We added this new area to our High Risk List because we found that Interior and HHS have ineffectively managed Indian education, energy resources and health care programs in the following broad areas: one, oversight of Federal activities; two, collaboration and communication; three, Federal workforce planning; four, equipment, technology and infrastructure; and five, Federal agency data.

Of the recommendations we have made to Interior and HHS on these issues, nearly 40 have not been implemented.

In terms of Indian education, we found serious weaknesses in BIE's oversight of school spending and identified unsafe school conditions. For example, in a 2014 report, we found BIE did not have procedures and risk criteria to ensure that schools use Federal funds to educate students. Further, we found that BIE staff lacked expertise and training to effectively oversee school spending.

As a result, we found several instances of misuse of funds, including as the Chairman noted, for one school, over \$1 million that was improperly transferred to offshore accounts.

In 2016, we also reported that deteriorating facilities and equipment contributed to unsafe conditions at BIE schools. At one school, we found seven boilers that failed inspection because of safety hazards such as elevated levels of carbon monoxide and a natural gas leak. You can actually see the failed inspection tag on the poster over there.

Turning to Indian energy issues, we found that BIA had inefficiently managed Indian energy resources and the energy development process. For example, in a June 2015 report, we found that although BIA's review and approval are required before Indian energy resources can be developed, BIA does not have a process or the data needed to track its review and response times.

As the Chairman noted, a tribal official told us that BIA's review of energy-related documents took as long as eight years in some cases and during that time, the tribe estimates it lost more than \$95 million in revenue.

Moving on to Indian health care services, we have a poster that shows the IHS structure that will be put up momentarily. We found that IHS provides inadequate oversight of its federally-operated health care facilities and of its Purchased Referred Care Program.

For example, in 2016 and 2017, we reported that IHS provided limited and inconsistent oversight of the timeliness and quality of care provided in its federally-operated facilities. As a result, it could not ensure that patients received timely quality care.

We reported that according to IHS officials, access to timely primary care at some facilities was hindered by outdated medical and telecommunications equipment, such as analog mammography machines and telephones with an insufficient number of lines for

scheduling patient appointments, as well as an insufficient workforce.

We plan to continue monitoring the agency's efforts to address these issues and our nearly 40 open recommendations. In order for this area to be removed from our High Risk List, Interior and HHS need to show improvement on five key elements: leadership commitment, the capacity to resolve the risk; having an action plan; monitoring; and demonstrating progress. We have a star here that demonstrates the areas in which they need to show improvement to be removed from our High Risk List.

We look forward to continuing our work with this Committee. My colleagues and I would be pleased to respond to any questions you may have. Thank you.

[The prepared statement of Ms. Emrey-Arras follows:]

GAO Highlights

Highlights of GAO-17-507, a testimony before the Committee on Indian Affairs, U.S. Senate.

Why GAO Did This Study

GAO's High-Risk Series identifies federal program areas needing attention from Congress and the executive branch. GAO issued federal management of programs that serve Indian tribes and their members to its 2017 biennial update of high-risk areas in response to serious problems in management and oversight by Interior and HHS.

This testimony primarily summarizes the findings and recommendations from GAO's prior reports on the federal management and oversight of Indian education, energy resources, and health care, which are discussed in GAO's February 2017 High-Risk report. To conduct this work, GAO reviewed relevant federal laws, regulations, and policies; reviewed and analyzed federal data; and interviewed tribal, federal, and industry officials, among others.

GAO uses five criteria to assess an agency's progress in addressing high-risk areas: (1) leadership commitment, (2) agency capacity, (3) an action plan, (4) monitoring efforts, and (5) demonstrated progress.

What GAO Recommends

As discussed in the February 2017 High-Risk Report, GAO made 41 recommendations—39 of which remain open—to Interior and HHS on management and oversight of federal programs for Indian tribes on education, energy, and health care. Sustained focus by Interior and HHS in implementing GAO's recommendations and continued oversight by Congress are essential to achieving progress in these areas.

View GAO-17-507. For more information, contact Melissa Emrey-Arras at (617) 768-0634 or emrey@insig.gao.gov.

May 17, 2017

HIGH RISK

Actions Needed to Address Serious Weaknesses in Federal Management of Programs Serving Indian Tribes

What GAO Found

As discussed in GAO's 2017 High Risk report, GAO has identified numerous weaknesses in how the Department of the Interior (Interior) and the Department of Health and Human Services (HHS) manage programs serving Indian tribes. Specifically, these weaknesses were related to Interior's Bureau of Indian Education (BIE) and Bureau of Indian Affairs (BIA) in overseeing education services and managing Indian energy resources, and HHS' Indian Health Service (IHS) in administering health care services.

- Education.** GAO found serious weaknesses in BIE's oversight of school spending and identified unsafe school conditions. For example, in 2014 GAO reported that BIE did not have written procedures and risk criteria to ensure that schools use federal funds to educate students. Further, GAO found that BIE staff lacked expertise and training to effectively oversee school spending. As a result, GAO found several instances of misused funds, including \$1.7 million for one school that was improperly transferred to an off-shore account. In 2016, GAO also reported that deteriorating facilities and equipment contributed to unsafe conditions at BIE schools. At one school, GAO found seven boilers that failed inspection because of safety hazards, such as elevated levels of carbon monoxide and a natural gas leak. Though they endangered student safety, most of the boilers were not repaired until 8 months after inspection. GAO made 11 recommendations related to Indian education issues that remain unimplemented.
- Energy resource management.** GAO found that BIA had inefficiently managed Indian energy resources and the energy development process. For example, in June 2015 GAO reported that although BIA's review and approval are required before Indian energy resources can be developed, BIA does not have a process or the data needed to track its review and response times. According to a tribal official, BIA's review of some energy-related documents took as long as 8 years and, during that time the tribe estimates it lost more than \$85 million in revenues. GAO recommended, among other things, that BIA develop a process to track its review and response times of energy-related documents. Interior stated that it will develop such a process by September 30, 2018. GAO has made 13 additional recommendations related to Indian energy development that remain unimplemented.
- Health care.** GAO has found that IHS provides inadequate oversight of its federally operated health care facilities and of its Purchase Referred Care program (PRC). For example, in 2016 and 2017, GAO reported that IHS provided limited and inconsistent oversight of the timeliness and quality of care provided in its federally operated facilities, and as a result, could not ensure that patients received timely, quality care. GAO reported that, according to IHS officials, access to timely primary care at some facilities was hindered by outdated medical and telecommunications equipment, as well as an insufficient workforce. GAO also found that IHS had taken few steps to evaluate variations in the level of funds it allocated for the PRC program and concluded that IHS could not equitably allocate funds to meet the health care needs of Indians. GAO made 14 recommendations on Indian health care that remain unimplemented.

United States Government Accountability Office

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

I am pleased to be here today to discuss a new area we added to our High Risk List this year—Improving Federal Management of Programs that Serve Tribes and Their Members.

We added this high-risk area in February 2017 in response to serious problems in federal management and oversight of Indian education, health care programs, and energy resources, which were highlighted in several of our prior reports, along with reports and testimony from Inspectors General, tribal nations, special commissions, and others. In particular, we have found numerous weaknesses in how the Department of the Interior's (Interior) Bureau of Indian Education (BIE) and Bureau of Indian Affairs (BIA)—under the Office of the Assistant Secretary for Indian Affairs (Indian Affairs)—and the Department of Health and Human Services' (HHS) Indian Health Service (IHS) have administered education and health care services, which has put the health and safety of American Indians served by these programs at risk. These weaknesses included poor conditions at BIE school facilities that endangered students, and inadequate oversight of health care that hindered IHS's ability to ensure quality care to Indian communities. In addition, we have reported that BIA has mismanaged Indian energy resources held in trust and thereby limited opportunities for tribes and their members to use those resources to create economic benefits and improve the well-being of their communities.

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."¹ 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, and this history of federal-tribal relations and understandings has benefitted the people of the United States and established "enduring and enforceable [r]ederal obligations to which the national honor has been committed." Through improvements to federal management of programs that serve tribes and their members, agencies can improve the efficiency of federal programs under which services are provided to tribes and their members. This

¹Pub. L. No. 114-178, § 101 (2016)(codified at 25 U.S.C. § 5601).

would be consistent with the expressed view of Congress as to the federal government's trust responsibilities, and strengthen confidence in the performance and accountability of our federal government. In light of this unique trust responsibility and concerns about the federal government ineffectively administering Indian education and health care programs and mismanaging Indian energy resources, we added these programs as a high-risk area because they uniquely affect tribal nations and their members.

In this context, my testimony today will discuss the findings and recommendations from our prior reports on the federal management and oversight of Indian education, health care, and energy resource development, which are summarized in our February 2017 High-Risk report.² In particular, I will highlight key actions that Interior and HHS can take to help overcome challenges associated with federal management and oversight of programs in these areas.

This testimony draws on findings from multiple reports we have issued in recent years, as well as updates we have received from Interior and HHS on our prior recommendations. To conduct our prior issued work, we reviewed relevant federal laws, regulations, and policies; reviewed and analyzed federal data; and interviewed tribal, federal, and industry officials, among others. More detailed information on our scope and methodology can be found in each of the cited reports.³

This testimony also draws on preliminary findings from our two ongoing reviews of oversight and accountability for BIE school safety and school construction projects. To conduct our work on BIE school safety, we reviewed Interior's safety program evaluations; a nongeneralizable sample of 50 randomly selected fiscal year 2016 BIE school inspection reports; BIA regional documentation of employee appraisals; and performance management practices in four BIA regions selected for geographic diversity and a range of safety inspection results. To conduct our work on BIE school construction, we assessed agency data on the cost and timeliness of 49 school replacement projects completed from fiscal years 2003 to 2016 and reviewed contract and grant files for 10 recently completed or ongoing projects. We also assessed Indian Affairs'

²GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, GAO-17-317 (Washington, D.C.: Feb. 15, 2017).

³For a list of related reports, see GAO-17-317.

practices against its policies, design standards, and federal laws and regulations.

We conducted the work on which this testimony 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.

Background

The High-Risk Program

In 1990, GAO began a program to report on government operations that we identified as "high risk." Since then, generally coinciding with the start of each new Congress, we have reported on the status of progress addressing previously identified high-risk areas and have updated the High-Risk List to add new high-risk areas. Our most recent high-risk update in February 2017 identified 34 high-risk areas.⁴

Overall, our high-risk program has served to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical services to the public. Since the program began, the federal government has taken high-risk problems seriously and has made long-needed progress toward correcting them. In a number of cases, progress has been sufficient for us to remove the high-risk designation.

To determine which federal government programs and functions should be designated high risk, we use our guidance document, *Determining Performance and Accountability Challenges and High Risks*.⁵ In making this determination, we consider whether the program or function is of national significance or is key to the performance and accountability of the federal government.

Further, we consider qualitative factors, such as whether the risk involves public health or safety, service delivery, national security, national

⁴GAO-17-317.

⁵GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO-07-1595P (Washington, D.C.: November 2006).

defense, economic growth, privacy or citizens' rights, or could result in significantly impaired service, program failure, injury or loss of life, or significantly reduced economy, efficiency, or effectiveness. In addition, we consider the exposure to loss in monetary or other quantitative terms, including financial risk in areas such as the value of major assets being impaired; revenue sources not being realized; major agency assets being lost, stolen, damaged, wasted, or underutilized; potential for, or evidence of improper payments; and the presence of contingencies or potential liabilities. Before making a high-risk designation, we also consider corrective measures planned or under way to resolve weaknesses and the status and effectiveness of these actions.

Our experience 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 removal from the High-Risk List, as well as any needed congressional action.⁶ The five criteria for removal that we identified in November 2000 are as follows:

- **Leadership Commitment.** Demonstrated strong commitment and top leadership support.
- **Capacity.** The agency has the capacity (i.e., people and resources) to resolve the risk(s).
- **Action Plan.** A corrective action plan exists that defines the root cause, solutions, and provides for substantially completing corrective measures, 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.

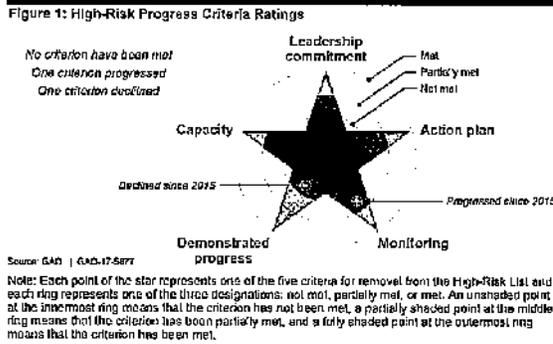
The five criteria form a road map for efforts to improve and ultimately address high-risk issues. Addressing some of the criteria leads to progress, while satisfying all of the criteria is central to removal from the list.

⁶GAO-01-159SP.

In each of our high-risk updates, for more than a decade, we have assessed progress to address the five criteria for removing a high-risk area from the list. In our 2015 update, we added clarity and specificity to our assessments by rating each high-risk area's progress on the criteria and used 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.

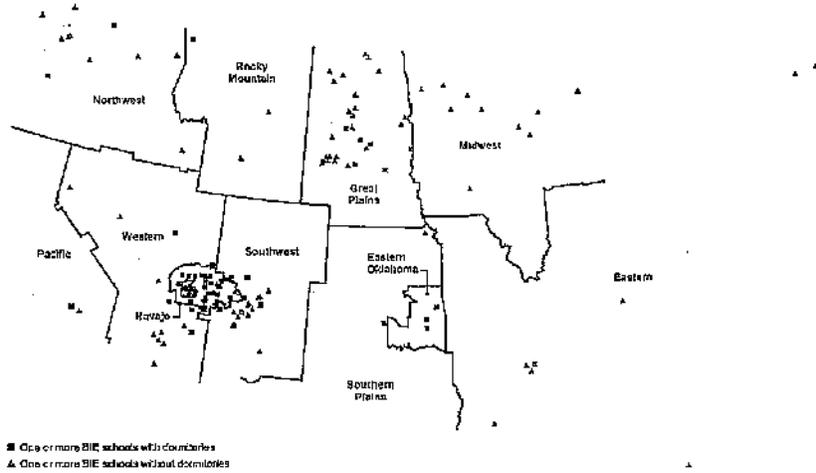
Figure 1 shows a visual representation of varying degrees of progress in each of the five criteria for a high-risk area.



Indian Education

Indian Affairs, through BIE, is responsible for providing quality education opportunities to Indian students and oversees 185 elementary and secondary schools that serve approximately 41,000 students on or near Indian reservations in 23 states, often in rural areas and small towns (see fig. 2).

Figure 2: Bureau of Indian Education (BIE) Schools and Dormitories by Bureau of Indian Affairs Region



Source: GAO analysis of Bureau of Indian Education (BIE) data. | GAO-17-507T

About two-thirds of BIE schools are operated by tribes, primarily through federal grants, and about one-third are operated directly by BIE. BIE's Indian education programs originate from the federal government's trust responsibility to Indian tribes. It is the policy of the United States to fulfill this trust responsibility for educating Indian children by working with tribes to ensure that education programs are of the highest quality and that children are provided a safe and healthy environment in which to learn.

Students attending BIE schools generally must be members of federally recognized Indian tribes, or descendants of members of such tribes, and reside on or near federal Indian reservations. All BIE schools—both tribally- and BIE-operated—receive almost all of their operational funding from federal sources, namely, Interior and the Department of Education.

totaling about \$1.2 billion in 2016. Indian Affairs considers many BIE schools to be in poor condition.

BIE is primarily responsible for its schools' educational functions, while their administrative functions—such as safety, facilities, and property management—are divided mainly between two other Indian Affairs' offices, BIA and the Office of the Deputy Assistant Secretary of Management. However, we have identified long-standing personnel issues, such as frequent turnover of leadership in these offices that have hampered efforts to improve Indian education over the years. For example, in September 2013, we reported that from 2000 through 2013 there were repeated changes in the tenure of acting and permanent assistant secretaries of Indian Affairs, with the tenure ranging from 16 days to 3 years.⁷ During this period, there was also frequent turnover in acting and permanent directors of BIE. Since that time, leadership turnover has continued in these offices. For example, in March 2016 Interior's Inspector General found that the BIE director had violated federal hiring practices, and he was removed from his position.⁸

Indian Energy Resources

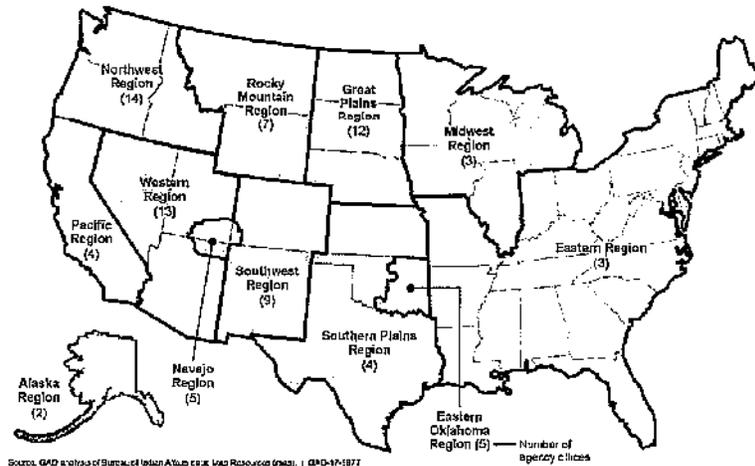
Considerable energy resources, including domestic mineral resources such as oil, gas, and coal, and resources with significant potential for renewable energy development, including wind, solar, hydroelectric power, geothermal, and biomass, exist throughout Indian country. Tribal nations may seek opportunities to use these resources as an option to create economic benefits that provide revenue for government operations and social service programs, create high-quality jobs, and offset power costs by increasing access to reliable and affordable energy for tribal buildings and individual homes. While tribes and their members determine how to use their energy resources, if the resources are held in trust or restricted status, BIA—through its 12 regional offices, 85 agency offices, and other supporting offices—generally must review and approve

⁷GAO, *Indian Affairs: Bureau of Indian Education Needs to Improve Oversight of School Spending*, GAO-15-121 (Washington, D.C.: Nov. 13, 2014).

⁸U.S. Department of the Interior, Office of Inspector General, *Investigative Report of Improper Hiring at the Bureau of Indian Education*, (Washington, D.C.: March 30, 2016).

leases, permits, and other documents required for development (see fig. 3).⁹

Figure 3: Bureau of Indian Affairs (BIA) Regions and Number of Agency Offices



Source: GAO analysis of Bureau of Indian Affairs data; MAP Resources (2003); | OAD-10-1877

BIA's management of Indian energy resources and oversight of development is to be conducted pursuant to federal law, in a manner that is consistent with the federal government's fiduciary trust responsibility to federally recognized Indian tribes and their members. In addition to BIA, the development of Indian energy resources can be a complex process involving a range of additional stakeholders, including federal, tribal, and

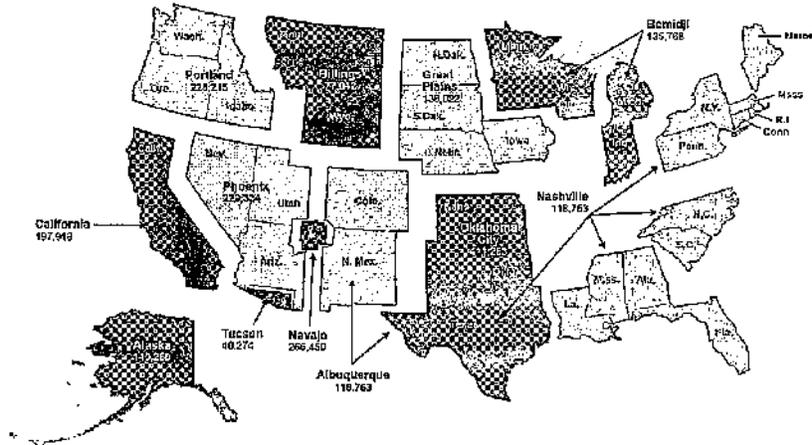
⁹Trust resources are held by the U.S. government for the beneficial interest of the tribe or a member, and restricted resources are owned by the tribe or a member but subject to restrictions on their sale or transfer. Trust and restricted resources generally cannot be leased without approval of the Secretary of the Interior, who has generally delegated this authority to BIA.

state agencies. For example, the Bureau of Land Management issues drilling permits to operators developing Indian oil and gas resources after receiving BIA concurrence to approve the permits. The Environmental Protection Agency issues permits for air emissions that may be required for some oil and gas development. Interior's Fish and Wildlife Service issues permits for incidental deaths of certain wildlife species, which may be affected by certain wind projects. If energy development affects navigable waters, the U.S. Army Corps of Engineers may need to issue a permit. The specific role of federal agencies can vary on the basis of multiple factors, such as the type of resource, location of development, scale of development, ownership of the resource, and Indian tribe involved. Figure 4 shows various roles federal agencies may have in the development of Indian energy resources.

Indian Health Care

The Indian Health Service (IHS), an agency within HHS, is charged with providing health care to approximately 2.2 million Indians. IHS oversees its health care facilities through a decentralized system of area offices, which are led by area directors and located in 12 geographic areas. (See fig. 5 for a U.S. map showing the IHS patient population by area). Nine of these 12 IHS areas have federally operated IHS facilities—Albuquerque, Bemidji, Billings, Great Plains, Nashville, Navajo, Oklahoma City, Phoenix, and Portland.¹⁰

Figure 5: Indian Health Service (IHS) Patient Population by Area, Calendar Year 2014



Source: Indian Health Service | GAO-17-537T

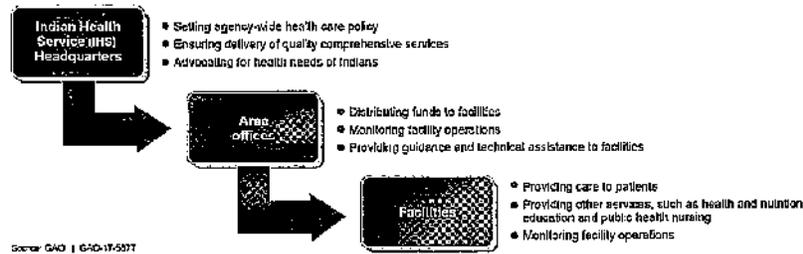
Note: The Albuquerque, Nashville, and Oklahoma City area offices oversee facilities in Texas.

¹⁰The Alaska, California, and Tucson areas do not have any federally operated IHS facilities.

In fiscal year 2016, IHS allocated about \$1.9 billion for health services provided by federally and tribally operated hospitals, health centers, and health stations. Federally operated facilities provide mostly primary and emergency care, in addition to some ancillary or specialty services. The federally operated system consists of 26 hospitals, 66 health centers, and 32 health stations. IHS hospitals range in size from 4 to 133 beds.

According to IHS, the headquarters office is responsible for setting health care policy, ensuring the delivery of quality comprehensive health services, and advocating for the health needs and concerns of Indians. The IHS area offices are responsible for distributing funds to the facilities in their areas, monitoring their operation, and providing guidance and technical assistance. (See fig. 6).

Figure 6: Health Care Responsibilities of Indian Health Service (IHS) Headquarters, Area Offices, and Federally Operated Facilities



When services are not available at federally operated or tribally operated facilities, IHS may, in some cases, pay for services provided through external providers through its Purchased/Referred Care (PRC) program. IHS facilities and their associated PRC programs are located in 12 geographic areas, each overseen by an IHS office led by an area director. The PRC program is funded through annual appropriations and must operate within the limits of available appropriated funds. To be eligible for PRC services, recipients must generally meet several criteria, including being a member or descendant of a federally recognized tribe or having close social and economic ties with the tribe, and living within a Tribal Contract Health Services Area. Although funding available for the PRC program has recently increased, we have reported that the 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.¹¹

The Patient Protection and Affordable Care Act (PPACA) expanded or created new health care coverage options that may benefit Indians, including a state option to expand Medicaid eligibility to individuals with incomes at or below 138 percent of the federal poverty level (FPL), federal premium tax credits for individuals obtaining insurance through health insurance exchanges with incomes between 100 and 400 percent of the FPL, and cost sharing exemptions for Indians who are members of federally recognized tribes with incomes at or below 300 percent of the FPL who purchase insurance through the exchanges.¹² In September 2013, we estimated that PPACA's new coverage options may allow hundreds of thousands of Indians to obtain health care benefits for which they were not previously eligible, assuming all states expanded their Medicaid programs.¹³ We reported that, if Indians 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 IHS's budget.

¹¹GAO, *Indian Health Service: Health Care Services Are Not Always Available to Native Americans*, GAO-05-789 (Washington, D.C.: Aug. 31, 2005).

¹²See Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010).

¹³GAO, *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.: Sep. 5, 2013).

**Serious Weaknesses
with Federal
Agencies'
Management and
Oversight of
Programs Serving
Tribes and Their
Members**

We have found that Interior and HHS have ineffectively administered and implemented Indian education and health care programs and mismanaged Indian energy resources in the following broad areas: (1) oversight of federal activities; (2) collaboration and communication; (3) federal workforce planning; (4) equipment, technology, and infrastructure; and (5) federal agencies' data. Although the agencies have taken some actions to address the 41 recommendations we have made related to Indian programs, as of our February 2017 High-Risk update, there are currently 39 that have yet to be fully addressed.

Indian Education

**Inadequate oversight of federal
activities**

We have identified weaknesses in how Indian Affairs oversees school safety and construction and in how it monitors the way schools use federal funds. In a March 2016 report, we found that Indian Affairs had not taken actions to ensure that its BIA regional offices annually inspect the safety and health of all BIE school campuses, as required, or that the information it collected through inspections was complete and accurate, and we recommended that it take such actions.¹⁴ Specifically, we found that Indian Affairs did not conduct annual inspections at about 1 in 3 BIE schools from fiscal years 2012 through 2015. Further, 4 out of 10 regions did not conduct any inspections during this period. We also found that Indian Affairs did not systematically evaluate the thoroughness of the school safety inspections it conducted or monitor the extent to which inspection procedures varied within and across regions. We concluded that it did not monitor whether safety inspectors in each of its regions are consistently following appropriate procedures and guidance, inspections in different regions may continue to vary in completeness and miss important safety and health deficiencies at schools that could pose dangers to students and staff.

In response to our findings and recommendations in September 2016, Indian Affairs provided documentation that it had conducted fiscal year 2016 annual safety inspections at all BIE schools. In 2016, agency officials also reported on changes they had made to managing the

¹⁴GAO, *Indian Affairs: Key Actions Needed to Ensure Safety and Health at Indian School Facilities*, GAO-16-313 (Washington, D.C.: Mar. 10, 2016).

performance of personnel responsible for overseeing and conducting school safety inspections. However, as of April 2017, the agency had not provided documentation that the inspection information that its safety personnel collect and report to BIE schools is complete and accurate. In addition, our preliminary findings from ongoing work since February 2017 point to continued problems with Indian Affairs' oversight of safety inspections at BIE schools. In particular, we have found that BIA employees responsible for providing safety inspection reports to schools were not held accountable for late reports despite the agency's requirement and a new employee performance standard on submitting all reports within 30 days of an inspection. We found that some reports were submitted more than 4 months after an inspection. We will continue to monitor the agency's efforts in this area.

