



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 28 2022

The Honorable Brian Schatz
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Schatz:

Enclosed are responses prepared by Indian Affairs to the questions for the record submitted following the May 4, 2022, oversight hearing entitled, "Setting New Foundations: Implementing the Infrastructure Investment and Jobs Act for Native Communities". We apologize for the delay in our response.

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 Lisa Murkowski
Vice Chairman

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing on Setting New Foundations: Implementing
the Infrastructure Investment and Jobs Act for Native Communities
May 4, 2022

Question from Chairman Schatz

Question 1: In 2018, the Bureau of Indian Affairs (BIA) conducted a road maintenance needs survey. That survey determined that an estimated value for deferred road maintenance was \$498 million. To the Committee’s knowledge, the BIA has not conducted any subsequent surveys on this matter. Does the BIA plan to conduct another road maintenance survey to get a new estimate for deferred road maintenance needs? If so, when will the new survey be released?

Response: It is important to note that the 2018 survey included not only BIA roads, but Tribal, state and county and other Federal land management agency roads within each particular jurisdiction. No subsequent surveys on all deferred maintenance have been conducted since the 2018 survey.

The BIA regularly assesses the deferred maintenance costs and provides an annual report each fiscal year based on regular condition assessments on BIA roads only. The FY 2021 reported deferred maintenance for BIA roads is \$400.1 million.

The Bipartisan Infrastructure Law (BIL) requires the BIA to perform a study, in consultation with the Federal Highway Administration, and in consultation with Tribes to evaluate—

1. The long-term viability and useful life of existing roads on Indian land;
2. Any steps necessary to achieve the goal of addressing the deferred maintenance backlog of existing roads on Indian land;
3. Programmatic reforms and performance enhancements necessary to achieve the goal of restructuring and streamlining road maintenance programs on existing or future roads located on Indian land; and
4. Recommendations on how to implement efforts to coordinate with States, counties, municipalities, and other units of local government to maintain roads on Indian land.

BIA is in the beginning stages of carrying out the BIL required survey and plans to complete the survey by November 2023.

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Question from Senator Daines

Question 1: Montana tribes do not have the same capability to compete for grants that states such as New York and California have. What is DOI doing to assist tribes in rural states like Montana to ensure fair access to grants?

Response: The Department, consistent with the Administration's commitment to engage in meaningful consultation with Tribal governments, engages regularly with Indian Tribes in the administration of funding opportunities available to Tribal governments. Regular and meaningful Tribal consultation serves a dual purpose to both inform and elevate awareness among Tribal governments about funding opportunities, but also to receive comments and insight on how funding opportunities and programs can be implemented in a manner which best serves Indian Country and the communities intended to be impacted by the policies or programs which are the subject of the consultation.

Furthermore, the White House Council on Native American Affairs (WHCNA), housed within the Department of the Interior, as part of its core duties regularly collaborates with other Federal agencies across the Executive Branch to ensure that funding streams available to Tribal governments are accessible – this includes coordination on grants and similar opportunities that are not exclusively offered to Tribal governments. The WHCNA is comprised of six committees, including Climate Change, Tribal Homelands, and Treaties; Health; Education; Economic Development, Energy, and Infrastructure; Public Safety and Justice; and International Indigenous Issues. The WHCNA convenes the principals, i.e., the Cabinet-level officials, at least three times a year to collaborate on the Administration's priorities and to ensure that Tribal governments have equitable access to all funding streams, grants, and opportunities which are available through the federal government.

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Questions from Senator Lujan

Indian irrigation report and funding

In 2009, Senator Jeff Bingaman worked to include the Rio Grande Pueblos Irrigation Infrastructure Act (RGPIIA) in the Omnibus Public Lands package that President Obama signed into law.

The RGPIIA directed the Interior Department, in consultation with the Pueblos of the Rio Grande Basin, to: study the Pueblo irrigation infrastructure; develop a list of projects (including a cost estimate for each project) that are recommended to be implemented over a 10-year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and implement projects to rehabilitate and improve the irrigation infrastructure.

The RGPIIA required the Interior Department to complete the study no later than 2 years from enactment of the law. However, no federal funding was appropriated to conduct the study until 2012. As a result, the study was significantly delayed.

As Chairman Mitchell notes in his testimony, in 2017 this report entitled “Irrigation Infrastructure Report for the Rio Grande Pueblos” was finalized. It identified nearly \$280 million of irrigation improvements needed on Pueblo lands. However, this report still sits unsigned at the Department of the Interior. Pueblos in New Mexico have been waiting on the final issuance this federal report on Indian irrigation projects for a decade.

