



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 19 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the May 8, 2019, oversight hearing entitled "The President's FY2020 Budget Request for Indian Programs" before your Committee. These responses were prepared by the Bureau of Indian Affairs and Bureau of Indian Education.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

U.S. Senate Committee on Indian Affairs
Date of Hearing: May 8, 2019
“The President’s FY2020 Budget Request for Indian Programs.”
Questions for the Record
Submitted by Senator Martha McSally
For Tara Mac Lean Sweeney

Road Maintenance:

The BIA road maintenance program has been severely underfunded for years, and is inadequate to meet the needs of tribes across Arizona. The terrible road conditions endanger tribal members, as well as tribal and federal law enforcement officers carrying out their duties.

Question:

Why does the President’s budget reduce the BIA road maintenance request by \$900,000 from FY 2019 enacted levels? Will this request be adequate to meet maintenance needs of Arizona’s tribes?

Response:

Since Fiscal Year (FY) 2017, the Bureau of Indian Affairs (BIA) Road Maintenance program received above requested amounts as temporary funding for school bus routes and the Native American Tourism and Improving Visitor Experience Act, P.L. 114-221. These temporary set-asides were combined in the enacted funding which gave the impression of significant increases to the BIA Road Maintenance program nationwide. The Administration’s FY 2020 Budget Request reflects the discontinued temporary funding.

Bureau of Indian Education Construction

The Administration’s FY20 Budget Request contains a sizable cut to construction funding in Indian programs which is concerning. Particularly concerning is the \$216 million cut to education construction, which is about 78% of the total cuts to the Bureau of Indian Education Funding. There are about 8-10 schools on the Navajo Nation that are supposed to be on the replacement list.

Question:

Will the Administration’s proposed negatively affect the schedule for Navajo school replacement?

Response:

Using currently available funds, Indian Affairs will continue construction of the three remaining 2004 list replacement schools and fully fund the design-build construction of the first four schools from the 2016 replacement school list (which includes Dzilth-Na-O-Dith-Hle Community School (Navajo)). The fifth school, Lukachukai Community School (Navajo), is 93% funded with the remaining funds to be provided with future appropriations. The remaining five schools on the 2016 replacement school list, all of which are for Navajo, will be funded for design-build construction as funds become available.

Tribal Police/Law Enforcement

The lack of safe and secure public safety facilities handcuffs tribal justice systems, and contributes to the already staggering violent crimes rates that exist on many reservations. Many tribal police officials are forced to work in crumbling facilities or inadequate temporary structures.

In Arizona, the BIA condemned the San Carlos police and courts building—known as BIA Building 86—in 2009. Tribal police and court officials worked in this condemned building until 2015 when the BIA provided them with temporary trailers, which are now rapidly deteriorating. In FY18 and FY19, Congress appropriated \$18 million for new and replacement public safety and justice construction funding however the BIA dedicated all funding to tribal jails and none to replace police facilities. The Department’s budget proposes elimination of new and replacement public safety construction for FY20 and includes no funding in your five-year plan for justice facilities construction.

Question:

- 1) If Congress restores a new and replacement public safety construction line item, will you and BIA work to dedicate the necessary portion of FY20 funding to replace tribal police and courts buildings that the BIA has condemned?

Response:

We understand that the intent of the appropriation language is to ensure that the highest priority public safety facility projects are funded. Our shared goal with Congress is to ensure resources are applied to areas where the need is greatest, and in a manner that makes sense programmatically and financially. As funding becomes available, the BIA will continue to replace public safety facilities in the order listed on the BIA Office of Justice Services (OJS) priority list. Public safety facilities at San Carlos will be considered for placement on the priority list and ranked appropriately.

Question:

- 2) The budget request for FY20 safety and justice activities is a decrease from FY19. Tribal law enforcement and detention funding must be allocated the funds necessary to address the significant challenges the Nation and other tribes face, including: additional law enforcement staff and better equipment and training to address increased drug and violent crime; support for tribal law enforcement working with federal authorities to meet the United States’ border security responsibilities. How will a decreased budget request address these challenges?