In February 2015, we also testified that Indian Affairs did not consistently oversee some BIE school construction projects.¹⁵ For example, we found that at one BIE school Indian Affairs managed a \$3.5 million project to replace roofs, but the new roofs had leaked continually since they were installed, causing mold and ceiling damage in classrooms, according to agency documents. At another school, Indian Affairs funded construction of a \$1.5 million building for school bus maintenance and bus storage, but the size of the building did not allow a large school bus to fit on the lift when the exterior door was closed (see fig. 7).¹⁶

¹⁵GAO, *Indian Affairs: Preliminary Results Show Continued Challenges to the Oversight and Support of Education Facilities*, GAO-15-389T (Washington, D.C.: Feb. 27, 2015).

¹⁶As a result, staff at the school were required to maintain or repair a large bus with the door open, which is not practical in the cold South Dakota winters.

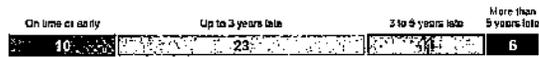
Figure 7: Exterior and Interior of Recently-Constructed School Bus Maintenance Building Where Door Does Not Close When a Large School Bus Is On Hydraulic Lift



Source: GAO | GAO-17-587T

Further, preliminary findings from our ongoing work indicate that Indian Affairs has not consistently used accountability measures or conducted sufficient oversight to ensure that BIE school construction projects were completed on time, within budget, and met schools' needs. For instance, of the 49 school construction projects we reviewed that had been completed from fiscal years 2003 to 2016, 16 were 3 or more years behind schedule and 1 was nearly 10 years behind schedule (see fig. 8).

Figure 8: Timeliness of Indian Affairs' School Replacement Projects Completed, Fiscal Years 2003 - 2016



Source: GAO analysis of Indian Affairs' annual submissions to the President's budget | GAO-17-587T

Note: Numbers do not add to 100 percent due to rounding.

In a November 2014 report, we also identified serious weaknesses in Indian Affairs' oversight of school expenditures.¹⁷ For example, we reported that BIE does not have written oversight procedures and risk

¹⁷GAO-15-121.

criteria for ensuring schools use funds provided by Interior for their intended purpose of providing BIE students a quality education. As a result of Indian Affairs' lack of oversight, we identified several instances of funds being misused, including \$1.7 million for a school that were improperly transferred to an off-shore account. Our report contained several recommendations that, if implemented, could help BIE accurately track and oversee BIE school expenditures to ensure that federal funds are being used for their intended purposes. Specifically, we recommended that Interior develop both written procedures and a risk-based approach to monitor school expenditures. In response to our recommendations in May 2016, Indian Affairs' officials said they were in the process of establishing a new Office of Financial Accountability within BIE that, among other duties, would oversee school expenditures. They noted they were planning to hire auditors and grants management specialists who would be responsible for developing written procedures to oversee school expenditures. In April 2017, agency officials also reported that they had filled the BIE Deputy Director for School Operations position. In addition, they noted that newly hired personnel were being trained in risk assessment and fraud prevention policy. However, the agency did not provide documentation that it had developed and implemented written procedures and risk criteria to ensure accountability of BIE school expenditures as we recommended. Further, it reported that the target date for fully implementing our recommendations was October 1, 2018. Therefore, we will continue to monitor the agency's efforts to implement these recommendations.

Limited federal workforce planning

We have found limited workforce planning in several key areas related to BIE schools. Specifically, in a February 2015 testimony, we noted that the capacity of Indian Affairs and BIE school staff to address school facility needs is limited due to gaps in expertise, steady declines in staffing levels, and limited institutional knowledge.¹⁸

In November 2014 we reported that the lack of financial expertise and training, among other things, hindered BIE administrators' effectiveness in overseeing school expenditures.¹⁹ For example, although BIE line office administrators made key decisions about schools' single audit report findings—such as whether funds are being spent appropriately—they were not auditors or accountants. Additionally, the administrators

¹⁸GAO-15-388T.

¹⁹GAO-15-121.

responsible for the three BIE offices we visited said they did not have the financial expertise to understand the content of single audits. We recommended that the agency 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. Interior agreed to implement this recommendation, but as of April 2017, it had not provided documentation that it had done so.

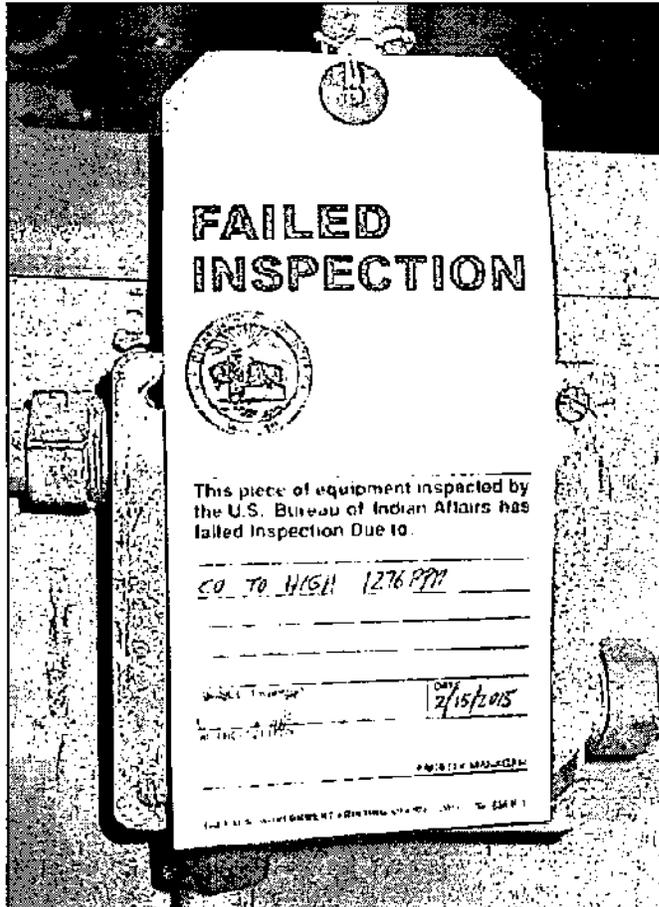
In September 2013, we reported that Indian Affairs could not ensure that staffing levels at Indian Affairs' regional offices were adjusted to meet the needs of BIE schools in regions with varying numbers of schools—ranging from 2 to 65—because it had not updated its strategic workforce plan.²⁰ We recommended that Indian Affairs revise its strategic workforce plan to ensure that its employees who provide administrative support to BIE are placed in the appropriate offices to ensure that regions with a large number of schools have sufficient support. Indian Affairs agreed to implement this recommendation. In September 2016, Interior provided us with a revised workforce plan for Indian Affairs. However, this plan did not include information about the workforce needs of the Indian Affairs offices that provide administrative support to BIE and its schools and therefore did not address our recommendation. As of April 2017, we had not received any further updates from Indian Affairs. We will continue to monitor its efforts in this area.

Outdated and deteriorating equipment, technology, and infrastructure

Aging BIE school facilities and equipment have contributed to degraded and unsafe conditions for students and staff. In a March 2016 report, we found one school with 7 boilers that failed inspection because of multiple high-risk safety deficiencies, including elevated levels of carbon monoxide and a natural gas leak (see fig. 9).

²⁰GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO-13-774 (Washington, D.C.: Sept. 24, 2013).

Figure 9: Failed Boiler Inspection Tag in a Bureau of Indian Education (BIE) School Classroom Building



Source: GAO. | GAO-17-587T

Four of the boilers were located in a student dormitory, and three were located in classroom buildings. All but one of the boilers were about 50 years old. Although the poor condition of the boilers posed an imminent danger to the safety of students and staff, most of the boilers were not repaired until about 8 months after failing their inspection, prolonging safety risks to students and staff.

Incomplete and inaccurate data	<p>In February 2015, we also testified that BIE schools faced a variety of challenges associated with their facilities, such as aging buildings and problems that result from years of deferred maintenance.²¹ For example, at one school built in 1959 we observed extensive cracks in concrete block walls and supports, which a BIA official said had resulted from a shifting foundation.</p>
Open Recommendations on Indian Education	<p>A lack of internal controls and other weaknesses hinder Indian Affairs' ability to collect complete and accurate information on the physical conditions of BIE schools. In addition to our March 2016 findings on Indian Affairs' lack of sound safety inspection information on BIE school facilities, as discussed above, in February 2015 we also testified on problems with the quality of data on overall BIE school conditions. These issues included inconsistent data entry by schools and insufficient quality controls, which made it difficult to determine the actual number of schools in poor condition and undermined Indian Affairs' ability to effectively track and address problems at school facilities.²²</p> <p>When we issued our February 2017 High-Risk update, we had made 13 recommendations to Indian Affairs regarding improvements needed in the management of BIE schools, of which 11 recommendations remain unaddressed. Specifically,</p> <ul style="list-style-type: none"> • To help ensure that BIE schools provide safe and healthy facilities for students and staff, we made 4 recommendations, including that Indian Affairs ensure the inspection information it collects on BIE schools is complete and accurate; develop a plan to build schools' capacity to promptly address safety and health deficiencies; and consistently monitor whether BIE schools have established required safety committees. • To help ensure that BIE conducts more effective oversight of school spending, we made 4 recommendations, including that Indian Affairs develop a workforce plan to ensure that BIE has the staff to effectively oversee school spending; put in place written procedures and a risk-based approach to guide BIE in overseeing school spending; and improve information sharing to support the oversight of BIE school spending.

²¹GAO-15-388T.

²²GAO-15-388T.

- To help ensure that Indian Affairs improves how it manages Indian education, we made 5 recommendations of which 3 remain open, including that Indian Affairs develop a strategic plan for BIE that includes goals and performance measures for how its offices are fulfilling their responsibilities to provide BIE with support; revise Indian Affairs' strategic workforce plan to ensure that BIA regional offices have an appropriate number of staff with the right skills to support BIE schools in their regions; and develop and implement decision-making procedures for BIE to improve accountability for BIE schools.

Indian Energy Resources

Inadequate oversight of federal activities

We reported in June 2015 that BIA's review and approval is required to develop Indian energy resources, including the approval of leases, right-of-way (ROW) agreements, and appraisals.²³ However, BIA does not have a documented process or the data needed to track its review and response times—such as data on the date documents are received, the date the review is considered complete by the agency, and the date documents are approved or denied.

Stakeholders we interviewed and literature we reviewed suggested that BIA's review and approval can be a lengthy process and increase development costs and project development times, resulting in missed development opportunities, lost revenue, and jeopardized viability of projects.²⁴ For example, in 2014, the Acting Chairman for the Southern Ute Indian Tribe reported that BIA's review of some of its energy-related documents took as long as 8 years. Specifically, as of April 30, 2014, the tribe had been waiting for at least 5 years for BIA to review 81 pipeline ROW agreements—41 of these 81 ROW agreements had been under review for 8 years. According to the tribal official, had these ROW agreements been approved in a timely manner, the tribe would have received revenue through various sources, including tribal permitting fees.

²³GAO, *Indian Energy Development: Poor Management by BIA Has Hindered Energy Development on Indian Lands*, GAO-15-502 (Washington, D.C.: June 8, 2015).

²⁴See, for example, *Hearing on the Indian Tribal Energy and Self-Determination Act Amendments (S. 2132)*, 113th Cong. (April 30, 2014). Statement of the Honorable James M. O'Guliv, Acting Chairman, Southern Ute Indian Tribal Council on behalf of the Southern Ute Indian Tribe, and Prepared statement of Hon. Nathan Small, Chairman, Fort Hall Business Council, Shoshone-Bannock Tribes, *Strengthening Self-Sufficiency: Overcoming Barriers to Economic Development in Native Communities*, Field Hearing Before the Committee on Indian Affairs, United States Senate 112th Cong. 1st sess. (Aug. 17, 2011).

oil and gas severance taxes, and royalties. The tribal official noted that, during the period of delay, prices for natural gas rose to an historic high but had since declined. Therefore, the official reported that much of the estimated \$95 million in lost revenue would never be recovered by the tribe.

In another example from our June 2015 report, one lease for a proposed utility-scale wind project took BIA more than 3 years to review and approve and according to a tribal official, the lease was only reviewed and approved after multiple calls and letters from the tribe to BIA headquarters. According to a tribal official, the long review time contributed to uncertainty about the continued viability of the project because data used to support the economic feasibility and environmental impact of the project became too old to accurately reflect current conditions.

In our June 2015 report, we recommended that Interior direct BIA to develop a documented process to track its review and response times. In response, Interior stated it has taken initial steps to develop a documented process to track its review and response times for oil and gas leases and estimates it will have a fully documented process by September 30, 2018. However, it did not indicate whether it intends to track and monitor the review of other energy-related documents that must be approved before development can occur. Without comprehensively tracking and monitoring its review process, BIA cannot ensure that documents are moving forward in a timely manner, and lengthy review times may continue to contribute to lost revenue and missed development opportunities for Indian tribes.

Moreover, in a June 2016 report, we found that BIA took steps to improve its process for reviewing revenue-sharing agreements, but it still had not established a systematic mechanism for monitoring or tracking.²⁵ With respect to revenue sharing agreements, we recommended, among other things, that BIA develop a systematic mechanism for tracking these agreements through the review and approval process. Interior concurred with this recommendation and stated that BIA will develop such a mechanism, however in the meantime it would use a centralized tracking spreadsheet.

²⁵GAO, *Indian Energy Development: Interior Could Do More to Improve Its Process for Approving Revenue-Sharing Agreements*, GAO-16-553 (Washington, D.C.: June 13, 2016).

Ineffective collaboration and limited communication

In June 2015, we reported that the added complexity of the federal regulatory process, which can include multiple regulatory agencies, prevents many developers from pursuing Indian energy resources for development.²⁶ Subsequently, in November 2016 we reported that Interior had recognized the need for collaboration in the regulatory process and described the creation of the Service Center as a center point of collaboration for permitting that will break down barriers between federal agencies.²⁷ We found that BIA had taken steps to form a Service Center that was intended to, among other things, help expedite the permitting process associated with Indian energy development. We reported that the Service Center had the potential to increase collaboration between BIA and BLM on some permitting requirements associated with oil and gas development. However, we found that BIA did not coordinate with other key regulatory agencies, including Interior's Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the Environmental Protection Agency. As a result, the Service Center was neither functioning as the central point for collaborating with all federal regulatory partners generally involved in energy development, nor did it serve as a single point of contact for permitting requirements. Without serving in these capacities, we concluded that the Service Center was limited in its ability to improve efficiencies in the federal regulatory process. We also found that in forming the Service Center, BIA did not involve key stakeholders, such as the Department of Energy (DOE)—an agency with significant energy expertise—and BIA employees from agency offices. By not involving key stakeholders, BIA was missing an opportunity to incorporate their expertise into its efforts.

In our November 2016 report, we recommended that BIA include other regulatory agencies in the Service Center so that it can act as a single point of contact or a lead agency to coordinate and navigate the regulatory process. We also recommended that BIA establish formal agreements with key stakeholders, such as DOE, that identify the role of each stakeholder, and establish a process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center's activities. Interior agreed with our recommendations and stated it will implement Memoranda of Understanding to include the Corps, FWS, and

²⁶GAO-15-502.

²⁷GAO, *Indian Energy Development: Additional Actions by Federal Agencies Are Needed to Overcome Factors Hindering Development*, GAO-17-43 (Washington, D.C.: Nov. 10, 2016).

EPA that defines roles and responsibilities of each agency by December 31, 2017.

In 2005, Congress provided an option for tribes to enter into an agreement with the Secretary of the Interior that allows tribes, at their discretion, to enter into leases, business agreements, and rights-of-way agreements for energy resource development on tribal lands without review and approval by the Secretary. However, in a June 2015 report, we found that uncertainties about Interior's regulations for implementing this option had contributed to deterring tribes from pursuing such agreements. We therefore recommended that Interior provide clarifying guidance.²⁸ In response to our recommendation, Interior stated it will provide additional energy development-specific guidance on provisions of tribal energy resource agreement regulations tribes have identified as unclear by September 30, 2018.

Limited federal workforce planning

In our June 2015 report, we found that BIA's long-standing workforce challenges, such as inadequate staff resources and staff at some offices without the skills needed to effectively review energy-related documents, were factors hindering Indian energy development.²⁹ Further, in November 2016, we found BIA had high vacancy rates at some agency offices and that the agency had not conducted key workforce planning activities, such as identifying the key workforce skills needed to achieve agency goals and assessing any skill gaps.³⁰ We concluded that these workforce issues contributed to BIA's management shortcomings that have hindered Indian energy development; and until BIA undertakes necessary workforce planning activities, it cannot ensure that it has a workforce with the right skills, appropriately aligned to meet the agency's goals and tribal priorities. We recommended that BIA assess critical skills and competencies needed to fulfill its responsibilities related to energy development and identify potential gaps. We also recommended BIA establish a documented process for assessing BIA's workforce composition at agency offices taking into account BIA's mission, goals, and tribal priorities. Interior agreed with our recommendations and stated it is taking steps to implement them by September 30, 2017.

²⁸GAO-15-502.

²⁹GAO-15-502.

³⁰GAO-17-43.

Outdated and deteriorating equipment, technology, and infrastructure

In June 2015, we found that BIA does not have the necessary geographic information system (GIS) mapping data for identifying who owns and uses resources, such as existing leases. Interior guidance states that efficient management of oil and gas resources relies, in part, on GIS mapping technology because it allows managers to easily identify resources available for lease and where leases are in effect.³¹ According to a BIA official, without GIS data, the process of identifying transactions, such as leases and access agreements for Indian land and resources, can take significant time and staff resources to search paper records stored in multiple locations. We recommended BIA should take steps to improve its GIS capabilities to ensure it can verify ownership in a timely manner. In response, Interior stated it will enhance mapping capabilities by developing a national dataset composed of all Indian land tracts and boundaries in the next 4 years.

Incomplete and inaccurate data

In June 2015, we found that BIA did not have the data it needs to verify who owns some Indian oil and gas resources or identify where leases are in effect.³² In some cases, BIA cannot verify ownership because federal cadastral surveys—the means by which land is defined, divided, traced, and recorded—cannot be found or are outdated. We concluded that the ability to account for Indian resources would assist BIA in fulfilling its federal trust responsibility, and determining ownership was a necessary step for BIA to approve leases and other energy-related documents. We recommended that Interior direct BIA to identify land survey needs. In response, Interior stated it will develop a data collection tool to identify the extent of its survey needs in fiscal year 2016. As of April 2017, Interior had not provided information on the status of its efforts to develop a data collection tool.

Open Recommendations on Indian Energy Development

When we issued our February 2017 High-Risk update, we had made 14 recommendations to BIA regarding actions needed to help develop Indian energy resources. All 14 recommendations remain open. Specifically,

- To help ensure BIA can verify ownership in a timely manner and identify resources available for development, we made 2 recommendations, including that Interior take steps to improve its geographic information system mapping capabilities.

³¹GAO-15-502.

³²GAO-15-502.

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- To help ensure BIA's review process is efficient and transparent, we made 2 recommendations, including that Interior take steps to develop a documented process to track review and response times for energy-related documents that must be approved before tribes can develop energy resources.
 - To help improve clarity of tribal energy resource agreement regulations, we recommended BIA provide additional guidance to tribes on provisions that tribes have identified to Interior as unclear.
 - To help ensure that BIA's effort to streamline the review and approval process for revenue-sharing agreements achieves its objectives, we made 3 recommendations, including that Interior establish time frames for the review and approval of Indian revenue-sharing agreements for oil and gas, and establish a system for tracking and monitoring the review and approval process to determine whether time frames are met.
 - To help improve efficiencies in the federal regulatory process, we made 4 recommendations, including that BIA take steps to coordinate with other regulatory agencies so the Indian Energy Service Center can serve as a single point of contact or lead agency to navigate the regulatory process.
 - To help ensure that it has a workforce with the right skills that are appropriately aligned to meet the agency's goals and tribal priorities, we made 2 recommendations, including that BIA establish a documented process for assessing BIA's workforce composition at agency offices.

Indian Health Care

Inadequate oversight of federal activities

IHS provides inadequate oversight of health care, both of its federally operated facilities and through the PRC program. In January 2017, we reported that IHS provided limited and inconsistent oversight of the quality of care provided in its federally operated facilities.³³ As a result, the agency cannot ensure that patients receive quality care. IHS has recently finalized a quality framework designed to address these deficiencies and improve its oversight. We recommended that, as part of implementing the quality framework, IHS ensure that agency-wide standards for the quality of care provided in its federally operated facilities are developed, and that

³³GAO, *Indian Health Service: Actions Needed to Improve Oversight of Quality Care*, GAO-17-181 (Washington, D.C.: Jan. 9, 2017).

facility performance in meeting these standards is systematically monitored over time. HHS agreed with our recommendation and cited steps it already has underway to improve the quality of care in IHS's federally-operated facilities. HHS described the development of the IHS Quality Framework and Implementation Plan released in November 2016. However, as of April 2017, IHS had not developed agency-wide standards for the quality of care provided in its federally operated facilities.

In March 2016, we reported that IHS had not set any agency-wide standards for patient wait times at IHS federally operated facilities, including how long it should take to schedule an appointment and complete an office visit.³⁴ According to tribal representatives, patients reported difficulty scheduling primary care visits because of extended wait times. For example, one facility reported that new patients may wait 6 weeks for an initial exam with a family medicine physician, and new patients in internal medicine may wait 3 to 4 months for an initial exam.

We found that IHS has delegated this responsibility to its area offices and has not conducted any systematic, agency-wide oversight of the timeliness of primary care. We concluded that, without these standards, IHS cannot know whether it is providing sufficient primary care to meet the needs of its patients. We recommended that IHS develop and communicate specific agency-wide standards for patient wait times in federally operated facilities, monitor patient wait times, and take corrective actions when standards are not met. HHS stated that it agreed with the need to improve patient wait times at IHS federally-operated facilities to ensure that primary care is available and accessible to Indians. In response to our recommendation, HHS described its plan to establish an Office of Quality Health Care at IHS Headquarters to provide for national policy and oversight of critical quality improvement strategies and ensure their success and accountability. As of April 2017, IHS has not established the Office of Quality Health Care and has not developed agency-wide standards for patient wait times in federally operated facilities.

In June 2012, we found that IHS had taken few steps to evaluate variations in the funds it allocates for the Contract Health Services

³⁴GAO, *Indian Health Service: Actions Needed to Improve Oversight of Patient Wait Times*, GAO-16-333 (Washington, D.C.: Mar. 29, 2016).

program (now called PRC), which varied from \$299 to \$601 per capita across the 12 IHS geographic areas in fiscal year 2010.³⁵ IHS did not know the origin of the base funding formula, which, according to IHS officials, had existed since the 1930s and accounted for 82 percent of the funds allocated to the area offices in fiscal year 2010. Annual adjustments for population growth and inflation were made as a percentage of base funding and are the same across all areas. Additional program increases were not large enough to alter funding variations because these additional increases had been a relatively small proportion of PRC funds that area offices received. Because IHS continued to use this methodology, we concluded that it could not equitably allocate funds to meet the health care needs of Indians. In order to ensure IHS equitably allocates PRC funds, we recommended that Congress consider requiring IHS to develop and use a new method to allocate funds to account for variations across areas. Legislation introduced in the House and reported out of committee in 2016 would have addressed this issue by requiring the agency to establish regulations to develop and implement a revised PRC distribution formula taking into account certain factors that may vary across areas. Also, a House Report partially addressed this issue by directing the agency to allocate an increased funding increment resulting from Interior's 2017 regular appropriation, H.R. 5638, pursuant to a specified allocation formula that may vary across areas. However, neither bill became law.

Ineffective collaboration and limited communication

In a June 2012 report, we found that IHS does not require its area offices to inform IHS headquarters if they distribute program increase funds to local PRC programs using different criteria than the PRC allocation formula suggested by headquarters.³⁶ As a result, we concluded that IHS may be unaware of additional funding variation across areas. We recommended that IHS develop written policies and procedures to require area offices to notify IHS when they diverge from the formula for allocating funds to PRC programs. HHS concurred with this recommendation and noted that guidance requiring area offices to report these changes to IHS headquarters would be added to the PRC manual, but it did not specify a date for doing so. As of April 2017, IHS had not added this guidance to the manual.

³⁵GAO, *Indian Health Service: Action Needed to Ensure Equitable Allocation of Resources for the Contract Health Services Program*, GAO-12-446 (Washington, D.C.: June 15, 2012).

³⁶GAO-12-446

Limited federal workforce planning

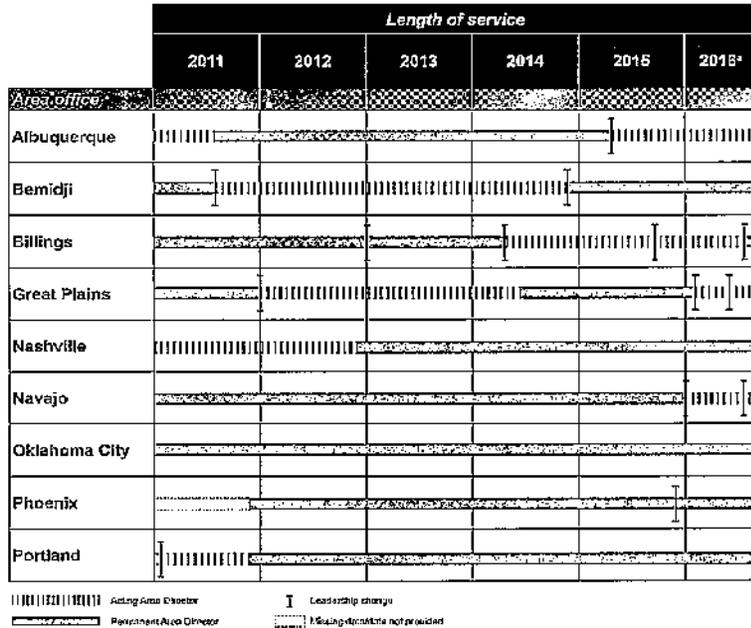
In a March 2016 report, we reported that, according to IHS officials, an insufficient workforce was the biggest impediment to ensuring patients could access timely primary care.³⁷ According to IHS's 2016 budget justification, there were over 1,550 vacancies for health care professionals throughout IHS's health care system including: physicians, dentists, nurses, pharmacists, physician assistants, and nurse practitioners. According to IHS officials, staffing vacancies had created obstacles for facilities working to provide primary care.

In January 2017, we found that inconsistencies in IHS's oversight of quality of care provided in its federally operated facilities were exacerbated by significant turnover in area leadership.³⁸ Officials from four of the nine area offices in our review reported that they had at least three area directors in the past 5 years. (See fig. 10).

³⁷GAO-16-333

³⁸GAO-17-181

Figure 10: Reported Indian Health Service (IHS) Area Director Turnover, January 2011 through July 2016



Source: GAO analysis of Indian Health Service (IHS) data | OIG-17-597

Note: This figure reflects the number of positions held for a designated time period. One individual could be counted multiple times if that individual held both acting and permanent positions for different non-adjacent time periods. In four areas—Albuquerque, Great Plains, Nashville, and Portland—an acting director transitioned to a permanent position. In these situations, we counted this as one area director.
 *Area officials reported information through July 2016.

In September 2013, we found that IHS did not have an effective plan to ensure that sufficient staff would be in place to assist with increased enrollment and third party billing under expanded Medicaid or the exchanges beginning in 2014 under PPACA.³⁹ We concluded that without a plan, IHS may not be able to ensure that a sufficient number of staff were available to assist with enrollment and to process increased third-party payments. We recommended that IHS realign current resources and personnel to increase capacity to assist with these efforts. HHS neither agreed nor disagreed with our recommendation, and as of April 2017, IHS had not implemented it.