Question 1: Mr. Garriott, when will Secretary Haaland sign this report and Interior publicly release it?

Response: On June 4, 2022, the report was transmitted to Congress. This constitutes finalization of the initial study report required by the Rio Grande Pueblos Irrigation Infrastructure Act and the report was provided electronically to representatives of the 18 Pueblos within the Rio Grande Basin on June 9, 2022.

In the BIA’s Bipartisan Infrastructure Law (BIL) initial spend plan, \$7 million per year is reserved for Indian Irrigation Projects. This funding will help address the country’s backlog of operation and maintenance needs for Indian Irrigation Projects, which continues to grow because of inflation and a lack of necessary funding. In many instances deferred maintenance needs also include improving worker safety in and around Indian Irrigation projects and funding necessary to bring these projects up to modern safety codes.

However, more funding is needed. In New Mexico, for example, the Navajo Indian Irrigation Project (NIIP) is in need of critical maintenance with costs far exceeding \$7

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million. A 2016 Engineering Evaluation and Condition Assessment report conducted by the BIA identified over \$175 million in remediation costs resulting from an extensive deferred federal maintenance backlog for the NIIP.

As part of the BIL, there is significant funding provided to the Bureau of Reclamation to support water infrastructure projects, including \$3 billion under the aging infrastructure program. One section of the aging infrastructure program specifically provides for “resolving significant reserved and transferred works failures that occurred in the last two years in a way that prevented delivery of water for irrigation.” However, while this and other issues listed under the aging infrastructure program affect Indian Irrigation Projects, such projects are not eligible for BOR funding from the BIL at this time.

Question 2: Mr. Garriott, will the Department of Interior and Bureau of Reclamation allow Indian Irrigation Projects to be eligible to apply for BIL funding provided to Reclamation, including the \$3 billion allocated to the aging infrastructure program? If not, why?

Response: Tribes are eligible to apply for a large number of Reclamation’s BIL funding opportunities regardless of Indian irrigation project ownership status. Eligible Tribal funding opportunities include but are not limited to: the competitive grant program for Small Water Storage and Groundwater Storage Projects (BIL section 40903), the competitive grant program for Multi-Benefit Projects to Improve Watershed Health (BIL section 40907), and the Federal Assistance for Groundwater Recharge, Aquifer Storage, and Water Source Substitution Projects (BIL section 40910). Other BIL funding must be used on Reclamation-owned infrastructure, including the BIL’s \$3 billion authorized for Aging Infrastructure (BIL sections 40901(2), 40904).

Question 3: Mr. Garriott, will the Department of Interior and Bureau of Reclamation allow Indian Irrigation projects to be eligible to apply for funding in the Dam and Water Projects program of the BIL? If not, why?

Response: If the question is referring to the BIL section 40901(6)’s \$500 million authorized for the Reclamation dam safety program, then it is required by statute for use on Reclamation-owned dams in accordance with the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506 et. seq.). As such, unless the Indian Irrigation Project includes a Reclamation-owned dam, it would not be eligible. While Tribally owned irrigation projects may not be eligible for Reclamation’s dam funds, Tribally owned dams may be eligible for the BIL’s appropriations for the BIA Safety of Dams program (BIL Division J, Title VI, Indian Affairs).

If the question is referring to Section 40902—Water Storage, Groundwater Storage, and Conveyance Projects—then any Tribal storage or conveyance project (1) authorized by an act of Congress prior to the BIL enactment and (2) Congress approved funding for the feasibility study or construction in accordance with section 4007 of the Water Infrastructure Improvements for

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the Nation Act (43 U.S.C. 390b note; Public Law 114-322) prior to the BIL enactment, would be eligible for funding with a non-federal cost share of at least 50 percent.

Question 4: Mr. Garriott, if the answers to questions 2 and 3 are no, how do you plan to fund critical maintenance needs for Tribal irrigation projects?

Response: Reclamation is actively working to support Tribes in seeking additional funding opportunities to address Tribal irrigation infrastructure needs - this includes Reclamation's Native American Technical Assistance Program as well as the WaterSMART program. Specifically for the Pueblos of the Rio Grande Basin, this includes coordination and technical assistance for collaboration, partnering, and funding with the U.S. Army Corps of Engineers Acequias Program, Natural Resources Conservation Service Environmental Quality Incentives Program, and the State of New Mexico, in addition to Reclamation's programs and funding.

