

**GAO HIGH RISK LIST: TURNING AROUND
VULNERABLE INDIAN PROGRAMS**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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GAO HIGH RISK LIST: TURNING AROUND VULNERABLE INDIAN PROGRAMS

WEDNESDAY, JUNE 13, 2018

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

The Committee met, pursuant to notice, at 3:32 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

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

The CHAIRMAN. Good afternoon.

I hereby call this oversight hearing to order.

Just over a year ago, the Committee began examining the Government Accountability Office's High Risk List. For the first time, three Federal Indian programs, Indian Energy, Education and Health Care were included on the list due to their vulnerability to mismanagement, waste, fraud and abuse.

These Federal programs are vitally important to Native American communities. They affect the safety of school buildings, the quality of health care and education and the advancement of Indian energy development.

This is the Committee's third hearing focusing on evaluating efforts to address the GAO recommendations for tribal health, education and energy programs. Based on some recent information from the agency, there has been some progress from the Bureau of Indian Education and the Indian Health Service including recommendations and improving services.

Over the past year, we have seen very little progress in implementing Indian energy. Only one out of the 14 GAO recommendations has been addressed by the Department of the Interior regarding Indian energy development.

The Department of the Interior is supposed to facilitate tribal resource development. However, for many tribes, the agency has only delayed such activity. Our past hearings, as well as the GAO reports, have confirmed that the Indian Energy Program at DOI has cost tribes millions of dollars in delayed or missed opportunities for economic development.

In my home State of North Dakota, the Mandan, Hidatsa and Arikara Nation, also known as the Three Affiliated Tribes, has been an industry leader in oil production. In fact, if the Three Affiliated Tribes were their own State, they would be the seventh

leading oil export producer in the United States. Just that one reservation, by itself, would be the seventh largest oil producing State if it were a State.

It is of critical importance that the trustee does not inhibit or prevent tribes such as the Three Affiliated Tribes from engaging in activities that promote economic development in Indian Country. Many tribes have invested in energy development. These tribes have communicated to this Committee their disappointment with the prioritization of energy development at the Department of the Interior.

Some tribal leaders have even suggested moving the Indian energy portfolio from the Department of the Interior into the Department of Energy. Because of this feedback, this Congress I introduced S. 245, the Indian Tribal Energy Development and Self Determination Act of 2017 along with Senators Barrasso, Enzi, Gardner, Heitkamp, Lankford, McCain, and Moran.

This bill was developed in consultation with the energy-producing Indian tribes to correct burdensome agency regulations. Most notably, the bill directs the Department of the Interior to provide Indian tribes with technical assistance in planning their energy resource development programs, cuts red tape and makes it easier for Indian tribes to develop their own resources, and streamlines the process for approving tribal energy resource agreements.

Once again, Congress must step in to ensure the agency prioritizes and corrects critical and failing programs. Moving forward, we will continue to work to ensure the Department is giving the appropriate attention to these matters.

I want to welcome all the witnesses today. I look forward to hearing about the work being done to turnaround these programs. Additionally, I look forward to discussing the GAO recommendations that have been closed and a specific timeline for closing outstanding recommendations.

More importantly, I want to know how these solutions have benefitted Indians and tribal communities.

Before we hear from our witnesses, I want turn 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.

As you mentioned, this is our third hearing on the GAO High Risk Report for Indian programs. I appreciate your follow-through on this topic.

As this Committee is well aware, the Federal Government has trust and treaty obligations to provide vital services to American Indian and Alaska Native tribes. GAO's review of Indian programs helps ensure our government is living up to and respecting those obligations.

However, including Indian programs on the GAO High Risk list confirms what many in Indian Country have reported to this Committee; we must do better. Year after year, tribal communities report gaps in Federal programs. In response, our Federal partners point to workforce turnover and lack of resources as the source of programs' ineffectiveness.

The Gallup Indian Medical Center, in my home state of New Mexico, is a “case in point,” just one of the most recent examples showing how much more we have to do. GIMC is located in a 59 year old facility with a 19 percent vacancy rate. Recent deficiencies at GIMC uncovered by the Centers for Medicare and Medicaid Services mean the facility is at risk of losing its accreditation, just like several hospitals in the Great Plains and, as of last week, the IHS facility in the Billings Service Area.

It is true that the root cause of many of GIMC’s deficiencies can be traced to the facility’s age and its struggle to recruit and retain staff, but these barriers to quality care are not impossible to overcome. IHS leadership must prioritize deficiencies by requesting the resources they need to fully address the accreditation crisis in the Great Plains, Billings and Navajo Service Areas. If IHS really wants to prevent this crisis from spreading even further, leadership must commit to realizing meaningful improvements in the way the Service is managed.

The real goal of the High Risk List, and this Committee’s focus on it, is to make sure BIA, BIE, and IHS are working toward meaningful institutional change. We need to see evidence of cultural shifts within all three agencies that will lead to proactive improvements in Federal Indian program delivery.

My questions for the panel today will focus on a central theme: Is institutional change actually happening or are folks merely “checking boxes”? I am concerned that agency leadership is too focused on counting the number of GAO recommendations that have been closed.

As GAO points out in today’s testimony, leadership should instead focus on addressing “systemic management weaknesses.” The road map to improving Indian program delivery requires leadership commitment, capacity building, planning, and careful monitoring.

The members of this Committee must do all we can to address the Federal Government’s shortcomings to improve accountability and administration of Indian Country programs. I look forward to today’s testimony from our witnesses and I hope we can have a frank discussion about the real impacts each agency’s efforts are having on improvement.

Thank you, Mr. Chairman.

The CHAIRMAN. Are there other opening statements? Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Very briefly, Mr. Chairman, I want to thank you and the Vice Chairman for this hearing as a follow up to the two previous hearings about the GAO and its High Risk List.

I thank the GAO for identifying the numerous challenges that face our Federal Indian programs in providing many of the recommendations. I certainly hope that all our taking these recommendations very seriously and using them as a path forward.

We know the criticality of these programs to Alaska Natives and Native Americans and making sure we do right by these programs is really what we are all about.

As part of their testimony, the GAO stated there is a list of criteria that an agency must meet in order to be removed from the GAO's High Risk List. One of those criteria is leadership commitment, not only that but permanent leadership commitment.

Both the Assistant Secretary for Indian Affairs, the BIA Director and the IHS Director are not confirmed at this point in time. I think that's a problem for us, Mr. Chairman. As stated in the GAO testimony, the lack of leadership makes it incredibly difficult to follow through with previously-identified plans and time frames for completing some of the activities identified by the GAO. It seems as though we are in a situation where you have the agency starting over and over in the process to identify or perhaps implement corrective actions.

I know this Committee worked expeditiously to move the nominees that came before this Committee. We worked hard to see that Tara Sweeney, nominated to be the Assistant Secretary for BIA, would be moved out and be before the full Senate. She is there.

She is keyed up and ready to go. She plans to spend her initial days listening to tribal leaders, listening to members of the congressional committees and other agencies, like the GAO, to hear about the top priorities and how she can establish this clear, comprehensive action plan going forward.

This is exactly the type of leadership that we need that will help us get agencies, like the BIA and the BIE, off this High Risk List. I only add this, Mr. Chairman, because I think it is imperative that, as we move nominees through the Committee, we work aggressively to get them through the full process so that they can get to work, doing the work that definitely needs to be addressed, as the GAO report clearly points out.

Thank you for that, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski.

We will now hear from our witnesses: Mr. Frank Rusco, Director of Natural Resources and Environmental Issues, Government Accountability Office; Mr. Tony Dearman, Director, Bureau of Indian Education, U.S. Department of the Interior; Mr. Darryl LaCounte, Acting Director, Bureau of Indian Affairs, Department of the Interior; and Rear Admiral Michael Weahkee, Acting Director, Indian Health Service, U.S. Department of Health and Human Services.

I want to remind the witnesses that your full testimony will be made a part of the official hearing record so please keep your statements to five minutes so that we have time for questions.

With that, Mr. Rusco, if you would proceed.

STATEMENT OF FRANK RUSCO, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENTAL ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. RUSCO. Thank you. Chairman Hoeven, Vice Chairman Udall and members of the Committee, thank you for the opportunity to provide an update on progress made to resolve the underlying issues that led GAO to put programs that serve tribes and their members on GAO's High Risk List.

GAO has made about 50 recommendations to improve management weaknesses at some Interior and Health and Human Services agencies. To date, a little more than a third of those recommenda-

tions have been closed and they are primarily the result of agency actions to implement the recommendations.

In addition, GAO has found agency leadership to be receptive to ongoing discussions to identify and address the underlying management problems that resulted in these specific recommendations.

For these reasons, GAO sees significant progress made by the agencies relative to the management weaknesses identified in the High Risk Report. However, GAO will continue to audit these programs and if additional weaknesses are identified, there will be additional recommendations.

This is why to get off the High Risk Group List, closing recommendations is not enough. Agencies need to identify the root causes of management weaknesses and address those root causes.

Specifically, GAO has five criteria agencies must meet: first is demonstrated leadership commitment; second is the capacity and other resources needed to identify and address root causes; third is an action plan to address root causes; fourth is a monitoring plan that identifies measures of program success and regularly evaluates those measures; and fifth is demonstrated progress in addressing root causes.

In regular meetings between GAO teams and agency leadership, we have identified some progress toward meeting most, if not all, of these criteria. Still, additional progress is required in all areas, particularly in the areas of leadership commitment and the capacity and resources needed to identify and address root causes.

With regard to leadership commitment, Indian Affairs, IHS, BIA and BIE have each taken some actions to partially meet this criterion. For example, leadership of all agencies has been receptive to meeting with GAO teams regularly and working to develop a better understanding of what needs to be done to get off the High Risk List. However, fully meeting the leadership commitment criterion would require that accountability be assigned to specific leaders and teams in each agency to identify and resolve root causes.

These assignments need to be a part of the job descriptions for those leaders and teams. Also, the teams and leaders need to be given the authority to identify root causes and the resources to address them. Lastly, these assignments need to continue to function even in the face of leadership changes.

In order to identify and address root causes, agencies need to build capacity. Indian Affairs, IHS, BIA and BIE have each made some progress toward partially meeting this criterion.

For example, BIE has been able to hire school safety officers and other personnel. BIA conducted a survey to identify workforce needs for the Indian Energy Service Center. IHS officials have said the agency is expanding the role of internal audit staff to complement GAO and IG audits.

However, all of the agencies have vacancies in key offices. For example, BIA has said it does not have sufficient staff to do comprehensive workforce planning. Such a plan would need to include not just headquarters staff and leadership, but also workforce at the regional and agency office level to ensure the right people with the right skills are in the right places to meet program responsibilities.