In December 2013, we reported that, according to local PRC program officials, insufficient staffing for the PRC program affected their ability to issue timely purchase orders for health care services approved by the program.⁴⁰ IHS's staffing standards model established a staffing ratio based on the annual number of purchase orders authorized for health services at a facility, and some PRC program officials noted that their number of staff was below these standards, contributing to delays in determining eligibility for the program and processing payments to providers. We recommended that IHS use available PRC funds to pay for PRC program staff. HHS disagreed with this recommendation, stating its intent to use PRC funds to pay only for services, not staff, since PRC funding was not sufficient to pay for all needed services. We acknowledged the difficult challenges and choices faced by PRC programs when program funds are not available to pay for all needed services. However, we maintained that without using funds to pay for staff, some PRC programs would continue to have staffing levels below IHS's staffing standards model, which contributes to delays in administering the program. As of April 2017, IHS had not implemented this recommendation.

Outdated and deteriorating equipment, technology, and infrastructure

In March 2016, we reported that, according to IHS officials, access to timely primary care at some health care facilities serving Indian communities is hindered by outdated medical and telecommunications

³⁹GAO-13-553.

⁴⁰GAO, *Indian Health Service: Opportunities May Exist to Improve the Contract Health Services Program*, GAO-14-57 (Washington, D.C.: Dec. 11, 2013).

Incomplete and inaccurate data	<p>equipment, such as analog mammography machines and telephones with an insufficient number of lines for scheduling patient appointments.⁴¹</p> <p>In a June 2012 report, we found that IHS officials do not believe that its PRC program data are complete or that areas collect these data in the same manner.⁴² We concluded that, without accurate data, IHS cannot know if the proportion of actual PRC users is consistent across areas. We made three recommendations to improve the accuracy of the PRC data for future allocations, including using actual counts of PRC users, using variation in levels of available hospital services in the funding formula, and, as mentioned above, requiring area offices to notify headquarters when they diverge from the formula for allocating funds to PRC programs. HHS did not concur with our recommendation to use actual counts of PRC users, rather than all IHS users, in any formula for allocating PRC funds that relies on the number of active users, stating that IHS's combined count of all users is intended to reflect the health care needs of PRC users. HHS concurred with our recommendation that IHS use variations in levels of available hospital services to allocate PRC funds. As of April 2017, IHS had not implemented these recommendations.</p> <p>In December 2013, we reported that one of the measures IHS uses to assess the time it takes to approve and process payments to providers in the PRC program did not provide a clear picture of timeliness because it combines data for two different types of PRC services.⁴³ We recommended that IHS take steps to improve its ability to measure timeliness by modifying its claims data system to distinguish between two types of referrals and establish separate timeframe targets for each type. HHS concurred with this recommendation, but as April 2017, IHS had not implemented it.</p>
Open Recommendations on Indian Health Care	<p>When we issued our February 2017 High-Risk update, we had made 14 recommendations to HHS regarding improvements needed in the management of IHS facilities, all 14 of which remain unaddressed. Although IHS has taken several actions in response to our recommendations, such as improving the data collected for the PRC</p>

⁴¹GAO-16-333

⁴²GAO-12-446

⁴³GAO-14-57

program and adopting Medicare-like rates for non-hospital services, additional steps are needed. Specifically,

- To help ensure that Indian people receive quality health care, we recommended that the Secretary of HHS direct the Director of IHS to take the following two actions: (1) as part of implementing IHS's quality framework, ensure that agency-wide standards for the quality of care provided in its federally operated facilities are developed and systematically monitor facility performance in meeting these standards over time; and (2) develop contingency and succession plans for replacing key personnel, including area directors.
- To help ensure that timely primary care is available and accessible to Indians, we recommended that IHS: (1) develop and communicate specific agency-wide standards for wait times in federally-operated facilities, and (2) monitor patient wait times in federally-operated facilities and ensure that corrective actions are taken when standards are not met.
- To help 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, we recommended that IHS: (1) modify its claims payment system to separately track IHS referrals and self-referrals, revise the Government Performance and Results Act measures 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) better align PRC staffing levels and workloads by revising its current practices, where available, used to pay for PRC program staff. In addition, as HHS and IHS monitor the effect that new coverage options available under PPACA have on PRC funds, we recommended that IHS concurrently develop potential options to streamline requirements for program eligibility.
- To help ensure successful outreach efforts regarding PPACA coverage expansions, we recommended that IHS realign current resources and personnel to increase capacity to deal with enrollment in Medicaid and the exchanges and prepare for increased billing to these payers.
- If payments for physician and other nonhospital services are capped, we recommended that IHS monitor patient access to these services.
- To help ensure a more equitable allocation of funds per capita across areas, we recommended that Congress consider requiring IHS to develop and use a new method for allocating PRC funds. To make

IHS's allocation of PRC program funds more equitable, we recommended that IHS (1) develop written policies and procedures to require area offices to notify IHS when changes are made to the allocation of funds to PRC programs; (2) use actual counts of PRC users in any formula allocating PRC funds that relies on the number of active users; and (3) use variations in levels of available hospital services, rather than just the existence of a qualifying hospital, in any formula for allocating PRC funds that contain a hospital access component.

- To develop more accurate data for estimating the funds needed for the PRC program and improve IHS oversight, we recommended that IHS develop a written policy documenting how it evaluates need for the PRC program, and disseminate it to area offices so they understand how unfunded services data are used to estimate overall program needs. We also recommended that IHS develop written guidance for PRC programs outlining a process to use when funds are depleted but recipients continue to need services.

In conclusion, although Interior and HHS have taken some actions to address the 41 recommendations we have made related to Indian programs, as of our February 2017 High-Risk update, there were 39 recommendations that have not been fully resolved. We plan to continue monitoring the agencies' efforts to address these open recommendations. To this end, we have ongoing work focusing on accountability for safe schools and school construction and tribal control of energy delivery, management, and resource development.

In order for these areas to be removed from our High-Risk List, Interior and HHS need to show improvement on the 5 key elements described earlier: leadership commitment, capacity, action plan, monitoring, and demonstrated progress. These five criteria form a road map for agencies' efforts to improve and ultimately address high-risk issues.

We also believe that it is vital for Congress to maintain its focus on improving the effectiveness with which federal agencies meet their responsibilities to serve tribes and their members. We look forward to continuing our work with this committee in overseeing Indian Affairs, including BIA and BIE, and IHS to ensure that they are operating in the most effective and efficient manner, consistent with the federal government's trust responsibilities, and working toward improving services to tribes and their members.

The CHAIRMAN. Thank you.
We will now turn to Acting Secretary Black.

STATEMENT OF MICHAEL S. BLACK, ACTING ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. BLACK. Chairman Hoeven, Vice Chairman Udall and members of the Committee, my name is Michael Black. I am the Acting

Assistant Secretary for Indian Affairs at the Department of the Interior.

Thank you for the opportunity to present testimony on behalf of the Department regarding Indian Affairs' role in the development of Indian energy and its recent high risk designation in the GAO High Risk Report issued in February.

Let me begin by stating that the President and the Secretary have made a clear commitment to advancing America's energy independence through responsible resource development. Tribes play a critical role in this conversation, as energy development ranging from clean coal to oil and gas to wind creates good-paying jobs and bolsters tribal economies.

The development of energy resources offers tribes opportunities that otherwise do not exist, particularly in rural areas. Strong tribal economies strengthen the exercise of tribal sovereignty and the Department continues to promote tribal energy development. However, as previous GAO reports have explained, there are many opportunities for us to improve.

To avoid any confusion, let me be clear that the Department agrees with GAO's recommendations and we are dedicated to implementing widespread reform to help foster energy independence among tribes interested in developing their resources.

As a former Director of BIA and current Acting Assistant Secretary, I know these issues well and acknowledge that we have a significant amount of work to do. My written testimony addresses GAO's recommendations and highlights our current progress toward implementation.

GAO made 14 recommendations that will help Indian Affairs to promote energy development in Indian Country, including better utilization of GIS mapping tools and improved data collection and tracking systems.

We are currently working to address the recommendations. As an example, BIA is working to utilize an off-the-shelf mapping tool with our Trust Asset and Accounting Management System, TAAMS, in order to integrate data viewing and our map creation capabilities into the TAAMS at the desktop level.

The GIS Map Viewer will be based on verified legal descriptions and ownership data available in TAAMS with base reference data for mapping. Recently, the GIS Map Viewer was successfully tested with TAAMS and is now being reviewed for compliance with DOI and Indian Affairs information technology and electronic security policies and procedures.

We are also working to address recommendations related to tracking systems and data collection by pulling together a group of subject matter experts in oil and gas processing to identify key identifiers and data fields need to track and monitor review and response times for oil and gas leases.

We will utilize the information gathered during this process to make necessary modifications to TAAMS in order to improve efficiencies and timeliness in processing workloads.

Indian Affairs is also in the process of standing up the Indian Energy Service Center which is the result of a concept paper produced by a multiagency team formed by the Indian Energy Minerals Steering Committee. The multiagency team held a tribal lis-

tening session, met individually with oil and gas tribes and the Coalition of Large Land-Based Tribes and also received written comments in an effort to gather input from relevant stakeholders.

One of the recommendations was to include other regulatory agencies in the service center such as Fish and Wildlife Service, the Environmental Protection Agency 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.

Recognizing the importance of these stakeholders, the service center is developing streamlined and standardized programmatic coordination with these agencies to the greatest extent possible.

This includes memoranda of understanding with the appropriate department bureaus and other Federal agencies involved in the development of Indian energy and mineral resources. In addition, the BIA, through the Indian Energy Minerals Steering Committee, has also established Federal partner groups, where needed, which include BIA, the Bureau of Land Management, the Office of Natural Resource Revenue, the Corps of Engineers, Fish and Wildlife and EPA.

These groups provide field knowledge on energy and mineral issues and serve to facilitate and focus and assume the point of contact desired by the respective parties regarding the processing of energy development for each region.

The Department is also working to implement GAO's recommendation that DOI provide additional energy development-specific guidance on provisions of the Tribal Energy Resource Agreement or TERA regulations the tribes have identified to the Department as being unclear.

The Department believes that clarity can be best achieved by amending the Indian Minerals Development Act of 1982 to insert tribal self-determination language similar to that found in the Helping Expedite and Advance Responsible Tribal Homeownership, the HEARTH Act of 2012.

The HEARTH Act permits tribes to lease surface trust lands for renewable energy purposes absent approval by the Department by implementing their own leasing regulations. In prior testimony to this Committee, the Department recommended Congress consider a HEARTH-like fix in the conventional energy arena by amending the law to match the HEARTH Act provisions. We would be willing to work with the members of this Committee on such an amendment.

Thank you for the opportunity to present testimony today. The Department is committed to upholding the trust responsibility to tribes and implementing GAO's recommendations. I look forward to answering any questions you may have.

Thank you.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL S. BLACK, ACTING ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Chairman Hoenes, Vice Chairman Udall, and Members of the Committee, my name is Michael Black and I am the Acting Assistant Secretary for Indian Affairs at the Department of the Interior. Thank you for the opportunity to present testimony on behalf of the Department of the Interior (Department or DOI) regarding Indian Affairs' role in the development of Indian energy and its recent high risk des-

ignation in the Government Accountability Office (GAO) High Risk Report (GAO-17-317 High Risk Series).

The President and the Secretary have made a clear commitment to advancing America's energy independence through responsible resource development. Tribes play a critical role in this conversation, as energy development ranging from clean coal to oil and gas to wind creates good-paying jobs and bolsters tribal and local economies. In many instances, the development of energy resources offers Tribes opportunities that otherwise would not exist, particularly in rural areas.

Strong tribal economies strengthen the exercise of tribal sovereignty, and the Department continues to promote tribal energy development. However, as previous GAO reports have explained, there are many opportunities for us to improve our support for tribal energy development. The Department agrees with GAO's recommendations and we are dedicated to implementing widespread reform to help foster energy independence among Tribes who are interested in developing their resources.

As the High Risk report notes, GAO has made fourteen recommendations to the Bureau of Indian Affairs (BIA), via three reports, all of which currently remain open. As the former Director of BIA and current Acting Assistant Secretary, I know these issues well and acknowledge that we have a significant amount of work to do. My testimony today will address GAO's recommendations and highlight our current progress towards implementation.

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.

Indian Affairs agrees that promoting energy development in Indian Country requires timely verification of ownership and identification of resources available for development. The Department understands that GIS mapping of Indian lands is exceedingly important and we are working toward utilizing a GIS mapping tool for Indian lands and developing a GIS policy. However, the Trust Asset and Accounting Management System (TAAMS) was not designed as a geospatial mapping system, but simply to reflect legal descriptions as they appear on documents recorded as required by federal law.

Thus, the BIA is not building out the GIS mapping module in TAAMS. Instead, the BIA will utilize commercially available, off-the-shelf mapping technology to integrate data viewing and map creation capabilities into TAAMS at the desktop. The GIS Map Viewer will be based upon verified legal land descriptions and ownership data available in TAAMS with base reference data for mapping. Recently, the GIS Map Viewer was successfully tested with TAAMS and is now being reviewed for compliance with DOI and Indian Affairs Information Technology (IAIT) electronic security policies and procedures for TAAMS. IAIT Change Advisory Board (CAB) and Architectural Review Committee (ARC) are expected to grant a preliminary Authority to Operate (ATO) within 180 days of review of the GIS Map Viewer security application for TAAMS. The GIS Map Viewer is scheduled for deployment by September 1, 2017.

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

A survey is an important step in developing a full inventory of trust resources, yet in more than a century since the establishment of Indian reservations, the federal government has not yet fully surveyed all Indian reservation lands. As in years past, the BIA and the BLM, in a coordinated and focused effort, have prepared a Reimbursable Service Agreement between the two agencies to identify and deliver the much needed survey-related products and services. Cadastral survey inventories are being evaluated and FY17 survey requests have been approved for funding and completion by BLM.

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.

The GAO recommended the BIA develop a process to track BIA review and response times. A group of BIA subject matter experts in oil and gas processing have been working 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. BIA is also in the process of evaluating and reviewing the current realty tracking system and TAAMS in order to improve efficiencies and timeliness in processing workloads. Due to the fact that modifications to data systems must be

reviewed by multiple entities within the Department, a request for an extension of time will be submitted to the GAO within this quarter.

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.

BIA is in the process of evaluating the data collection efforts used by various systems. Efforts are underway with subject matter experts to analyze and develop recommendations for improving data collection, tracking and business processes.

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.

The Department is working to implement GAO's recommendation that DOI provide additional energy development-specific guidance on provisions of TERA regulations that tribes have identified to the Department as unclear. The Office of Indian Energy and Economic Development (IEED) continues to perform training and technical assistance on the TERA regulations, and will issue guidance on those provisions of TERA that have been identified as unclear.

The Department believes that clarity can be best achieved by amending the Indian Minerals Development Act of 1982 to insert tribal self-determination language similar to that found in the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2012. The HEARTH Act permits tribes to lease surface trust lands for renewable energy purposes absent approval by the Department by implementing their own leasing regulations. In prior testimony to this Committee, the Department recommended Congress consider a HEARTH-like fix in the conventional energy arena by amending the law to match the HEARTH Act provisions. We would be willing to work with the members of this committee on such an amendment.

GAO 16-553

Recommendation 6: Establish required timeframes for the review and approval of Indian Communitization Agreements (CAs) to ensure a more timely CA process.

The Department is working to ensure CA processes are timely. A National Policy Memorandum has been developed that establishes timeframes for review and approval of Indian CAs. Such timeframes will also be incorporated into the BIA Fluid Mineral Estate Procedural Handbook and the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures. The Memorandum is currently undergoing review and approval within the Department. On April 27, 2017, the Department received notice that an extension was granted by GAO to extend the target date to the end of FY18.

Recommendation 7: 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.

The BIA is developing a systematic mechanism to track Indian CAs through the review and approval process. As part of this effort, a group of BIA subject matter experts who meet regularly are working to implement identified enhancements to TAAMS. Until TAAMS can be modified to incorporate the key identifiers and data fields, the BIA is utilizing a centralized tracking spreadsheet on the Google platform. BIA leads the development and deployment of this tracking spreadsheet in consultation and coordination with BLM. We have received an extension from GAO to complete this recommendation by the end of FY18.

Recommendation 8: 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.

BIA and BLM will continue to use the tracking spreadsheet mentioned above, and, upon completion, the enhanced TAAMS, to monitor and assess the results of the efforts to streamline the Indian CA review and approval process. The bureaus will coordinate to establish a process for review of the collected data, which will assist in identifying and implementing any necessary process modifications.

GAO 17-43

Recommendation 9: Include the other regulatory agencies in the Service Center, such as Fish and Wildlife Services, the Environmental Protection Agency, 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) is working to implement Memoranda of Understanding (MOU) with appropriate Department bureaus and other Federal agencies involved in the development of Indian energy and mineral resources and to define roles and responsibilities regarding the development of those resources on trust lands. MOUs are being developed with the Fish and Wildlife Service (FWS), Environmental Protection Agency (EPA), Army Corps of Engineers (Corps), as well as IEED and Department of Energy (DOE).

The BIA, through the Indian Energy Minerals Steering Committee (IEMSC), has also established Federal Partners Groups, where needed, which include: BIA, BLM, Office of Natural Resource Revenue (ONRR), Corps, FWS, and EPA. These groups provide field knowledge on energy and mineral issues and serve to facilitate and focus the single point of contact desired by the respective parties regarding the processing of energy development for each region.

Currently, Federal Partner Groups are being established for the Navajo Region and the Rocky Mountain Region. Federal Partner Groups for the Great Plains Region, the Eastern Oklahoma/Southern Plains Regions, and the Western Region are currently meeting on a regular basis.

Recommendation 10: Direct the Bureau of Indian Affairs to establish formal agreements with IEED and DOE that identify, at a minimum, the advisory or support role of each office.

BIA recognizes that in addition to the identification of potential energy resources, there must be organized coordination between agencies to fully develop and/or protect Indian energy and mineral resources.

In an effort to improve communication between the two offices, an MOU was recently signed between IEED and DOE outlining a partnership going forward. Currently, the IESC is reviewing this MOU with the intent of entering into the existing agreement. The IESC expects to meet with IEED and DOE in the near future to help finalize the agreement.

Recommendation 11: Direct Bureau of Indian Affairs to establish a documented process for seeking and obtaining input from key stakeholders, such as BIA employees, on the Service Center activities.

Currently, the IESC is developing a process that allows key agencies to provide input and requests for service received on behalf of tribes from the IESC. The process will also include guidance on the prioritization of task orders. The Executive Management Group of the IESC, comprised of the directors of the BIA, BLM, ONRR, and Office of the Special Trustee for American Indians (OST), are engaged in this work. The IESC is currently drafting intake forms, which will be distributed to obtain input regularly from stakeholders.

Recommendation 12: Direct the Bureau of Indian Affairs to document the rationale for key decisions related to the establishment of the Service Center, such as alternatives and tribal requests that were considered.

The development of the IESC was the result of a concept paper produced by a multi-agency team formed by the IEMSC. The multi-agency team held a tribal listening session, received written comments, and conducted conference calls in an effort to gather input from relevant stakeholders. The final version of the concept paper also included an organization chart which set forth the IESC chain-of-command. The IEMSC accepted and approved the concept paper as presented by the multi-agency team. At this point, the BIA believes this recommendation is complete.

Recommendation 13: Direct the Bureau of Indian Affairs to 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.

The BIA is in the process of identifying and implementing a workforce plan regarding positions associated with the development of Indian energy and minerals. First, the IESC will collect data directly from BIA, BLM, ONRR, and OST employees in an effort to identify workload and necessary technical competencies. Then, the IESC will work with partner bureaus to assess skills and competencies needed for energy and mineral workforce standards. This recommendation is expected to be completed by the end of 2017.

Recommendation 14: Direct the Bureau of Indian Affairs to establish a documented process for assessing BIA's workforce composition at agency offices taking into account BIA's mission, goals, and tribal priorities.

The BIA plans to assess the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. This includes collecting data directly from BIA, BLM, ONRR, and OST employees

Conclusion

Thank you for the opportunity to present testimony today. The Department is committed to upholding the trust responsibility to tribes and implementing GAO's recommendations. I would be glad to answer any questions the Committee may have.

The CHAIRMAN. Thank you, Secretary Black.
Rear Admiral Buchanan.

STATEMENT OF REAR ADMIRAL CHRIS BUCHANAN, ACTING DIRECTOR, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

I am Chris Buchanan, an enrolled member of the Seminole Nation of Oklahoma, and the Acting Director of the Indian Health Service. I am pleased to have the opportunity to testify before the Committee on the GAO's February 2017 High Risk Report.

I would like to thank you, Chairman Hoeven, Vice-Chairman Udall, and members of the Committee for elevating the importance of delivering quality care throughout IHS. The mission of the IHS, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, and spiritual health of American Indian and Alaska Natives to the highest level. Providing quality health care is our highest priority.

We share the urgency of overcoming the longstanding, systemic problems highlight by the GAO. We are addressing these challenges.

Our goal is to make improvements in all program areas identified in the GAO High Risk Report. In addition, we are intensifying our efforts to close out open Office of Inspector General recommendations. In April 2017, IHS successfully closed three longstanding OIG open recommendations.

IHS has strengthened its Enterprise Risk Management Program. The GAO High Risk Report recommendations were directly incorporated into this program work for 2017. Additionally, all our senior executives in IHS are directly involved in the national risk assessment discussions.

Improving patient access to care through our outreach, education and enrollment activities remains a top priority. From fiscal year 2012 to fiscal year 2016, we saw a 21 percent increase in total Medicaid reimbursements and a 28 percent increase in total collections from private insurers.

IHS is exploring ways to realign performance accountability to strengthen both field operations and headquarters oversight responsibilities by setting clear senior executive expectations and establishing clear lines of authority and accountability.

In partnership with HHS, IHS developed a strong quality framework that is being implemented to assure that all hospitals and clinics have quality-focused compliance programs. We established

the position of the Deputy Director of Quality Health Care as part of the agency's senior leadership team to provide a national focus for advising the IHS Director, providing leadership and guidance to the field and all aspects of assuring quality health care.

This includes oversight of critical quality improvement strategies related to accreditation, certification, patient safety and quality care.

We have made great progress in the past few months in regard to quality improvement initiatives. On April 28, IHS finalized a contract to purchase software for a national provider credentialing system. We plan to roll out the system in four pilot IHS areas in July of 2017 and to implement across the IHS areas by the end of 2017.

A request for proposals for a single accrediting organization for IHS hospitals will be released by July 2017. To help hospitals maintain accreditation, IHS established a formal partnership with our sister agency, CMS through a contract to support best health care practices and other organizational improvements for IHS federally-operated hospitals that participate in the Medicare program.

In addition, IHS is developing performance accountability metrics to support headquarters' oversight and monitoring functions. Earlier this month, we began pilot testing a system to collect standardized information on patient health care experience. Effective medical equipment is vital to patient safety and quality care.

In July 2016, IHS established a new policy to ensure critical medical equipment used at IHS facilities is properly maintained and reliable. We mandated the use of computerized systems in all Federal health facilities to inventory medical equipment and provide information, longevity and reliability.

We are implementing strategies to increase recruitment and retention to address longstanding workforce challenges. To share a few examples, IHS implemented a senior executive search committee process for recruiting highly qualified executives.

Also, under the IHS-HRSA partnership, we made offers of National Health Service Corps scholarships and loan repayment incentives to recruit and retain primary care providers. As of April 2017, 472 National Health Service Corps scholarships and loan repayment scholars have entered our workforce in IHS and tribal facilities. These examples 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 care for American Indians and Alaska Natives.

I would be happy to answer any questions the Committee has. [The prepared statement of Admiral Buchanan follows:]

PREPARED STATEMENT OF REAR ADMIRAL CHRIS BUCHANAN, ACTING DIRECTOR,
INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chairman and Members of the Committee:

Good afternoon, Chairman Hoeven, Vice-Chairman Udall, and Members of the Committee. I am Chris Buchanan, an enrolled member of the Seminole Nation of Oklahoma and Acting Director of the Indian Health Service (IHS). I am pleased to have the opportunity to testify before the Senate Committee on Indian Affairs on the Government Accountability Office (GAO) 2017 High Risk Report. I would like

to thank you, Chairman Hoeven, Vice-Chairman Udall, and members of the Committee for elevating the importance of delivering quality care through the IHS.

The IHS plays a unique role in the Department of Health and Human Services (HHS) because it was established to carry out the responsibilities, authorities, and functions of the United States to provide health care services to American Indians and Alaska Natives. The mission of the IHS, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, social, and spiritual health of American Indian and Alaska Natives to the highest level. The IHS provides comprehensive health care delivery to approximately 2.2 million American Indian and Alaska Natives through 26 hospitals, 59 health centers, 32 health stations, and nine school health centers. Tribes also provide healthcare access through an additional 19 hospitals, 284 health centers, 163 Alaska Village Clinics, 79 health stations, and eight school health centers.

Providing quality healthcare is our highest priority. We share the urgency of addressing longstanding systemic problems highlighted in the February 2017 GAO High Risk Report. I would like to describe for you how we are addressing these challenges and highlight examples of recent progress.

Enterprise Risk Management Program

IHS has strengthened its Enterprise Risk Management (ERM) Program, which closely aligns our Risk Profile to our activities under the Federal Manager's Financial Integrity Act (FMFIA). A key element of the FMFIA, in addition to maintaining financial integrity, is providing annual assurance to the Secretary and the Congress that programs are effective and meet their objectives. The GAO High Risk Report recommendations have been directly incorporated into our ERM work for 2017. All senior executives in IHS have been directly involved in national risk assessment discussions with a focus on effective risk mitigation planned for all executives and managers in 2017.

IHS has dedicated sufficient resources to ensure that we have the needed expertise in IHS Headquarters to lead and oversee a successful risk management approach to improvement in all program areas on the GAO High Risk Report. In concert with closer attention to unimplemented recommendations from GAO, we are also intensifying our efforts to close out open Office of Inspector General (OIG) recommendations. In April 2017, IHS successfully closed three long-standing OIG open recommendations, related to improvements needed in the IHS Behavioral Health Program. IHS has made progress in establishing and increasing partnerships within the agency, improved collaborations with other federal agencies and tribal organizations, and extensive training for program staff to ensure sustainability.

IHS has increased senior management attention and priority on prior GAO recommendations related to management oversight of Indian health care and is implementing many positive changes. We are using the GAO findings and recommendations to inform our strategic and tactical planning efforts.

Third Party Revenue

IHS has diligently worked to improve access to care for our beneficiaries through outreach, education and enrollment activities that has resulted in higher total third party collections. We saw a 21 percent increase in total Medicaid reimbursements and a 28 percent increase in total collections from private insurers from FY 2012 to FY 2016. Another result of enrollment activities is to increase patient access to care by having third party payers cover care provided outside of the Indian health system for eligible beneficiaries. Also, in all IHS areas, we have programs that are able to purchase health care beyond the medical priority I.

Realignment and Reorganization

IHS is exploring ways to realign performance accountability to strengthen both field operations and headquarters oversight responsibilities by setting clear senior executive expectations, and establishing clearer lines of accountability. We also want to strengthen executive leadership accountability for accomplishing the objectives of the priorities of IHS that will result in improvement of the quality of health care provided.