Response:

The Administration’s FY 2020 budget includes:

- \$419.6 million for Public Safety and Justice Activities, of which \$313.1 million directly supports 191 law enforcement programs and 96 corrections programs run both by tribes and as direct services;
- \$22.3 million for Tribal Justice Support Programs, which include VAWA training and implementation strategies critical to the protection of women in Indian communities;

May 8, 2019

- An increase of \$2.5 million to address the opioid crisis in Indian Country. This initiative will expand BIA’s capacity to address the increase in drug-related activities through interdiction programs to reduce drug use, distribution, and drug-related crime and supports OJS participation in intra- and inter-agency initiatives targeting opioid and substance abuse prevention efforts;
- \$3.0 million for Phase II of housing construction plans at two detention center locations and funding to complete six units at Lower Brule Detention Center in Lower Brule, SD and three units at Standing Rock Detention Center in Fort Yates, ND;
- An additional \$4.0 million to be accessible for allocation to public safety facilities for Facilities Improvement and Repair, which will fund advanced planning and design, condition assessments, environmental and demolition projects, and emergency repairs; and
- \$3.1 million accessible for allocation to public safety facilities for the Fire Protection program for priority replacements and repair of non-working fire alarm and fire sprinkler systems and assessing existing fire protection systems.



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AUG 19 2019

The Honorable Raul Grijalva
Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Chairman Grijalva:

Enclosed is a response prepared by the Department to a question submitted following the Committee's April 4, 2019, hearing on H.R. 1904, the Indian Water Rights Settlement Extension Act.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and Legislative Affairs

Enclosure

cc: The Honorable Rob Bishop
Ranking Member

Natural Resources Committee
U.S. House of Representatives
Hearing on H.R. 1904
Indian Water Rights Settlement Extension Act

Questions from Representative Cox

Question: Mr. Mikkelsen, the current contributions from contractors to the Reclamation Fund are increasing the \$16 billion surplus in the Fund at a rate of nearly \$1 billion each year. These funds could be used for a host of priorities, including maintaining and restoring the capacity of critical infrastructure like the Delta-Mendota Canal and Friant-Kern Canals in the San Joaquin Valley, or increasing drought resilience by increasing water storage capacity like raising San Luis Reservoir, in addition to implementing Indian Water Rights Settlements.

If Congress were to take action to significantly increase appropriations from the Reclamation Fund, does Reclamation have the personnel in place that would be needed to move many of these projects forward in a timely manner? If not, what type of personnel would be needed and what's the lead time for staffing up?

Response:

I interpret your question to be regarding the Reclamation Fund established in 1902 from which funds are derived to support a wide range of activities authorized under Reclamation law. The Reclamation Fund is a separate and distinct account in Treasury from the Reclamation Water Settlement Fund, which was authorized in 2009 and is the subject of this hearing.

Currently, the Reclamation Fund has a balance in excess of \$16 billion and growing. Use of these balances to support the wide range of authorized Reclamation activities requires that Congress appropriate these funds in annual appropriations acts. There are several reasons the balance continues to grow including constrained budgets drawing down balances and increasing receipts deposited into the Reclamation fund. I would also note that over a billion of dollars of Reclamation projects have been appropriated out of the Treasury in recent decades (rather than from the Reclamation fund) because at the time the projects were authorized, there was concern that the Reclamation fund may have insufficient balances. Another contributing factor is increased mineral royalties from federal lands, which make up over half of the annual receipts, which are in addition to Reclamation project receipts.

If Congress were to significantly increase appropriations from the Reclamation Fund, Reclamation believes it has the personnel in place that would be needed to move many of these types of projects forward in a timely manner.



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AUG 19 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the March 20, 2019, field hearing entitled "To Protect and Serve: Joint Law Enforcement Efforts in Building Safe Tribal Communities and Stopping Dangerous Drugs from Entering Indian Country" before your Committee. These responses were prepared by the Bureau of Indian Affairs, Office of Justice Services.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

U.S. Senate Committee on Indian Affairs
Field Hearing
“To Protect and Serve: Joint Law Enforcement Efforts in Building Safe Tribal Communities and Stopping Dangerous Drugs from Entering Indian Country”
March 20, 2019

Questions for the Record Submitted by Vice-Chairman Udall
For Mr. Charles Addington
Deputy Bureau Director
Office of Justice Services, Bureau of Indian Affairs, U.S. Department of Interior

Law Enforcement Recruitment and Retention

1. You stated there were not enough people applying for the vacant law enforcement positions and cited as an example the Standing Rock Sioux Tribe, where 13 of 27 BIA officer positions are currently vacant. Tribal law enforcement stakeholders often point to housing shortages, prolonged hiring processes, and the lack of a competitive pay scale as the principle barriers to recruitment and retention of law enforcement personnel in Indian Country.