Ultimately, to meet fully the capacity criterion, Interior and IHS must prioritize the High Risk Program serving tribes and their members and provide Indian Affairs, IHS, BIA and BIE with enough capacity and other resources to identify and address root causes of management weaknesses.

Thank you. This ends my oral remarks. My colleagues and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Rusco follows:]

PREPARED STATEMENT OF FRANK RUSCO, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENTAL ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

HIGH RISK—AGENCIES NEED TO CONTINUE EFFORTS TO ADDRESS MANAGEMENT WEAKNESSES OF FEDERAL PROGRAMS SERVING INDIAN TRIBES

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

I am pleased to be here today to discuss the status of actions by the Departments of the Interior (Interior) and Health and Human Services (HHS) to address issues that led to the high-risk designation we made related to the federal management of programs that serve tribes and their members. We added this area to our High Risk List in February 2017 because of our concern about the ability of agencies within these departments to manage (1) education and health care programs that serve tribes and their members and (2) Indian energy resources.¹ In particular, we found numerous weaknesses in how Interior’s Bureau of Indian Education (BIE) and Bureau of Indian Affairs (BIA)—under the office of the Assistant Secretary, Indian Affairs (Indian Affairs)—managed education and energy resources and how HHS’s Indian Health Service (IHS) managed health care services. We reported that these management weaknesses jeopardized the health and safety of American Indians served by these programs and limited opportunities for tribes and their members to use energy resources to create economic benefits and improve the well-being of their communities. This testimony provides examples of actions taken and progress made by these agencies to address the five criteria we use for determining whether to remove a high-risk designation (leadership commitment, capacity, action plan, monitoring, and demonstrated progress).

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.”² As further stated in that act, the fiduciary responsibilities of the United States to Indians arise in part from commitments made in treaties and agreements, in exchange for which Indians surrendered claims to vast tracts of land. The act notes that this history of federal-tribal relations and understandings has benefitted the people of the United States and established “enduring and enforceable [f]ederal obligations to which the national honor has been committed.” 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. Such improvements would be consistent with the expressed view of Congress as to the federal government’s trust responsibilities and would strengthen confidence in the performance and accountability of the federal government. In light of this unique trust responsibility and concerns about the federal government’s management of Indian education and health care programs and Indian energy resources and because these issues uniquely affect tribal nations and their members, we added the federal management of programs serving tribes and their members as a high-risk area in February 2017.³

The focus of this high-risk area is on management weaknesses within federal agencies that administer programs that serve tribes and their members. However, not all federal programs are administered by federal agencies. In accordance with federal Indian policy that recognizes the right of Indian tribes to self-government and that supports tribal self-determination, a number of tribes have elected to take over the administration of certain federal programs and services from BIA, BIE, and IHS. Our recommendations identified in the high-risk area are neither reflective of

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

²Pub. L. No. 114-178, § 101 (2016)(codified at 25 U.S.C. § 5601).

³GAO-17-317.

the performance of programs administered by tribes nor directed at any tribally operated programs and activities.

We have ongoing work reviewing tribes' use of selected legal mechanisms to take over the administration of federal programs from BIA and to assume control and decisionmaking authority over surface leasing of their lands. In addition, we have ongoing work related to health care programs that serve tribes and their members. Specifically, we are reviewing: (1) provider vacancies in IHS; (2) the use of advance appropriation authority for federal health programs and any applications to IHS; (3) how IHS compares with the Veterans Health Administration, Medicare, and Medicaid in terms of overall structure, user characteristics and service utilization, and funding levels; and (4) access to care for American Indian veterans. The results of these reviews will help inform future updates to the High Risk List.

For this statement, we drew on findings from our reports issued from September 2011 through September 2017 and updated that work by reviewing agency documentation and interviewing agency officials. To conduct our previously issued work, on which this testimony draws, we reviewed relevant federal laws, regulations, and policies; reviewed agency documentation; and interviewed tribal, federal, and industry officials, among others. More detailed information on the scope and methodology of our work can be found in each of the reports cited in our High-Risk Series report.⁴ We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Since 1990, generally every 2 years at the start of a new Congress, we call attention to agencies and program areas that are high risk due to their vulnerability to mismanagement or that are most in need of transformation.⁵ Our high-risk program is intended to help inform the congressional oversight agenda and to improve government performance. Since 1990, a total of 61 different areas have appeared on the High-Risk List. Of these, 24 areas have been removed, and 2 areas have been consolidated. On average, the high-risk areas that were removed from the list had been on it for 9 years after they were initially added.

Our experience with the High-Risk List over the past 25 years has shown that the key elements needed to make progress in high-risk areas are top-level attention by the administration and agency leaders grounded in the five criteria for removing high-risk designations, which we reported on in November 2000.⁶ We found that when legislative and agency actions, including those in response to our recommendations, result in significant progress toward resolving a high-risk problem, we will remove the high-risk designation. However, implementing our recommendations alone will not result in the removal of the designation, because the condition that led to the recommendations is symptomatic of systemic management weaknesses. In cases in which we remove the high-risk designation, we continue to closely monitor the areas. If significant problems again arise, we will consider reapplying the high-risk designation. The five criteria for removing high-risk designations are:

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

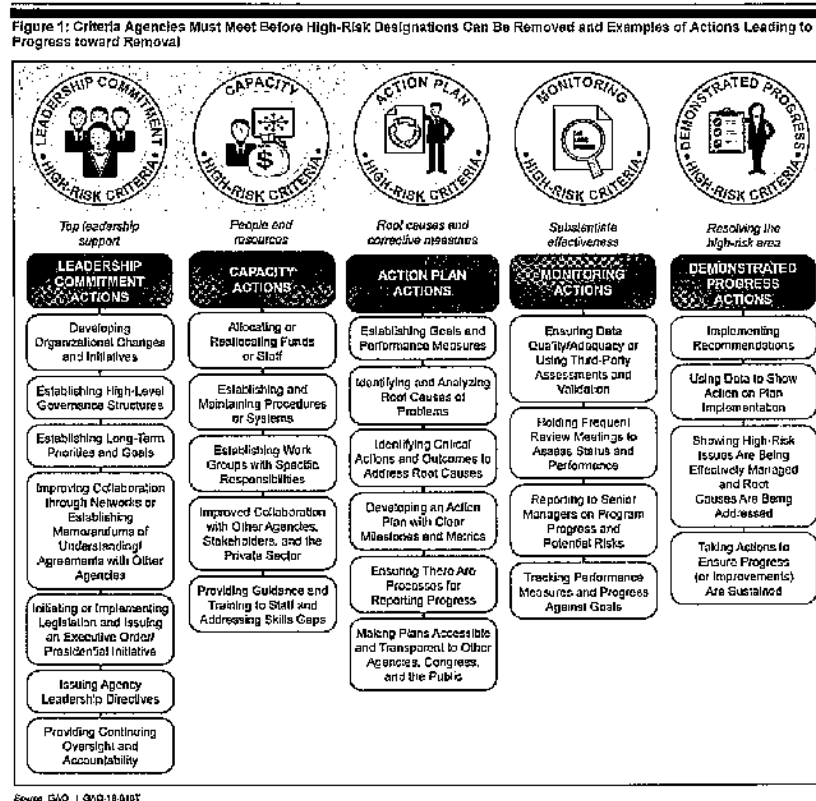
⁴GAO-17-317.

⁵In our High-Risk List, we also call attention to agencies and program areas that are high risk due to fraud, waste, and abuse, but we do not include such areas in this report.

⁶GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO-01-159SP (Washington, D.C.: November 2001).

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

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



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

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

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

Officials from Indian Affairs, BIE, BIA, and IHS expressed their commitment to addressing the issues that led to the high-risk designation for federal management of programs that serve tribes and their members. Since we last testified before this

committee on September 13, 2017, we met with agency leaders and worked with each agency to identify actions the agencies took or plan to take to address the concerns that contributed to the designation.⁷ We determined that Indian Affairs, BIE, BIA, and IHS demonstrated varying levels of progress to partially meet most or all of the criteria for removing a high-risk designation. However, additional progress is needed for the agencies to fully address the criteria and related management weaknesses, particularly in the areas of leadership commitment and capacity.

Leadership Commitment

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

- *Education.* Indian Affairs' leaders have demonstrated commitment to addressing key weaknesses in the management of BIE schools in several ways. For example, the BIE Director formed an internal working group, convened meetings with other senior leaders within Indian Affairs, and publicly stated that his agency is committed to ensuring implementation of our recommendations on Indian education. In addition, the BIE Director and other Indian Affairs leaders and senior managers have met with us frequently to discuss outstanding recommendations, actions they have taken to address these recommendations, and additional actions they could take. In particular, the BIE Director met with us on nine occasions over the past year to discuss our recommendations and instructed his staff to provide us draft policies and procedures related to our recommendations. However, it is important that Indian Affairs leaders be able to sustain this level of commitment to solving problems in Indian education. Since 2012, there have been six Assistant-Secretaries of Indian Affairs and five BIE Directors. There has also been leadership turnover in other key offices responsible for implementing our recommendations on Indian education. We have previously reported that leadership turnover hampered Indian Affairs' efforts to make improvements to Indian education.⁸ We believe that ensuring stable leadership and a sustained focus on needed changes is vital to the successful management of BIE schools.
- *Energy.* BIA officials demonstrated leadership commitment by, for example, issuing a memorandum requiring all regions and their agency offices⁹ to use a centralized data management system to track requests for land title status reports.¹⁰ Using this type of centralized approach for tracking such requests may improve BIA's ability to provide needed oversight of federal actions associated with energy development and ensure documents needed for the development of energy resources are provided in a timely manner. In addition, BIA officials frequently met with us over the last 9 months to discuss the bureau's progress in addressing recommendations related to Indian energy. However, Indian Affairs does not have a permanent Assistant Secretary. BIA does not have a permanent Director, and BIA's Office of Trust Service—which has significant responsibility over Indian energy activities—does not have a permanent Director or Deputy Director. We have seen turnover in these leadership positions as officials have been brought in to temporarily fill these roles. As officials are brought in temporarily, previously identified plans and timeframes for completing some activities have changed, and BIA has found itself starting over on the process to identify or implement corrective actions.
- *Health Care.* IHS officials demonstrated leadership commitment by regularly meeting with us to discuss the agency's progress in addressing our recommendations. IHS has continued to implement its Quality Framework by acquiring a software system to centralize the credentialing of clinical providers, developing a patient experience of care survey, and developing standards for limiting patient wait time. However, IHS still does not have permanent leadership—including a Director of IHS—which is necessary for the agency to demonstrate its commitment to improvement. Since 2012, there have been five IHS

⁷ GAO, *High Risk: Status of Prior Recommendations on Federal Management of Programs Serving Indian Tribes*, GAO-17-790T (Washington, D.C.: Sept. 13, 2017).