Quality Framework

IHS is strongly committed to assuring that all its hospitals and clinics have quality-focused compliance programs. In partnership with the HHS Executive Council on Quality Health Care, IHS developed a strong Quality Framework (QF) that is now being implemented. We developed the QF by assessing current IHS quality policies, practices, and programs, incorporating standards from national experts, consulting with tribal leaders, and including best practices and expertise from across the IHS

system of care, as well as leveraging quality specialists across HHS. The core elements are:

- Strengthening Organizational Capacity to Improve Quality of Care and Systems,
- Meeting and Maintaining Accreditation for IHS Direct Service Facilities,
- Aligning Service Delivery Processes to Improve Patient Experience,
- Ensuring Patient Safety, and
- Improving Transparency and Communication Regarding Patient Safety and Quality to IHS Stakeholders.

We established the position of Deputy Director for Quality Health Care as part of the agency's senior leadership team to provide a national focus for advising the IHS director and providing leadership and guidance to the field on all aspects of assuring quality health care. Continuing the implementation of the strategic QF at all levels of IHS and in partnership with Tribal/Urban Indian organization partners is a key priority of this position. This includes oversight of critical quality improvement strategies related to accreditation/certification, patient safety, and quality care.

Quality Improvement Initiatives

We have made great progress in the past few months. On April 28th, IHS finalized a contract to purchase software for a National Provider Credentialing System, with a plan to roll out the system in four pilot IHS areas in July 2017 and a plan to implement across the other IHS areas by the end of 2017. The credentialing policy has been updated, and is the final stages of clearance. IHS plans to release a request for proposals for a single accrediting organization for IHS hospitals by July 2017. To help hospitals maintain accreditation, IHS established a formal partnership with our sister agency, the Centers for Medicare & Medicaid Services (CMS), through a contract to support best health care practices and other organizational improvements for IHS federally-operated hospitals that participate in the Medicare program.

IHS hospitals can partner with CMS, which is supporting a Quality Innovation Network—Quality Improvement Organization to support, build, and redesign, if needed, their hospital operating infrastructure in order to provide high quality health care services. Under this partnership, IHS hospitals are able to focus on improving leadership and staff development, data acquisition and analytics, clinical standards of care, and quality of care related to the Medicare program.

In addition, IHS is developing a performance accountability dashboard and related metrics to support Headquarters' oversight and monitoring functions. Earlier this month, pilot testing began for a system to collect standardized information on patient experience with care, using tablet devices. Workgroups are also finalizing standard setting for patient wait times and their measurement, and minimum standards for hospital Governing Board meetings. Beginning with the Great Plains Area, IHS is pilot testing a leadership coaching and mentoring program to strengthen organizational capacity to improve quality and governance.

Effective medical equipment is vital to patient safety and quality care. In June 2016, IHS established a new policy to ensure critical medical equipment used at IHS facilities is properly maintained and reliable. Additionally, we mandated the use of a computerized system in all Federal health facilities to inventory medical equipment and provide other information about longevity and reliability. As implementation continues, we expect to see improved management of our medical equipment inventory to ensure outdated and non-functioning equipment is replaced in a timely manner.

Workforce Development

One of the most difficult challenges for IHS remains recruiting and retaining highly skilled administrators and physicians in rural and remote areas. To make a career in IHS more attractive to modern health care practitioners and health care administrators, IHS is implementing various strategies to increase recruitment and retention. To share a few examples, IHS has implemented a senior executive search committee process for recruiting highly qualified executives. Search committees are made up of IHS leadership and tribal partners who are charged with candidate outreach, assessment, and vetting. Through this new process, the IHS is more widely advertising vacancies through Federal, State, and non-profit partners, and is actively seeking additional venues to attract a diverse applicant pool of qualified candidates.

IHS also has partnered closely with the Office of the Surgeon General to increase the recruitment of Commissioned Corps officers to provide management and clinical services throughout the IHS. The Commissioned Corps is offering expedited commissioning to applicants who commit to service in an IHS facility with critical staffing needs. In addition, the IHS and the Health Resources and Services Administration continue to work together to make the National Health Service Corps (NHSC) more accessible to fill health professional vacancies. This allows IHS facilities to recruit and retain primary care providers by using NHSC scholarship and loan repayment incentives. As of April 2017, 472 NHSC loan repayment and 21 NHSC scholars have entered our workforce in IHS and tribal facilities.

These examples 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 will be happy to answer any questions the Committee may have.

The CHAIRMAN. Thank you, Admiral Buchanan.
I will turn now to 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 today to provide a statement on behalf of the Bureau of Indian Education and its recent designation on the Government Accountability Office High Risk Report.

I am Tony Dearman, an enrolled member of the Cherokee Nation, and the BIE Director. Prior to becoming the BIE Director in November 2016, I served as Associate Deputy Director for Bureau-operated schools, Education Line Officer, Superintendent of Riverside Indian School, a principal and Science teacher at Sequoyah High School.

Sequoyah High School has had more than 60 students receive the Gates Millennium scholarship over the past 15 years. At Riverside Indian School, where my daughter attends, we effectively built cross-agency and local partnerships to address the varying needs of our students.

The successes my schools achieve require transparency, collaboration and dedication by everyone. In my short time as Director, I, alongside my leadership team, have been working to bring the same focus to BIE.

In February, the GAO released its High Risk Report designating BIE as a high risk agency. In three separate reports dating back to 2013, the GAO provided 13 recommendations to improve the Indian Affairs management of BIE schools.

As of 2017, we have implemented three recommendations. We should have addressed these issues when they were first recommended by the GAO and I realize this lapse. I take full responsibility for these outstanding items on behalf of the agency.

I am working with our senior leadership team within BIE as well as Indian Affairs, the Secretary's office and the GAO to ensure we address the outstanding recommendations. Our goal is not simply to close out the GAO recommendations but to utilize GAO reports as a road map for BIE to establish and maintain comprehensive policies and procedures that ensure accountability and provide long term organizational stability.

Regarding GAO 13-774, we have implemented recommendations two, three and five which includes developing a communications strategy, appointing members to the BIE Department of Education Committee and revising a strategic workforce plan.

We are continuing to assess the previous work while also working to implement recommendations one and four which are to develop documented decision-making procedures and a strategic plan. We plan to implement the remaining recommendations by the close of 2018.

Regarding GAO-15-121, our work addressing these recommendations has been insufficient to date. We are moving forward to implement the report's four outstanding recommendations, including the creation of a comprehensive workforce plan, information sharing and financial oversight policies, as well as a risk-based monitoring system. To that end, we plan to complete the work on Recommendations 1 and 2 no later than the close of 2018 and Recommendations 3 and 4 by the middle of 2019.

Regarding GAO-16-313, for Recommendations 1 and 2, we worked with the Bureau of Indian Affairs to implement a safe schools audit that was completed at all BIE-funded schools in 2016. We must ensure the focus on completion does not detract from the quality of inspections.

In addition, coordination and training is still needed to ensure sufficient work and follow up to which we are committed.

With regard to Recommendations 3 and 4, we are conducting ongoing staff training, as well as working with Indian Affairs to provide support for school safety committees. Our agencies are working to produce formal policies and procedures to address shortcomings identified by a recently-formed interagency workgroup.

Members of the Committee, thank you for the opportunity to present testimony today. While the designation as a high risk agency is a difficult matter to address, please know that I am not naïve when I say the GAO's recommendations provide a concrete map toward sustained improvement.

I appreciate the oversight this Committee is providing, as well as the expertise from GAO to help BIE address longstanding issues to better support Indian students. The GAO has laid out the tools for improvement. Now it is incumbent upon me and the rest of us at BIE to implement their guidance which will make us stronger, effective and accountable.

There are great employees bureau-wide who wake up excited every day to improve a child's life, a child who, like my daughter, has all the potential to succeed given the right tools.

Thank you for your time and I would be honored to answer any of your 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 today to provide a statement on behalf of the Bureau of Indian Education (BIE) and its recent high risk designation on the Government Accountability Office (GAO) High Risk Report (GAO-17-317 High Risk Series).

I am Tony Dearman, a member of the Cherokee Nation, and the BIE Director. Prior to becoming the BIE Director in November 2016, I served as Associate Deputy Director for Bureau-operated schools, overseeing 17 schools, four off-reservation boarding schools, and one dormitory. Before that, I served as superintendent of Riverside Indian School located in Anadarko, Oklahoma, and principal of Sequoyah High School in Tahlequah, Oklahoma. During my service at the school level, my leadership team worked to ensure our students not only received a quality education but also had the opportunity to receive holistic support.

Today, Sequoyah High School is a first preference among Native students. In fact, more than 60 students who attended have gone on to receive Gates Millennium scholarships over the past 15 years. The competitive scholarship is based on a minimum 3.5 grade point average, community service hours, leadership experience, and written essays. At Riverside Indian School, we effectively worked with 75 different Indian tribes representing approximately 500 students from 23 states. To address the varying needs of our students, such as behavioral and mental health support services, we built partnerships with the Indian Health Service, local emergency medical services, and law enforcement to make sure students and staff were in a safe school environment.

My passion has always been supporting our students at the local level, and I am honored to serve them in this new capacity, utilizing my knowledge of how our schools function, the issues students face, and the support they need from BIE to create success system-wide. The successes my schools achieved required transparency, collaboration, and dedication by everyone. In my short time as Director, I have been working to bring that same focus to BIE and have worked with the senior leadership team to expand the culture that served us so well at the school level.

However, as highlighted in the GAO reports, much work remains. We have prioritized the GAO recommendations and are addressing these issues head on. The BIE team views the GAO's reports as a constructive tool to improve our agency and help the students for whom we are committed to serve. As such, I will provide you an update detailing the following areas:

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

Bureau of Indian Education

BIE supports education programs and residential facilities for Indian students from federally recognized tribes at 183 elementary and secondary schools and dormitories. Currently, the BIE directly operates 53 schools and dormitories and tribes or tribal school boards operate the remaining 130 schools and dormitories through grants or contracts. In total, BIE-funded schools serve approximately 48,000 K–12 American Indian and Alaska Native students and residential boarders. Approximately 3,400 teachers, professional staff, principals, and school administrators work to support BIE-operated schools.

BIE faces unique and urgent challenges in providing a high-quality education. As highlighted by GAO, a lack of consistent leadership—evidenced by the BIE's more than 35 directors since 1979—and the absence of regular and consistent strategic planning have limited the BIE's ability to improve its services.

GAO High Risk Status for BIE

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

- Indian Affairs' 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 affects service delivery;
- 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 Indian Affairs' ability to collect complete and accurate information on the physical conditions of BIE schools.

In three separate reports dating back to 2013, the GAO provided 13 recommendations to improve Indian Affairs' management of BIE schools. As of 2017, eleven of GAO's recommendations remain open. As the BIE Director, I am committed to ad-

addressing these outstanding items. To that end, I am working with our senior leadership team within BIE as well as with Indian Affairs, the Secretary's office, and our colleagues at the GAO to ensure that BIE systematically and comprehensively addresses each outstanding recommendation as expeditiously and effectively as possible.

My goal is not simply to address and close out GAO recommendations, but to utilize the outlined recommendations as a roadmap for BIE to establish and maintain comprehensive internal policies and procedures that support service delivery, ensure accountability, and provide organizational stability no matter who is leading the agency.

GAO Recommendations: Status & BIE Next Steps

In the past few years, BIE planned, consulted on, designed, and implemented a complex, multifaceted, bureau-wide reorganization. In February 2016, the Department of the Interior directed BIE to move forward with Phase I of its reorganization, with the agency committing considerable time, energy, and resources to carry out the directive. Simultaneously, considerable turnover within BIE senior leadership reduced capacity and focused BIE's attention on day-to-day service delivery rather than addressing critical, long-term organizational improvement strategies highlighted in GAO reports. BIE has now prioritized resources and critical personnel to refocus efforts to address the longstanding issues outlined in GAO reports that will, ultimately, improve our service delivery to Indian students.

In November 2016, the BIE filled several key positions that have been tasked with serving on an internal working group focused on evaluating all outstanding GAO recommendations as well as BIE's past GAO closure submissions. The team completed its analysis in early 2017 and reported its findings and recommendations to BIE leadership in mid-March. Based on the information received, BIE leadership is not satisfied with the quality and timeliness of the work to date, and recognizes the shortcomings and the need for each GAO recommendation to be reexamined and properly addressed.

As described below, the BIE is currently working to complete the actions recommended in each of these three GAO reports. BIE leadership has identified and tasked specific staff to address each outstanding recommendation in a holistic and inclusive manner that creates buy-in and collaboration throughout the BIE and with staff across Indian Affairs. Further, BIE senior leadership looks forward to coordinating with GAO as the agency works to implement the recommendations outlined in this report.

GAO Recommendations

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 has completed implementation of recommendations two, three, and five, which includes development of a communications strategy, increased collaboration with the Department of Education through several mechanisms, including a BIE-ED Committee that meets every other week (rather than just quarterly) and that has proven to be even more responsive and effective than the quarterly one addressed in the original GAO recommendation, and revision of a strategic workforce plan, respectively. BIE will assess the effectiveness of its implementation of GAO's recommendations in an effort to continually improve BIE's operations. Currently, BIE is working to implement recommendations one and four, which are to develop documented decisionmaking procedures and a strategic plan, respectively, and partnering with GAO to clear them. BIE plans to implement fully the remaining recommendations contained in GAO-13-774 by 2018.

Recommendation I—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, has tasked an internal working group with evaluating the GAO recommendations. That working group will draft a formal, written decisionmaking policy and procedures, to be completed by the end of 2018.

Recommendation IV—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, has reviewed the strategic plan submitted to GAO in September 2016 and has determined the quality of work as unsatisfactory, both for the purposes of closing recommendation four and for working as a functional tool intended to guide the organization in achieving its mission. At the close of this review, BIE immediately began the process of planning and drafting a revised strategic plan. On March 8, 2017, BIE conducted a senior leader strategic planning exercise and followed that with an April 11, 2017 all-leaders strategic planning conference convening local, regional, and central office leadership to determine paths forward. BIE revised its mission and vision statement as well as its strategic goals identified at the end April 2017 and will hold follow-up leadership meetings in late May and June.

BIE has also partnered with external organizations such as the Council of Chief State School Officers—a nonpartisan, nationwide, nonprofit organizational leader that supports State Educational Agencies in serving their schools and students—to provide expertise and best practices in developing a sound strategic plan as well as creating a functional action plan for implementing an accurate system of progress measurement once the strategic plan is implemented. BIE expects to have the strategic plan completed, published publicly, and fully implemented by no later than the end of 2018.

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.

In addition to GAO-13-774, BIE is continuing its work to implement GAO's four recommendations contained in GAO-15-121. To that end, the BIE plans to complete its work with respect to recommendations one and two no later than the close of 2018 and recommendations three and four by the middle of 2019.

Recommendation I—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, has tasked an internal working group with evaluating the GAO recommendations. That working group will draft a comprehensive workforce plan that is aligned with the BIE strategic plan, to be completed in 2018.

Recommendation II—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, has tasked an internal working group with evaluating GAO recommendations. That working group will also draft a comprehensive, interdepartmental coordination and information-sharing policy to ensure accountability and effectiveness in operations and service delivery.

Recommendation III—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, has started drafting and implementing a comprehensive financial oversight policy that establishes effective risk management procedures that will prevent, detect, and respond to fraud, including improper payments, based on GAO-established practices and OMB guidance. To accomplish this goal, the BIE will prioritize hiring staff with applicable experience and skills and we are already partnering with outside groups that can provide the much-needed technical assistance and expertise.

Recommendation IV—BIE, working cooperatively with leadership within Indian Affairs and pertinent stakeholders, is drafting and implementing a risk-based monitoring methodology that is in compliance with the Fraud Reduction and Data Analytics Act of 2015 (Public Law 114-186). BIE is currently seeking external working partnerships to provide much-needed technical assistance and expertise.

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

GAO made 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.

Finally, BIE is working to implement GAO's four recommendations contained in GAO-16-313.

Recommendations I and II—BIE has worked with the Bureau of Indian Affairs (BIA) to address the first recommendation by implementing a Safe School Audit. In 2016, the audit was successfully completed at all BIE-funded schools and the agencies started the process of implementing corrective measures for identified deficiencies. However, we must ensure that the focus on completion does not detract from the quality of inspections, so additional coordination and training is still needed to ensure quality work, and most importantly, the necessary follow-up and technical assistance is provided.

Recommendations III and IV—BIE is conducting ongoing staff and administrator training and is working with BIA to provide ongoing support for school safety committees through school inspections. We recognize that reporting for such activities is inadequate, so BIE is working with BIA to provide oversight of such inspections. The agencies are working to produce formal policies and procedures to address shortcomings through a recently formed inter-agency workgroup that is meeting throughout the summer to ensure coordination of activities as well as formalize long-term policies and procedures. The agencies, in coordination with other offices within Indian Affairs, are scheduled to meet in late May to coordinate activities to address these recommendations.

Conclusion

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for the opportunity to present testimony today. While the designation as a high risk agency is a difficult matter to address, please know that the BIE is committed to addressing GAO's recommendations in order to achieve sustained improvement.

There are great employees Bureau-wide—from Central Office staff, to Education Resource Centers, to school teachers and cooks—who wake up excited every day to improve a child's life. But, there are also impediments to improvement and obstacles that hinder coordination and positive reform, as highlighted by GAO. Now, it is incumbent upon me, and all of us at BIE, to implement these recommendations.

The BIE looks forward to working with the Members of this Committee, the GAO, and our partners across Interior as we address these recommendations. Thank you for your time, and I would be honored to answer any questions you may have.

The CHAIRMAN. Thank you, Director Dearman.

I would like to thank all of the witnesses again.

At this time, I would like to turn to Senator Franken and ask if it would be okay if we do some questions?

Senator FRANKEN. I am sorry, Mr. Chairman. I was not listening.

The CHAIRMAN. I was wondering since you objected to questions earlier, I am wondering if it is okay if we do some questions now?

Senator FRANKEN. No objection, Mr. Chairman.

The CHAIRMAN. Thank you.

We will start with Senator Cortez Masto.

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

Senator CORTEZ MASTO. Thank you, Mr. Chairman and Ranking Member, for this important discussion.

My first question is for Melissa. Just so I have an understanding of this since I am new to the Committee. I am from Nevada and represent the great State of Nevada.

This High Risk Report is put out because of the 41 auditing, I do not know what you call it, violations or concerns that you have and the 39 that were not implemented, it is because these concerns were noted over two years ago or three years ago? How long has this been sitting out there before they are put in a High Risk Report like this?

Ms. EMREY-ARRAS. That is an excellent question. It is more about the concerns we have identified than the number of recommenda-

tions that have yet to be implemented or how long it is taking them to be implemented. The concerns about public health and safety, critical services to tribes and their members, and the extent of the issues we found in these three areas led to our placing these three areas on the High Risk List.

It does not mean that they have to complete each and every recommendation to get off the list but there needs to be demonstrated progress to show there is not significant concern for public safety, for example.

Senator CORTEZ MASTO. That is helpful because I just need to know, for the other members, were you just notified of this? How much time have you had to try to address these concerns? I am curious about your level of resources to address these concerns considering that there is a hiring freeze that is on and whether that has an impact on how you can or are able to address the contentions that are before you?

Why don't we go down the line? I am curious to hear your thoughts on that.

Mr. BLACK. A number of the reports, as Melissa mentioned earlier, date back a couple of years and we have been continually working on a number of those recommendations in both areas of BIE and Indian education, as well as Indian energy.

Some of the stuff I identified in my testimony regarding Indian energy related to the service center, our refocusing the Indian Energy Mineral Steering Committee and some of those items that are efforts on our part.

We have recognized a lot of those shortcomings. We are working hard to identify not only the shortcomings we have but methods, processes, procedures and streamlining that we can do to fully address GAO's recommendations.

Senator CORTEZ MASTO. Thank you. Because I have a short amount of time, I would like to hear from all of you but also a timeframe. Do you have a timeframe on when you intend to address these concerns?

Mr. BLACK. Within our response to GAO, we identify timeframes for each and every one of the recommendations, yes.

Mr. BUCHANAN. Thank you, Senator.

We recognize how important the GAO recommendations are. I think we have been on it for about six years. We have had various recommendations that we have been providing. We take it seriously. We use the GAO recommendations as another opportunity to improve our health care service delivery.

Thank you.

Mr. DEARMAN. Thank you, Senator.

Our GAOs actually go back to 2013. I have been on the job for six months. We have prioritized the GAO report and we are putting together workgroups to implement the recommendations from the GAO.

Also, in doing this, we have created interagency workgroups because in our system, the BIE system, we have to have collaboration with Indian Affairs as well because there are so many parts of our schools where we do not have control.

We are looking forward to working with Indian Affairs and implementing the recommendations.

Senator CORTEZ MASTO. I understand the Federal Government moves slowly but this is way too slow. It is unacceptable. These are serious contentions and it is impacting people in these communities.

I would hope that you are seriously willing to work with us in Congress to address these concerns in a timely manner. I would ask that each one of you be willing to do so.

I appreciate you coming here and being willing to come forward and talk about this but it needs to be addressed in a timely manner.

Thank you for being here.

The CHAIRMAN. Senator Heitkamp.

**STATEMENT OF HON. HEIDI HEITKAMP,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Mr. Chairman and Vice Chairman, thanks so much for calling this meeting.

I am going to pick up where Senator Cortez Masto left off. We are struggling every day in Indian Country in this country with poor schools, poor health care, poor law enforcement, and lack of housing. We cannot afford not to be absolutely the best at what we do. We cannot afford to wait six years to address the issues that GAO has set forth.

We need to do a better job on this dais, I think, holding you all accountable and knowing that this matters. This work matters that you do. It is a matter, in some cases, of life and death. It certainly is a matter of the future of children living in Indian Country.

I am not going to go maybe beyond that but I want you to know that we intend to take this very seriously. We want to see better results. I think anyone who has sat through these hearings in the last Congress knows we are particularly concerned about the quality and the response at Indian Health. It needs to be better.

All of this, as we work through these programs, it is hard to fight for additional funding when there appears to be a lack of accountability for the funding you already get. I spend a lot of time reviewing GAO reports in our role on the Homeland Security and Government Affairs Committee. I think in many cases, we do not take these reports as seriously as we should but it is particularly concerning to me in Indian Country.

Rather than go through a series of questions about when and if, just know we are going to call on you to give us reports. It is not going to wait until the next hearing. We are going to be on this.

If you need more resources, if that is a problem, then you need to say it. You cannot just keep doing what you are doing and expect the same result. We have the lowest rates of high school graduation in Indian Country, the highest rates of infant mortality, and the highest rates of diabetes. We could go on and on and on. That is not a formula for success going forward.

You have an obligation not only to the taxpayers and people of this country. You have a treaty obligation to meet these standards under treaty obligations. Just know I know we are turning page, we have a new Administration coming in, but we are going to be looking for a much higher level of accountability. We are going to

be asking our friends at GAO to continue to participate to change the outcomes.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Heitkamp.

Ms. Emrey-Arras, you found as far as wait times at IHS facilities, patients could wait six weeks for an initial exam with a family medicine physician and up to three to four months for an initial exam by an internal medicine physician.

Why is it taking so long? Why isn't it getting fixed?

Ms. EMREY-ARRAS. For that question, I will defer to my colleague, Ms. Kathy King who is the director for that work.

Ms. KING. Good afternoon, Senator.

I think one of the key problems is that IHS headquarters delegates responsibility for all of these matters to the area offices and then they do not have proper oversight, so there is not feedback coming from the area offices back to headquarters about what is going on.

The CHAIRMAN. Admiral Buchanan, how are you going to fix that and when?

Mr. BUCHANAN. We acknowledge the challenges and the frustration of the Committee. We can do better and will do better. We have implemented what we have been referencing as the quality framework going forward. I mentioned in my testimony the Enterprise Risk Management System providing metrics.

Specifically related to our quality framework, we have identified five priority areas, one of those being wait times and making sure that our patients and patient safety is top priority. That is what we are looking for in the Indian Health Service.

Timelines, we have timelines specifically related to our Enterprise Risk Management System. The next step is, we have identified all our high risk areas within the agency by bringing in all our office directors and area directors and having them participate in this risk management system and identifying those risks.

The next step is to develop action plans going forward. I look to have those action plans completed by July 2017.

The CHAIRMAN. Meaning, you have the standards and have them implemented by when?

Mr. BUCHANAN. I am sorry. Let me clarify.

The CHAIRMAN. You have established the standards and then you have to implement them. You have established the standards and when do you expect to have them established? If you have not, then when do you expect to have them implemented?

Mr. BUCHANAN. Specifically, for the wait times, we are looking at all of our best practices that we have been utilizing across the agency. We are doing measurements to see what those standards should be.

Then once we hit those standards, we will do some pilot testing to move that out. I cannot give you a specific date on when that will roll out.

The CHAIRMAN. You need to. This has gone on too long already. We need to know when you are going to have your standards, when you are going to have them in place, and how are you are going to follow up to make sure they are adhered to because then we need to have the GAO go back and make sure it is getting done.

I think this goes to what both Senator Cortez Masto, Senator Heitkamp, and I am sure the Vice Chairman will ask you about it, as well as other members of this Committee. We need to be setting some timelines here to get it done, we need to track the progress, and we need to have you back in front of us to know it is getting done.

We cannot continue to have this not get done. That is what we are looking at here. That is why you are in the high risk category because it is not getting done. We are going to agree to get it done, we are going to agree on some timelines, and agree to some follow up so that we know this stuff is getting done.

If you do not have those timelines, I want you to come back. I would ask that you come back to the Committee with those timelines. I would ask that the GAO come back as well and we will set it up for follow up. We are going to track this.

Mr. BUCHANAN. Yes, sir, we are definitely willing to track it. We have implemented some metrics to start the tracking process once these items and these workgroups establish the timeframes we want to monitor.

That is not only at the local level, but we are bringing it from the headquarters to area, all the way through the service units. We will have timelines.

The CHAIRMAN. By when do you suppose you could get back to us with an indication of when you will have the timelines and when you are going to have them implemented? You tell me how soon you can get back to the Committee on that?

Mr. BUCHANAN. By the end of fiscal year 2017.

The CHAIRMAN. That is too long. It needs to be before then.

Mr. BUCHANAN. July 2017.

The CHAIRMAN. That is the soonest you think you could do it?

Mr. BUCHANAN. If I can get it done sooner, I will get it done sooner.

The CHAIRMAN. All right.

Mr. BUCHANAN. You have my commitment on that.

The CHAIRMAN. Mr. Vice Chairman.

Senator UDALL. Thank you, Chairman Hoeven.

Senator Cortez Masto asked a question and I do not think I heard an answer from some of you. That was on the issue of the hiring freeze. Along with several of my colleagues on this Committee, I signed a letter to President Trump urging him to exempt Indian programs from the February hiring freeze. Now, these same programs might feel the effects of the reduction in force planned by the President.

I will come back to Melissa, but my question to each of you is did the hiring freeze exacerbate your agency staffing issues identified by the GAO?

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

The hiring freeze has been lifted at this point in time.

Senator UDALL. I do not want to interrupt you but my understanding is you are still bound up in the hiring freeze. We have gone out of the time period but are you hiring right now?

Mr. BLACK. Yes, we are, sir.

Senator UDALL. You are hiring all across the board?

Mr. BLACK. Yes.

Senator UDALL. Bureau of Indian Affairs, BIE, IHS, all across the board?

Mr. BLACK. I cannot speak for IHS, but for BIA and BIE, yes, sir, we are able to hire. We are going through a process to ensure that we are hiring our highest priorities at this time and working through that process.