- a. **Please provide an estimate of the law enforcement vacancy rate percentage for BIA-OJS as a whole and each BIA region.**

Response: The current estimated vacancy rates for the Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) sworn staff in the field are displayed in the below table.

Organizational Unit	Vacancy Rate
District 1	44%
District 2	21%
District 3	41%
District 4	34%
District 5	45%
District 6	33%
District 7	25%
District 8	67%
District 9	0%
OJS Overall (Field/Sworn)	39%

b. Has BIA-OJS identified any additional barriers that limit the Department's attempts to recruit and retain law enforcement officers?

Response: Our most prominent challenges for recruitment and retention are (a) the length of time it takes OPM's National Background Investigations Bureau (NBIB) to complete background investigations; (b) housing shortages at remote locations; and (c) competition from State and Federal law enforcement agencies.

c. Do tribally operated law enforcement agencies experience similar recruitment and retention issues?

Response: Yes, tribally operated programs experience the same challenges and historically high employee turnover rates (10+ percent annually).

d. Is BIA-OJS able to offer competitive pay and hiring incentive packages compared to similar positions at other federal law enforcement agencies? If not, is the Bureau aware of any regulatory or statutory changes that would bring BIA-OJS pay scales into line with these other agencies?

Response: BIA-OJS seeks to be as competitive as possible within existing resources with its pay and hiring incentive packages compared to similar positions at other Federal law enforcement agencies. To do so, requests for a budget increase of \$1.5 million to upgrade uniform police positions were submitted by BIA-OJS for inclusion in the FY 2012 and FY 2020 budgets. Housing shortages in remote locations, prolonged background investigations, and above average crime rates exacerbate recruitment and retention issues. Police officers typically leave BIA and Tribal programs for employment with other State and Federal agencies.

e. What recruitment and retention programs or strategies is the Bureau currently utilizing to address the number of law enforcement vacancies at OJS?

Response: BIA is mandated to utilize the USAJOBS website to advertise federal positions. We cross post the USAJOBS announcements on social media sites and use direct hiring authority for entry level positions when possible.

Additionally, we have recently developed a program through our Indian Police Academy that focuses recruitment efforts at events hosted by universities, colleges, armed forces, and anywhere else our recruitment team can connect with potential applicants.

2. In response to questions from Senator Cramer, you voiced support for a demonstration project that would allow BIA to conduct its own background checks for law enforcement positions contained in S. 3755, a bill Senator Hoeven and I introduced last Congress.

a. Please provide an estimate of the average length of time it takes-

- i. to fill a vacant law enforcement personnel position at the Bureau; and**
- ii. to complete the hiring process once a qualified applicant has been offered the position, including an estimate of the length of time it takes to receive a background check clearance for the hired applicant.**

Response: On average, it takes BIA-OJS 6 to 18 months to fill a vacant law enforcement position. This includes an average of 6 to 16 months to complete the background investigation process once a qualified applicant has been offered a position.

- b. Are tribally-operated law enforcement agencies required to use the same background check process currently in place for BIA-OJS positions? And, if so, do tribally-operated law enforcement agencies experience similar delays when trying to obtain background check information for new hires?**

Response: Tribally-operated law enforcement agencies are required to follow a similar background investigation process as BIA-OJS. While many tribes utilize an outside certified background contractor or internal trained tribal personnel to conduct those background investigations, under the Tribal Law and Order Act, BIA-OJS must conduct background investigations if requested by a tribe. Under this option, tribes get their backgrounds done by BIA-OJS within 60 days since they do not have to use OPM's NBIB for this function.

- c. Would a demonstration project like that proposed in S. 3755 from the 115th Congress improve the ability of the Bureau and Tribes to recruit and retain law enforcement personnel?**

Response: While we believe that a demonstration project like that proposed in S. 3755 would have many positive benefits for BIA-OJS and tribes, we would encourage the two Executive Agencies with policy and oversight authority over background investigations to comment on the effect.

BIA-OJS Enforcement of Tribal Civil Arrest Warrants

1. When my staff visited the Standing Rock Sioux reservation, the Tribal Chairman stated BIA-OJS recently changed its position regarding the ability of its officers to enforce civil arrest warrants issued by the Tribal Court pursuant to the Tribe's legal code. BIA-OJS notified the Tribe that it based the decision on a Solicitor's opinion issued approximately three years ago that stated BIA-OJS law enforcement could not hold civil offenders in jail. The Tribe subsequently asked BIA-OJS to provide a copy of the Solicitor's opinion, but the Tribe informed my staff last week it has not received it.