⁸ GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO-13-774 (Washington, D.C.: Sept 24, 2013).

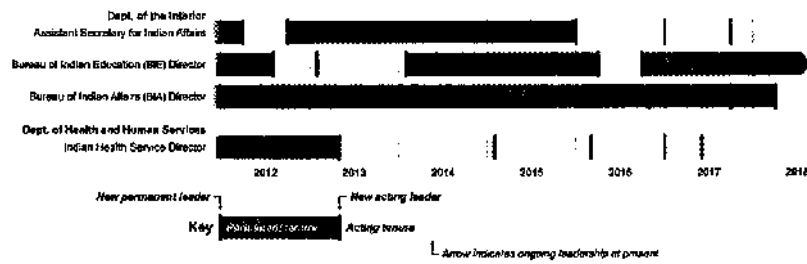
⁹ BIA, through its 12 regions, more than 80 agency offices, and headquarters office, generally has primary authority for managing Indian energy resources and the development process.

¹⁰ A land title status report is required before leasing land and minerals held in trust or obtaining a right-of-way to traverse land held in trust.

Acting Directors, and there has been leadership turnover in other key positions, such as area directors.¹¹ For example, in January 2017 we reported that officials from four of the nine area offices in our review reported that they had at least three area directors over the prior 5 years.¹² We also reported that inconsistent area office and health care facility leadership is detrimental to the oversight of facility operations and the supervision of personnel.

To fully meet the leadership commitment criterion, all agencies will need, among other things, stable, permanent leadership that has assigned the tasks needed to address weaknesses and that holds those assigned accountable for progress. For a timeline of senior leadership turnover in Indian Affairs, BIE, BIA, and IHS from 2012 through 2018, see Figure 2.

Figure 2: Senior Leadership in Agencies Responsible for Education, Energy, and Health Care Programs Serving Tribes



Capacity

To meet the capacity criterion, an agency needs to demonstrate that it has the capacity (i.e., people and other resources) to resolve its management weaknesses. Indian Affairs, BIE, BIA, and IHS each made some progress in identifying capacity and resources to implement some of our recommendations, but BIA and IHS officials reported to us that the agencies do not have the people and resources needed to fully implement other recommendations. The following examples show actions Indian Affairs, BIE, BIA, and IHS took to partially meet the capacity criterion.

- **Education.** BIE and other Indian Affairs offices that support BIE schools have made some progress in demonstrating capacity to address risks to Indian education. For example, BIE hired a full-time program analyst to coordinate its working group and help oversee the implementation of our recommendations on Indian education. This official has played a key role in coordinating the agency’s implementation efforts and has provided us with regular updates on the status of these efforts. BIE has also conducted hiring in various offices in recent years as part of a 2014 Secretarial Order to reorganize the bureau.¹³ For example, it has hired school safety officers and personnel in offices supporting the oversight of school spending. However, about 50 percent of all BIE positions have not been filled, including new positions that have been added as a result of the agency’s restructuring, according to a BIE official. Moreover, agency officials told us that vacancies remain in several key positions, including the Chief Academic Officer and the Associate Deputy Director for Bureau Operated Schools. Furthermore, BIE and other Indian Affairs offices that support BIE schools have not developed a workforce plan to address staffing and training gaps with key staff, which we previously recommended. Such a plan is important to allow BIE and other Indian Affairs offices to better understand workforce needs and leverage resources to meet them. BIE officials told us they have held workforce planning sessions and anticipate completing work on our recommendation to develop a workforce plan at the end of 2018.

¹¹ IHS oversees its health care facilities through a decentralized system of area offices, which are led by area directors.

¹² GAO, *Indian Health Service: Actions Needed to Improve Oversight of Quality of Care*, GAO-17-181 (Washington, D.C.: Jan. 9, 2017).

¹³ U.S. Department of the Interior, Secretarial Order 3334: Restructuring the Bureau of Indian Education. (Washington, D.C.: June 16, 2014).

- *Energy.* In November 2016, we recommended that BIA establish a documented process for assessing the workforce at its agency offices.¹⁴ BIA has taken a number of actions, such as conducting an internal survey to identify general workforce needs related to oil and gas development. This survey information supported staffing decisions for the recently created Indian Energy Service Center. However, BIA officials told us the bureau does not have the staff or resources to implement a comprehensive workforce planning system that would be needed to ensure it has staff in place to meet its organizational needs.
- *Health Care.* IHS has made some progress in demonstrating it has the capacity and resources necessary to address the program risks we identified in our reports. For example, IHS officials stated that the agency is expanding the role of internal audit staff within its enterprise risk management program to augment internal audits and complement audits by the HHS Inspector General and GAO. However, according to IHS, there are still vacancies in several key positions, including the Director of the Office of Resource Access and Partnerships, and the Office of Finance and Accounting.

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

Action Plan

To meet the action plan criterion, an agency needs to have a corrective action plan that defines the root causes, identifies effective solutions, and provides for substantially completing corrective measures in the near term, including steps necessary to implement the solutions we recommended. Indian Affairs, BIE, BIA, and IHS have shown progress in identifying actions to address many of our recommendations leading us to believe they can partially meet the action plan criterion before our next update of the High Risk List. For example:

- *Education.* BIE has taken several steps to develop action plans to address management weaknesses. For example, BIE implemented a new policy for overseeing BIE school spending, including developing written procedures and risk criteria for monitoring school expenditures. BIE also developed a strategic plan, which we recommended in September 2013.¹⁵ The plan provides the agency with goals and strategies for improving its management and oversight of Indian education, and establishes detailed actions and milestones for the implementation. BIE has notified us that it has completed the plan and expects to publish it on June 11, 2018, and will begin implementation starting in July 2018. We will review the strategic plan once it has been published. In addition, Indian Affairs' Office of Facilities, Property & Safety Management has developed and implemented revised comprehensive guidelines that addressed several of our findings on weaknesses with BIE school safety identified in our March 2016 report.¹⁶ However, Indian Affairs has not provided us with evidence that it has developed and put in place action plans on other important issues, such as a comprehensive, long-term capital asset plan to inform its allocation of school construction funds, which we recommended in May 2017.¹⁷
- *Energy.* BIA officials met with us several times over the past few months to discuss planned actions for addressing management weaknesses related to Indian energy resources, and they identified actions they have taken to help implement some of our recommendations. For instance, BIA officials told us they have proposed several modifications to the bureau's land records data management system that will enable increased tracking and monitoring of key documents that BIA must review prior to the development of Indian energy resources. BIA officials we met with have demonstrated an understanding that addressing long-standing management weaknesses is not accomplished through a single action but through comprehensive planning and continued movement toward a goal. However, the agency does not have a comprehensive plan to address the root causes of all identified management shortcomings.

¹⁴ 14GAO, *Indian Energy Development: Additional Actions by Federal Agencies Needed to Overcome Factors Hindering Development*, GAO-17-43 (Washington, D.C.: Nov. 17, 2016).

¹⁵ GAO, *Indian Affairs: Better Management and Accountability Needed to Improve Indian Education*, GAO-13-774 (Washington, D.C.: Sept. 24, 2013).

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

¹⁷ GAO, *Indian Affairs: Actions Needed to Better Manage Indian School Construction Projects*, GAO-17-447 (Washington, D.C.: May 24, 2017).

- *Health Care.* Senior leaders in IHS have prioritized addressing our recommendations by meeting with us frequently and implementing four recommendations we highlighted in our February 2017 update to the High Risk List.¹⁸ IHS incorporated our recommendations into its risk management work plan starting in 2017, and according to IHS officials, they will annually review the effectiveness of the agency's internal controls, and where controls are deemed insufficient, take actions to strengthen them. IHS officials we met with have demonstrated an understanding that addressing long-standing management weaknesses requires that they develop a corrective action plan that defines root causes, identifies solutions, and provides for substantially completing corrective measures. However, agency officials have not yet developed a corrective action plan.

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

Monitoring

To meet the monitoring criterion, an agency needs to demonstrate that a program has been instituted to monitor and independently validate the effectiveness and sustainability of corrective measures. For example, agencies can demonstrate that they have a systematic way to track performance measures and progress against goals identified in their action plans. We have been working with the agencies to help clarify the need to establish a framework for monitoring progress that includes goals and performance measures to track their efforts and ultimately verify the effectiveness of their efforts. BIA and IHS made progress in holding frequent review meetings to assess the status of implementing our recommendations but have not yet taken needed steps to monitor their progress in addressing the root causes of their management weaknesses. In addition, Indian Affairs has made some progress in meeting the monitoring criterion on Indian education. For example, the agency has implemented a plan to monitor the effectiveness of corrective measures to address school safety program weaknesses. However, the agency has not yet demonstrated that it is monitoring other areas, such as showing that it is using safety program outcomes to evaluate and manage the performance of regional safety inspectors. To fully meet the monitoring criterion, the agencies need to set up goals and performance measures as they develop action plans and take further actions to monitor the effectiveness of actions to address root causes of identified management shortcomings.

Demonstrated Progress

To meet the demonstrated progress criterion, an agency needs to demonstrate progress in implementing corrective measures and in resolving the high-risk area. We made 50 recommendations to improve management weaknesses at Indian Affairs, BIE, BIA, and IHS, of which 34 are still open. Since our testimony in September 2017, we found that Indian Affairs has made significant progress in implementing corrective actions in education as demonstrated by our closure of nearly a third of our recommendations directed to Indian Affairs related to education programs.¹⁹ We found that BIA and IHS also made some progress in implementing corrective actions related to the management of energy resources and healthcare programs. Specifically, since our testimony in September 2017, BIA took actions resulting in the implementation of 2 of 14 recommendations, and IHS took actions that resulted in the implementation of four recommendations. The following examples show actions Indian Affairs, BIA, and IHS took to partially meet the demonstrated progress criterion.

- *Education.* As of early June 2018, Indian Affairs had fully addressed 8 of the 23 outstanding education recommendations we identified in our September 2017 testimony, and we have closed them.²⁰ BIE implemented half of the closed recommendations, including 2 on oversight of BIE school spending identified as high priority in a March 2018 letter from the Comptroller General to the Secretary of the Interior. The rest of the recommendations we closed were implemented by personnel in Indian Affairs' Office of Facilities, Property & Safety Management and related to oversight of school safety and construction. Overall,

¹⁸ GAO-17-317.

¹⁹ GAO-17-790T.

²⁰ GAO-17-790T.

Indian Affairs' efforts since we issued our High Risk List update in February 2017 represent a significant increase in activity implementing our recommendations.²¹ Substantial work, however, remains to address our outstanding recommendations in several key areas, such as in accountability for BIE school safety and school construction projects. For example, BIA has reported taking some actions to address recommendations in our May 2017 report on improving accountability of its safety employees who inspect BIE schools.²² However, it has not provided us with documentation of these actions.