Additionally, BIA receives critical maintenance and rehabilitation appropriations for its 17 BIA-owned irrigation projects under three separate authorities:

1. Irrigation Projects-Rehabilitation, 25 U.S.C. Chapter 11 (§§ 381-390) – Irrigation of Allotted Lands.
2. Public Law 114-322, Water Infrastructure Improvements for the Nation Act, Title III, Subtitle B, Parts I & II, as amended; and
3. Public Law 117-58, Infrastructure Investment and Jobs Act (BIL); Division J-Appropriations, Title VI-Department of the Interior, Environment, and Related Agencies.

The above BIA rehabilitation funding is distributed among its 17 irrigation projects pursuant to each authorization's eligibility and prioritization requirements and the Department's spending plan reports submitted to Congress. In general, BIA distributes funds to activities that reduce the risk of failure, reduce deferred maintenance, and align with BIA's technical studies. BIA aims to prioritize the most critical infrastructure needs at all 17 BIA-owned irrigation projects.



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The Honorable Robert C. Scott
Chairman, Committee on Education and Labor
House of Representatives
Washington, DC 20515

Dear Chairman Scott:

Enclosed are responses to the follow-up questions from the June 28, 2022, joint oversight hearing entitled *Examining the Policies and Priorities of the Bureau of Indian Education*, before the House Committee on Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education, and the House Committee on Natural Resources, Subcommittee for Indigenous Peoples of the United States. These responses were prepared by the Bureau of Indian Education. We apologize for the delay in our response.

A similar letter has been sent to Committee on Natural Resources Chairman Raul Grijalva. 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 Virginia Foxx
Ranking Member

Questions from Chairman Scott

Question 1: Due to the management challenges repeatedly identified by the Government Accountability Office (GAO), Congress, as part of its FY2022 appropriations, instructed the Department of Interior (DOI) to reorganize the Bureau of Indian Education (BIE) into an independent bureau.

a. What is the progress that has been made to complete this reorganization?

Response: Since the promulgation of Secretarial Order 3334 in 2014, the BIE has implemented a series of organizational improvements to focus services based on the types of schools served. The new BIE structure uses three categories: (1) Tribally-controlled schools, (2) BIE-operated schools, and (3) schools serving the Navajo Nation. The BIE completed this first phase of its reorganization in late 2016.

The BIE began implementing its second and final phase of reorganization in late 2016. Specifically, the BIE began undertaking school operations functions, such as acquisitions, safety inspection, and budget and finance from the Bureau of Indian Affairs (BIA). Importantly, to effectuate this transition of functions, the BIE successfully established and staffed entirely new offices and divisions. In 2016, when reorganization began, the BIE was staffed at approximately 40%. At present, the BIE is staffed at 72% following reorganization implementation.

The BIE successfully assumed most school operations functions and, in fiscal year 2024, will assume the remaining operations functions, facilities management and environmental functions, from the Bureau of Indian Affairs (BIA).

b. Do you have an estimation for how long all of the required actions will take for the BIE to work independently?

Response: As noted above, the BIE plans to completely assume all operations and functions from the BIA by the end of fiscal year 2024.

Question 2: The Bureau of Indian Education (BIE) received nearly \$1.5 billion in federal funds from the CARES Act, the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), and the American Rescue Plan Act (ARP) to address challenges associated with the COVID-19 pandemic.

a. What have been the BIE’s major spending priorities for its COVID relief funds?

Response: The chart below shows BIE’s COVID-19 relief fund status as of September 20, 2022. BIE received COVID relief funding from (1) CARES Act, (2) Department of Education – Education Stabilization Funds (ESF I-II) (provided under CARES Act and CRRSAA), and (3) ARP:

BIE Supplemental Emergency Funding As of 9/20/22 (\$M)				
Fund	Amount	Obligated	% Obligated	Ending Availability
CARES	\$69.0	\$68.9	99.9%	9/30/2021
ESF-I	\$153.8	\$152.6	99.2%	9/30/2021
ESF-II	\$409.4	\$407.4	99.5%	9/30/2022
ARPA	\$850.0	\$630.9	74.2%	Indefinite
Total	\$1,482.2	\$1,259.8	84.9%	

BIE’s major spending priorities included expeditiously distributing COVID-19 relief funds to BIE-funded schools¹ and Tribal Colleges and Universities (TCUs), providing COVID-19 Spend Plan and COVID-19 Use of Funds guidance to recipients of relief funds and monitoring both the spending and available balances. As of September 20, 2022, over 99% or approximately \$1.26 billion of CARES Act, CRRSAA, and Department of Education – Education Stabilization Funds I-II, and ARP funds have been obligated by BIE-funded schools and TCUs.