Senator UDALL. When you say highest priorities, it sounds like you are slowing it down some because that is some of the stuff I have been hearing within the agencies, that the hiring freeze is still impacting hiring. Is it still impacting hiring?

Mr. BLACK. Like I said, it is not really a hiring freeze at this point. We do have some specific instructions as to how we go about hiring. Most of our field locations are able to move forward with positions at GS-11 and below. We are identifying those other positions to ensure that we are filling the most critical positions and that positions are being filled at the right locations for the right needs.

Senator UDALL. Thank you. Admiral Buchanan?

Mr. BUCHANAN. Thank you.

We have been recruiting and hiring, so it has not impeded our ability to hire at the local level and our service units where we are providing patient care.

Senator UDALL. You are up and running now and the hiring freeze is not impacting you?

Mr. BUCHANAN. Yes, sir.

Senator UDALL. Tony.

Mr. DEARMAN. Thank you, Senator.

The hiring freeze has been lifted as we discussed. We are moving forward at the contract education level and our school levels. As far as the GAO, with that, we have some very resilient staff in our offices and schools. We have been able to take the time and actually get arms around the GAO and plan to get those implemented.

Senator UDALL. Chairman Hoeven, I think you would join me in this. We know, on a bipartisan basis, both in the Bush and Obama Administrations, by this point, we usually have senior staff in these areas. We do not have them. I do not want to put you on the spot in any way.

Melissa, I really believe it has to do with putting accountable people in place at the top, who are there, and will be in front of the Committee on a regular basis. They will give us the deadlines, the implementation and how they are going to get that done. Melissa, could you speak to that, both the hiring freeze and having senior staff in place in all of the positions? All the people we have in front of us are acting people.

Ms. EMREY-ARRAS. We have not looked at the hiring freeze for this particular work, but I would say the point about turnover and stability is really critical. This is something we have pointed out previously, that there has been extensive turnover in leadership positions which has led, we believe, to management challenges, especially at BIE.

In terms of the hiring, we think it would be helpful to guide the hiring with a workforce plan. We have two outstanding recommendations to do workforce planning so you know what you are

hiring for, so you know how many people you need, and you need to know what skills they need to have.

We found BIE folks who were doing reviews of single audits who told us they were not accountants, and they did not know what they were looking at. Yet they were responsible for overseeing school spending. You need to have a workforce plan to guide the hiring going forward.

Senator UDALL. Thank you very much.

I can tell you that constituents of mine who visit Washington and have meetings within all of these agencies do not feel, at the senior level, there is guidance because folks are in an acting position rather than having people in the position who are running the departments and doing the things that you, the GAO and this Committee wants them to do.

Mr. Chairman, thank you for your courtesies in allowing me to go over a little.

The CHAIRMAN. Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. I have one more question if that is all right.

I have heard from my constituents as well. I work very closely with them. This extra question comes from a Chairman I just had the opportunity to sit down and talk with. It addresses Indian Health Service.

I understand that the Indian Health Service made a mistake in overestimating the amount required in Fiscal Year 2017 to fully fund contract support cost payments due tribes under self determination contracts and self governance compacts.

I am kind of curious as to what explains this error. How much is needed in Fiscal Year 2018 and what assurance can you give the Committee that, going forward, your estimates are going to be accurate?

Mr. BUCHANAN. I do not have that information in front of me. I would be happy to submit that for the record.

Senator CORTEZ MASTO. Thank you. I appreciate that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

This is for Ms. Emrey-Arras. Are IHS, BIA and BIE able to attract the qualified professionals they need? If not, what can they do?

Ms. EMREY-ARRAS. Let me check with my colleagues to see if they have covered that in their areas. It looks like we have in the health care area.

Ms. KING. Senator, in the health care area, we have noted longstanding vacancies. For example, in the last several years, at least four of the area offices said they had several acting area directors. This kind of turnover causes problems for the agency.

We have some ongoing work where we are drilling down on staffing issues. We hope to be able to have some constructive suggestions for the agency.

The CHAIRMAN. Are there any concrete recommendations you would have for getting qualified people in key positions? Obviously, it starts at the top, as the Vice Chairman said. He is right about that. If there other recommendations for getting key people into key positions, I think that would be very helpful.

Ms. KING. Thank you.

The CHAIRMAN. Secretary Black, the GAO highlights in its report on Indian energy that the BIA did not track and review response times for energy development documents from tribes. That is necessary, of course, if you are going to understand what your turnaround time is and whether or not you are being responsive.

My question is, what are you doing to address that? How are you setting up some type of process to make sure you are tracking those times and giving timely and quality service?

Mr. BLACK. Thank you for the question, Senator Hoeven.

Through our Indian Energy Minerals Steering Committee, we have brought together a group of experts in the field to identify identifiers in the key fields that we need to be able to track to better identify where we are in processing energy-related documents, whether they be rights-of-way, communitization agreements, or applications for a permit to drill.

We also are working with our partners over at BLM, who have the responsibility for APDs to ensure we are coordinating with them and identifying any roadblocks in that process that are hindering us.

For the communitization agreements, we recently issued a national policy memorandum that identifies key timeframes and stuff in there. We are also developing right now a Google platform tracking system for all of the CAs that we are processing out there in Indian Country.

That allows us to identify not only where we are in the process and how many we have backlogged, but any areas where we are seeing some major holdups or anything like that so we can better address those as we move forward. We will be doing that with all of our different things.

Leases, we are going to work with our TAAMS system to incorporate different fields in there that could be as simple as knowing when the lease comes into our office, when it gets processed, and when the NEPA activities are completed, so we can track them all the way through the process and identify any areas where we see holdups or roadblocks.

The CHAIRMAN. What is your timeline for getting those things in place?

Mr. BLACK. I cannot remember exactly. I want to say we are working toward those for either the close of 2017 or sometime after that, but I will get back to you on that.

The CHAIRMAN. You will provide us with the timelines, because we are going to invite you back as well to talk about it probably no later than the end of July.

Mr. BLACK. Okay.

The CHAIRMAN. If you turn your head to your left and gaze up, you will see a very nice blanket that was presented to us at Cankdeska Cikana Tribal College in North Dakota. I think it looks nice there, don't you?

Mr. BLACK. It looks great up there, sir.

The CHAIRMAN. They showed us wonderful hospitality at our field hearing. I want to commend the president of the tribal college and all of her people for the fine job they did and express my appreciation to them.

Mr. BLACK. Yes, very much so.

The CHAIRMAN. I want to thank you for being there and also for your willingness to help on some of the issues we talked about.

Mr. BLACK. Certainly.

The CHAIRMAN. I would ask Admiral Buchanan, there was one recommendation I think IHS disagreed with relative to staffing. Of the other recommendations, about 14 recommendations, are there any other recommendations the GAO made that you do not agree with?

Mr. BUCHANAN. We agree with the recommendations and are actively working to correct those.

The CHAIRMAN. Thank you. Vice Chairman Udall?

Senator UDALL. Thank you, Mr. Chairman.

Admiral Buchanan, in your written testimony, you said IHS Medicaid reimbursements increased 21 percent since 2012. Then you note, "In all IHS areas, we have programs that are able to purchase health care beyond the medical priority 1."

We all know beyond medical priority 1. When you have medical 1, you are really talking about life and limb, so going beyond that is something really good for the community. Exactly how many purchased referred care programs are able to recover requests beyond the medical priority 1?

Mr. BUCHANAN. We are actively providing guidance to our PRC programs to make sure patient safety is a premium for us. I do not have the exact number in front of me to give you but I would be happy to submit that to the record.

Senator UDALL. That would be great.

Is the 21 percent increase in Medicaid reimbursements responsible for the expansion of coverage under purchased referred care?

Mr. BUCHANAN. The increase?

Senator UDALL. Yes, the 21 percent increase in Medicaid reimbursements I quoted that you mentioned in your testimony, are those Medicaid reimbursements responsible for the expansion of coverage under purchased referred care, PRC?

Mr. BUCHANAN. Yes, with that additional savings, we are able to increase our PRC access to care and provide more services to our patients.

Senator UDALL. Given the numbers in the statements you just made, how would rolling back Medicaid expansion impact IHS service delivery?

Mr. BUCHANAN. I do not have those figures in front of me.

Senator UDALL. You have obviously seen a significant influx as a result of Medicaid. If you take that Medicaid money, you are going to end up rolling back a lot of the achievements you have made, isn't that true?

Mr. BUCHANAN. Being a former CEO, we place a premium on those third party collections, Medicaid, Medicare and private insurance. We also saw some increases in private insurance during that time. Focusing on third party collections allows us to increase services for our patients.

Senator UDALL. Thank you very much.

Melissa, what sort of oversight benefits or additional management resources usually result from the inclusion in the high risk category?

Ms. EMREY-ARRAS. When an agency or program area is put on the high risk list, we really focus on it. This is something we give a lot of attention to. We do a lot of additional work on these areas and really try to hold the agencies' feet to the fire on making progress.

Senator UDALL. Thank you.

I also wanted to focus on workforce. Given the high levels of leadership turnover at BIE and IHS, one of GAO's recommendations for both agencies is to develop contingency and succession planning for key positions.

This question is for BIE and IHS. I apologize, Mr. Dearman, you are not acting, so I said that earlier. It is just that the two folks here, Mike and Admiral Buchanan, are.

Mr. Dearman and Admiral Buchanan, how are your agencies working to ensure all administrative duties are fulfilled in the face of frequent turnover?

Mr. DEARMAN. With us being able to go out and hire positions, looking at GAO's recommendations, we are moving forward in working with our interagency Indian Affairs workgroups because there are some functions that we have to rely on other agencies through BIA.

As we transition some of the workforce to us, we have to make sure of our staff. An example would be school safety. As we inherit school safety, our staff will be trained so there will be a transition period.

We are addressing first and foremost as a priority, the GAO recommendations to make sure that we have the personnel and the workforce to address the recommendations that have been put in place.

Senator UDALL. Admiral Buchanan.

Mr. BUCHANAN. We have developed succession plans at headquarters and office director level, so we have those in place. We are working on creating leadership training academies for our senior leaders. We are rotating folks through our headquarters office to provide additional training, to mentor, coach and make sure they are adequately trained to accept those senior level positions.

Senator UDALL. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

May I suggest that once we finish with our questions that the witnesses could repeat their testimony?

The CHAIRMAN. We will take that under advisement.

[Laughter.]

Senator FRANKEN. Okay. Thank you.

Thank you all for your testimony.

You brought up sort of a follow up, Ms. Emrey-Arras. I am curious about this for our oversight as a committee. How does this work? We are now saying these are at high risk, energy, education and health care. How can we not allow this to go a long time and come back with another report like this? How do we, as a committee, do our oversight? How does GAO do it? How can we best stay on top of you?

Ms. EMREY-ARRAS. Thank you for the question.

I think, as demonstrated so far in this hearing, the idea of having agencies provide frequent progress reports to this Committee would be an excellent idea; to talk to the agencies and have the agencies come up and say, this is where we are in implementing these recommendations, these are our dates.

Some things are just taking far longer than they should. For example, having basic written procedures to oversee school spending is not something that should take multiple years. Yet, that is taking multiple years to have basic instructions on how to oversee school spending.

I would say any kind of additional pressure from this Committee to expedite processes would be very much welcomed.

Senator FRANKEN. Mr. Dearman, would that be welcomed?

Mr. DEARMAN. Absolutely. We have taken the GAO recommendations and made them a priority, Senator. We are going to move forward in getting them implemented.

Senator FRANKEN. Admiral, I know some people who worked at HHS under the Obama Administration who have left since the new Administration came in. Some of them might need jobs. They are pretty good administrators is what I am saying.

Right now, IHS has a 20 percent vacancy rate for health care professionals, including physicians and nurses. Some of the challenges that contribute to the lack of qualified staff at IHS facilities include difficulty providing competitive salaries, lack of training facilities, lack of suitable housing, schools and community resources for health care professionals and their families.

I think you experience the same thing in education. I mentioned this in my opening statement. To recruit a doctor or a teacher, their spouse is going to be saying, what school are my kids going to go to, what health care are my kids going to get? There is a sort of continuing cycle.

Ms. Emrey-Arras, what do you think needs to happen both inside and outside of IHS to make IHS facilities places where qualified health professionals want to work and live in that area? I think the Chairman may have asked that of you a bit earlier or something like that.

Ms. EMREY-ARRAS. I will defer to my colleague, Kathy King, the Director of Health Care Services.

Senator FRANKEN. Thank you. It is good to see you. Welcome.

Ms. KING. Thank you.

Senator, we have current work underway looking at that. We have heard that the VA has better hiring authorities than IHS. That is something we are examining in the course of our current work.

We agree there are some difficulties common in rural areas, especially remote rural areas. We are hoping to look at that and see if we can find some best practices elsewhere that might be applicable to IHS.

Senator FRANKEN. How much of Indian Country is in remote and rural areas?

Ms. KING. I do not have a number right of the top but it is a fair amount. Some are also located adjacent to more metropolitan areas.

Senator FRANKEN. Admiral?

Mr. BUCHANAN. There are a lot of rural areas. As she said, it is hard to recruit in those rural areas. As you referenced, it takes a comprehensive approach to bring in those physicians. Schools and housing is one of the challenges, definitely in trying to put the physician into a location that the next shopping area is two and a half hours away. Just to get food is a challenge.

It is hard to recruit. Other facilities or private facilities have those same challenges in a rural setting.

Senator FRANKEN. Can I ask the Admiral a little bit about the opioid crisis in Indian Country? How does the IHS collaborate with local, State and regional stakeholders to create interventions to combat the opioid epidemic?

Mr. BUCHANAN. It truly is a challenging situation. It is going to take State, IHS and all our partners working together to fight this epidemic that is happening. We have been educating tribal leaders on what IHS is doing. We are working with our partners in BIA to provide certain medications to assist with combating the opioid issues. We are looking to all partners to address the issue.

Senator FRANKEN. I hope you will partner with tribes and the Indian community to develop effective culturally-based interventions.

Mr. BUCHANAN. Definitely, sir. We have actually established what we are calling the HOPE Charter Committee where we look at all these types of issues and come up with recommendations. We will definitely be working with tribes going forward.

Senator FRANKEN. Thank you.

I am running over my time. Thank you, Mr. Chairman, for your indulgence. Thank you for calling this hearing. I hope we can do frequent oversight.

The CHAIRMAN. One of the things we talked about is we will have them all back probably by the end of July. We did ask for some timeframes on responses both in terms of what those responses are and implementation. I anticipate that we will have all of the witnesses and the GAO back by the end of July for a progress report.

Director Dearman, I brought up one case, a cyber attack, where money was taken from one the BIE schools, \$1.7 million. There was \$8 million in the account, so they could have gotten even more. Half a million was recovered, so the loss was \$1.2 million. What is being done to prevent that kind of thing happening in the future?

Mr. DEARMAN. Thank you, Senator.

We have actually initiated some training. We have to get down to the school level. I say we are going back to old school. We are going to actually start implementing training from the school level up. In the past, central office has controlled so much that we have not gotten down into the schools.

It was actually our Performance and Accountability Division monitoring program that actually discovered the funds. We have implemented a monitoring system that goes in and does monitoring from our schools. As we add positions to our organizational chart, we will build that even stronger, not actually add positions, but hire positions into our organization. This will strengthen our ability to go out and monitor our expenditures.

The CHAIRMAN. In 2014, the BIE Study Group report discovered that approximately 80 tribally-operated BIE schools retained approximately a total of \$125 million in unspent funds. The report cites a unique provision in the tribally-controlled schools Act that encourages schools to not spend funding they receive from the BIE and the Department of Education. What is going on? Why would they not be utilizing those funds? Can you explain that and what is being done about it?

Mr. DEARMAN. What will be done about that, sir, is as we increase our organization, when we start bringing on the positions within our organization, we are going to provide technical assistance with our tribally-controlled schools and their tribes to make sure that money is actually spent where it needs to go. That is what we can do moving forward.

The CHAIRMAN. Do you have an update on the current amount of unspent funds?

Mr. DEARMAN. No, I do not, sir.

The CHAIRMAN. You could get back to us with that?

Mr. DEARMAN. Yes, we will get back to you.

The CHAIRMAN. And a progress report in terms of what you are doing about it?

Mr. DEARMAN. Yes.

The CHAIRMAN. That completes my questions for right now.

Vice Chairman?

Senator UDALL. Thank you, Mr. Chairman.

Last year, the IHS began an agency-wide systems improvement effort now known as the Quality Improvement Framework. Admiral Buchanan, what kind of tribal input did the IHS seek when designating the framework?

Mr. BUCHANAN. Thank you for the question.

We went through tribal consultation before the framework was released in November of 2016.

Senator UDALL. How were the GAO's recommendations accounted for in its design?

Mr. BUCHANAN. They were taken into account for sure. Some of the priorities can be highlighted in those areas. I know the Committee is looking for organizational capacity and accountability. That is one of the main priorities within the framework.

Senator UDALL. Admiral, I know you are in an acting position until the IHS director is confirmed. Until then, I am concerned that the framework will stall and much needed improvements will fail to be implemented.

Is IHS currently implementing the Quality Improvement Framework?

Mr. BUCHANAN. IHS is currently implementing the Quality Framework but I want to assure you that even though I am in an acting capacity, I take that first piece of acting as act and do something. That is what we are doing. We are not waiting for a person to be confirmed. We are moving forward because we cannot wait because it is patients we are seeing. That is the focus of everything that we do.

Senator UDALL. How is it working, the Quality Improvement Framework?

Mr. BUCHANAN. As mentioned earlier, the wait time issue brought up earlier, we are addressing that. That is part of the Quality Framework, one of the priorities within the framework.

In my testimony, there were some credentialing initiatives that we have undertaken. We made that award and that will be rolling out very, very soon. We are using some pilot sites to roll that out.

We are also making sure accreditation of our facilities, another piece of the Quality Framework, is being addressed. We are specifically working with one organization to accredit our hospitals throughout IHS.

Senator UDALL. Admiral, would you recommend to the new leadership that the framework continue?

Mr. BUCHANAN. Yes, sir, I would. It is a framework that can modify and morph over time specific to the needs, a living document, but with five priorities in place, it is a good framework.

I want to leave whoever is the confirmed IHS Director a working document, a working health care delivery system going forward that they can take and move forward with the GAO's and OIG's recommendations.

Senator UDALL. Thank you.

Thank you, Mr. Chairman. Mr. Chairman, are you doing one more round?

The CHAIRMAN. No, I am finished.

Senator UDALL. Okay. I just want to do one more question with Tony Dearman.

BIE is in the middle of an administrative reorganization set in motion during Secretary Jewell's tenure. Mr. Dearman, as I am sure you are aware, Indian Country has concerns with how this reorganization is being implemented.

Would you recommend the reorganization continue as mandated or are there changes in the works?

Mr. DEARMAN. Thank you, Senator. We are moving forward with the reorganization that is in place. We have tried to get out and visit with the tribes. I have actually been visiting with some of the Lieutenant Governors and Governors of some of the Pueblos.

If there are concerns, we would ask, please contact us and we will sit down with people and explain and answer any questions. If there are any changes that come along with the reorganization, it will be through consultation.

Senator UDALL. How will you engage with tribal stakeholders and the GAO to improve BIE's reorganization efforts and increase transparency?

Mr. DEARMAN. A very good question. As you are aware, not one size fits all in our tribal capacities and even in our schools. In rolling this out and developing GAO-15-121, we will actually be talking to the tribes and looking at different situations because it is not just going to cover our BIE-operated schools; it has to cover and support our tribally-controlled schools as well. It has to cover a wide range of different schools, settings and tribes.

Senator UDALL. Melissa, what improvements would GAO make to BIE's reorganization efforts?

Ms. EMREY-ARRAS. We do not have any particular position regarding BIE's reorganization but we think at the end of the day, children need to be in safe facilities. However way that is accom-

plished, we would be delighted. At this point in time, that is not the case.

Senator UDALL. Thank you.

Mr. Chairman, this is not a question but I would just like to emphasize that from many of the Senators who showed up today you hear a frustration and wanting things to operate a lot better in Indian Country, whether education, health care, energy or all the various areas.

I just want to say the GAO listing this as a high risk opportunity is a chance for us to work together to work with the new people that come in the next Administration and say, we are going to get this done and move this forward.

I hope you get the signal from us, not only is there criticism, but we are going to do everything we can in our roles to try to encourage everyone to set goals, implement, get things done, and improve this situation.

Thank you very much.

The CHAIRMAN. I think that is right, Vice Chairman Udall.

For all three of you, we are going to have you back in approximately several months, say by the end of July. We will look for specific progress on the items brought up today. We will also ask the GAO to come because we are going to want you to work with us as we track this on, I would say, a relatively frequent progress report basis. I would say at our next hearing, we will decide how that is working and the next steps.

Ms. Emrey-Arras?

Ms. EMREY-ARRAS. To that end, I would also like to let the Committee know we have two additional reports related to school safety issues coming out next week. We would also be happy to share additional information on that new work with all of you.

The CHAIRMAN. Good. We will look forward to that and obviously make that a part of our process here.

If there are other recommendations on how to proceed, as the Vice Chairman and other Senators said, we want to make sure we are making progress and tracking progress.

With that, if there are no more questions, members may submit follow-up questions for the record. The hearing record will be open for two weeks.

Again, I want to thank all of you for being here today. We look forward to working more with you to make progress on these very important issues.

With that, we are adjourned. Thank you.

[Whereupon, at 4:25 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF THE NATIONAL INDIAN EDUCATION ASSOCIATION (NIEA)

Introduction

Thank you for this opportunity to submit testimony regarding the Committee's May 17, 2017 hearing on the Government Accounting Office High Risk Report (GAO-17-317 High Risk Series). Founded in 1969, the National Indian Education Association (NIEA) represents Native students, educators, families, communities, and tribes, advocating for improved educational opportunities that enable Native students to thrive in the classroom and beyond.

The Problems Did Not Develop—and Cannot Be Fixed—Overnight

First and foremost, we all must acknowledge that the problems identified in the Government Accounting Office High Risk Report (Report) and discussed at the hearing were not created overnight and they will not be solved overnight. Generations of neglect have resulted in Bureau of Indian (BIE) school systems that exist today. The systems for construction and maintenance of BIE schools, operations, and staffing are just a few of the ongoing areas that need significant improvement.

A number of the areas that the GAO identified as needing reform are areas that involve the BIE responsibilities, operations, and staff.¹ Some BIE schools have never been adequately built. Others have often not received the maintenance funding they need, and have become dilapidated as a result. BIE schools also face enormous challenges regarding staffing and operations.² Employees are often not placed in positions for which they have the necessary skills. BIE lacks staff with the expertise required to oversee school expenditures.³ Other challenges for paying expenses and operations can be attributed to the fact that BIE must coordinate with the Bureau of Indian Affairs, which operates on a different fiscal year and with different reporting systems for audits, for example.

Solutions to address the problems created from long standing neglect will not be found in quick fixes. Long term tribal engagement will be necessary. Sustained, meaningful community engagement will be necessary for Native communities to trust schools that have previously excluded Native caregivers from engaging with BIE schools. The Reform that is currently underway represents this—developed from direct tribal input, the current reorganization is an effort to address the long-term problems in a systemic way. These efforts must be supported and continued through to completion.

The Trust Responsibility for Native Education as it Relates to BIE Reform

Established through treaties, federal law, and U.S. Supreme Court decisions, the federal government's trust responsibility to tribes includes the obligation to provide parity in access and equal resources to all American Indian and Alaska Native students, regardless of where they attend school. The federal government's trust responsibility in the field of Native education is a shared responsibility between the Administration and Congress for federally recognized Indian tribes.

With respect to BIE Reform, the trust responsibility requires schools that enable Native students to succeed. That means no leaking roofs, open floors, air and heating systems that do not work. It means that Reform must be completed and it must be supported by Congress to make sure BIE serves Native students well.

¹ See GAO, High Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others, GAO-17-317 (Feb. 2017)

² See GAO, Indian Affairs: Better Management and Accountability Needed to Improve Indian Education, GAO-13-744 (Sept. 2013).

³ See e.g., GAO, Bureau of Indian Education Needs to Improve Oversight of School Spending, GAO-15-121 (Nov. 2014).

The Status of Reform and the Resources Necessary

Over the last five years, the GAO has found numerous challenges to the administration of BIE, staffing, and school construction. The BIE Reform was undertaken in 2014 to address these problems. Today, BIE is still struggling with numerous issues. Staffing continues to be a problem. Numerous vacancies in the BIE have been delayed, leading to vacancy rates of up to 9 percent in 2017. NIEA is concerned that the BIE must have the authority and resources to fill vacancies.

In addition to staffing, school construction continues to be a challenge for the BIE. Over 60 BIE schools are still currently rated in “poor” condition, and construction issues continue to put Native students at an educational disadvantage. With respect to the specific discussions at the May 17th Senate Committee on Indian Affairs hearing, we agree with the urgent need for a long-term school replacement plan that would set out priorities for school construction and replacement over the next 40–60 years and that would include a plan for adequate maintenance funding. We would note, however, that Congress must partner with BIE and the tribes to get the plan done, and then to implement it.

Accountability

NIEA also knows that accountability, in addition to funding, is required to ensure that BIE’s funding is used to effectively and efficiently improve the educational opportunities of Native students. We respectfully would like to urge that increased oversight over BIE by Congress is a necessary part of shared accountability. The accountability that the GAO reports and this Senate Committee on Indian Affairs brought has helped reveal problems and spurred BIE forward. NIEA asks the Committee to continue that critical, active oversight role.

Accountability also extends to fairness with respect to Native schools receiving the resources that Department of Defense schools receive. There are only two educational systems for which the federal government is directly responsible: Department of Defense (DOD) schools and federally operated and federally funded tribal schools. BIE schools, however, lag far behind DOD schools in funding, school construction, and student achievement. While DOD schools are being renovated and remodeled, schools within the BIE system are woefully outdated and, in some cases, dangerous for students and staff. As America’s most vulnerable population, Native students should have equal access to resources and opportunities. Congress should fulfill its responsibility to Native students by remedying the disparities between these two federally operated school systems.

Next Steps to Achieve Results

NIEA continues to be generally supportive of BIE Reform. We agree with the GAO’s insights and support Director Tony Dearman’s testimony at the hearing. We see incremental progress and believe the Committee should recognize progress as well.

At the same time, we urge transparency in the design and execution of the Reform in order to include tribal participation, facilitate congressional oversight, and ensure that reform fulfills the federal government’s trust responsibility regarding delivery of trust- and treaty-based educational rights. See NIEA Resolution # 2016–E02 and #2014–11 attached.

We have three recommendations regarding how Reform can be undertaken in a way that honors the Federal Government’s responsibilities, respects the government-to-government relationship between tribes and the United States, and achieves much-needed progress regarding our Native students’ education.

Keep the BIE within the Department of the Interior

Although reform is needed, it continues to be essential that Native education remain the purview of the BIE and that BIE remains housed within the Department of Interior, which has extensive experience carrying out the United States’ trust responsibility. Tribal leaders have repeatedly stated that the BIE should stay within the Department of Interior. NIEA joins tribes in strongly opposing any effort to move Native education to the Department of Education. However, we look forward to follow-up hearings to determine what the BIE and the Department of Education are doing to work together to address the needs of Native students.