- *Energy.* In June 2015, we recommended that BIA take steps to improve its geographic information system (GIS) capabilities to ensure it can verify ownership in a timely manner.²³ Since our last update in September 2017, BIA has made significant progress in enhancing its GIS capabilities by integrating map-viewing technology and capabilities into its land management data system. In addition, we recommended that BIA take steps to identify cadastral survey needs.²⁴ BIA's enhanced map-viewing technology also allows the bureau to identify land boundary discrepancies, which can then be researched and corrected. Further, BIA identified unmet survey needs that were contained within the defunct cadastral request system and developed a new mechanism for its regions and agency offices to make survey requests. We believe these actions show significant progress in addressing management weaknesses associated with data limitations and outdated technology.
- *Health Care.* In April 2013, we recommended that IHS monitor patient access to physician and other nonhospital care to assess how capped payment rates may benefit or impede the availability of care.²⁵ In response to our recommendation, IHS developed an online tracking tool that enables the agency to document providers that refuse to contract for lower rates. In October 2017, IHS officials met in person with us and provided a demonstration of the tracking tool.

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

In conclusion, we see some progress in all of the criteria, including leadership commitment, at all agencies, especially related to education programs. However, permanent leadership that provides continuing oversight and accountability is needed. We also see varying levels of progress at all of the agencies in understanding what they need to do to be removed from the High Risk List by identifying steps that can be incorporated into corrective action plans to address most recommendations. We look forward to working with the agencies to track their progress in implementing a framework for monitoring and validating the effectiveness of planned corrective actions. In addition, the agencies all have made progress in implementing some key recommendations, for demonstrated progress in resolving the high-risk area. Perhaps the biggest challenge for the agencies will be achieving the capacity and identifying the resources required to address the deficiencies in their programs and activities. This challenge cannot be overcome by the agencies without a commitment from the administration to prioritize fixing management weaknesses in programs and activities that serve tribes and their members.

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

The CHAIRMAN. Mr. Dearman.

²¹ GAO-17-317.

²² GAO, *Indian Affairs: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections*, GAO-17-421 (Washington, D.C.: May 24, 2017).

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

²⁴ A cadastral survey is, in effect, the public record of the extent, value, and ownership of land.

²⁵ GAO, *Indian Health Service: Capping Payment Rates for Nonhospital Services Could Save Millions of Dollars for Contract Health Services*, GAO-13-272 (Washington, D.C.: April 11, 2013).

STATEMENT OF TONY DEARMAN, DIRECTOR, BUREAU OF INDIAN EDUCATION, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY MELISSA EMARY ARONSON, EDUCATION DIRECTOR

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

I am Tony Dearman, Director of the Bureau of Indian Education. On behalf of the BIE and the Department, thank you for the invitation to appear again.

In February 2017, GAO released its High Risk Report designating BIE as a high risk agency. As in past hearings, I acknowledge that BIE neglected GAO reports for too long. Work remains but I am glad to update this Committee on significant progress regarding BIE's outstanding recommendations.

As of today, GAO has formally closed eight of our outstanding recommendations. We expect to submit for closure in the coming days GAO Report 13-774, Recommendation No. 4, a strategic plan and anticipate implementation of the other four outstanding recommendations by year's end. This puts BIE in a good position to address the challenge provided by members of the Committee at prior hearings

Regarding GAO Report 13-774, BIE implemented Recommendation Nos. 1, 2 and 3, development of a decision-making procedure; communications strategy; and increased collaboration with the Department of Education.

With regard to Recommendation No. 4, over the past year, all levels of BIE contributed to the creation of a draft strategic plan. We then held three listening sessions and five regional tribal consultations in late 2017.

After incorporation of relevant consultation comments, BIE developed its formal strategic plan and consultation report to provide transparency regarding inclusion of tribal comments. I am happy to report that last week, departmental leadership completed its review and approved the strategic plan. Upon implementation and through our communications strategy, we anticipate GAO will close our ninth outstanding recommendation in the coming weeks.

The Department previously considered Recommendation No. 5, revision of a strategic workforce plan closed. However, GAO did not concur. After review of the previous work, BIE and the Department relisted the recommendation as open.

Importantly, we prioritized the implementation of the strategic plan before the workforce plan. It made little sense to implement the formal workforce plan prior to executing a strategic plan that set the direction of the organization.

To ensure our employees and stakeholders benefit from a high quality workforce plan, we continue to work with comprehensive and content-centered experts funded through the Department of Education. We are now on target to address this recommendation by year's end, which will address both GAO Report 13-774, Recommendation No. 5 and GAO Report 15-121, Recommendation No. 1.

Since the last hearing, we also developed and implemented a comprehensive fiscal monitoring policy and procedure. This coordinates monitoring efforts and improves technical assistance to

schools. As of May, GAO formally closed Recommendation Nos. 2, 3 and 4 which are addressed in this comprehensive policy.

Regarding GAO Report 16–313, Indian Affairs, in coordination with BIE, successfully implemented Recommendation Nos. 2 and 4 in recent months. As of June 1, GAO closed Recommendation No. 2 regarding safety guidance for school inspections.

As part of this work, Indian Affairs revised its inspection guidance and tools to ensure they are comprehensive and up-to-date. Further, GAO closed Recommendation No. 4 in early 2018 regarding the requirement of school safety committees at the local level. Two recommendations in GAO Report 16–313 remain open, Recommendation No. 1 regarding mitigation of challenges for school inspection and Recommendation No. 3 concerning increasing school capacity to address safety issues. Indian Affairs is coordinating across bureaus to address these remaining recommendations as quickly as possible.

Through its recommendations, GAO provided a road map to improve service delivery to our schools. BIE, as well as Indian Affairs and the Department, took Congress' charge to address these as quickly and effectively as possible. Implementing GAO's guidance will work to make us better at addressing the needs of our students, students like my daughter who attend a BIE school.

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

[The prepared statement of Mr. Dearman follows:]

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

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

As highlighted in the GAO reports, much work remains, but I am glad to update this Committee on progress made regarding the outstanding recommendations since I last testified in September. GAO has conveyed that addressing the outstanding recommendations will help them work toward removing BIE from the high-risk designation. While the BIE is working to address all GAO recommendations, including those in subsequent reports issued in 2017, this testimony will provide an update on progress regarding outstanding GAO recommendations in relation to the high-risk designation—now having closed seven recommendations. BIE appreciates GAO's continued support and assistance in improving BIE services to our students. The BIE is now well positioned to address all outstanding recommendations by year's end—a challenge provided by Members of this Committee at the last hearing.

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 2017, 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. BIE has now closed seven GAO recommendations. BIE has additionally made significant progress in addressing its remaining outstanding recommendations.

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 IA, the Secretary's Office, and our colleagues at GAO to ensure that BIE comprehensively addresses each outstanding recommendation as expeditiously and effectively as possible. Throughout the past year, the BIE, through the support of the Department of the Interior (Department), regularly and directly communicated with GAO, which enhanced BIE's ability to address outstanding recommendations. Through in-person meetings and teleconferences, GAO provided BIE comments and suggestions for effectively 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 appreciate the assistance and collaboration offered by GAO and look forward to our continued partnership.

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

In November 2016, the BIE filled several key positions 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 was not satisfied with the quality and timeliness of the Bureau's response in addressing GAO's outstanding recommendations. Since then, BIE consistently worked to complete the actions recommended to improve service delivery and accountability.

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

GAO made five recommendations:

- I.) Develop and implement decisionmaking procedures, which are documented in management directives, administrative policies, or operating manuals;
- II.) Develop a communication strategy;
- III.) Appoint permanent members to the BIE-Education committee and meet on a quarterly basis;
- IV.) Draft and implement a strategic plan with stakeholder input; and
- V.) Revise the BIE strategic workforce plan.

BIE completed implementation of recommendations one, two and three, which includes development of a decisionmaking procedure, communications strategy and increased collaboration with the Department of Education (ED). The Department previously considered recommendation five—revision of a strategic workforce plan—closed. However, GAO did not concur. 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. The Department will continue to work with GAO until recommendation five is fully implemented. Additionally, BIE will assess the effectiveness of its long-term implementation of GAO's closed recommendations in an effort to continually im-

prove BIE operations. BIE is currently working to implement recommendations four and five, which are to develop a strategic plan, as well as a comprehensive workforce plan. BIE plans to implement the remaining recommendations contained in GAO-13-774 by the end of 2018.

Recommendation IV—BIE, working with leadership within IA and pertinent stakeholders, reviewed the strategic plan submitted to GAO in September 2016 and determined that the quality of work was unsatisfactory, both for the purposes of closing recommendation four as well as 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 to initiate work. 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 Strategic Plan Proposal with internal and external stakeholders to solicit feedback as well as developing a timeframe for formal consultation with Indian tribes. BIE then held additional organization-wide planning meetings on August 29–30, 2017 and September 26–28, 2017.

Following these internal planning sessions, the BIE produced a Draft Strategic Plan Proposal for review by Tribes and key stakeholders. On October 17, 2017, early in the planning process, BIE initiated a series of meaningful and substantive Tribal consultation and listening sessions regarding the Draft Strategic Plan Proposal. The consultation sessions achieved the BIE's goal to engage and work with Tribes, school boards, and other stakeholders to obtain input for meeting the needs of BIE students and Indian Country. Upon conclusion of five regional Tribal consultation sessions and three listening sessions, the BIE began a substantive review and analysis of all feedback and made significant edits and changes in light of the contribution of its Tribal partners. In April 2018, the BIE submitted its final Strategic Direction to Department leadership for formal review and approval. Upon receiving approval, the BIE will publish and implement the Strategic Direction.

Recommendation V—BIE purposefully delayed implementation of recommendation five until finalizing its Strategic Direction. The BIE will create and implement the workforce plan based on the goals outlined in the Strategic Direction. To ensure that implementation is effective, the BIE is working with external subject-matter expert organizations, such as the WestED comprehensive center, the Academic Development Institute, and the Building State Capacity and Productivity Center (BSCPC) to establish work strands and monitoring to ensure increased accountability in service delivery. These organizations will collaborate with BIE to provide technical expertise and best practices in developing an effective, long-term action plan for implementing a measurement system to track progress once implementation of the Strategic Direction begins. BIE's goal is to complete the strategic workforce plan by the close 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.

BIE continues to implement GAO's four recommendations contained in GAO-15-121. As of May, the BIE developed and implemented a comprehensive fiscal monitoring policy and procedure, which coordinates efforts and technical assistance across the Bureau. As a result, GAO permanently closed recommendations two, three, and four. The BIE is now focusing its efforts on completing a comprehensive workforce plan, which addresses recommendation one as well as recommendation five in GAO-13-774—implementation of a strategic workforce plan.

