

**TESTIMONY
OF
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ON
“HIGH RISK, NO REWARD:
GAO’S HIGH RISK LIST FOR INDIAN PROGRAMS: PROGRESS AND EFFORTS IN ADDRESSING
GAO’S RECOMMENDATIONS”
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE**

SEPTEMBER 13, 2017

Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. Thank you for the invitation to appear again on behalf of the Bureau of Indian Education (BIE) to discuss our ongoing work to address the high risk designation from the Government Accountability Office (GAO) in the High Risk Report (GAO-17-317 High Risk Series).

As highlighted in the GAO reports, much work remains, but I am glad to update this Committee on progress made since I last testified in May. A priority as BIE Director includes addressing the GAO recommendations and the issues highlighted head on. As I previously testified, the BIE team views the GAO’s reports as a constructive tool to improve our agency and help the students we are committed to serve. As such, I will update you on headway made in the following areas:

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

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 previous reports that inhibit the agency from efficiently executing its mission to serve Indian students:

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

In three separate reports dating back to 2013, the GAO provided thirteen recommendations to improve IA's management of BIE schools. Currently, eleven of GAO's recommendations remain open. However, progress is being made to address BIE's outstanding recommendations. GAO issued three additional reports in May 2017 since the last Committee hearing on this subject. These new GAO reports include several new recommendations, ten of which would require a response solely from BIE. BIE tentatively concurred with one of the ten new recommendations and disagreed with one other new recommendation. The remaining recommendations, due to agency authority, are directed to other entities within IA, or a combination of agencies within IA.

As Director, I am committed to addressing these outstanding items. To that end, I am working with our senior leadership team within BIE as well as with the Bureau of Indian Affairs (BIA), the Office of the Assistant Secretary for Indian Affairs, the Secretary's Office, and our colleagues at GAO to ensure BIE comprehensively addresses each outstanding recommendation as expeditiously and effectively as possible. We are appreciative of the assistance and collaboration offered by GAO. In recent months, the BIE, through the support of the Department, has increased its direct communication with GAO, which has enhanced BIE's ability to efficiently address outstanding recommendations. Through in-person meetings and follow-up teleconferences, GAO has provided BIE comments and suggestions for closing recommendations in a timely manner.

GAO recommendations are a roadmap for BIE to establish and maintain comprehensive internal policies and procedures that support service delivery, ensure accountability, and provide organizational stability. We look forward to continuing our work with GAO and this Committee.

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 services rather than addressing critical, long-term organizational improvement strategies highlighted in the 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 ability to serve 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 need for each GAO recommendation to be reexamined and addressed. BIE is currently working to complete the actions recommended in each of these three GAO reports.

Outstanding 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 decision-making 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 and three, which includes development of a communications strategy and increased collaboration with the Department of Education (ED) through several mechanisms, including a BIE-ED Committee that meets every other week (rather than just quarterly). Recommendation five, revision of a strategic workforce plan, was previously considered closed by the Department, but not GAO. After reviewing the previous work submitted by BIE regarding recommendation five, and after closely collaborating with GAO regarding the work product, BIE and the Department relisted the recommendation as open and will continue to work collaboratively with GAO until fully implemented. Additionally, BIE will assess the effectiveness of its implementation of GAO's closed recommendations in an effort to continually improve BIE's operations. BIE is currently working to implement recommendations one, four, and five, which are to develop documented decision-making procedures, a strategic plan, and a comprehensive workforce plan. BIE plans to fully implement the remaining recommendations contained in GAO-13-774 by 2018.

Recommendation I – In June 2017, the BIE workgroup convened staff from across the Bureau for a two-day workshop. During the workshop, the workgroup solicited inter-departmental input regarding a formal strategic decision-making policy. A draft strategic decision-making procedure was produced by the workgroup shortly thereafter. On July 14, 2017, the BIE workgroup provided a copy of the draft strategic decision-making procedure to all BIE senior leaders for a one-week review and input period. Following the one week review, the workgroup incorporated all feedback and submitted the draft procedure to the IA's Office of Regulatory Affairs and Collaborative Action (RACA) on July 28, 2017.

RACA is the office responsible for reviewing, and ultimately publishing, the document in the Indian Affairs Manual (IAM), which is a reference for all agencies and offices within IA. On August 18, 2017, RACA provided BIE edits and input for review. On August 21, 2017, BIE completed its review of RACA's feedback and resubmitted the draft decision-making procedure for publication into the IAM. BIE is awaiting final publication of the strategic decision-making procedure by RACA. Upon final publication, BIE will schedule a training event for all appropriate personnel regarding the use of the newly drafted strategic decision-making policy as well as work to provide a closure package to GAO.