Follow-up with Hearings with Both BIA and BIE Officials

As stated, over 60 BIE schools currently rated in “poor” condition. Native children are learning in buildings that are crumbling around them. We appreciate the attention that has been paid to the dilapidated Bug-O-Nay-Ge-Shig school. This school is, unfortunately, representative of the significant problems facing schools that linger on the BIE’s school construction list. Additional funds for facilities and maintenance are desperately needed so that the BIE can reduce the construction and re-

pair backlog, addressing schools in the order they appear on the BIE construction list so that schools that have long awaited facilities funding will not continue to be neglected. We also urge the completion of the long-term school replacement plan and increased oversight over school construction funds to ensure the effective administration of federal funds.

Continue Oversight of Reform

As NIEA has previously stated, and has expressed in Resolution # 2014–11 and more recently in #2016–E02, continued congressional oversight over the BIE reform process is necessary. As the reform moves forward to completion, details of the reform should continue to be made public, tribal input should be prioritized, and congressional oversight should continue.

Conclusion

We thank the Committee for holding this oversight hearing. It is precisely hearings and oversight like this that has and will help address the concerns included in this. We urge Congress and the Administration to use this opportunity to work closely with tribes, who must be central to better serving students attending BIE schools. Finally, we firmly believe that self-governance in education is the answer to the current crisis in the Native education system: Tribes have demonstrated time and time again that we are better equipped to address the needs of our own peoples.

Working together, with mutual commitment and bipartisan support from Congress, we continue to believe that the best way forward is to both hold BIE accountable and invest resources to further tribal self-determination in education and deliver Native students the education they need to succeed.

Attachments

NIEA RESOLUTION 2016–E–02

RELATING TO LEGAL AND POLICY ISSUES CONCERNING THE REORGANIZATION OF THE BUREAU OF INDIAN EDUCATION (BIE) TO PORTIONS OF ITS IMPLEMENTATION

WHEREAS, the National Indian Education Association (NIEA) was established in 1970 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives, and Native Hawaiians, and provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

WHEREAS, the BIE is currently in the process of reorganizing its structure in such a way that violates various provisions of the governing statute, namely the organizational and operational provisions of PL 95–561; and

WHEREAS, in spite of numerous efforts from members of this organization directly involved with BIE education programs at the local and tribal level, the BIE is going forward with its reorganization without responding to the concerns of the tribal entities in violation of the consultation requirements of 25 USC 2011; and

WHEREAS, the organization changes proposed by the BIE undermines the role of local and agency school boards and confuses the lines of authority within BIE, and BIE ignores specific GAO reports that have made specific recommendations concerning the organizational deficiencies of BIE, such recommendations have been endorsed by the Congressional appropriations committees; and

WHEREAS, the instructional improvement oriented policies embedded in the reorganization could have easily been implemented with a major restructuring that does not violate the law.

THEREFORE BE IT RESOLVED, that the National Indian Education Association passed resolution 2014–11 on BIE implementation in 2014 and seeks to make sure BIE is accountable and serves Native students optimally through its organizational structure; and

BE IT FURTHER RESOLVED that on behalf of its member constituents, NIEA renews our requests for a thorough legal and policy review of the BIE reorganization prior to any further implementation; and

BE IT FURTHER RESOLVED that within the next two weeks, NIEA take action to implement this resolution; and

BE IT FINALLY RESOLVED that this resolution shall be the policy of NIEA until it is withdrawn or modified by subsequent resolution.

C E R T I F I C A T I O N

I do hereby certify that the following resolution was duly considered and passed by the National Indian Education Association on October 7th, 2016 at which a quorum of the membership was present.

Patricia Whitefoot, President

NIEA RESOLUTION 2014-11

TITLE: SUPPORT FOR CONGRESSIONAL OVERSIGHT CONCERNING THE BUREAU OF INDIAN EDUCATION RESTRUCTURING AND BLUE PRINT FOR REFORM

WHEREAS, the National Indian Education Association (NIEA) was established in 1970 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives, and Native Hawaiians; and

WHEREAS, NIEA, as the largest national Indian organization of American Indian, Alaska Native, and Native Hawaiian educators, administrators, parents, and students in the United States, provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

WHEREAS, through its unique relationship with Indian nations and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Natives, and Native Hawaiians, residing on and off their reserved or non-reserved homelands; and

WHEREAS, the Obama Administration has asserted broad executive authority in implementing the U.S. Department of the Interior Secretarial Order to Transform the Bureau of Indian Education (BIE) as based on recommendations of the American Indian Education Study Group's Blueprint for Reform; and

WHEREAS, there is broad based concern throughout Indian country, and with treaty tribes in particular, that the BIE realignment is creating statutory conflicts and being implemented without a congressional authorization and without congressional oversight; and

WHEREAS, The Secretary of the Interior Sally Jewell has not appeared before the Senate Committee on Indian Affairs to provide details concerning the BIE restructuring, nor has the Secretary provided congressional appropriations committees with a detailed budget request to pay for the restructuring; and

WHEREAS, Administration officials have erroneously testified to the Senate Committee on Indian Affairs that there is no opposition from Indian country concerning the Blueprint for Reform; and

WHEREAS, to meet the Federal Government's continuing trust responsibility and assess measurable trust standards in the field of Indian education including the entire trust corpus for treaty-based educational rights delivered through the BIE, it is essential that committees of jurisdiction in both the U.S. House of Representatives and U. S. Senate provide congressional oversight on executive actions concerning the BIE;

NOW THEREFORE BE IT RESOLVED, that the National Indian Education Association directs the Board and Executive Director to request a congressional investigation into the Bureau of Indian Education restructuring and Blueprint for Reform to ascertain if the Secretarial Order creates a statutory conflict and to document Department of the Interior proposed offsets to pay for the restructuring; and

BE IT FURTHER RESOLVED, that the National Indian Education Association directs the Board and Executive Director to request oversight hearings by the Senate Committee on Indian Affairs and House Education and Workforce Committee and House Committee on Natural Resources and other appropriate congressional committees regarding the Bureau of Indian Education restructuring and Blueprint for Reform.

C E R T I F I C A T I O N

I do hereby certify that the following resolution was dully considered and passed by the National Indian Education Association on October 18, 2014 at which a quorum of the membership was present.

Melvin Monette, President

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO
MELISSA EMREY-ARRAS

Question 1. The findings from the Government Accountability Office we're exploring today come as no surprise but are still damning. As Ms. Emery-Arras testifies, "Interior and HHS have ineffectively administered and implemented Indian education and health care programs and mismanaged Indian energy resources" in a handful of important areas. By most estimations, this is a failing grade. Ms. Emery-Arras, exactly how many recommendations has GAO made to the respective agen-

cies represented here on the witness panel- BIE, BIA, and IHS-that have not yet been implemented?

Answer.

Education

We have made 23 recommendations to Indian Affairs that remain open, including 12 recommendations in 2 reports on Indian school safety and construction issued on May 24, 2017.

Energy

We made 14 recommendations to BIA that have not yet been implemented.

Health care

We have made 13 recommendations to IHS that have not yet been implemented. We have also made one Matter for Congressional Consideration that remains unaddressed.

Question 2. And how long has it been since these recommendations were made?

Answer.

Education

Of the 23 recommendations on Indian education that remain open, 3 were made in 2013, 4 were made in 2014, 4 were made in 2016, and 12 were made in 2017.

Energy

The 14 recommendations were made in 3 reports issued between June 2015 and November 2016.

Health care

Of the IHS recommendations that remain open, 2 were made in 2011, 3 were made in 2012, 4 were made in 2013, 2 were made in 2016, and 2 were made in 2017.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO MELISSA EMREY-ARRAS

Question 1a. The report discussed the importance of appropriate and level staffing, particularly the need to efficiently replace key personnel as vacancies become apparent. Currently, there are over 1,550 job vacancies across the IHS system. Staffing is an issue that needs to be seriously addressed by Congress and the Department. While the IHS did get an exemption from the Trump administration's federal hiring freeze to hire medical staff, the IHS is still restricted from hiring other critical hospital administration personnel.

As the department moves forward with identifying service gaps, does the GAO plan to analyze and report on the negative effect the Executive Order has on patient care in Indian country?

Answer. We are conducting ongoing work on the staffing vacancies at IHS. Within the scope of this work, we plan to take the hiring freeze into consideration when we analyze the information and draft our findings.

Question 1b. How did the GAO take into account the hiring freeze at the Department of Health and Human Services before making any of its recommendations? Was this information intentionally omitted? If so, why?

Answer. GAO's high risk report was based on findings and recommendations from reports on IHS that predate the hiring freeze. We are conducting ongoing work on the staffing vacancies at IHS. Within the scope of this work, we plan to take the hiring freeze into consideration when we analyze the information and draft our findings.

Question 2. When CMS or the department has found violations of patient care at the IHS operated facilities, how has the GAO investigated these findings? What action have you suggested and followed up on?

Answer. GAO does not follow-up on individual findings reported by CMS or HHS. For our report on IHS's oversight of quality of care (GAO-17-181), we reviewed evidence of IHS quality oversight, including findings from interim IHS audits, which we include in our report. For example, one such audit found defective lead aprons at an IHS medical facility, but IHS officials stated these deficiencies had been corrected. We also found that IHS did not have agency-wide measures for the quality of care in its facilities, and that IHS's oversight of quality was limited and inconsistent. We recommended that IHS 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.

Question 3. Outside of Las Vegas and Reno, Nevada is a very rural state. Many of our tribes and rural communities are hundreds of miles away from large urban areas. As the Tribal Chairman from the Shoshone-Paiute Tribes of Duck Valley told me in a meeting yesterday, their reservation is 100 miles in any direction to a non-IHS medical facility. If anyone, whether a tribal member or not, needs immediate medical care, often their only option is an IHS facility. That puts an incredible strain on the system. How does the GAO report take into account outlier situations like this? If not, why?

Answer. We have not come across this issue during the course of our IHS work.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO REAR ADMIRAL CHRIS BUCHANAN

Question 1. Many of the challenges experienced by IHS are a direct result of the poor funding status of Indian Tribes. How do your offices work regionally in identifying the needs in different states and regions?

Answer. The Indian Health Service (IHS) has a unique government-to-government relationship with American Indian and Alaska Native tribal governments and is committed to regular and meaningful consultation and collaboration with these Tribes. Consultation is considered an essential element for a sound and productive relationship with Tribes. It is IHS policy that consultation occurs when there is a critical event that may impact Tribes, new or revised policies or programs are proposed, or the IHS budget request and annual performance plan are being developed. This process is especially critical during the tribal budget formulation/consultation process.

The IHS manages multiple fiscal-year budgets on a regular basis. The IHS budget formulation process is comprised of annual forums for Indian Tribes to interact with the IHS to provide program priorities, policies, and budget recommendations. In order to ensure Tribes are able to provide meaningful input for the IHS budget request, the IHS follows a timeframe that coincides with the Department of Health and Human Services' budget schedule: (1) October—December: Each of the 12 IHS Areas hold budget formulation work sessions to provide technical assistance, identify local and/or regional health priorities; (2) February—March: IHS conducts a national IHS budget formulation work session that consolidates the work conducted at the Area level; (3) May—Tribes present national priorities and recommendations at the National HHS Tribal Budget Formulation and Consultation Session. The annual budget formulation and consultation process ensures the priorities and budget recommendations of IHS, tribal, and urban stakeholders are discussed and reviewed. In addition, IHS uses advisory committees to provide leadership, advocacy, and guidance to the Director on policy and program matters.

Question 2. In understanding best practices by IHS and self-governance Tribes, it has been pointed out to me that the health care system is often is working well for some of these communities. How is the IHS regional administration sharing best practices among Regional Directors?

Answer. The 2016–2017 IHS Quality Framework encourages regular, ongoing communications to share information about best practices across IHS. IHS has numerous mechanisms by which best practices are shared among different IHS Areas. The IHS National Councils, comprised of different professional specialties, meet and communicate regularly about challenges and best practices. Examples of these Councils include the National Councils of Chief Medical Officers, Nurse Leadership, Clinical Directors, Chief Executive Officers, Chief Clinical Consultants, Behavioral Health, Oral Health, Pharmacy, and Laboratory. Cross Council communication happens as needed and may be facilitated by and/or include Area and/or Headquarters leadership and staff. Councils meet in person annually at a National Combined Council meeting. In addition, Inter-Council Workgroups are formed to address cross-cutting issues such as Opioids, Suicide, or Workforce recruitment and retention.

Another mechanism through which IHS shares best practices throughout the system is through the IHS Clinical Support Center and the Telebehavioral Health Center of Excellence. This free education enables providers to learn and master new skills especially from rural and remote sites through a platform that easily connects with providers in low bandwidth areas and via mobile devices. Topics are wide-ranging such as Fetal Alcohol Spectrum Disorder, Trauma Informed Care, Utilizing Data with Dashboards, Leadership Training, Medication-Assisted Treatment for Chronic Opioid Use and many more.

IHS also collaborates with HealthInsight, which is a Quality Improvement Organization (QIO), and our hospitals to improve the health of American Indian and Alaska Native people by implementing and sharing best practices through the Partnership to Advance Tribal Health (PATH). The aim of PATH is to continuously improve the quality of care by implementing best health care practices and identifying other operational improvement needs. This three year initiative is being funded by the Center for Standards and Quality at the Centers for Medicare & Medicaid Services (CMS).

IHS continues to share best practices through the Improving Patient Care (IPC) Initiative. The Indian Health Service (IHS) launched the Improving Patient Care (IPC) program in 2008 to improve the quality of health care and to provide greater access to care for American Indians and Alaska Natives using the Patient Centered Medical Home (PCMH) model. Now, nine years after the launch, the IPC Program continues to provide training and technical assistance, supporting Indian health facilities to achieve success in improving patient access to care, implementing clinical quality enhancements and promoting patient satisfaction. You can learn more about IPC at <https://www.ihs.gov/ipc>.

Each year, the Department of Health and Human Services (HHS), IHS and Department of the Interior (DOI) Bureau of Indian Affairs (BIA) and Tribes host an annual Tribal Self-Governance Consultation Conference to share best practices, discuss policy issues, and conduct communication, education and outreach activities. The IHS Tribal Self-Governance Advisory Committee meets four times a year to share best practices and to advise the IHS Director on policy issues related to implementation of Title V of the ISDEAA. IHS partners with the Tribal Self-Governance Communication and Education Tribal Consortium which publishes a newsletter, *Sovereign Nations*, highlighting best practices. Lastly, the IHS Office of Tribal Self-Governance hosts a series of ISDEAA Title V trainings each year across the IHS Areas.

Question 3. Question on behalf of Chairman Ted Howard of the Shoshone-Paiute Tribe of the Duck Valley: "I understand that the Indian Health Service made a mistake in overestimating the amount required in fiscal year 2017 to fully fund contract support cost payments due Tribes under self-determination contracts and self-governance compacts. What explains this error, how much is needed in FY 2018, and what assurance can you give the Committee that going forward your estimates are accurate?"

Answer. The contract support costs (CSC) amount included in the FY 2017 budget was for a proposed reclassification of CSC to a mandatory appropriation at a specified funding level. Projecting future CSC funding need is dependent on several variables, including how many additional Tribes might choose to enter into ISDEAA agreements or to expand their current agreements. The intent was to estimate a level that was sufficient to cover any additional need arising from these unknown, variable factors. Moreover, the estimate of CSC need prior to the contract period often differs from the final, actual amount that will be negotiated after the end of the contract period; therefore, the final amount for FY 2017 cannot yet be determined. The IHS' request for FY 2017 was estimated to cover the full amount for each Tribe or tribal organization, which is not known until the end of their contract terms.

In the President's FY 2018 Budget Request for IHS, the CSC need projection is \$718 million and includes a proposal to maintain the indefinite, discretionary appropriation. This amount is based on continually updated data. The IHS remains dedicated to continually tracking and monitoring estimated and final CSC needs and working closely with Tribes to understand potential future needs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
REAR ADMIRAL MICHAEL WEAKKEE ¹

GAO Reports and Recommendations

Question 1. The Government Accountability Office (GAO)'s February 2017 High Risk Report noted 14 unresolved recommendations for the Indian Health Service (IHS).² Your testimony provided a broad overview of various improvement initia-

¹ Rear Admiral Chris Buchanan served as the Acting Director of the Indian Health Service at the time of this hearing. Since then, Michael D. Weakke assumed duties as Acting Director and is currently serving in this capacity.

² U.S. Gov't Accountability Office, GAO-17-317, High Risk Series: Progress on Many High Risk Areas, While Substantial Efforts Needed on Others, at 202 (2017).

tives currently underway at the Service but did not provide a point-by-point response explaining how IHS is addressing each of these unresolved recommendations. Please provide a summary and timeline of the Services' plans to address each of these unresolved recommendations.

Answer. IHS received fourteen recommendations from the GAO reports listed on the 2017 High Risk Report, which covered six years and seven reports. All recommendations remain open at this time. In early July and early August, IHS provided an update to GAO reflecting the current progress we are making for each recommendation and requested seven of the 14 recommendations be closed. As discussed with Committee staff during a formal briefing about the status of our work to address GAO recommendations on August 9, 2017, IHS has made significant progress and continues to work with GAO to close all recommendations.

The following table provides a summary of the open recommendations for each GAO report and indicates how many for which we have requested closure. Details about how IHS is addressing each recommendation follow.

SUMMARY OF OPEN RECOMMENDATIONS

GAO Report #	Report Title	GAO Official Recommendation Status	Total Remaining GAO Report Recommendations	Timeline to Completion
17-181	IHS: Actions Needed to Improve Oversight of Quality of Care	Open	1	09/30/2017 12/31/2017
			2	Requested Closure
16-333	IHS: Actions Needed to improve Oversight of Patient Wait Times	Open	1	12/31/2017
			2	TBD
14-57	IHS: Opportunities May Exist to Improve the CHS Program	Open	1	9/30/2017
			2	Requested Closure
			3	Requested Closure
13-553	IHS: Most AI/AN Potentially Eligible for Expanded health Coverage, but Action Needed to Increase Enrollment	Open	1	TBD
13-272	IHS: Capping Payment Rates for nonhospital Services Could Save Millions of Dollars for CHS	Open	1	Requested Closure
12-446	IHS: Action needed to Ensure Equitable Allocation of Resources for the CHS Program	Open	3	Requested Closure
11-767	IHS: Increased Oversight Needed to Ensure Accuracy of Data Used for Estimating CHS Need	Open	1	9/30/2017
			2	9/30/2017
Summary			14	

GAO-17-181: Actions Needed to Improve Oversight of Quality of Care

Recommendation 1. Ensure agency-wide standards for the quality of care provided in federally-operated facilities are developed, monitored over time, and enhancements are made to the adverse event reporting system.

Agency Progress: IHS named an Acting Deputy Director for Quality in 2016 and is implementing a system-wide dashboard of performance accountability metrics. The accountability dashboard incorporates the six dimensions of health, as identi-

fied in IOM's report, "Crossing the Quality Chasm: A New Health System for the 21st Century"—patient safety, care effectiveness, patient-centeredness, timeliness, care efficiency, and equity. IHS is also pilot testing a national Provider Credentialing System in four Areas, with the goal of fully implementing the system agency-wide by the end of CY 2017. The credentialing policy is being updated as well. IHS anticipates an award for a national hospital accreditation contract this year and best practices for an adverse event reporting system continue to be assessed by the agency.

Recommendation 2. Develop contingency and succession plans for the replacement of key personnel, including Area Directors.

Agency Progress: In December 2016, IHS developed contingency and succession plans, including skills gap analyses and appropriate developmental programs for the replacement of key personnel, including Area Directors. The December 2016 succession plans are currently being updated and will be updated on a semi-annual basis. In addition to the contingency and succession plans, IHS has developed leadership training academies for senior leaders. For example, staff rotations through IHS Headquarters provide additional training for senior level positions. A mentoring initiative for those who have recently been promoted to key leadership positions has been implemented. The agency has requested closure of this recommendation.

GAO-16-333: Actions Needed to Improve Oversight of Patient Wait Times

Recommendation 1. Develop and communicate specific agency-wide standards for patient wait times in federally-operated facilities and review experience with timeliness goals set as part of Improving Patient Care (IPC).

Agency Progress: IHS patient wait time standards were established in July 2017. A supporting policy document is being developed. IHS is developing a communications plan to inform and address questions from internal and external stakeholders. An implementation plan is also being developed which includes education, data collection, resources, monitoring, and target timelines. If sites experience challenges in meeting the standards, technical assistance will be provided through the Improving Patient Care (IPC) program. Additionally, since IHS federally-operated facilities currently collect patient wait time data at the Service Unit level, the IPC program, in collaboration with the IHS Office of Information Technology, is developing a reporting system to support monitoring patient wait time measures and evaluating progress at the Area and national levels.

Recommendation 2. Monitor patient wait times in federally-operated facilities and ensure corrective actions are taken when standards are not met.

Agency Progress: IHS is targeting the full implementation of Agency-wide standards for wait times by later this year including monitoring of the outcome data. IHS is developing an implementation plan which includes education, data collection, resources, monitoring, and target timelines. If sites experience challenges in meeting the standards and/or the target timelines, technical assistance will be provided through the Improving Patient Care program. This is consistent with the overall IHS objective to promote the Patient Centered Medical Home (PCMH) model of care within IHS ambulatory care facilities and the IPC focus on building quality improvement skills and knowledge within the IHS health care system.

GAO-14-57: Opportunities May Exist to Improve the CHS Program

Recommendation 1. Modify the claims payment system to separately track IHS referrals and self-referrals, revise GPRA measures so they distinguish between the two types of referrals and establish separate targets.

Agency Progress: IHS is modifying the data system to track separately IHS referrals and emergency self-referrals, where the notification requirement and all other requirements of the PRC regulations at 42 CFR 136 are met, and are subsequently authorized for PRC payment. We expect to be able to provide baseline reporting for CY 2017. IHS is currently researching industry standards and expects to have separate payment timeframe targets for these two referral types.

Recommendation 2. Improve the alignment between CHS staffing levels and workload by revising IHS current practices, where appropriate, to allow available funds to be used to pay for CHS program staff.

Agency Progress: The IHS did not concur with this recommendation because historically, Agency policy has been to use Purchased/Referred Care (PRC), formerly known as Contract Health Services (CHS), funds solely for the purchase of health care services. The agency has requested closure of this recommendation.

Recommendation 3. Proactively develop potential options to streamline program eligibility requirements.

Agency Progress: IHS disseminated information to patients about their coverage and ability to access care without obtaining a PRC referral. IHS hospitals have worked with the respective States to implement presumptive eligibility. The agency has requested closure of this recommendation.

GAO-13-272: Capping Payment Rates for Non-hospital Services Could Save Millions of Dollars for CHS

Recommendation 1. Should Congress decide to cap payments for physician and other non-hospital services made through IHS's CHS program, IHS should monitor the CHS program patient access in order to assess how any new payment rates may benefit or impede the availability of care.

Agency Progress: IHS developed an online PRC Rates Provider Tracking tool to monitor the access to physician and other non-hospital care. This tool enables PRC programs to document providers that refuse to contract for their most favored customer rate or accept the PRC rates.

IHS provided training to the Area PRC officers at a face-to-face meeting in December 2016 on how to use the tool. The tool went live in January 2017.

After capping PRC payment rates for non-hospital services, IHS and Tribes have realized a savings of more than \$139.7 million so far this calendar year. PRC savings through June 2017 are listed in the table below. All IHS PRC programs participate in the PRC payment rates; however, Tribes are not required to participate but may opt-in as stated in 25 U.S.C. 45aaa16(e). The additional savings enables IHS and tribal providers to deliver more and increase access to health care services.

IHS has requested closure of this recommendation.

Purchased and Referred Care Savings by Month—January—June, 2017—Federal and Tribal*

Month	Federal	Tribal	Total	YTD
JAN	\$6,127,595	\$120,168	\$6,247,763	\$6,247,763
FEB	\$9,328,068	\$781,264	\$10,109,332	\$16,357,095
MAR	\$24,002,806	\$2,890,466	\$26,893,272	\$43,250,367
APR	\$28,747,136	\$554,038	\$29,301,174	\$72,551,541
MAY	\$31,357,518	\$2,113,185	\$33,470,703	\$106,022,244
JUNE	\$28,840,636	\$4,876,569	\$33,717,205	\$139,739,449
YTD	\$128,403,759	\$11,335,690	\$139,739,449	

This data includes six (6) tribal programs.

GAO-13-553: Most AI/AN Potentially Eligible for Expanded Health Coverage, but Action Needed to Increase Enrollment

Recommendation 1. Prepare for the increase in eligibility for expanded Medicaid and new coverage options and the need for enrollment assistance and billing capacity by realigning current resources and personnel to increase capacity.

Agency Progress: In an effort to improve our enrollment efforts at the local level, IHS developed and disseminated a Business Plan Template and Template Description in 2013. IHS monitors use of the business plan through cascading performance elements in Area Directors' and CEOs' performance evaluations.

IHS sponsored national IHS Partnership Conferences in 2013 and 2016 that included patient registration and benefits coordination tracks that focused on outreach and education. The 2017 IHS Partnership Conference with IHS, tribal, and Urban Indian Organization Business Offices, PRC coordinators, health information management (HIM), and finance staff was held August 22–24. This hands-on training supports our front-line staff who are directly involved in the PRC, business office and HIM operations.

IHS also entered into cooperative agreements with the National Indian Health Board and National Congress of American Indians to conduct consumer outreach, education, training and T/A for Tribes and Tribal organizations related to options, enrollment, and exemptions. IHS hosted a patient registration and benefits coordination training in April 2017 focusing on outreach, education and assistance to patients regarding coverage.

GAO-12-446: Action needed to Ensure Equitable Allocation of Resources for the CHS Program

Recommendation 1. Use variations in levels of available hospital services in a formula for allocating CHS funds.

Agency Progress: Approximately half of the PRC funds are distributed through Indian Self-Determination awards and so are protected from unilateral reductions or

reallocation by the agency, absent one of the other circumstances set forth in 25 U.S.C. § 5325(b)(2) or 25 U.S.C. § 5388(d)(1)(C)(ii). IHS partners with tribal leaders in making PRC fund allocation decisions for directly-operated programs. The agency has requested closure of this recommendation.

Recommendation 2. Use actual counts of CHS users rather than all IHS users in a formula for allocating CHS funds that relies on number of active users.

Agency Progress: IHS partners with tribal leaders in making PRC fund allocation decisions for directly operated programs. Any future changes in allocation methods will undergo tribal consultation. The agency has requested closure of this recommendation.

Recommendation 3. Develop written policies and procedures to require Area offices to notify IHS when changes are made to the allocations of funds to CHS programs.

Agency Progress: IHS distributed guidance on PRC allocation of funds to Area directors and PRC officers in CY 2016. IHS directs Area directors through official PRC allocation of funds distribution memos. These memos are official procedural documents that become a part of the PRC policy chapter of the Indian Health Manual. The agency has requested closure of this recommendation.

GAO-11-767: Increased Oversight Needed to Ensure Accuracy of Data Used for Estimating CHS Need

Recommendation 1. Develop a written policy documenting how IHS evaluates need for the CHS program and disseminate it to Area offices and CHS programs.

Agency Progress: IHS is developing the specific policy and procedural guidance, which will be incorporated into the Indian Health Manual.

Recommendation 2. Provide written guidance to CHS 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.

Agency Progress: IHS plans to issue written policy and guidance to all IHS sites by September 30, 2017.

Question 2. GAO's High Risk Report notes that many implementation decisions are left to individual Area Directors to decide (e.g., allocation of Purchased-Referred Care funds among facilities, patient wait time standards, operation of IHS facility Governing Boards, etc.).³ How does IHS propose to improve quality of care across the entire system given the level of discretion left to Area offices?