With respect to CARES Act funds, BIE-funded schools prioritized personal protective equipment (PPE), mitigation supplies and services, essential personnel support (such as low-income meal program support personnel), and distance or remote learning equipment.

As a result of the pandemic’s impact, the BIE targeted the ESF funds provided under CRRSAA to address the following:

1. Mental and behavioral health, and wellness support for students and staff.
2. IT assessments and development of support contracts for Education Learning Management System and IT equipment and broadband upgrades.
3. Social distancing supplies and equipment.

¹ For purposes of this record, BIE-funded schools include BIE-operated schools, including Haskell Indian Nation University and Southwestern Indian Polytechnic Institute, schools operated pursuant to a grant under the *Tribally Controlled Schools Act of 1988* (25 U.S.C. § 2501 *et seq.*), and schools operated pursuant to a contract under the *Indian Self-Determination and Education Assistance Act* (25 U.S.C. § 5301 *et seq.*).

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4. Facility HVAC system assessments, filters, and repair and maintenance.
5. Additional PPE supplies.

To ensure timely obligation of funds and effective oversight, the BIE hired budget analysts, accountants, and a program support assistant to assist BIE-funded schools and TCUs with COVID-19 Spend Plan support and to provide monitoring oversight. Additional spending priorities included personnel expenses supporting retention and recruitment of BIE teachers and staff.

Finally, ARP Funds have been prioritized for longer-term planning needs, including repair and maintenance of school HVAC systems, phased support for education technology infrastructure and learning management system requirements, including connectivity or bandwidth needs, continuing social and emotional support contract services, and teacher professional development and training.

b. What are some of the main ways schools have used the funds the BIE has provided them?

Response: Under the statutory guidance on the use of COVID-19 relief funds, schools developed their spend plans in the following specific activity categories

1. Activity 1 - Preparedness and Response Efforts
2. Activity 2 - Planning and Coordinating Long-Term School Closures/School Reopening
3. Activity 3 - Educational Technology
4. Activity 4 - Mental Health Services and Support
5. Activity 5 - Summer Learning and Supplemental Afterschool Programs

A review of spending showed a majority of the funding was used for remote and distance learning needs. Other significant uses were personnel salary and benefit costs of essential personnel during the pandemic (hazardous pay and stipends) for food service workers, facility staff, and bus drivers. Additionally, schools used their relief funding for facility repairs and maintenance, which included supplies and materials for HVAC systems, as well as enhancements to ensure that facilities were secure, access limited, and safety signage available. Funds were also used for contract services to support teacher professional development and provide mental health, counseling, nurses, and IT support.

c. What steps has the BIE taken to conduct rigorous oversight of schools' use of COVID relief funding to ensure that these critical dollars continue to be spent appropriately?

Response: The BIE's Budget and Finance Division manages risk assessments with key internal control monitoring for all relief funds. Monitoring activities include implementation of an Internal Control Plan (ICP) that includes on-going frequency testing of financial transactions,

tracking identified deficiencies, and taking corrective actions as necessary. The BIE relief funds require complex school-level planning with four relief funding sources and staggered Treasury availability periods. The BIE's relief monitoring plan includes assigning BIE financial staff to portfolios of BIE K-12 schools and TCUs to review financial system transactions and randomly select samples of expenditures for review and corrective action as identified. This oversight includes the daily monitoring of relief funds spending and available funds by school location, including acquisition, purchase requisition, personnel charges, and charge card transaction reporting.

Additionally, high-level monthly and quarterly Departmental relief funds reporting is conducted through the OMB MAX system, which provides monthly and quarterly aggregate spending and outlay reporting. This high-level reporting provides monthly obligation and expenditure reporting, transfer status, outlays, etc. through the status of budgetary resources (SF-133 process) for all COVID-19 supplemental funds. Detailed COVID-19 allowable expenditure guidance developed and published by the Department of Education, U.S. Treasury, and the Department of the Interior support BIE advisory services on appropriated and transferred relief funds, as well as internal BIE frequently asked questions and combined School Operations and Division of Performance and Accountability training and webinars provided to Associate Deputy Director Offices (ADD), school leaders, and school staff. Additionally, the Department of the Interior and BIE require employee training and certification of employees performing acquisition, using charge card, traveling, and other financial transactions supporting BIE-operated schools in the use of all relief funds.