Recommendation IV – BIE, working cooperatively with leadership within IA 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. On April 11, 2017 BIE held a follow-up strategic planning session, convening local, regional, and central office personnel to determine paths forward. By the end of April 2017, BIE began revising its mission and vision statement and identified draft goals. On June 14, 2017 and July 18 – 20, 2017, BIE held additional strategic planning sessions to identify strategies aligned to goals and established a communications plan for sharing the draft plan with internal and external stakeholders to solicit feedback as well as developing a timeframe for formal consultation with Indian tribes. In addition, BIE identified dates for additional organization-wide planning meetings on August 29–30, 2017 and September 26–28, 2017.

To ensure that the strategic planning process is effective and results in a high quality and useful work product, the BIE has partnered with external subject matter expert organizations, such as the Council of Chief State School Officers (CCSSO), the South Central Comprehensive Center (SC3), and the Building State Capacity and Productivity Center (BSCPC). These organizations have provided BIE with technical expertise and shared best practices in developing an effective, long-term strategic plan as well as creating a functional action plan for implementing a measurement system to track progress once the strategic plan is implemented.

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.

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 – During the early stages of the current BIE reform, IA contracted a workforce study. However, following BIE’s meetings with GAO on June 17, 2017 and August 16, 2017, GAO provided clarification regarding work product expectations identifying skills gap, prioritization of vacancies, and the need for plans contingent on varying outcomes, such as available funding and hiring constraints. BIE plans to revisit the work done by IA in the prior study and reexamine its workforce planning efforts in light of GAO’s feedback.

Recommendation II – BIE staff is working to ensure that necessary financial oversight information is shared across the agency. In the short term, BIE has developed a share point system and ensured all key staff members, such as those involved with calculating the 2017 – 2018 school risk matrix, have access to audit reports. Additionally, BIE now has access to the IA Division of Internal Evaluation and Assessment (DIEA) Audit Report Tracking Tool (ARTT) system that provides a real-time status of Audit report findings, recommendations and questioned costs.

In June 2017, the BIE working group convened staff from across the BIE for a two-day workshop to develop a permanent, comprehensive, interdepartmental policy and procedure for sharing information across the Bureau. In addition, BIE is currently working with its Information Technology support staff to examine the feasibility of implementing an electronic tool that would provide all internal divisions within BIE fiscal monitoring access to upload and share documents and information.

Recommendation III – As part of its work, BIE leadership has given all staff with fiscal monitoring responsibilities the directive that all school monitoring events will be made in a single, coordinated manner. This will ensure that staff from the Division of Performance and Accountability, School Operations, Education Resource Center, and Associate Deputy Director offices will conduct single, coordinated visits to all schools identified as high risk through the utilization of the BIE High-Risk Matrix.

In addition, the BIE workgroup convened a two-day workshop in June 2017 concentrated solely on addressing all outstanding recommendations related to BIE’s fiscal monitoring activities. During the workshop, the workgroup solicited inter-departmental input regarding a uniform, comprehensive, interdepartmental fiscal monitoring policy and procedure. A draft fiscal monitoring policy and procedure is in draft form but still requires further input and editing, which will be completed in the coming months. Following the workgroup’s final drafting efforts, BIE plans to submit the fiscal monitoring policy and procedure to all BIE senior leaders for a review and input period, after which BIE will submit the proposed policy and procedure to RACA for review and publishing into the IAM.

Finally, on August 14, 2017, the BIE received Departmental approval to advertise and fill three key fiscal monitoring related positions. These positions are newly established under the reform and were specifically designed to provide BIE with increased human capital needed to effectively conduct fiscal monitoring. These positions include a Program Manager for Budget and Finance and two auditor positions.

Recommendation IV – In June 2017, members of the BIE working group met to begin drafting a comprehensive risk-based monitoring methodology to ensure compliance with the Fraud Reduction and Data Analytics Act of 2015 (Public Law 114–186). During the workshop, the workgroup solicited inter-departmental input regarding a comprehensive risk assessment methodology. The workgroup has completed its work implementing the 2017–2018 risk assessment based on the comprehensive methodology.

The workgroup is also drafting a risk assessment policy and procedure to ensure the methodology is used annually in a standardized and uniform manner. However, the policy and procedure requires further input and editing, which will take place in coming months. Following the workgroup's final drafting efforts, BIE plans to submit the risk assessment policy and procedure to all BIE senior leaders for a review and input period, after which BIE will submit the proposed policy and procedure to RACA for review and publishing into the IAM.

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.