Answer. IHS is working to standardize policies and procedures across the system. Area Office and Service Unit representatives have been included as members of the Quality Framework Steering Committee (responsible for implementation of system level improvements identified in the IHS 2016-2017 Quality Framework). IHS continues working to establish the Office of Quality Health Care under the Deputy Director of Quality Health Care. This office will continue the work of system level quality improvement and patient safety enhancement, ensuring sustainment of Quality Framework implementation and providing oversight and coordination of information sharing for quality and safety. This office will work closely with the IHS Quality Consortium to identify best practices, unify processes, and prioritize quality and safety initiatives and resources across the IHS system of care.

A Quality Accountability Dashboard Working Group was established by the Steering Committee to develop metrics that will allow oversight and management of compliance with policy and regulatory requirements that ensure quality and safety of care. IHS expects the measure definitions, data collection tool, and dashboard will be ready for use by August 31, 2017. The dashboard will enable Headquarters and Area Offices to have real-time visibility across the IHS system. This will facilitate implementation and monitoring of quality measures throughout the system over time. The success of this dashboard has also led to efforts to develop similar dashboard tools related to three other agency priorities: People, Partnerships, and Resources.

Additionally, a Patient Wait Times Working Group was established by the Steering Committee to develop standards for primary care patient wait times for appointments. The Working Group completed standard development in June 2017: 28 days or less for primary care, non-follow-up appointments and 48 hours for primary care urgent visit appointments. This standard was developed based on review of standards from Avera Health, Defense Health Agency, Veterans Health Administration, Institute for Healthcare Improvement, and a literature search from the National Library of Medicine (using Scopus) on April 21, 2017, and has been incorporated into

³U.S. Gov't Accountability Office, GAO-17-317, High Risk Series: Progress on Many High Risk Areas, While Substantial Efforts Needed on Others, at 209-214 (2017).

a measure for the Quality Accountability Dashboard so that it can be monitored routinely and improved.

In early January 2017, hospital Governing Board (GB) Bylaws for inpatient acute care hospitals were standardized across IHS. The goal of this change was to ensure a baseline of standards IHS-wide, while maintaining flexibility for the Areas and service units to accommodate needs specific to their locations and service populations. Bylaws must now include the following:

- Frequency of formal governing board meetings: At least twice per year, but may meet more often if desired/necessary to meet the needs of the service unit.
- Membership of governing board: The minimum number of GB members is determined by the Chair (Area Director) and ensures adequate representation of disciplines to carry out the required activities. All GB members have a vote and the majority of voting members must represent the Area Office and may also include similar representation from Service Units.
 - Due to the inherent federal functions of governing federal facilities, members of the Governing Board must be IHS federal employees/officers.
 - Tribal consultation is encouraged through CEO communications with tribal leadership, and tribal representatives may be invited to open forums or town hall meetings in order to provide input.
- Meeting Agendas: At a minimum, Governing Board meeting agendas must include the following elements:
 - Quality of Care—including quality improvement and quality assurance/compliance
 - Patient Safety
 - Hospital/Facility Operations

These three components were communicated to Area Directors for immediate incorporation into GB Bylaws for each hospital. Area Offices communicated these new requirements to their Service Units within their established channels and required verification of incorporation in respective GB Bylaws for reporting back to IHS Headquarters.

Question 2a. Does IHS have a consistent way to capture innovation/best practices within one service area and share those with other service areas?

Answer. The IHS Improving Patient Care (IPC) Program has been providing quality improvement support and guidance since 2008 for ambulatory care services. One of its primary goals is to assist IHS, Tribal and Urban Indian Health Programs with developing Patient-Centered Medical Homes. A component of the Program's process is to capture innovations and best practices for sharing with all participating locations.

Beginning in 2016, IHS also established a number of forums (in addition to the IPC Program) for networking among quality assurance and quality improvement staff at all levels of the agency. Quarterly lunch time webinars for Service Unit leaders to share lessons learned and best practices related to quality and safety have been on-going since June 2016. A Quality Managers Listserv has been established to communicate and share information among Headquarters, Area Office, and Service Unit quality assurance and quality improvement staff. Additionally, a monthly webinar series for Area and Service Unit Quality Managers is hosted by Headquarters Quality Framework Steering Committee staff for real-time communications and information sharing. These communications platforms reach wide and varied audiences at all levels, support a network of geographically isolated employees, and build unity of practice and purpose for quality improvement and patient safety.

IHS has continued its productive partnerships with the Premier Inc. Hospital Improvement and Innovation Network (HIIN) and HealthInsight New Mexico Quality Improvement Organization (QIO) with its Partnership to Advance Tribal Health (PATH). The Premier HIIN provides technical assistance and learning platforms to reduce Hospital Acquired Conditions and Readmissions. They coach hospital care teams and staff on best practices, lessons learned, and quality improvement activities aligned with these goals. The HealthInsight NM QIO and PATH are providing leadership development learning opportunities, care team effectiveness enhancement, patient safety resources, patient/family engagement technical assistance, and system level assessments. Engagement with both of these quality improvement entities is increasing opportunities to identify best practices and innovative solutions to improve quality and safety, and adds another layer of communication opportunities to share this information across IHS.

Question 3. GAO testified that inclusion on the biennial High Risk report often result in agencies receiving additional management resources from Department

leadership and the Office of Management and Budget (OMB). Has IHS seen increased engagement from the Department of Health and Human Services' (DOH's) Office of the Secretary or OMB since the High Risk designation? If so, please summarize any evidence of this increased engagement.

Answer. The Office of the Secretary and OMB are actively engaged with IHS in addressing the challenges identified by GAO in the High Risk report. For example, the IHS resources were prioritized in the FY 2018 budget request. Further, OMB and HHS have approved use of the Non-recurring Expenses Fund for IHS to meet key needs in facilities, Information Technology (IT) systems and medical equipment. Departmental and OMB staff have also toured field facilities, both IHS and tribally-run, engaging in discussions with tribal leaders, patients and other stakeholders about priorities and needs at the local health care delivery level. In addition, HHS has assigned personnel with specific expertise from other HHS operating divisions to assist IHS in addressing risk areas such as health services in the Great Plains Area (GPA).

Question 4. GAO also testified that staff and leadership turnover is an overarching issue facing IHS. How is IHS working to ensure all administrative duties are fulfilled in the face of frequent turnover?

Answer. At the local level, when employees provide notice of impending departure, IHS works to identify and designate staff to assume the duties until the position is filled. More globally, IHS uses position management data to identify and track vacancies across IHS to identify gaps in administrative functions and services and determine both immediate and long-term staffing and recruitment needs. In addition, the IHS Area and HQ offices have developed succession plans that will aid in identifying immediate, short-term, and long-term plans for ensuring staff develop the competencies to potentially serve in leadership positions on a temporary or permanent basis for when key leadership positions become vacant. IHS is also in the process of developing a staff transition planning tool for current leaders to provide key position information and institutional knowledge for incoming staff. Finally, IHS has developed a leadership training program to prepare high performing staff with leadership and administrative skills for their own developmental benefit, and also to provide IHS with a cadre of trained staff in the event of turnover.

Question 4a. Given these staffing challenges, how is IHS ensuring federally-operated, tribally-operated, and urban-Indian IHS facilities receive full support with medical, legal, and financial compliance requirements?

Answer. IHS continues to implement the Quality Framework launched in November 2016, which was developed to strengthen organizational capacity to improve quality of care, improve our ability to meet and maintain accreditation for IHS direct service facilities, align service delivery processes to improve the patient experience, ensure patient safety, and improve processes and strengthen communications for early identification of risks. Inherent in these objectives is ensuring compliance with medical, legal, and financial requirements.

A specific action aimed at assuring accountability is development of a system-wide dashboard of performance accountability metrics that will demonstrate aspects of compliance with various requirements, standards, policy, and guidance. IHS is working with its Area Offices and local community facilities to enhance financial reports, and estimation capabilities; and is exploring additional IT tools which can improve financial reporting, reduce time/effort involved in routine financial staff work, and ease the burden on managers at the local, Area, and Headquarters levels in accessing financial information and identifying mission critical issues.

Tribes that manage their health care programs under Indian Self-Determination and Education Assistance Act contracts and compacts are responsible for ensuring their programs' compliance with limited oversight by IHS. However, IHS provides technical assistance and offers some opportunities for tribal programs to participate in to assist them in addressing certain requirements. Urban Indian Organizations have responsibility for compliance for the programs included in their contracts and grants, and IHS has an oversight role to ensure they are carrying out the terms of the contracts and grants. In addition, Urban Indian Organizations are able to participate in some IHS activities to improve compliance such as training provided through the IHS Partnerships Conference.

Question 4b. How is IHS ensuring the Service's staffing efforts address the technical skills gaps (e.g., health systems administration) identified by GAO?

Answer. During the first quarter of FY 2017, the IHS conducted a skills gap analyses for key positions and developed appropriate level developmental programs for those positions. A leadership training program has been developed which includes Leadership Training Academies for senior level staff and individual development plans to improve the competencies and skills required for staff new to leadership

roles, including rotating staff through Headquarters to provide additional training in preparation for future placement in senior level positions.

An important part of the IHS leadership program includes succession planning for key positions and preparing staff to compete for leadership positions. Succession plans are updated semi-annually. In addition, IHS has initiated a mentoring initiative for those who have recently been promoted to key leadership positions. Best practices will be identified to expand these types of activities throughout IHS.

School-based Health Clinics

Question 5. According to your testimony, IHS supports nine direct-service and eight tribally-operated school-based health clinics. Where are these 17 clinics located, and what scope of medical services do they provide to the schools they serve?

Answer. Of the 17 school-based health programs, one is located in Alaska; four are located in New Mexico within the Albuquerque Area; two are located in Minnesota within the Bemidji Area; two are located in the Nashville Area, specifically in Mississippi and North Carolina; one program is located in New Mexico within Navajo Area; one program is located in Oklahoma; one program is located in Arizona within Phoenix Area; and five are located in Arizona within the Tucson Area.

The scope of health services provided at the schools varies and may include clinical services such as dental and pharmacy or behavioral health services or both types of services.

Question 5a. Is IHS aware of any tribal interest in expanding the number of these clinics to other schools and communities in Indian Country?

Answer. The IHS has provided school-based health services for many years. In general, both IHS and Tribes have been increasingly interested in expanding school-based health services and clinics to improve access to care for patients who may otherwise not have received services for a number of reasons (e.g., lack of transportation). Parents and school administrators have also been extremely supportive of these types of partnerships and collaborations.

Question 5b. Is IHS aware of any barriers that might prevent the Service from working collaboratively with Bureau of Indian Education (BIE) and tribes to open these more of these clinics?

Answer. In our experience working collaboratively with the BIE and Tribes, we have encountered challenges relating to obtaining parental consent forms, including those that must be signed by legal guardians, and obtaining space for the school-based health services.

Question 6. What relationship does IHS have with the BIE regarding the provision of medical services to Native students attending BIE schools and students living in BIE dormitories?

Answer. The Indian Health Service has had an on-going collaborative relationship with the Department of Interior's Bureau of Indian Education (BIE). For example, the Navajo Area Office has entered into partnership agreements with the BIE to provide services to Native students attending BIE Schools and students residing in BIE dormitories. Currently, there are seventeen partnerships in place with State, tribal, private and BIE schools located in Arizona and New Mexico. We are working on collecting additional data regarding the scope of services at all school-based health programs where Indian Health Service funded services are being provided to Native students.

Unused funds

On March 28, 2017, IHS issued a "Dear Tribal Leader" letter addressing concerns of whether the Service returns "a significant amount of unused money to the United States Treasury each year."⁴

Question 6a. For which specific activities/authorized uses did IHS have unused funds in FY2011? Please include a description of any statutory limitations that govern the use or repurposing of these unused funds.

Answer. Within the lump sum appropriation for the IHS Services account, \$3.8 million was returned to Treasury when the FY 2011 appropriated funds officially cancelled. Examples of activities included in the Services account include Hospitals and Health Clinics, Dental Health, Public Health Nursing, and other preventive and clinical services. This appropriation contained annual budget authority meaning that the budget authority was only available for new obligations during one fiscal year.—The default period of availability for appropriations, unless otherwise specified by Congress, is one year. Per OMB Circular A-11, annual budget authority can

⁴Letter from Chris Buchanan, Acting Director, Indian Health Service, to Tribal and Urban Indian Organization Leaders (Mar. 28, 2017) (on file with S. Comm. on Indian Affairs).

be obligated for the expenses of one fiscal year, followed by a five year expired phase during which time the budget authority is no longer available for new obligations but can be used only for adjustments to obligations incurred prior to the expired phase. At the close of that six year total period, the funds are considered lapsed and returned to the U.S. Treasury. This is standard budget execution practice for similar accounts government-wide.

Question 6b. How does the amount of IHS unused funds compare to the amount of unused funds returned by other agencies both within HHS and across the Federal Government as a whole?

Answer. IHS has not performed a comprehensive review of other agencies. It is important to note that program administration varies by agency and appropriation, and the purpose of the appropriation can be a significant factor in an agency's ability to expend the funds within the period of availability. For IHS, the service units/health programs providing direct patient care have the greatest flexibility for fully expending appropriated funds.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
MICHAEL BLACK

GAO Reports and Recommendations

Question 1. The Government Accountability Office (GAO)'s February 2017 High-Risk Report included several unresolved recommendations for the Bureau of Indian Affairs (BIA) to help ensure that Bureau of Indian Education (BIE) schools provide safe and healthy facilities for students and staff. GAO testified at this Oversight Hearing:

"As of April 2017, the agency had not provided documentation that the inspection information that its safety personnel collect and report to BIE schools is complete and accurate. In addition, our preliminary findings from ongoing work since February 2017 point to continued problems with Indian Affairs' oversight of safety inspections at BIE schools."

Despite these remaining Indian Education-related recommendations for BIA, your testimony focused exclusively on addressing the remaining Indian Energy-related GAO recommendations. Please provide a summary and timeline of the Bureau's plans to address each of these unresolved recommendations.

Answer. On July 17, 2017, and August 16, 2017, Indian Affairs (IA) and the Department of the Interior's Office of Financial Management provided GAO updates on progress on the BIE open recommendations. While none of the recommendations have been closed to date, GAO acknowledged the progress made and that some of the recommendations are close to full implementation.

Indian Affairs has taken the following actions to address the GAO recommendations concerning school safety:

- In FY 2016, 100 percent of the BIE schools were inspected, reports were issued and deficiencies were recorded for remediation.
- Performance standards for SES Regional Directors and safety personnel were revised in FY 2016 and FY2017 that added specific performance elements and measures to ensure safety inspections are performed annually.
- In FY 2017, Indian Affairs established a Safety Work Group to enhance the school safety program and engage all the stakeholders to ensure a successful Indian Affairs integrated safety program.
- In FY 2017, policy guidance and handbooks were issued and disseminated to all Indian Affairs personnel responsible for school safety and remediation of the deficiencies.
- Indian Affairs tracks monthly safety inspections performed and disseminates the progress to the BIE and BIA Director and Regional Directors.
- Indian Affairs is currently developing a mandatory course curriculum for personnel responsible for performing safety inspections.
- In FY 2017, BIE stood up their School Safety Office and is continuing to recruit for their vacant positions.

Question 1a. Has BIA established a process to routinely monitor the quality and timeliness of all school inspection reports? If so, please provide an explanation of this process.

Answer. The BIA will amend the 2017 safety performance standards for Safety Inspectors to comply with the standards in the recently updated Indian Affairs Safe-

ty, Health and Accessibility Inspection/Evaluation Guidelines and the Indian Affairs Fire Systems Inspection, Testing and Maintenance Guidelines.

In addition, the Division of Safety and Risk Management (DSRM), BIA, and BIE will develop and formally publish a comprehensive quality performance standard for inspection reports and develop a formal and uniform process of monitoring the quality of safety inspection reports.

The BIE and BIA, in coordination with the DSRM, will develop and implement comprehensive and uniform Performance Appraisal Plans for all Indian Affairs safety personnel in FY 2017, to include a component addressing the timeliness of safety inspection reports submission. The first-line supervisors will then hold employees accountable based on the timeliness data collected by DSRM.

Question 1b. What controls has BIA put in place to ensure that any high-risk safety and health deficiencies identified in school inspections are remedied in a timely manner?

Answer. Office of Facilities, Property, and Safety Management (OFPSM through the Division of Facilities Management and Construction (DFMC) coordinates with DSRM, BIA and BIE to identify high risk items included in safety inspection reports. Once identified, DFMC/OFPSM has supplemental funding programs (major and minor Improvement & Repair, Emergency, Fire, Environmental) that provide funding for correction of high risk safety and health deficiencies. DFMC/OFPSM, in coordination with DSRM, BIA and BIE, also prioritizes safety, health and accessibility deferred maintenance deficiencies for annual Improvement and Repair funding provided to the Regions and Sites. DFMC/OFPSM has an established contract for Condition Assessments that also identifies safety and health deficiencies and completes any outstanding abatement plans during site visits.

Question 1c. Please provide a summary of how BIA and BIE are working to improve inter-Bureau coordination on safety inspections, health and safety issue remediation, and operations/maintenance activities.

Answer. The BIE has worked closely across Indian Affairs, including with BIA, in recent months to address outstanding GAO recommendations and improve Bureau operations and service delivery in Bureau-funded schools. Upon GAO's identification of BIE as a high-risk agency, the Bureau coordinated efforts with Indian Affairs to prioritize accountability and oversight in order to address GAO recommendations, which will increase efficiency and effectiveness.

Indian Affairs is supportive of the BIE as the agency participates in joint work groups specifically created to address outstanding GAO recommendations, such as the Indian Affairs Safety Work Group that includes participants from BIA. The Work Group held two sessions this past summer as a means to increase coordination, develop policies and procedures, and address outstanding GAO recommendations. Through the Work Group, BIE and BIA staff, alongside DFMC and Indian Affairs, have worked together to ensure that safety inspections are 100 percent completed for the second year in a row as well as developing policies and procedures to make sure quality improves and that supports are in place to assist critical staff, such as safety inspectors. The work group will plan subsequent meetings for the fall to ensure progress continues to be made on coordinated work. Additionally, Indian Affairs has formed an initial work group to specifically address financial oversight across the agencies. This coordination will diminish bureaucratic inefficiencies and promote communication across Indian Affairs.

Question 2. GAO additionally testified that inclusion on the biennial High Risk report often results in agencies receiving additional management resources from Department leadership and the Office of Management and Budget (OMB). Has BIA seen increased engagement from the Department of the Interior's (DOI's) Office of the Secretary or OMB since the High Risk designation? If so, please summarize any evidence of this increased engagement.

Answer. Yes, as indicated in a previous response, the Department's Office of Financial Management has been involved in the July and August meetings with GAO. Also, on a monthly and quarterly basis, DIEA provides and discusses the status of all GAO and OIG recommendations with the Office of Financial Management. Additionally, representatives from the Department's Assistant Secretary for Policy, Management and Budget attended the July 17, 2017, meeting with GAO and IA senior leadership.

Question 3. Shortly following the conclusion of the May 17th Oversight Hearing, GAO released three additional reports regarding BIE education-related functions "Tribal Transportation: Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies,"² "Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects,"³ and "Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety inspections."⁴

Within these three reports, the GAO provided a total of 20 new recommendations to improve the delivery of education to BIE students. Please provide a summary and timeline of the Bureau's plans to address each of the 20 recommendations directed at BIA.

Answer. BIA provided a 60-day report to GAO and members of Congress on August 9, 2017, describing how BIA will partner with stakeholders in implementing each of the recommendations and detailing the timelines (including dates and responsible persons) for addressing each of the recommendations. BIA is also coordinating with the Federal Highway Administration (FHWA) and Tribal Transportation Program Coordinating Committee (TTPCC) on the proposal for addressing recommendations and responses.

Question 3a. Please provide a summary of the efforts BIA is undertaking to work with BIE, and DOI's Office of the Secretary, and OMB to ensure the remaining recommendations from these three reports are addressed in a timely, effective manner.

Answer. OFPSM is coordinating with DSRM, BIA and BIE to update policies, guidelines, performance plans and provide training for site personnel in Safety & Health, Accessibility, O&M services/activities, Improvement & Repair and other supplemental program funding guidelines and requirements. Training sessions have been posted on relevant websites for access by anyone needing training or for refresher training.

Staff and Leadership Turnover

Question 4. When asked about any continuing limitations placed on hiring by Administration leadership, you testified that the BIA and BIE are subject to certain hiring restrictions depending on vacancy grade-level and location. How many total vacancies does BIA currently have? And, what is the breakdown of these vacancies by type (location, grade level, and function)?

Answer. The Office of Human Capital Management office has identified 1,003 vacancies BIA-wide, as of August 15, 2017 (see spreadsheet).

Question 4a. What, if any, limitations put in place by the White House, OMB, or DOI's Office of the Secretary exists regarding BIA's ability to fill these vacancies?

Answer. The Departmental Hiring Controls currently allow for the filling of vacancies at the GS-1 1 grade level and below located outside of the Washington, D.C., and Denver, Colorado, metropolitan areas. Hiring for all positions in the Washington, D.C., and Denver, Colorado, metropolitan areas is allowed with the granting of a waiver by the Secretary's Office.

Question 5. In its 2017 High Risk Report, GAO identified workforce planning- including frequent turnover and high vacancy rates- as an overarching issue facing Indian Affairs. For example, several tribally operated BIE schools have informally reported to this Committee that staffing turnover and vacancies at Education Resource Centers make it difficult to receive timely assistance with reporting and compliance questions. How is BIA working to ensure all administrative duties are fulfilled in the face of these workforce challenges?

Answer. During workforce planning efforts to address administrative duties and technical skill gaps, the BIA conducted a wide-spread review of components on optimal human capital levels required in relation to the services provided; gaps in talent and performance requirements; critical skills, functions and occupations to retain; and positions that should/could be eliminated or restructured/re-staffed to meet BIA's incremental goals of downsizing and reducing unnecessary processes and overlapping and redundant authorities/controls. As a result of the review, the BIA identified a need to restructure the organization to achieve near-term workforce reductions and allocate the resources where the needs are greatest. The BIA plans to consolidate programs and functions; realign functions to improve efficiency by eliminating overlapping responsibilities from central offices and other units where appropriate; relocate or reassign personnel to different duty stations and program areas; streamline supervisory staff restructure positions to correct skill imbalances and/or develop leadership; eliminate positions and functions that are redundant and obsolete as a result of automation and changing job competency requirements; utilize career ladder positions to establish a balanced workforce; and reduce grade levels throughout all locations across all the organization. To implement some of these changes, the BIA is also requesting the authority to offer Voluntary Separation Incentive Payment (VSIP) and Voluntary Early Retirement Authority (VERA). These actions and use of these authorities will allow BIA to implement and transition to more efficient Regional Office operations along with facilitating the effective delivery of services to our customers. They will allow the agency to achieve more efficient alignment of mission related operations and more consistent management of services across the organization.

Question 5a. How is BIA ensuring the Bureau's staffing plan address the technical skill gaps (e.g., real estate management) identified by GAO?

Answer. The BIA conducted a wide-spread review of components on optimal human capital levels required in relation to the services provided; gaps in talent and performance requirements; critical skills, functions and occupations to retain; and positions that should/could be eliminated or restructured/re-staffed to meet BIA's incremental goals of downsizing and reducing unnecessary processes and overlapping and redundant authorities/controls. As a result of the review, the BIA identified a need to restructure the organization to achieve near-term workforce reductions and to focus resources where the needs are greatest. As a result, the BIA plans to consolidate programs and functions; realign functions to improve efficiency by eliminating overlapping responsibilities from central offices and other units where appropriate; relocate or reassign personnel to different duty stations and program areas; streamline supervisory staff; restructure positions to correct skill imbalances and/or develop leadership; eliminate positions and functions that are redundant and obsolete as a result of automation and changing job competency requirements; utilize career ladder positions to establish a balanced workforce; and reduce grade levels throughout all locations across all the organization. To implement some of these changes, the BIA is also requesting the authority to offer Voluntary Separation Incentive Payment (VSIP) and Voluntary Early Retirement Authority (VERA).

Energy

Question 6. While BIA acknowledged in its testimony that "a survey is an important step in developing a full inventory of trust resources," it also conceded that the federal government has not yet fully surveyed all Indian reservation lands. The BIA stated that "cadastral survey inventories are being evaluated and FY17 survey requests have been approved for funding and completion by BLM." Has BIA identified the extent to which trust lands do not have accurate surveys?

Answer. While there is no inventory of unsurveyed lands, we know that there are significant areas of Indian lands that have not been surveyed, such as the Navajo reservation and certain tribal lands within the Eastern Region's jurisdiction. We have an inventory of survey needs identified by the BIA Regions in coordination with BLM, that are the result of proposed real estate development projects, zoning, trespass issues (boundary establishment), litigation needs and legislative mandates.

Question 6a. Does BIA know what resources are needed to complete these surveys?

Answer. Funding for the line item that covers Real Estate Services (RES) projects, including cadastral surveys, is \$2.7 million. Our inventory of survey needs includes surveys for approximately 5,000 projects. Funding is also required to fulfill BIA's trust responsibility and Fiduciary Trust Model components: BLM Indian Land Surveyor program, Certified Federal Surveyor program, Enhance Public Lands Survey System in Indian Country, and development of a cadastral-based geographic information system.

Question 6b. Please list and describe the FY17 survey requests that have been approved for funding and completion by BLM.

Answer. BLM has approved for funding and completion the surveys mandated by the Nevada Native Nations Land Act (NNNLA), which required the new trust lands (70,000 acres) for the tribes involved in the NNNLA to be surveyed in 18 months (i.e., by the end of FY18).

Question 7. When asked about GAO's finding that BIA did not have a documented process or the data needed to track its review and response times, the BIA stated that its experts are working to modify TAAMS. BIA further explained that these modifications may incorporate "the key identifiers and data fields needed to track and monitor review and response times for oil and gas leases and agreements." BIA mentioned taking steps to track and monitor oil and gas leases and agreements. Is the agency also taking steps to track and monitor other energy-related documents that must be reviewed by BIA, such as ROW agreements?

Answer. Yes. Rights-of-way are being tracked and monitored, a process that was implemented on April 21, 2016, the effective date of the revised 25 CFR Part 169 regulations. The revised Part 169 regulations impose deadlines for BIA action on requests for rights-of-way.

Question 7a. Is the agency taking steps to track and monitor documents related to environmental reviews, like those associated with the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act?

Answer. The agency tracks environmental reviews under NEPA through the NEPA Tracker, a central repository for tracking NEPA Actions across the organization. The system standardizes the NEPA action tracking process, improves data call

efficiency, makes the NEPA action process more transparent, improves NEPA Action data analytics, and minimizes impacts of data calls. NEPA Coordinators are required to enter all NEPA Actions into the NEPA Tracking System, effective September 1, 2012.

Question 8. The BIA also stated that it is in the process of evaluating and reviewing the current realty tracking system and TAAMS to improve efficiencies and timeliness in processing workloads. Yet, because multiple entities within the Department must review modifications to data systems, BIA intends to ask GAO for an extension of time to address this recommendation. With what other entities must the Department coordinate when reviewing the proposed modifications?

Answer. TAAMS enhancements are programmed and implemented after approval by the TAAMS Change Management Board. The Board has authority to approve the change. If, however, the enhancement is a major development, it must be approved by the Department's Chief Information Officer.