- a. Please provide a copy of the Solicitor's opinion that indicates BIA-OJS law enforcement does not have the authority to execute Tribal civil warrants.**

Response: Legal advice from the Office of the Solicitor is privileged.

- b. When did BIA-OJS officers first inform the Standing Rock Sioux Tribe they would not be able to execute civil warrants issued by the Tribe's court? Please specifically detail if BIA-OJS executed civil warrants issued by the Tribe's court after issuance of the Solicitor's opinion and when the Bureau changed its arrest policies relevant to the opinion.**

Response: In February 2016, BIA-OJS changed its process regarding civil detainment and informed the Standing Rock Sioux Tribe that they would not be able to execute civil warrants issued by the Tribe's court. During the subsequent change of Chiefs of Police, BIA staff did allow for some civil detainment after the field was notified of the change in practice until the February 2016 change in process was brought to the attention of the new Chief of Police.



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AUG 15 2019

The Honorable Raul Grijalva
Chairman
Committee on Natural Resources
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Grijalva:

Enclosed are responses prepared by the Bureau of Land Management to the questions for the record submitted following Committee's March 3, 2019, oversight hearing entitled "*Forgotten Voices: The Inadequate Review and Improper Alteration of Our National Monuments.*"

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Rob Bishop, Ranking Member
Committee on Natural Resources

House Committee on Natural Resources
Hearing on
“Forgotten Voices: The Inadequate Review and Improper
Alteration of Our National Monuments”
Questions for the Record Submitted to Mr. Edwin Roberson

Questions from Representative Raul Grijalva

1. Mr. Roberson, why was the Grand Staircase-Escalante National Monument Advisory Committee suspended?

- **Did Former Secretary Zinke or BLM give the Committee members or the public any indication as to why the Advisory Committee was suspended?**
- **Do you know when the Advisory Committee will be re-convened?**

Response: In May 2017, the Secretary of the Interior initiated a Department-wide review of all advisory councils and boards, including the BLM’s Resource Advisory Councils (RACs) and Monument Advisory Councils (MACs), in order to look at each Advisory Council’s charter, composition, and compliance with the 1972 Federal Advisory Committee Act. During the Department-wide review of Advisory Councils, the charter for the Grand Staircase-Escalante MAC expired.

The Secretary of the Interior approved the new MAC charter on September 5, 2018, and the BLM is currently in the process of reviewing applications received from the November 19, 2018, and May 30, 2019 calls for nominations. Once the MAC can establish a quorum, the BLM will issue a *Federal Register* notice announcing the next MAC meeting.

2. Mr. Roberson, why did the Department of the Interior change the composition of the Bears Ears Monument Advisory Committee?

- **Who made the decision to alter the composition of the Committee? What was the justification?**
- **Why are the five tribes that contributed to the Monument's creation excluded from the new Committee?**

Response: Proclamation 9558 called for the establishment of both a Bears Ears National Monument Advisory Committee (MAC), as well as a Bears Ears Commission. The MAC charter consists of a fair and balanced representation of interested stakeholders including State and local governments, Tribes, recreational users, local business owners, and private landowners in compliance with the terms of Proclamation 9558. The composition of the MAC has not been altered since it was originally chartered, and the BLM has not excluded the five Tribes from it. The BLM actively encouraged Tribal members to apply when it published a call for nominations in the *Federal Register* on August 30, 2018. Two of the 15 MAC members must be representatives of Tribal interests.

The Bears Ears National Monument Advisory Committee (MAC) is wholly separate from the inter-tribal commission originally called the Bears Ears Commission in Proclamation 9558.

President Trump issued Proclamation 9681, which modified Proclamation 9558 and specified that the Bears Ears Commission will be known as the Shash Jáa Commission, apply only to the Shash Jáa Unit, and include the elected officer of the San Juan County Commission representing District 3, a majority Navajo district in San Juan County. The Shash Jáa Commission has a special opportunity for meaningful engagement with the agencies – beyond standard government-to-government consultation – to provide guidance and recommendations for managing the Shash Jáa Unit of Bears Ears National Monument.

3. Mr. Roberson, when should we expect the Proposed Resource Management Plans for the Bears Ears and Grand Staircase-Escalante National Monuments to be made publicly available?

- **When can we anticipate the release of a paleontological management plan for Grand Staircase-Escalante?**

Response: The BLM is currently preparing the Proposed Land Use Plans and Final Environmental Impact Statements for the Bears Ears and Grand Staircase-Escalante National Monuments and the Kanab Escalante Planning Area. The BLM anticipates release of the proposed plans in 2019.