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. BIA completed safety inspections at all BIE-funded schools for the first time in 2016. BIE and BIA are currently on time in completing all school inspections in 2017 as well. However, BIE understands the need to ensure focus on completion does not detract from the quality of inspections. To that end, BIA has formed an inter-agency workgroup to address all safety-related GAO recommendations. The workgroup consists of staff from across IA, including the BIE, BIA, DIEA, the Deputy Assistant Secretary – Management (DAS-M), and Division of Facilities Management and Construction (DFMC). The workgroup's first meeting was held on May 31 through June 1, 2017, with a follow-up meeting held August 15-16, 2017.

As a contingency plan, the workgroup has also drafted an inspection mitigation and prioritization plan based on risk should it be unable to complete 100 percent of inspections in future years. BIE plans to submit its mitigation and prioritization plan to its IA partners for review and input no later than September 2017.

Recommendations III and IV – BIE is conducting ongoing staff and administrator training and is working with BIA to provide long-term support of 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, through the workgroup members described in GAO 16-313 Recommendations I and II, are working to produce formal policies and procedures to address shortcomings through a recently formed inter-agency workgroup that met throughout the summer coordinate activities to ensure such committees are formed and trained in a timely and consistent manner.

2017 GAO Recommendations

GAO-17-421—INDIAN AFFAIRS: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections (May, 2017)

GAO made six recommendations, five of which apply to BIE in conjunction with IA and BIA:

- I.) Develop and take corrective actions to address BIA safety program weaknesses identified in prior Interior evaluations;
- II.) Develop and implement a plan to assess employees' safety training needs and monitor compliance with IA's safety training requirements;
- III.) Ensure employee performance standards on inspections are consistently incorporated into the appraisal plans of all personnel with safety program responsibilities;
- IV.) Develop performance and quality standards and establish a process for routinely monitoring the quality of inspection reports;
- V.) Develop a system which routinely monitors and require inspectors to submit completed safety reports to schools within a 30-day timeframe; and
- VI.) Use timelines information to assess employee performance for personnel with safety program responsibilities.

IA has formed an inter-agency workgroup to address all safety related GAO recommendations. The workgroup consists of staff from BIE, BIA, IA, DIEA, and DFMC. The group's first meeting was held on May 31 through June 1, 2017, with a second follow-up meeting held on August 15–16, 2017. Working with BIA, BIE is currently crafting and implementing comprehensive safety inspection policies and procedure to ensure that inspections and reports are carried out in a timely manner and are of sufficient quality.

GAO-17-423—INDIAN AFFAIRS: Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies (May, 2017)

GAO made eight recommendations, two of which apply to BIE:

- VII.) Provide guidance to BIE schools to collect data on student absences related to road and weather conditions; and
- VIII.) Review the BIE Transportation Formula and determine, with BIA and tribal stakeholders, what adjustments are needed to better reflect transportation costs for schools.

Recommendation VII – BIE tentatively concurs with this recommendation and is currently examining feasibility and costs of tracking absences due to road conditions, among other important data points, within its Native American Student Information System (NASIS) system.

Recommendation VIII – BIE non-concurs with GAO regarding this recommendation. While this could be beneficial, altering the transportation formula would require formal negotiated rulemaking. The BIE would only consider undergoing such rulemaking with the support of its

tribal partners. To date, BIE has not received any such communication.

GAO 17-447—INDIAN AFFAIRS: Actions Needed to Better Manage Indian School Construction Projects (May, 2017)

GAO made six recommendations, two of which apply to BIE:

V.) Improve oversight and technical assistance to tribal organizations to enhance tribal capacity to manage major constructions projects; and

VI.) Develop and implement guidance for maintaining complete contract and grant files for all BIE school construction projects.

Recommendation V – BIE will work cooperatively with IA Office of Facilities, Property and Safety Management (OFPSM) and DFMC to draft an engagement plan and high risk project tracking system on time to GAO. As this is a new report, these items are not outstanding but will be addressed as expeditiously as possible.

Recommendation VI – BIE will work cooperatively with OFPSM and DFMC to draft guidance regarding how official contract and grant files are required to be held by the contracting officer or awarding official and any requirements for retention and location of such files. BIE will coordinate activities to ensure on time delivery to GAO. As this is a new report, these items are not outstanding but will be addressed as expeditiously as possible.

Conclusion

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for the opportunity to present testimony today and provide the Committee an update regarding our work with GAO. BIE is excited about our recent progress and remains committed to addressing all of GAO's recommendations in order to achieve sustained improvement. The BIE looks forward to working with you and our partners as we address the recommendations. Thank you for your time, and I would be honored to answer any questions you may have.