Question 3: The COVID-19 pandemic has disproportionately affected the American Indian/Alaskan Native students. COVID-19 death rates for Native Americans are disproportionately higher than for other demographic groups, and are affecting Native Americans at younger ages.

a. What steps is the BIE taking to ensure the health and safety of educators, students, and families?

Response: In support of schools and Tribal communities, the BIE distributed over 2,000,000 protective masks to staff members, students, and their families to provide protection against COVID-19. The BIE also completed a major ventilation assessment project with the Public Health Service. In addition, the BIE formed a COVID-19 Response Team tasked with providing COVID-19 reporting and technical assistance to schools. Importantly, the work of the BIE COVID-19 Response Team enabled BIE schools to continue providing critical services, such as low-income nutritional services, uninterrupted. In many instances, the BIE team worked with local partners, such as Tribal law enforcement and the National Guard, to deliver meals to students at their homes.

The BIE also provided critical COVID-19 safety training to Tribal communities and staff. In total, the BIE provided 43 Safety Training events using Microsoft Teams, which reached 1,779

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individuals. The BIE also worked to ensure that effective workplace safety guidance, such as barriers, masks, and social distancing, were instituted across the BIE. The BIE hosted four Principal's Leadership Academies where the BIE Safety team provided information on the Collateral Duty Safety Officer (CDSO) and Safety Committee program, the Emergency Action Plan, and an informational session on the annual safety inspection program. The BIE also provided on-site safety inspections in BIE-operated schools and schools operating in BIA-leased facilities. These inspections covered life safety issues, Americans with Disabilities Act (ADA) requirements, fire hazards, and environmental issues.

Finally, the BIE also provided contracted services to support schools in their efforts to ensure enhanced cleaning and mitigation protocols related to COVID-19 disinfection. The BIE participated in the Federal Energy Management Program (a Department of Energy initiative) pilot programs to evaluate indoor environmental quality at four BIE schools that will provide specific data to support specifications for ventilation improvement projects. These programs will improve overall health of buildings and, as a result, further reduce the risk of COVID-19 exposure. Three additional schools are scheduled to be evaluated in FY 2023.

b. Do you have any updates on the BIE's coordination with the Indian Health Service (IHS) to facilitate student vaccinations?

Response: Throughout the duration of the pandemic, the BIE worked regularly with the IHS and the Centers for Disease Control (CDC). The interagency workgroup formed among the BIE, IHS, and CDC worked on a variety of issues, including several vaccination initiatives. Over the course of the pandemic, this interagency workgroup organized and held several COVID-19 on-site vaccination events at BIE schools. In addition, this interagency workgroup also coordinated access to vaccines for BIE students, staff, and families at local IHS facilities. BIE will continue to work with its partners at IHS and CDC on additional vaccination events.

c. What steps is the BIE taking to support the social-emotional well-being of educators, students and families who have experienced loss during the COVID-19 pandemic?

Response: Throughout the course of the COVID-19 pandemic, BIE schools and staff have grappled with significant loss and isolation. Additionally, increased needs for mental health support across the nation created unique challenges for ensuring that BIE students and staff had direct access to culturally appropriate and trauma-informed mental health and wellness services. Despite these challenges, the BIE has developed and implemented a new Behavioral Health and Wellness Program (BHWP) that is designed to address the wellness and mental health needs of students and staff at all BIE-funded institutions, including BIE-operated schools, Tribally-controlled schools, post-secondary institutions, and TCUs. The BIE's BHWP is laser-focused on providing behavioral health and wellness webinars while simultaneously creating the infrastructure needed to provide direct 24/7 Indigenous focused, trauma-informed, behavioral health counseling services and crisis support for students and employees.

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The BIE has also diligently worked to provide opportunities for staff to receive Youth Mental Health First Aid (YMHFA) training. YMHFA is an evidence-based, trauma-informed training designed to educate staff on how to assist students experiencing a mental health crisis. BIE has certified approximately 576 staff from across the BIE since the start of the pandemic. To further increase behavioral health supports, BIE has created three new Student Behavioral Health Program Specialist positions who serve as advisors to their assigned ADD and provide behavioral health focused technical assistance, training, and crisis support directly to schools. These new positions will also coordinate directly with the Student Health Program Specialist in the Director's Office regarding the BIE's Strategic Direction focus on wellness, behavioral health, and student physical health and safety.