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 expectations by 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 completed by IA in the prior study and reexamine its workforce planning efforts in light of GAO's feedback. Additionally, during the strategic planning process the BIE held two initial workforce-planning exercises to begin plan-

ning. BIE's goal is to complete the comprehensive workforce plan by the close of 2018.

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

Recommendations I and III—BIE is collaborating with partners from across IA to address its remaining safety-related GAO recommendations. The BIE is committed to working with IA, the Secretary's office, and our colleagues at the GAO to ensure that the BIE systematically and comprehensively addresses each recommendation for improving services and safety at BIE schools. Specifically, through an IA collaborative working group to address outstanding safety issues, BIE and IA administered safe school audits with a 100 percent completion rate in both 2016 and 2017. We are on track to complete 100 percent of inspections in 2018 and are monitoring whether schools have established required safety committees.

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

Conclusion

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

The CHAIRMAN. Mr. LaCounte.

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

Mr. LACOUNTE. Thank you.

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

My name is Darryl LaCounte. I am the Acting Director for the Bureau of Indian Affairs at the Department of the Interior. I transitioned into this role from the Acting Deputy Director for Trust Services. My permanent role is Regional Director for the Rocky Mountain Region. As the Regional Director, I am responsible for all programs, services and costs provided to uphold the Trust with the tribes and individual Indians in the region.

Prior to Federal service, I worked extensively in agriculture in eastern Montana and western North Dakota and also in the oil and

gas exploration field in Montana, North Dakota, Wyoming, Colorado and Nebraska.

Thank you for the opportunity to present an update on behalf of the Department regarding the Indian Affairs role in development of Indian energy and our continued commitment to address the high risk designation in the Government Accountability Office High Risk Report, 17-317, High Risk Series.

Since February of this year, I and my staff have worked diligently to reestablish and improve communication with GAO. I feel we have been very successful in developing a productive relationship.

The Department is committed to working in collaboration to assure that we meet the five criteria GAO uses for determining whether to remove a high risk designation, leadership commitment, capacity, action plan, monitoring and demonstrated progress. We have made progress in these areas.

The Department understands that removal from the High Risk List is not directly linked to implementation of the recommendations. However, our progress in implementing these recommendations clearly demonstrates a commitment to widespread reform.

As the Committee is aware, the Department agreed with GAO's recommendations and we continue to address the recommendations by implementing widespread reform to help foster energy independence among tribes who are interested in developing their resources.

As the High Risk Report notes, GAO made 14 recommendations to the Bureau of Indian Affairs via three reports. We are pleased to report that we have made progress in all 14 recommendations.

We are pleased to update the Committee that Recommendation Nos. 1 and 5 have been closed. Since coming onboard as the Acting Director a month and a half ago, I have prioritized and aggressively closed out as many of the GAO recommendations as possible.

There are some I believe we can close by the end of September 2018 such as Recommendation Nos. 2, 3, 4 and 6. There are some GAO recommendations that have major components in the activity. Those recommendations are Nos. 7, 8, 9, 13 and 14. Our goal is to close out these five recommendations by the end of this year.

As for the remaining GAO recommendations, Nos. 10, 11 and 12, we have made significant progress in these and are optimistic we will be able to close out these recommendations by the end of the calendar year as well.

Again, thank you for the opportunity to provide an update on our progress in addressing the GAO recommendations from past reports and the GAO High Risk Report, 17-317, High Risk Series.

I would be glad to answer any questions the Committee may have.

[The prepared statement of Mr. LaCounte follows:]

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

Chairman Hoenes, Vice Chairman Udall, and Members of the Committee, my name is Darryl LaCounte and I am the Acting Director for the Bureau of Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present an update on behalf of the Department regarding Indian Affairs' role in the development of Indian energy and our continued commitment to address

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

As the Committee is aware, the Department agreed with GAO's recommendations and we continue to address the recommendations by implementing widespread reform to help foster energy independence among Tribes who are interested in developing their resources. As the High Risk report notes, GAO made fourteen recommendations to the Bureau of Indian Affairs (BIA), via three reports. We are pleased to report that we've made progress on a number of the recommendations, some have been closed, and we plan to submit closure packages for other recommendations in the near future.

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.

We are pleased to announce that the Indian Affairs GIS Map Viewer has been deployed, as of August 31, 2017. As of February 22, 2018, BIA addressed the requirements for this Recommendation, and demonstrated the system with ample evidence to close this recommendation.

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.

The BIA and the BLM, in a coordinated and focused effort, prepared a Reimbursable Service Agreement between the two agencies to identify and deliver the much needed survey-related products and services. We are continuing to evaluate the cadastral survey requests that have been approved for funding for completion by BLM.

BLM and BIA reviewed and established a database that contains the information necessary to identify ownership. An intake mechanism was developed by the Indian Energy Service Center for making new survey requests. The BIA drafted instructions and will provide guidance on how to make requests and how to track the progress of incoming requests from BIA Regional offices. Implementation and full deployment of the cadastral survey process is scheduled no later than September, 2018.

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

Previously we stated that the BIA was in the process of evaluating and reviewing the approval process and information stored in TAAMS in order to improve efficiencies and timeliness in processing workloads. Since then, the BIA subject matter experts provided modifications to enhance TAAMS to incorporate a tracking mechanism for proposed mineral related transactions. A Change Request for the system was presented to the TAAMS Change Management Board in January, 2018. In February, the Board vetted and approved the system enhancements.

To support and demonstrate BIA's commitment to enhance and streamline business processes, a National Policy Memorandum (NPM-TRUS-34-A1) has been issued regarding the utilization of a Tracking sheet for Communitization Agreements in addition to Rights-of-Way. Once developed, this tracking system will include permanent tracking in TAAMS by September 30, 2018.

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.

Data tracking is under development for TAAMS enhancements to capture review and response times. The enhancements will be reviewed by regional offices with active oil and gas transactions to improve business transactions.

The Fluid Minerals Handbook updates will include the new process, timeframes, and reporting requirements. Our target completion date is September 30, 2018.

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

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

In addition, IEED plans to prepare and place on its web site by the end of this calendar year a downloadable primer on how a tribe can apply for a TERA. This

task was not required by Recommendation 5 but IEED believes it will enhance tribal understanding of the TERA approval process.

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 continuing its work to ensure CA processes for review and approval are timely. As noted previously, a National Policy Memorandum (Memorandum) was issued that establishes a tracking mechanism to monitor the existing timeframes for review and approval of Indian CAs. As mentioned previously, the procedure to modify TAAMS is in development.

The process will be outlined in the Standard Operating Procedure (SOP) supported by the intent of the Interagency Agreement. The Interagency Agreement is signed by BIA, BLM, OST, ONRR and IEED to process federal Indian energy transactions. Each Agency has a role and responsibility to support resource development including training. SOP training specific to Indian Oil and Gas Leasing Activities is June 12-13, 2018 at the National Indian Training Center in Albuquerque NM.

We are pleased to announce that BIA can close out this Recommendation. BIA has made the necessary enhancements to TAAMS which establish processing steps and required data entry. The timeframes and process established through this recommendation will be utilized as the business rules for the development of the CA tracker that will be added to TAAMS in the near future that will address recommendation number 7.

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 developed a systematic mechanism to track Indian CAs through the review and approval process. Until TAAMS can be modified to incorporate the key identifiers and data fields, the BIA, in the meantime, is utilizing a centralized tracking spreadsheet. BIA leads the development and deployment of this tracking spreadsheet in consultation and coordination with BLM. BIA received an extension from GAO to complete this recommendation by the end of FY 2018. We are on target to meet this timeframe to complete and close out this recommendation.

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.

Effective coordination to identify areas of improvements to key data fields have been progressive to assure TAAMS capabilities capture all aspects of the CA process. The bureaus will continue to coordinate to collect data, which will assist in identifying and implementing any necessary process modifications. It is important to know that this Recommendation falls in line with other TAAMS system enhancements already underway. It is expected that training will be provided to personnel to use these system enhancements by the end of this fiscal year 2018. The system enhancements scheduled for training are the GIS Mapping (Complete February, 2018), Title Status Reports (TSR), and Acquisition & Disposal modules. Once the CA module is complete, follow up to the SOP training will be coordinated and implemented.

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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 IESC is committed to establishing formal Memorandums of Understanding (MOUs) for each of the recommended agencies. On January 10, 2018, the United States Army Corps of Engineers (USACE) signed the MOU with IESC. On June 1, 2018, the U.S. Fish and Wildlife Service's Principal Deputy Director also signed the MOU with IESC. The remaining draft MOU is in the review and signature approval process with the Environmental Protection Agency (EPA). We anticipate all MOUs to be signed before the end of 2018.

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.

In an effort to improve communication between the two offices, an MOU was signed between IEED and the Department of Energy (DOE) outlining a partnership going forward. The IESC prepared an addendum to the MOU with IEED and DOE

to finalize the agreement. The addendum is currently in the surname process within the Department.

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's activities.

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

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 Department created the Indian Energy & Minerals Steering Committee (IEMSC), which is a group that helps to ensure that the Department meets its trust responsibility to federally recognized Indian tribes and the individual Indian mineral owners. The IEMSC is an inter-agency forum for Indian energy and mineral resource development, royalty management coordination, and information exchange. This committee is comprised of senior representatives from the BIA, BLM, ONRR, OST, and the Solicitor's Office. On February 6, 2018, the IEMSC addressed energy issues and opportunities in Indian Country. The recent major accomplishments of the IEMSC include:

- Ensuring consistent answers across the Department to questions in Indian country;
- Working through issues involving underground injection;
- Streamlining activities across agencies to avoid duplication of effort; and
- Created multi-agency policy for communitization agreements.

In addition, this committee sponsors three Federal Partners groups that focus on Fort Berthold; Uintah and Ouray; and Oklahoma, Texas, and Kansas.

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.

IESC identified energy and minerals workforce data collected from a multi-agency survey to align with workforce needs for energy and minerals management. The information gleaned from the survey confirmed common needs across agencies in the areas of engineering, engineering technicians and environmental science disciplines at the forefront of identifying the availability of the resources for economic development.

Based on responses to the survey and current data, BIA attrition over the past 5 years has resulted in a potential gap of 33 to 50 engineers, engineering technicians, and environmental scientists, within the Trust functions across the BIA. Current retirement statistics show that 59 percent of the employees who occupy these positions are eligible for retirement now or within 5 years.

With the data collected from the survey and knowledge of the gaps that need to be filled, the BIA will work with the IESC and partner bureaus to develop effective workforce standards to address the need for the skills and competencies needed for energy development. The BIA's goal is to develop a draft energy and mineral workforce standards by the end of FY 2018, but no later than the end of that calendar year.

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.