The Grand Staircase-Escalante National Monument and Kanab Escalante Planning Area plans will provide guidance for developing implementation-level plans including paleontological plans. Development of any implementation-level plan would commence after the signing of the Records of Decision for the land use plans.

Questions from Representative Grace Napolitano

1. I represent the foothills of the San Gabriel Mountain and am proud to have had it designated as a National Monument by President Obama in 2014. Thanks to the help of the designation, the monument has raised more than \$5 mil through the San Gabriel Mountains National Monument fund. One example is that Coca-Cola has donated \$900,000 toward clean-up efforts in the forest. This was possible because the US Forest Service land cannot form private-public partnerships unless they are designated as a national monument. Seeing that the USFS and Interior Department budgets continue to shrink, do you believe public-private partnerships like the one listed above is important for our parks?

Response: The BLM has long depended on working with partners – including public-private partnerships – to enhance public lands and to carry out its multiple-use mission. Meaningful engagement with diverse partners helps ensure that management decisions and efforts reflect the interests of affected communities while accomplishing shared or complementary goals.

2. During the monument review process, I placed several requests to Secretary Zinke's office, inviting him to come to visit the San Gabriel Mountains National Monument and to speak with local residents, businesses, and city officials. I never received a response. Although the review only resulted in the alteration of two monuments, does this unilateral alteration of Bears Ears and Grand Staircase-Escalante National Monuments place other monuments like mine, under review at risk?

- **Could monuments like the San Gabriel Mountains still be altered under this process?**

Response: I am not aware of and cannot speak to any pending decisions regarding the national monuments that were under review.

Questions from Representative Debbie Dingell

1. Mr. Roberson, in the DOI Office of the Inspector General Report considering the monuments review process, the DOI official responsible for reviewing public comments stated, "there is no meaningful discussion going on here. It's just shaking- verbally shaking your fist at us and saying, yea, yea, or no, no. With the overwhelming majority being no."

- **In this individual's statement they note that the "overwhelming majority" of public comments were opposed altering the monuments. Is that a fair assessment based on your knowledge of the situation?**

Response: I did not personally review the public comments received by the Department as part of the review, and I am only familiar with the redacted OIG report.

2. Mr. Roberson, what are the purpose of public comments, if not to provide the public with an opportunity to weigh in on agency decision-making?

- **In particular, it seems the administration took issue with form letters. Are form letters a legitimate form of public expression towards that purpose?**

Response: I am not in a position to evaluate the nature of the public comments received by the Department as part of the review or specifically how they were addressed.

3. I also noticed that you yourself were interviewed by the OIG as part of this investigation. You noted that staff from the Utah Governor's office and from Senator Hatch's office were the ones who planned Secretary Zinke's tour of the national monuments. They decided what he saw, where he went, and how he got there.

- **Why were State officials allowed to prioritize what the Secretary saw on his tour of the monument?**
- **Is it typical for BLM to let States control their prioritization of resource review and management?**
- **Was BLM concerned that the former Secretary reportedly spent much of his time at GSE touring coal seams, rather than the resources these monuments protect?**

Response: Executive Order 13792 directed the Secretary of the Interior to conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, that exceeded 100,000 acres, or any others that were deemed to be made without adequate coordination and outreach to the public.

In addition to on-the-ground resource information provided by the BLM, Secretary Zinke traveled to eight national monument sites in six States, including both Bears Ears and Grand Staircase-Escalante National Monuments. Secretary Zinke held more than 60 meetings with hundreds of advocates for and opponents of monument designations, ranging from local, State, and tribal officials to conservation organizations and other non-governmental stakeholders.

The BLM assists the Secretary's staff in facilitating any visit to BLM-managed public lands.



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Washington, DC 20240

AUG - 7 2019

The Honorable John Hoeven
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Hoeven:

Enclosed are responses to the follow-up questions from the March 12, 2019, oversight hearing entitled "Where Are They Now: Indian Programs on the GAO High Risk List" before your Committee. These responses were prepared by the Bureau of Indian Affairs.

Thank you for the opportunity to respond to you on these matters.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Tom Udall
Vice Chairman

Senate Committee on Indian Affairs
Oversight Hearing: “Where Are They Now: Indian Programs on the GAO High Risk List”
Questions to the Bureau of Indian Affairs
March 12, 2019

Questions from Senator Cortez Masto:

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

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

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

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

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