Question 9. The GAO recommended that DOI provide additional energy development specific guidance on provisions of TERA regulations that tribes have identified to the Department as unclear.⁶ The BIA testified that the Department, through the Office of Indian Energy and Economic Development, will issue guidance on those provisions of TERA that tribes identified as unclear. Will the guidance include clarification for "inherently federal functions"?

Answer. The Office of Indian Energy and Economic Development (IEED) has placed on its web site for tribal review a description of the technical assistance it will furnish tribes that are interested in programs, functions, services and activities (PFSAs) associated with the TERA regulations that Tribes can contract for under the Indian Self-Determination and Education Assistance Act, and PFSAs associated with the TERA regulations that the Interior Secretary must perform: <https://www.bia.gov/as-ia/ieed/division-energy-and-mineral-development/tribal-toolbox/demnd-and-office-of-solicitor>

To further clarify the TERA approval process, IEED plans to collaborate with the Department's Office of the Solicitor during calendar year 2018 to publish as part of IEED's ongoing online series "Tribal Economic Development Principles at a Glance," a primer on the TERA approval process.

Past IEED primers can be accessed at; <https://www.bia.gov/as-ia/ieed/online-primers-economic-development-glance>.

Question 9a. What other provisions does the Department intend to include in the proposed guidance?

Answer. Because "inherently federal functions" can only be defined on a case-by-case basis, it is not possible to compile any kind of list of these functions or provide meaningful examples. IEED is inviting tribes to query the office on these issues as they arise from real-world circumstances. The GAO report also identifies as "unclear" what happens when tribal regulations enacted pursuant to a TERA conflict with federal regulations. TEED would work with the Solicitor to provide a response based on the particular circumstances of each specific inquiry on this matter.

ENDNOTES

1 U.S. Gov't Accountability Office, GAO-17-317, High Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others (2017).

2 U.S. Gov't Accountability Office, GA0-17-423, Tribal Transportation; Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies (2017).

3 U.S. Gov't Accountability Office, GA0-17-447, Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects (2017).

4 U.S. Gov't Accountability Office, GA0-17-421, Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections (2017).

5 U.S. Gov't Accountability Office, GA0-17-317, at 216.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO TONY DEARMAN

Question. Mr. Dearman, in your testimony, you set mid-2019 as a goal to implement two recommendations from a 2014 report, which is five years later. What is the holdup?

Answer. These recommendations should have been addressed in a more timely fashion. Since taking leadership of the Bureau of Indian Education (BIE) in November 2016, I have assessed our Government Accountability Office-related work to date. BIE leadership has not been satisfied with either the quality or the timeliness

of the work performed to analyze the GAO recommendations. As a result, I have directed BEE senior leadership to prioritize implementing all outstanding GAO recommendations as quickly as possible. While I understand the timeframe for comprehensively addressing BIE's outstanding GAO recommendations, including the recommendations you highlight, has been extended, I believe it is prudent that the bureau continue to work toward timely and effectively addressing GAO's recommendations and we are doing so, as discussed in my testimony for this hearing.

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

Question. As you may know, Nevada has two BIE schools: Duckwater Shoshone Elementary School and Pyramid Lake Junior/Senior High School. We are all very proud of all of our students, teachers, administrators, and parents. We want the very best for them, and they deserve the very best your department has to offer. Director Dearman, in your written testimony you mentioned that your office is diligently working to address the varying and developing needs of students, including behavioral and mental health support services. Can you please talk further about this partnership with Indian Health Service (IHS) and how you are planning to overcome some of the IHS limitations outlined in the report?—Can you elaborate on your strategic plan to collaborate with local emergency medical services and law enforcement to ensure the safety and wellbeing of students and staff in school?

Answer. In December 2016, BIE, IHS, and Bureau of Indian Affairs (BIA), entered into an Inter-agency Agreement intended to increase access to mental and behavioral health services for students attending BIE schools and youth detained in Office of Justice Services (OJS) facilities. The Agreements allow each agency to establish local partnerships through a Memorandum of Agreement (MOA) between IHS federally-operated mental health programs, BIE-operated elementary and secondary schools, and BIA OJS-operated juvenile detention centers to provide mental health assessment and counseling services, which includes tele-behavioral health services.

Under this 10-year partnership, behavioral health services will be offered at BIE schools and OJS facilities that are located near an available IHS facility. Key staff, including our Student Health Program Specialist, are partnering within the agencies under a National Implementation Team tasked with identifying key contacts to create Regional and Local Implementation Teams. This new collaboration is intended to ensure that the mental and behavioral health needs of our students are being met.

BIE is also collaborating with OJS to provide comprehensive law enforcement oversight for schools. This includes strategic program direction, development of related policies, procedures, standards and guidelines, and program accountability and consistency. In January 2017, BIE began working through the partnership to provide expert law enforcement guidance and direction to local law enforcement officials, school administrators, and tribal leaders in response to criminal matters or emergencies that occur on tribal school campuses or within the immediate vicinity of a tribal school.

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

GAO High-Risk Report and Recommendations

Question 1. The Government Accountability Office (GAO) testified that inclusion on the biennial High Risk report often results in agencies receiving additional management resources from Department leadership and the Office of Management and Budget (OMB). Has the Bureau of Indian Education (BIE) seen increased engagement from the Department of the Interior's (DOI's) Office of the Secretary or OMB since the Bureau's High Risk designation? If so, please summarize any evidence of this increased engagement.

Answer. Upon GAO's identification of BIE as a high-risk agency, the Department has worked closely with the Bureau as it prioritizes accountability and oversight in order to address GAO recommendations, which will increase efficiency and effectiveness.

The Department is supportive of the BIE as it participates in work groups specifically created to address GAO recommendations, such as the Indian Affairs Safety Work Group (Safety Work Group) that includes participants from the Assistant Secretary-Indian Affairs (Indian Affairs) office, Bureau of Indian Affairs (BIA), and Division of Facilities Management and Construction (DFMC). The Safety Work Group

has held two workgroup sessions this summer as a means to increase coordination, develop policies and procedures, and address outstanding GAO recommendations in reports GA0-16-313 and GA0-17-421.

The Department has also provided BIE support as it works to increase its direct communication with GAO, which has enhanced BIE's ability to comprehensively address outstanding recommendations. It is the Department's goal that BIE is effective in addressing GAO recommendations as well as coordinating effectively across Federal agencies in order to improve BIE accountability and oversight. As such, the BIE has had consistent contact and works closely with senior leadership within the Department and the Secretary's office to ensure matters highlighted in GAO reports, particularly those critical to directly improving the wellness and safety of students in Bureau-funded schools, are properly addressed in a timely manner.

Question 2. A number of the outstanding recommendations for improving Indian Education included in GAO's February 2017 High-Risk Report require action by the Bureau of Indian Affairs (BIA) to fully resolve.¹ Your testimony provided an outline of BIE's efforts to address these remaining recommendations that included references to "working cooperatively with the leadership within Indian Affairs." Yet, Mr. Black's testimony focused exclusively on addressing the remaining Indian Energy recommendations flagged by GAO in the 2017 High Risk Report. Has BIE seen increased engagement from BIA leadership regarding its role in resolving the remaining GAO recommendations regarding financial oversight and safety inspections? If so, please summarize any evidence of this increased engagement.

Answer. The BIE has worked closely across Indian Affairs, including BIA, in recent months to address outstanding GAO recommendations and improve Bureau operations and service delivery in Bureau-funded schools. Upon GAO's identification of BIE as a high-risk agency, the Bureau coordinated efforts with Indian Affairs to prioritize accountability and oversight in order to address GAO recommendations, which will increase efficiency and effectiveness.

Indian Affairs is supportive of the BIE as it participates in joint work groups specifically created to address outstanding GAO recommendations, such as the Indian Affairs Safety Work Group (Safety Work Group) that includes participants from BIA. The Work Group held two workgroup sessions this past summer as a means to increase coordination, develop policies and procedures, and address outstanding GAO recommendations. Through the Safety Work Group, BIE and BIA staff, alongside DFMC and Indian Affairs, have worked together to ensure that safety inspections are 100 percent completed for the second year in a row as well as to develop policies and procedures to make sure quality improves and supports are in place to assist critical staff, such as safety inspectors. The Safety Work Group will plan subsequent meetings to progress coordinated work. Additionally, Indian Affairs has formed an initial work group specific to address financial oversight across the agencies. This coordination will diminish bureaucratic inefficiencies and promote communication across Indian Affairs.

Question 3. Shortly following the conclusion of the May 176 Oversight Hearing, GAO released three additional reports regarding the BIE—"Tribal Transportation: Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies,"² "Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects,"³ and "Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections."⁴ Within these three reports, the GAO provided a total of 20 new recommendations to improve the delivery of education to BIE students. Please provide a summary and timeline of the Bureau's plans to address each of the 20 recommendations directed at BIE.

Answer. The reports provide ten additional recommendations that BIE must address unilaterally. The other findings, due to agency authority, are directed to other entities within Indian Affairs, or must be addressed by a combination of these entities. BIE now has 21 total outstanding recommendations from past GAO reports as well as those issued in 2017 that it must address.

In reference to the reports mentioned, BIE worked directly with Indian Affairs through the aforementioned work groups to provide formal updates to GAO on August 8, 2017, and August 16, 2017. The three enclosed letters (DOL 60-Day Letter to GAO Report 17-421 IA School Safety; DOI 60-Day Letter to GA0-17-423 Tribal Transport; and DOI 60 Day Letter to GAO Report 17-447 IA School Construction) provide responses to each new GAO recommendation as well as timelines and bureau authority for associated work to be completed.

Question 3a. Please provide a summary of the efforts BIE is undertaking to work with BIA, and DOI's Office of the Secretary, and OMB to ensure the remaining recommendations from these three reports are addressed in a timely, effective manner.

Answer. BIE worked directly with Indian Affairs to provide updates to GAO on August 8, 2017 and August 16, 2017. The three enclosed letters (DOI 60-Day Letter to GAO Report 17421 IA School Safety; DOI 60-Day Letter to GAO-17-423 Tribal Transport; and DOI 60 Day Letter to GAO Report 17-447 IA School Construction) provide responses to each new GAO recommendation as well as timelines and Bureau authority for associated work to be completed.

Staff and Leadership Turnover

Question 4. When asked about any continuing limitations placed on hiring by Administration leadership, you testified that the BIE is currently “hiring at all levels.” Yet, this response is at odds with statements made by DOI’s Office of Budget staff at a May 6, 2017 Committee Briefing and an April 12, 2017 memorandum issued by Associate Deputy Secretary James Cason. Please clarify your claim that BIE is “hiring at all levels” in light of the previously noted May 6 statements and April 12 memorandum.

Answer. On April 14, 2017, a DOI memorandum provided Department guidance to agencies and bureaus regarding updated hiring controls, detailing that:

- Bureaus and offices could proceed with lateral reassignments or details, except for Senior Executive Service positions.
- Bureaus and offices could proceed with hiring for all positions, outside Washington, DC and Denver, Colorado, at the grade of GS-11 and below.
- Bureaus and offices could proceed with hiring for positions above GS-11 and within Washington, DC and Denver, Colorado if provided a waiver based on how such positions will better support on-the-ground mission delivery.

With regard to BIE hiring, the agency continues to hire at all levels consistent with the guidance provided by the Department. The Department-specific hiring controls also do not affect contract positions funded by the BIE, such as school level teachers. As such, students incur no major disruptions in access to instruction. After the initial hiring freeze, the Bureau has worked consistently and cooperatively with Department leadership in obtaining hiring waivers for filling critical, non-field positions at all levels. For example, the Department provided BIE clearance on August 14, 2017 to hire, or clarify further the need to hire, 39 vacant positions above GS-11 as well as in various duty locations that are critical to improving service delivery. Clearance has been provided to hire additional positions since August. The Bureau continues to coordinate with Department leadership to acquire waivers for any remaining vacancies.

Question 4a.a. How many total vacancies does BIE currently have? And, what is the breakdown of these vacancies by type (location, grade level, and function)?

Answer. At the time of the hearing, the BIE was 42 percent fully staffed with 134 positions filled out of a total of 316 positions (waivers pending), Bureau-wide. Such positions include those in the BIE Director’s Office (Central Office), School Operations Division, Division of Performance and Accountability, Associate Deputy Director—Tribally-Controlled Schools, Associate Deputy Director—Bureau-Operated Schools, and Associate Deputy Director—Navajo Schools. Since May 2017, the Bureau is nearly 46 percent fully staffed with hiring continuing to improve service delivery.

Question 4b. What, if any, limitations put in place by the White House, OMB, or DOI’s Office of the Secretary exists regarding BIE’s ability to fill these vacancies?

Answer. As noted in a previous response, the agency continues to hire at all levels consistent with the guidance provided by the Department. In addition, the Department-specific hiring controls did not affect contract positions funded by the BIE, such as school level teachers. As such, students incurred no major disruptions in classroom instruction. After the initial hiring freeze, the Bureau has worked consistently and cooperatively with Department leadership in obtaining hiring waivers for filling critical, non-field positions at all levels.

Question 5. In its 2017 High Risk Report, GAO identified staffing turnover as an overarching issue facing Indian Education.⁷ For example, several tribally operated BIE schools have informally reported to this Committee that staffing turnover and vacancies at Education Resource Centers (ERCs) make it difficult to receive timely assistance with reporting and compliance questions. How is BIE working to ensure all administrative duties are fulfilled in the face of frequent turnover?

Answer. A major goal of the BIE is to identify, recruit, develop, retain, and empower highly-effective employees at all levels. However, obstacles, such as limited access to housing as well as duty stations located in geographically isolated and impoverished communities continue to impact employee recruitment. While vacancies do persist, the BIE has not experienced exceedingly high turnover rates at its

ERCs—only one employee has separated (June 30, 2017) since January 1, 2016. However, as the Bureau continues to fill positions, the BIE is working to streamline hiring practices where possible to increase recruitment as well as ensure existing staff have the administrative support from Central Office to perform their duties effectively.

BIE Central Office, as part of its GAO related work, is developing its comprehensive strategic planning effort to set agency priorities and focus energy and resources to ensure employees are working toward common goals. It is critical that BIE employees are focused on outcomes and results that will help the agency provide improved service delivery, technical assistance, and oversight regardless of staffing levels. Such strategic planning work will also assist the agency as it develops a comprehensive workforce plan that addresses such vacancies and focuses human capital where needed to ensure Bureau-funded schools' needs are effectively addressed in a timely manner. Human capital capacity has historically been an issue for the BIE, so even as the agency works to hire positions to expand such capacity, the agency is working to formalize plans that will also address retention through professional development and standard appraisal metrics.

Question 5a. How is BIE ensuring federally-operated and tribally-operated Bureau schools receive full support with legal and financial compliance requirements (e.g., completion of annual audits and Individuals with Disabilities Education Act compliance)?

Answer. The BIE is working to ensure existing staff have the administrative support from Central Office to perform their duties effectively as well as ensure employee appraisal metrics increase employee accountability. BIE leadership has tasked management across the Bureau with improving the alignment of appraisal metrics with the services for which employees are tasked to provide, such as assisting in financial compliance, providing technical assistance, and assisting with completion of annual audits. These metrics are critical to reducing waste, fraud, and abuse and utilizing public tax dollars as efficiently and effectively as possible.

In addition, BIE is hiring additional budget personnel and fiscal auditors to assist in compliance, and is developing a school visit coordination and information sharing policy that establishes formal procedures for fiscal monitoring and requiring coordination among BIE staff. This will improve technical assistance through regular, on-site audits based on risk elements for federal funding distribution and financial compliance. As part of any risk matrix, such policies and procedures will not alleviate or address all risk but will formalize a protocol for diminishing such risk through coordinated School Intervention Teams from Bureau ERCs and Division of Performance and Accountability staff who work with schools to address areas of greatest need.

Question 5b. How is BIE ensuring the Bureau's staffing plan addresses technical skills gaps (e.g., financial audit expertise) identified by GAO?

Answer. As part of the BIE's reorganization, the BIE is working to increase its capacity and narrow its technical skills gap for financial oversight and fiscal monitoring. Accordingly, the Bureau has prioritized hiring of fiscal monitors, such as auditors and budget personnel. The BIE has advertised such positions for hiring to increase capacity to address such gaps. Among other areas, another focus has been increasing data-driven decisionmaking across the Bureau through improved data collection. The Bureau is working to hire several Education Research Analysts and three Native American Student Information System (NASIS) positions that will improve the Bureau's collection and use of key data metrics critical to informed decisionmaking that addresses areas of greatest need.

BIE School Accountability

Question 6. The most recent school and Bureau accountability data provided on the BIE website dates to SY2012–2013.⁶ The Committee is unaware of any other locations where the Bureau might have published accountability data for the three school years completed since SY2012–2013 concluded and required under Section 1111 of the Elementary and Secondary Education Act through August 1, 2016:⁷ Please provide a copy of all statutorily required school accountability data for SY 2013–2014, SY 2014–2015, and SY 2015–2016.

Answer. The Bureau is working to update and post some of the additional, required public reporting on school accountability. However, most information has not yet been aggregated and remains partially incomplete. Recently, leadership has refocused attention to increasing data-driven decisionmaking across the Bureau through improved data collection. As mentioned previously, the Bureau is working to hire several Education Research Analysts and three NASIS positions specifically focusing on data that will improve the Bureau's collection and use of key data metrics critical to supporting the needs of students attending BIE-funded schools.

Question 6a. Please provide an overview of how BIE ensures parents, tribes, and Congress has timely access to this information.

Answer. The BIE has hired personnel to serve as the Communication Specialist to address and update communication outlets going forward. It is critical that the Bureau is transparent and efficient in delivering information, and this is a key component to achieving this goal. The BIE is working with an ED contractor, the Center for Standards and Assessment Implementation (CSAI), to develop procedures to ensure timely data collection and reporting take place, which will then be externally communicated to stakeholders.

Question 6b. Does BIE have any other student outcome related data (e.g., graduation rate trends, absenteeism trends, etc.) that it can share with the Committee? If so, please provide it here or provide a firm timeline of when such information can be made available to the Chairman and the Vice Chairman.

Answer. As noted in response to a previous question, the Bureau is working to bring recent data sets up to date. Currently, an analysis of longitudinal data trends is unavailable until such data strands are collected and verified. However, the Bureau has enclosed the following 2015 Bureau of Indian Education Report on Student Achievement and Growth from the Northwest Evaluation Association for the Committee's review. Its results suggest that BIE students have shown some improvements over time in achievement and growth rates, most notably in mathematics and for students attending earlier grade levels. However, gaps persist and BIE remains committed to improving service delivery that will help narrow the gap for students attending Bureau-funded schools.

Question 7. Title I of the Every Student Succeeds Act (ESSA) requires states to design and implement an accountability system to measure school quality and performance in consultation with a variety of stakeholders.⁸ The Department of Education (ED) indicates on its website that BIE, acting in its capacity as the State Education Agency (SEA) for BIE-funded schools, provided notice of intent to submit its state accountability plan to ED on September 18, 2017.⁹ Yet, as on the date of this hearing, the BIE's webpage on the Bureau's ESSA State Plan is completely blank.¹⁰ What is the status of the BIE state plan? Please provide a summary of any BIE's coordination between BIE and ED on this issue and a description of all relevant consultations undertaken by BIE to date on development of a state accountability plan.

Answer. While ED officials have expressed a view that the BIE is not required to submit a State Plan under ESSA, BIE Director Dearman announced that the BIE would develop a State Plan as a means to facilitate a transition to ESSA requirements and ensure the development of a coherent federal education system across the 23 states in which BIE facilities operate. The BIE notified ED via email on January 7, 2017 that it would submit a State Plan. However, many of the elements of the plan would relate to standards, assessments, and accountability, and BIE is required by the ESEA to conduct negotiated rulemaking to establish standards, assessments, and an accountability system that is consistent with the ESSA changes to the ESEA.

As the Department works to establish the Negotiated Rulemaking Committee outlined below to negotiate and develop a proposed rule, in accordance the Negotiated Rulemaking Act, timelines have had to shift to provide adequate time for review by the Administration. Nevertheless, work on the State Plan continues as a means for addressing a key part of the BIE Strategic Plan for improving student outcomes and increasing coordination across BIE-funded schools. Once drafted, BIE will engage stakeholders, including tribal community members, school personnel, and parents, to provide input. Formal tribal consultation will take place following the stakeholder engagement phase to ensure tribes have a document for which to provide comments and have meaningful consultation.

Additionally, BIE continues to have a close and consistent working relationship with ED through the interagency collaborative work group that meets bi-weekly. Through this coordination, BIE and ED have entered into an interim Memorandum of Understanding that ensures ED Title funding continues to support BIE students for SY 2017–18.

Question 7a. Please provide an overview of BIE's efforts to comply with ESSA as a whole and outline how the Bureau has worked with ED to ensure full compliance moving forward.

Answer. To meet its obligations, the BIE will: (1) amend its existing standards, assessments, and accountability regulations through negotiated rulemaking, and (2) solicit stakeholder and tribal input through consultation regarding the BIE State Plan. The BIE has elected to adopt a State Plan that will work to improve the BIE's

support of Bureau-funded schools. Through tribal consultation and solicitation of stakeholder feedback, the BIE will ensure ESSA requirements are met.

Section 8204(c), as amended by the ESSA, directs the Secretary of the Interior, through negotiated rulemaking, to update the BIE standards, assessments, and accountability system. On November 9, 2015, the BIE published a notice of intent (80 FR 69161) requesting comments and nominations for tribal representatives for the Negotiated Rulemaking Committee (Committee). During transition, the initial formulation of the Committee was postponed in order to provide incoming Department staff adequate time to review prior work. In August 2017, the BIE was provided clearance to move forward with re-initiating the Committee and working and consulting with stakeholders to determine membership and subsequent steps. More information is forthcoming regarding timing of the notice that will clarify consultation, membership, meeting dates, and other pertinent information.

Ultimately, the Committee will recommend revisions to the existing regulations (25 CFR Part 30) to replace the NCLB Adequate Yearly Progress regulatory language and implement the Secretary's statutory responsibility to define the standards, assessments, and accountability system, consistent with ESSA. BIE continues to have a close and consistent working relationship with ED through the inter-agency collaborative work group that meets bi-weekly to ensure full compliance with ESSA. The BIE and ED consult frequently on a range of topics and direct communication includes electronic and telephonic correspondence.

School-based Health Clinics

Question 8. RADM Chris Buchanan's testified that IHS supports nine direct-service and eight tribally-operated, school-based health clinics. His testimony provides no details as to whether these clinics are located in schools operated by Local Education Agencies (LEAs) or by the BIE. Are any of these 17 health clinics located in 131E schools? If so, please provide a list of those schools.

Answer. The BIE Student Health Program Specialist conducted site visit assessments of BIE-funded schools in the fall of 2017 to determine what health and behavioral health services were being provided by the Indian Health Service (IHS). IHS has identified several 131E schools as pilot sites for school-based health clinics. BIE is excited to collaborate with IHS to establish school-based clinics so critical health and behavioral health services are provided to our students.

In December 2016, the Indian Health Service (IHS) and BIE entered into an inter-agency agreement intended to increase access to mental and behavioral health services for students attending BIE-funded schools. This 10-year partnership allows each agency to build up local partnerships through Memoranda of Agreement (MOA) 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. For information regarding general school-based health clinics as well as the MOA work, BIE recommends the Committee work with IHS, the designated lead agency, for further clarification.

Question 8a. Is BIE aware of any IHS-supported school-based health clinics previously operating on a BIE school or dormitory campus?

Answer. The BIE defers to IHS, as lead agency, for further clarification and information regarding general school-based health clinics as well as the MOA work.

Question 9. This Committee has heard from several tribes and BIE school community members from several different parts of Indian Country who are interested in opening IHS-supplemented school-based health clinics in a BIE-funded school or dormitory. However, representatives from these tribes and communities report that regional BIE leadership rejected the idea. Is BIE aware of any requests by tribes to open IHS-supported school-based health clinics within a BIE-funded school or dormitory? If so, please provide any pertinent information relating to such requests (e.g., date request was received, name of the BIE line office/resource center that received the request, and BIE's response to the request).

Answer. As IHS and BIE coordinate and work together under the MOA to better support onsite services to BIE students, BIE leadership has been supportive of such work and is unaware of the aforementioned outreach. The Bureau will work with its management team to determine if such requests were made and, if so, what actions were taken in response. We look forward retrieving more information and providing an update when possible.

Question 9a. What barriers—if any—exist to BIE working collaboratively with tribes and IHS to open these clinics? For example, would BIE have concerns about liability or operations/maintenance expenses of the clinic space?

Answer. There may be barriers, which vary by facility depending on the availability of local medical staff, space at the school facility, current state of local part-

nerships (BIE/IHS, tribe, and school), as well as unique issues faced by personnel, such as community support. Additional barriers include the dissemination/sharing of sensitive student/patient data and significant communications issues at the local site level. Despite these and future barriers that may develop, BIE is dedicated to ensuring that the health and behavioral health needs of our students are met.

Question 9b. Can BIE provide any suggestions to overcoming those barriers identified above?

Answer. BIE is committed to working with its partners, including IHS, to provide technical assistance and support to schools. This workgroup would also provide annual updates and progress reports as necessary. BIE will also conduct a comprehensive needs assessment and thorough investigation of the current state regarding school-based health clinics and associated barriers/solutions. In addition, BIE has established a new position to further assist with the coordination of student behavioral health and has hired a Student Health Program Specialist.

Medicaid Funding in BIE Schools

Question 10. In general, the Medicaid Program allows school districts to provide Early Periodic Screening Diagnosis and Treatment (EPSDT) services and allows the schools to directly bill the Program for medically necessary services related to Individual Education Plans (IEPs). Does BIE coordinate with states and/or the Center for Medicaid Services (CMS) to receive allowable reimbursements for delivery of these services? If so, please provide a summary of how BIE interacts with the Medicaid Program and an estimate of the level of Medicaid funding received by the Bureau.

Answer. BIE is aware that while some Bureau-funded schools have worked through the process of directly billing Medicaid for services, the agency itself has not done an adequate job of providing professional development for such interaction with the Medicaid program. The process can be cumbersome and capacity at various schools differs. The Bureau will work as part of its strategic planning to include the development of a formal policy and associated procedure as a means for collecting data and improving the health and welfare of BIE-funded students. Because this currently takes place on a local level, the Bureau does not have adequate data to present at this time.

ENDNOTES

1 U.S. Gov't Accountability Office, GA0-17-317, High Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others (2017).

2 U.S. Gov't Accountability Office, GA0-17-423, Tribal Transportation: Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies (2017).

3 U.S. Gov't Accountability Office, GA0-17-447, Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects (2017).

4 U.S. Gov't Accountability Office, GA0-17-421, Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections (2017).

5 U.S. Gov't Accountability Office, GA0-17-317, at 205.

6 *School Report Cards*, BUREAU OF INDIAN EDUCATION <https://bie.edu/HowAreWeDoing/Scorecardsindex.htm> (accessed on May 17, 2017)

7 Every Student Succeeds Act, Pub. L. No. 114-95, § 5(e) (1) (A), 129 Stat. 1802, 1806 (2015).

8 Every Student Succeeds Act. Pub. L. No. 114-95. § 1000 et sec.. 129 Stat. 1802, 1814-1913 (2015).

9 *ESSA State Plan Notice of Intent to Submit*, U.S. DEPT OF EDUCATION