In previous testimony, BIA indicated it was assessing the BIA Indian energy and mineral workforce composition using the same process as described in Recommendation 13. The same data and results from the survey conducted will provide a starting point for BIA to establish a documented process that will allow BIA to assess its workforce composition. The composition will, of course, take into consideration BIA's mission and goals, and also tribal priorities.

Presently, Workforce planning is conducted by the Regional Division managers working directly with the respective Deputy Directors with respect to Regional priorities as identified for this Recommendation. Once the workforce plan is finalized it is presented and reviewed with the Regional Director for further analysis and

final approval. Amended organizational charts are reviewed and approved by the Regional Director; and as appropriate by the Director of BIA. We expect the workforce plan to include a documented assessment component for our workforce composition. The BIA is on target to complete this documented assessment by the end of FY 2018, but no later than the end of that calendar year.

Conclusion

Thank you for the opportunity to present an update on our progress in addressing the GAO recommendations from past reports and the GAO High Risk Report (GAO-17-317 High Risk Series). I would be glad to answer any questions the Committee may have.

The CHAIRMAN. Admiral Weahkee.

**STATEMENT OF REAR ADMIRAL MICHAEL D. WEAHKEE,
ACTING DIRECTOR, INDIAN HEALTH SERVICE, U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. WEAHKEE. Good afternoon, Chairman Hoeven, Vice Chairman Udall, and members of the Senate Committee on Indian Affairs.

I am Rear Admiral Michael Weahkee, Acting Director of the Indian Health Service. I am pleased to provide testimony today regarding IHS programs identified by the U.S. Government Accountability Office High Risk Report.

Providing quality care is imperative to the IHS mission. I want to thank you for bringing awareness to the important issues and recommendations highlighted by the GAO.

IHS is a unique agency within the Department of Health and Human Services as it is the only HHS agency whose primary function is direct health care delivery. Our mission is to raise the physical, mental, social and spiritual health of American Indians and Alaska Natives to the highest level.

To that end, IHS is committed to making improvements and ultimately to being removed from the GAO's High Risk List.

The GAO's High Risk List Report cited 14 recommendations focusing on the Indian Health Service. Since publication of the report in February 2017, the GAO has closed four recommendations as implemented, two recommendations as unimplemented, and the remaining eight recommendations are progressing toward completion by IHS. One request for closure is still under consideration by the GAO.

IHS leadership is committed to making substantial progress in addressing GAO's recommendations and continues to press forward in a working relationship with the GAO. Since last September, I have met several times with key GAO officials to describe action plans for closing out the remaining recommendations.

IHS has taken a comprehensive and integrated approach towards creating an oversight capability at the headquarters level to improve the quality of care and patient safety. We implemented corrective measures to mitigate high risk in areas directly impacting health care. These measures include uniform standards across all agency hospitals and clinics for accreditation, credentialing, patient wait times and PRC authorizations.

IHS finalized the National Accountability Dashboard for Quality on February 20, 2018 and data for the first quarter of fiscal year 2018 was published on the IHS website in early April 2018. Data from the second quarter of fiscal year 2018 is currently being col-

lected and reported internally. This dashboard is a valuable recording tool that will enable IHS headquarters and our area offices to have a viewpoint on the hospitals and health centers functioning across the system.

Moving forward, IHS is working with our Department of Health and Human Services colleagues to establish an Office of Quality at IHS headquarters. This office will be responsible for providing oversight for quality across the IHS healthcare system.

The Office of Quality will oversee, direct and evaluate agency-wide activities to ensure quality health care. Furthermore, the office will ensure that quality is integrated into all agency programs in a collaborative and organized manner.

IHS continues to improve and increase access to care for our beneficiaries through outreach, education and enrollment activities. The National PRC Program is setting targets for local programs and monitoring compliance to ensure IHS is able to provide access for patients in the most cost effective manner.

Since implementation of the PRC rates regulations in October 2016, the PRC Program has realized a \$553 million savings. The savings have allowed PRC programs to pay for additional services and fund more medical priority levels than ever before which improves access to care for our patients.

I am very proud of the dedication and commitment of IHS staff at all levels of the agency. We focused on and accomplished the objectives of the action plan during this past year. These actions demonstrate that IHS takes its challenges seriously and continues to take proactive steps to address them.

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

[The prepared statement of Admiral Weahkee follows:]

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

Good afternoon, Chairman Hoeven, Vice-Chairman Udall, and Members of the Senate Committee on Indian Affairs. I am RADM Michael D. Weahkee, Acting Director of the Indian Health Service (IHS). I am pleased to provide testimony today regarding IHS programs identified by the U.S. Government Accountability Office High Risk Report. Providing quality care is imperative to the IHS mission and I want to thank you for bringing awareness to the important issues and recommendations highlighted by GAO.

IHS is a unique agency within the Department of Health and Human Services (HHS). It is the only HHS agency whose primary function is direct health care delivery. IHS was established to carry out the responsibilities, authorities, and functions of the United States in providing health care services to American Indians and Alaska Natives. The mission, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. The IHS system consists of 12 area offices, which oversee 168 service units that provide care at the local level. Health services are provided through facilities managed by IHS, by tribes and tribal organizations under authorities of the Indian Self-Determination and Education Assistance Act, and through contracts and grants awarded to urban Indian organizations authorized by the Indian Health Care Improvement Act.

Demonstrated Progress

IHS is committed to make improvements and ultimately be removed from the GAO's High Risk list. The GAO's High Risk Report cited 14 recommendations focusing on IHS, based on seven reports issued over a period of six years. Since the re-

port's publication on February 15, 2017, GAO has closed four recommendations as implemented and two recommendations as unimplemented. One request for closure is still under consideration, and eight recommendations are progressing toward completion by IHS.

Leadership Commitment

IHS leadership is committed to making substantial progress on addressing GAO's recommendations and continues to press forward in working partnership with GAO. Since last September, I have met several times with key GAO officials to describe action plans for closing-out the recommendations. IHS is focused on implementing change across the agency to strengthen our ability to ensure quality health care.

Progress on Improvements in Quality Care

IHS has taken a comprehensive and integrated approach towards creating an oversight capability at headquarters to improve the quality of care and patient safety. We implemented corrective measures to mitigate high-risk in areas directly impacting patient care, including uniform standards across all agency hospitals and clinics for accreditation, credentialing, patient wait times, and Purchased/Referred Care (PRC) authorizations to improve quality and accountability across the system of care.

Reducing patient wait times continues to be a priority for the agency. Wait times are an important measure of the patient experience and IHS federally-operated service units have been collecting and tracking this data to improve patient services. Through IHS Circular Number 17-11, IHS established in 2017 wait time standards for outpatient primary and urgent care visits to direct care IHS facilities, and we are currently monitoring and collecting data. In addition, patient wait time metrics for emergency care were made available through the Centers for Medicare & Medicaid Services (CMS) and are now under agency review. A workgroup was established to finalize patient wait times on primary care non-urgent visits as well. IHS is working toward automated data collection and aggregation capabilities to improve monitoring.

Monitoring

IHS finalized the National Accountability Dashboard for Quality on February 20, 2018. Data for the first quarter of fiscal year (FY) 2018 was published on the IHS website in early April 2018 and data from the second quarter of FY 2018 is currently being collected and reported internally through the reporting tool. The dashboard is a valuable reporting tool that will enable IHS headquarters and area offices to have a near real-time view of health care hospitals and health centers functioning across the system. Over time, this will facilitate implementation and monitoring of quality care measures. As IHS continues to implement the National Accountability Dashboard for Quality, we anticipate the results will demonstrate sustained improvements in the nine key metrics tracked in the dashboard including accreditation and an active quality improvement program.

Organizational Capacity

Moving forward, IHS is working with our HHS colleagues to establish an Office of Quality (OQ) that will be responsible for providing oversight for quality across the IHS health care system. The OQ will oversee, direct, and evaluate agency-wide activities to ensure quality health care. Moreover, the OQ will support IHS hospitals and health centers by providing a system of quality assurance to attain and maintain compliance with CMS Conditions of Participation and accreditation standards. The office will collaborate with the IHS Office of Information Technology to ensure that the agency has effective systems in place to promote patient care, encourage data collection and reporting, provide secure credentialing and privileging, and prepare for the reporting and evaluation of adverse events. The OQ will also focus on building a quality improvement capability and encouraging innovations that promote safe, effective, and efficient care delivery.

IHS is committed to addressing any and all risks to our mission. Enterprise risk management and compliance are important components of the quality process. We believe the most efficient and effective approach for coordinating national risk management and compliance activities is by consolidating related functions in the OQ. The OQ will ensure that quality is integrated into all agency programs in a collaborative and organized manner.

Purchased/Referred Care Improvements

IHS continues to improve and increase access to care for our beneficiaries through outreach, education, and enrollment activities. The national PRC program is setting targets for local programs and monitoring compliance to ensure that IHS is able to

provide access to our patients in the most cost effective manner. IHS monitors the online PRC Rates Provider Tracking tool to assess and take action if there is an impediment to available care. This tool enables PRC programs to document providers that refuse to contract for their most favored customer rate or accept the PRC rate. Since implementation of the PRC rates regulations in October 2016, the PRC program has realized a \$553 million savings according to the fiscal intermediary. These savings have allowed PRC programs to pay for additional services and fund more medical priority levels than before, which improves access to care for our patients.

IHS continues to work closely with tribal leaders in making decisions about PRC fund allocation. Any future changes in PRC allocation methods will undergo tribal consultation. As recently as October 2017, the Director's Workgroup on Improving PRC recommended maintaining the existing PRC formula without change. We were pleased to have GAO staff participate in two PRC Workgroup meetings where they engaged in discussions with tribal leaders about their recommendations. After discussion with the Workgroup, GAO acknowledged IHS's limited ability to make any changes to the PRC formula that could potentially result in the reduction of funds to any tribe. GAO subsequently made the decision to close two recommendations concerning the PRC formula allocation as not implemented. In addition, IHS is updating its PRC policy chapter in the Indian Health Manual and is conducting tribal consultation before finalizing the chapter.

I am very proud of the dedication and commitment of IHS staff at all levels of the agency who have focused on and accomplished the objectives of the action plan during this past year. These actions demonstrate that IHS is taking its challenges seriously, and is continuing to take assertive and proactive steps to address them. Thank you for your commitment to improving quality, safety, and access to health care for American Indians and Alaska Natives. I am happy to answer your questions.

The CHAIRMAN. I would like to thank the witnesses. We will proceed with questions.

First, Mr. Rusco, how does the GAO continue to monitor problem areas after recommendations have been closed out?

Mr. RUSCO. At the very least, every calendar year, we review every open recommendation. We go to the agency to see what progress has been made. In the case of working with the BIA, we have been doing that much more frequently.

We have found the working relationship to be generally very good. They have been making progress in almost all of the recommendations we have made. As of today, there are two that have been closed, one yesterday, and we got some more information.

I would like to say the one key recommendation they were able to close is to implement a good, solid GIS system for identifying property lines. This will enable BIA to more easily identify land-ownership.

In the event of someone wanting to develop a piece of land for energy or any other economic development, having that ownership data right at hand in the GIS system will make a big impact. That is one recommendation they have managed to close.

The CHAIRMAN. Mr. Dearman, the GAO stated in its written testimony about 50 percent of all BIE positions have not been filled. These vacancies obviously impact educational services and basic operations. What are your barriers to getting these positions filled?

Mr. DEARMAN. Thank you, Senator.

First off, if you know anyone who wants a challenge, a very rewarding job, send them to BIE.

The CHAIRMAN. Vice Chairman Udall always likes a challenge.

Mr. DEARMAN. We have had many. As we discussed in previous hearings, isolation and the location of our schools and also the location of our physicians has been an issue in the past. We have really

worked with the Department to actually move some of the positions out of D.C. because we have heard from tribal leadership that we need to have positions in tribal communities.

An example of what has happened is moving the positions to where the tribes are. We have a chief academic officer position, a SES position critical in our organization. We have advertised that position in Washington, D.C. and received five applicants. We moved it to where the tribes are and when I checked last week, we received 139 applicants.

We are anticipating that by relocating the positions, the locations, we are going to recruit and be able to hire some tribal members that know our tribal communities and our schools.

The CHAIRMAN. That sounds like a good idea.

Mr. LaCounte, obviously if you go through the number of recommendations outstanding and how you will start closing out some of those on energy, with your background and experience and where you have been geographically, it seems to me you should have some pretty good insight and ability to work in this area.

We really have to get going on some of these issues the GAO brought forward on energy because it is a real opportunity in Indian Country for jobs, revenue and so forth. This is an area where I see entrepreneurial opportunities in tribally-owned industries and individually-owned businesses. We have to help them. That is something we need to get a push on.

How do we do that? How do we get this going? Then I will come back to Mr. Rusco to see how we follow up so we know this is moving and we are getting good progress going.

Mr. LACOUNTE. It is already going. I was tasked in 2015 to put together a standard operating procedures manual and a training set for all of Indian Affairs. To date, we have trained over 500 people through that course. There is a course happening in Albuquerque, New Mexico, as we speak. There are 60 employees in that.

We are not limiting it to your standard suspects, realty specialists and whatnot. We want to train as many people as we can so when we have another boom like occurred in your State, we are ready to strike. We have put that together and it is happening. We have a National Policy Memorandum establishing that.

We have entered into agency agreements with BLM, OST, and ONRR to do these things and they are part of this SOP training. We have plenty of things happening. It is unfortunate that some of those were not reported to this Committee.

I have a very capable assistant that I raided from another location who has the same type of background that I have. Her name is Johnna Black Hair. She has been vicious and bulldog on this to say the least. I am very confident that we can take care of these.

As Senator Udall alluded, yes, there is some checked box but most we are looking at the long term and now to put something in place that cannot be very easily messed with, for lack of a better term.

The CHAIRMAN. If someone wanted you to follow up on this, give me a timeline when you think we could do some follow up on this. I would probably invite you and GAO back. It may be on energy in a broader sense or maybe just this configuration again. I am

going to ask Admiral Weahkee the same question in the next round.

What would you say is a productive timeline to bring you back so we can hone in and you can give us a good progress report?

Mr. LACOUNTE. I would say around the first of October.

The CHAIRMAN. Okay.

Mr. LACOUNTE. We have plenty of things in motion that should be completed in September. I am confident we will stay on those timelines.

The CHAIRMAN. Okay. Thank you.

Senator Udall.

Senator UDALL. Thank you, Mr. Chairman.

Admiral Weahkee, as I mentioned earlier today, progress on closing GAO recommendations and service reports, with a renewed focus on improving quality of care, has not been enough to fix the accreditation issues at the Gallup Indian Medical Center.

Given that disconnect, I am concerned that the Service is not being forthcoming enough about the resources it needs to quickly bring facilities facing accreditation issues into compliance, let alone the resources it needs to enact real, meaningful agency reforms.

Since GIMC joined the list of facilities in jeopardy, what is the total amount of funding that has been put toward addressing its accreditation issues?

Mr. WEAHKEE. Specifically for Gallup, I would have to go back and pull those numbers together. We do have access to the Accreditation Emergency Fund which is a relatively new line item. The majority of that fund has been used in the Great Plains, although Gallup is currently putting together their list of projects that need support.

Off the top of my head, the major areas of need are staffing for ED contracts. Eighty percent of their nursing staff is via contract. Those contracts are at a very high cost. Also ED-provider contracts and some renovation work both to their HVAC system and to moving clinics around within the facility are areas of need.

In your opening comments, you mentioned the age of GIMC. The upkeep costs at Gallup are extensive.

Senator UDALL. Admiral Weahkee, I would ask that you please get back to me and my staff as quickly as you can with the information on the costs and what funding is being addressed to this accreditation issue.

Does the Service have all the financial resources and personnel it needs to address these issues before the deadlines imposed by CMS?

Mr. WEAHKEE. Specifically for Gallup, we still have very high vacancy rates. We have identified a number of strategies to fill those gaps, contracting being one of those. However, we are looking at some other strategies, working with the Office of the Surgeon General to identify commissioned Corps appointees for that location.

We also have a couple of A-19 proposals that have been submitted through the budget process to enable us to provide more scholarships and loans to students and new graduates, if we can address the taxability issue and the ability to provide pay-back on a half-time basis.

We do have a number of things we would like to implement but we need a little bit of help in turning that corner.

Senator UDALL. I know IHS faces an uphill battle when it comes to the age of its facilities. I know the same is true with IHS workforce recruitment and retention. On the whole, we can all agree that IHS is under-resourced.

I am committed to doing everything I can to address these issues head-on. In order for both of us to be effective, I need IHS to stand ready with information about what resources it needs.

Mr. Dearman, earlier this year, the Department of Education sent a letter to BIE reporting that the Bureau failed to comply with the required accountability timelines set out in the Elementary and Secondary Education Act.

As a result, the Department indicated it would withhold Title I administrative funding from the Bureau. This news was particularly concerning for us to hear as many members of this Committee, including myself and Senator Cortez Masto, have repeatedly asked you at hearings about whether BIE is meeting student accountability reporting standards.

What is the current status of the withheld funds? Could you answer yes or no, is BIE now in full compliance with ESEA?

Mr. DEARMAN. The yes or no answer would be no, Senator. I need to explain and I can explain in writing in more detail.

The letter between BIE, the MOA that we had with the Department of Education and BIE, gave us a deadline of October 2 to have negotiated Rule Committee members submitted to the White House.

Senator UDALL. The second of what year?

Mr. DEARMAN. October of 2017.

Senator UDALL. Okay.

Mr. DEARMAN. They gave us a timeline of having our committee members sent to the White House for vetting. There is a process we have to go through to get a negotiated rulemaking in place. We need to have tribal consultation regarding that. That was why the funds were being withheld and are still currently being withheld.

We are meeting with the Department of Education. Our leadership and the Department are also meeting with the leadership of the Department of Education. We will start having regular discussions about how we can receive assistance and now we can assist each other.

A lot of rapport is being built with the Department of Education. We look forward to a continuing relationship.

Senator UDALL. Mr. Rusco, how might issues like BIE's non-compliance with Federal data monitoring standards impact GAO's evaluation of BIE's high risk progress?

Mr. RUSCO. I will turn that over to my colleague.

Ms. EMREY-ARRAS. I am Melissa Emrey-Arras, Education Director, BIE.

Senator UDALL. Thank you.

Ms. EMREY-ARRAS. We have not specifically looked at the issue being discussed but I would say we are generally concerned about management challenges at BIE. Given the limited funding and the tremendous need at schools, we think it is critical that all Federal

resources go where they need to be which is at these schools. Our interest would be in having the funds go to the schools as well.

Senator UDALL. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Admiral Weahkee, according to your written testimony, IHS established wait time standards in 2017 for all patient primary and urgent care visits to direct care IHS facilities. What progress have you made in meeting those wait times?

Mr. WEAHKEE. Thank you, Mr. Chairman.

We have approximately two-quarters worth of data now. As an agency, overall, we are meeting the standard. However, if you look at some of the individual sites, we do have some sites not meeting the 28 days for a primary care appointment or the 48 hours for an urgent care appointment.

The CHAIRMAN. What do you do to address that?

Mr. WEAHKEE. We dig deep and do a root-cause analysis to really determine why they are not meeting the standard. In many of the cases, it is staffing and the inability to recruit appropriate staffing. In some cases, it is the design of the facility where there is maybe one provider to one room as opposed to what would be more ideal, one provider having access to three to four rooms so they can see patients more efficiently.

Both of those root causes require funding and resources in order to address them.

The CHAIRMAN. If those individuals then go to a facility that is not an IHS facility off reservation or wherever, are you getting reimbursement to those institutions in a timely way so they will provide care to individuals who are not able to access care at an IHS facility?

Mr. WEAHKEE. For PRC referrals specifically, we do have new metrics in place where we are measuring those patients we refer and patients who self-refer. Those metrics are identified as 60 days prompt pay for our IHS referrals.

The CHAIRMAN. How about self referral?

Mr. WEAHKEE. For self referral, 45 days is our metric. We benchmark against Kaiser Permanente and our fiscal intermediary, Blue Cross Blue Shield, to come up with those benchmarks.

The CHAIRMAN. You are meeting?

Mr. WEAHKEE. We are not meeting that. Currently, we are at 61 days.

The CHAIRMAN. Would you provide this Committee with a report on how you are doing both on IHS referrals and self referrals in terms of providing that reimbursement?

Mr. WEAHKEE. Yes, sir, we can.

The CHAIRMAN. To the extent that you are behind or backlogged at IHS facilities, there has to be some place these people can go. They cannot get care or it is going to be harder for them to get care if those institutions are not getting reimbursed.

Mr. WEAHKEE. We can get you that data, sir.

The CHAIRMAN. Okay.

The credentialing, I am still running into situations where I have health care officials raring to go on the reservation and provide care, dentistry, for example, and they are having trouble getting credentialed. How do we make sure we have this squared away?

Mr. WEAHKEE. I believe the issue, specifically with dentists, dental providers, and dental professionals, is they are not used to going through a comprehensive, hospital-based credentialing process. Most of them work in general offices or either standalones.

The level of scrutiny and the process we use within the Federal system has more comprehensive background investigation checks. I think the centralized credentialing system we have put in place will help because the burden will be up front once they have entered their information. That information will now be portable from site to site. It will just be a matter of keeping their information updated in terms of licenses. There is a bit more complexity involved in hospital-based credentialing.

The CHAIRMAN. I would like a point person from IHS who will work with this Committee and I will have someone from the Dental Association. I want to at least get those people together to see if we can work this out because I am still hearing, particularly from dentists and there may be others, that we have professionals willing to go onto the reservation and provide care that is not being provided now. We do not want to hold them up because of red tape or bureaucracy.

Mr. WEAHKEE. I would like to identify right now Dr. Michael Toedt, Chief Medical Officer, as that point person.

The CHAIRMAN. Okay. Thank you.

Mr. WEAHKEE. Thank you, sir.

The CHAIRMAN. Senator Udall.

Senator UDALL. Thank you, Mr. Chairman.

I applaud IHS for the strides it has made since the first high risk hearing last May, but despite this progress, since then, two more federally-operated IHS facilities are reportedly at risk of losing their CMS accreditation. I am deeply concerned that IHS is not doing enough to create real, lasting, agency-wide improvements.

Admiral Weahkee, do you agree there appears to be a disconnect between the IHS's reported progress on GAO high risk designation and the continued noncompliance findings of CMS surveys?

Mr. WEAHKEE. No, sir, I do not. I believe that many of the actions that have been implemented at the national level, we have yet to see their benefit, items like the centralized credentialing and the National Accountability Dashboard for Quality which is relatively new.

The GAO has identified for us that they need to monitor us on a longer trajectory. Again, the issues tend to be the same from site to site. It is inability to recruit, emergency department staffing and many facilities issues, like environment of care and life safety issues, are due to the age of the facilities.

Senator UDALL. In your testimony today, you said, "IHS is taking a comprehensive and integrated approach towards creating an oversight capability at headquarters to improve the quality of care and patient safety."

When was the last time IHS conducted internal quality and compliance surveys at GIMC and Crow-Northern Cheyenne Hospital?

Mr. WEAHKEE. Internal with an IHS review team, I would need to go back and identify. We have contracted that work with Joint Commission Resources. They are a consultative arm of the Joint Commission which comes in and does an objective review on our

behalf via contract. We have utilized that methodology at several of our locations.

Prior to having stood up the Office of Quality, that has been our only mechanism. Once the Office of Quality is stood up, we expect it will have the assets at its disposal to be able to go out and do those reviews ourselves.

Senator UDALL. Thank you.

Mr. LaCounte, Acting Assistant Secretary Tahsuda recently told tribal leaders at NCAI's mid-year conference that 40 percent of the Department's employees would be eligible to retire within the next few years.

In your testimony, you state "Fifty-nine percent of BIA employees who are engineers, technicians and environmental scientists are eligible for retirement now or within five years. This is in addition to a loss of 33 to 50 of these specialists in just the past five years."

Mr. LaCounte and Mr. Dearman, have BIA and BIE developed a concrete plan to deal with the Department's looming retirement issue, particularly the loss of field experts?

Mr. LACOUNTE. Senator, thank you.

I do not want you to think those numbers were specific to the energy sector. When we talked about the engineers, we talk about engineers across the board. They are not specific to Indian energy.

Actually, we just assigned an individual to develop our workforce plan, within the last week, for trust services. We understand the risk we face with the numbers Mr. Tahsuda referenced at NCAI.

I have been looking at this for over ten years. What we have found is that most of our employees do not leave even though they are eligible. For instance, I am eligible next month; I do not have any intentions of going anytime soon, unless I am run out.

We are working on it. It has been an issue but we are trying our best to bring people up through the ranks, so to speak, to get to management positions and whatnot. Recruiting engineers and those kinds of people is always a priority.

You have to understand, when that occurs, we have to compete with private industry, especially in the oil and gas business because that could be booming again. We seem to lose more people to that than we do to retirement.

Senator UDALL. You definitely have assigned someone to work on this and think about it looking at the long term?

Mr. LACOUNTE. Yes, sir.

Senator UDALL. Mr. Dearman?

Mr. DEARMAN. Thank you, Vice Chairman.

As I stated in our workforce plan, we felt we have to get our strategic direction first. In order to determine the direction of the organization. Now we are going to start working on our workforce plan.

Also, going back to how we advertise our teachers, we have increased our outreach by not just advertising our positions on USAJOBS, but we use multiple advertisement resources and websites. Right now, we are reaching over 200 universities and colleges where we are advertising.

Our plan is to include our Title V employees in that advertisement and also getting out to Indian Country promoting BIE, and

working with the National Education Association, really getting the word out that we are a good place to be. We have a lot of challenges but it is very rewarding. We do have a plan.

Senator UDALL. You do have a plan and you are going to dedicate people to work on that?

Mr. DEARMAN. Yes. My human resource officer is watching this. He started today and that will be one of his tasks.

Senator UDALL. Mr. Rusco, how important does GAO feel workforce and succession planning are to ensuring the long term success of agency reform?

Mr. RUSCO. It is very important. There is a general endemic wave of retirement-eligible SES in the government broadly. In particular, also when it comes to energy issues, it is very, very difficult to keep the right number of engineers and trained professionals in order to do that work. That is something we found more broadly at Interior but I think it is also true of the BIA.

Senator UDALL. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Vice Chairman Udall.

I would like to thank all the witnesses. We appreciate your being here today.

If there are no more questions for today, members may also submit follow-up, written questions for the record. The hearing record will be open for two weeks.

Again, we appreciate the witnesses.

With that, this hearing is adjourned.

[Whereupon, at 4:26 p.m., the Committee was adjourned.]

A P P E N D I X

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

Workforce

Question 1. At the first Indian Affairs Committee “High Risk” oversight hearing this Congress, GAO testified that workforce planning is one of the five core reasons the Department of the Interior (DOI) and the Department of Health and Human Services (HHS) have mismanaged and ineffectively administered federal Indian education, health, and energy programs.¹ At this most recent hearing, GAO testified that vacancies in key offices at DOI and HHS limit the overall capacity of the Department to address the root causes of their high risk designation. And the Centers for Medicare and Medicaid (CMS) have repeatedly found staffing violations at the federally-operated IHS facilities in the Great Plains, Navajo, and Billings Service Areas where CMS accreditation is in jeopardy. What are the current clinical and administrative vacancy levels for IHS?

Answer. As of May 2018, the vacancy rate for clinical positions is 22 percent and the vacancy rate for administrative positions is 17 percent.

Question 1a. Is there a system in place so that Area Offices and IHS leadership in Rockville, MD, can monitor staffing at all federally-operated IHS facilities to ensure they are in compliance with all industry and legal staffing on-call requirements?

Answer. There are electronic reporting systems in place for reporting on the staffing levels at all federally-operated IHS facilities. IHS leadership at Headquarters is able to report and monitor the number of positions in each Area and every federally-operated facility within an Area. On-call requirements are governed by union collective bargaining agreements to include on-call conditions, response times, etc. Each agreement may have different negotiated parameters for on-call procedures. Monitoring on-call hours is the responsibility of the local service unit leadership and department supervisors. Time spent on-call is not documented in the time and attendance system since, under Fair Labor Standards Act, time spent on-call is not considered work hours (5 CFR 551.431).

In addition, CMS Conditions of Participation and the Joint Commission Hospital Accreditation Standards survey include a comprehensive review of on-call staffing and associated procedures to comply with the Emergency Medical Treatment and Labor Act. This includes verification of Area Office Governing Body oversight of on-call staffing and response.

Question 2. On June 21st, the White House released a proposal entitled “Delivering Government Solutions in the 21st Century: Reform Plan and Reorganizations Recommendations.”² This proposal would seek to reduce the size of the Public Health Service Commissioned Corps by nearly 40 percent and require agencies employing the Corps officer to pay their retirement costs. According to the *Washington Post*, “The largest number of [Corps] officers—1,887—is assigned to the Indian Health Service.”³ How many Public Health Service Corps officers currently work for IHS overall and, specifically, in leadership positions? Please provide a breakdown

¹*High Risk, No Reward: GAO’s High Risk List for Indian Programs Hearing Before S. Comm. on Indian Affairs, 115th Cong. 1 (2017)* (statement Melissa Emrey-Arras, Dir. Of Education, Workforce, and Income Security, Gov’t Accountability Office).

²Office of Management and Budget, *Delivering Government Solutions in the 21st Century: Reform and Reorganization Recommendations* (2018) (available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/Government-Reform-and-Reorg-Plan.pdf>).

³Lena H. Sun, *White House want to cut this public health service corps by nearly 40 percent*, THE WASHINGTON POST (June 27, 2018), https://www.washingtonpost.com/news/to-your-health/wp/2018/06/27/white-house-wants-to-cut-this-public-health-service-corps-by-nearly-40-percent/?hpid=hp_hp-top-table-main-health-service-corps-cut_nation&hpid=hp_hp-top-table-main-health-service-corps-cut_nation&utm_term=.1dc8463601eb.

of number of Corps officers and the percentage of the total workforce they represent for each Service Area.

Answer. As of July 1, 2018, there are 1,885 Commissioned Corps Officers assigned to the Indian Health Service (IHS). Approximately 850 of these officers occupy supervisory positions throughout IHS, including roughly 500 officers in leadership positions at the Program/Department, Service Unit, Area, and Headquarters levels.

The number of Corps officers and the percentage of the total workforce they represent for each Service Area is provided below.

IHS Area	Corps Officers	Civil Service Employees	Total Federal Workforce	Corps Officer percent of Federal Workforce
Alaska	270	85	355	76.06%
Albuquerque	126	916	1,042	12.09%
Bemidji	92	486	578	15.92%
Billings	72	935	1,007	7.15%
California	27	125	152	17.76%
Great Plains	151	2,130	2,281	6.62%
Nashville	47	156	203	23.15%
Navajo	276	3,957	4,233	6.52%
Oklahoma City	313	1,429	1,742	17.97%
Phoenix	299	2,279	2,578	11.60%
Portland	97	416	513	18.91%
Tucson	40	271	311	12.86%
IHS Headquarters	75	611	686	10.93%
Total IHS	1885	13,796	15,681	12.02%

Question 2a. Did IHS work with the Office of Budget and Management to evaluate this proposal to reduce the size of the Corps? And does IHS or OMB have an estimate of how implementation of the proposed reduction in number of Corps members would affect each Service Area?

Answer. The proposal states that the reduction would affect officers who “do not provide critical public health services,” and that newly commissioned officers would “initially work in a hard-to-fill area.” Most Corps officers assigned to IHS are either fulfilling a direct patient care role or providing critical public health services in hard to fill areas in support of the overall health of American Indians and Alaska Natives.

Question 2b. Does IHS have an estimate of the cost the Service would incur if it were required to pay for retirement of Corps personnel working at IHS?

Answer. Budgetary estimates are in the preliminary stages of development.