The BIE has also been selected to participate in a new CDC initiative through their Healthy Schools Division. This initiative uses CDC's Whole School, Whole Community, Whole Child Model (WSCC Model), which aligns with BIE's wellness framework highlighted in the BIE Strategic Direction. Selected participants will have access to an Emotional Well-Being Learning Community (WSCC Emotional Well-Being LC), committed to improving emotional well-being for youth in communities that are socially and economically marginalized, and disproportionately affected by chronic diseases and the risk factors that cause them. The WSCC Emotional Well-Being LC will provide a comprehensive model of professional development, technical assistance, and implementation support. In addition, the BIE is simultaneously crafting a national-level contract focused on the development of national and regional social and emotional learning (SEL) curricula, intensive technical assistance for all BIE-funded entities, and additional school supports for developing and implementing school-level SEL curricula and programming.

Questions from Representative Morelle

Question 1: We understand that the Bureau of Indian Education (BIE) must coordinate with other offices within the Department of Interior in order to implement the recommendations from the Government Accountability Office (GAO).

- a. To what extent has the Bureau of Indian Education received support from the Office of the Assistant Secretary – Indian Affairs or other offices from the Department of the Interior to address open recommendations?**

Response: The Office of the Assistant Secretary – Indian Affairs (AS-IA) has provided critical support to BIE throughout its response to GAO’s recommendations. The BIE regularly reports progress in responding to the GAO recommendations to AS-IA. When appropriate, AS-IA has provided necessary and targeted intervention to address challenges the BIE has encountered in implementing those recommendations. For example, with regard to GAO-17-447, AS-IA has consistently ensured that partner agencies within the Department timely address challenges regarding school construction contracts, which are outside the direct control of the BIE. Additionally, AS-IA has worked closely with BIE leadership to ensure that those recommendations that are within the direct control of BIE are progressing towards full implementation.

Question 2: What have been the major challenges for the Bureau of Indian Education (BIE)-funded schools during the pandemic, and how has the BIE worked to help these schools and students? What challenges, if any, still remain?

Response: The BIE assisted schools in a variety of ways. For example, BIE worked directly with schools and Tribes to create spend plans for COVID-19 relief funding and distributing funds for IT equipment. The BIE established a learning management system and is actively implementing a technology refresh at 12 pilot sites in School Year (SY) 2021-2022. The BIE will continue to roll out this \$90 million investment at 20 new locations in SY 2022-2023. The BIE has also assisted with providing locations for students, staff, and families to obtain COVID-19 vaccinations. Importantly, throughout the pandemic, the BIE worked with CDC and IHS support to establish interagency solutions designed to address the health needs of students and staff. As stated above, the BIE also continues to work on behavioral health solutions for students and staff. BIE distributed PPE and testing kits to students, staff, and families. BIE has supported, and will continue to support, Tribal leadership by honoring Tribal executive orders and assisting school leaders in transitioning to hybrid or remote learning when necessary. Moving forward, BIE anticipates that there will be continuing behavioral health support, IT, and facilities needs at its schools. Each of these areas of improvement existed before the COVID-19 pandemic, but has become especially challenging as a result of the pandemic.

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Question from Representative Obernolte

Question 1: What is the timeline for the Bureau of Indian Education to implement each of the remaining GAO recommendations?

Response: At present, the BIE has fully implemented 23 of 39 GAO recommendations. BIE has submitted a formal closure package to GAO for recommendation 3 contained in GAO-20-358 and anticipates its closure in the coming weeks. In addition, the BIE recently completed its draft comprehensive Special Education Policy and Handbook, which will address two additional recommendations. The BIE has provided a copy of this draft Policy and Handbook to GAO for review and input. Each of the remaining open recommendations have varying target closure dates through December 2024. The BIE is on track to meet each of the remaining target closure dates.



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Enclosure

cc: The Honorable Bruce Westerman
Ranking Member

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Question 1: Due to the management challenges repeatedly identified by the Government Accountability Office (GAO), Congress, as part of its FY2022 appropriations, instructed the Department of Interior (DOI) to reorganize the Bureau of Indian Education (BIE) into an independent bureau.

a. What is the progress that has been made to complete this reorganization?

Response: Since the promulgation of Secretarial Order 3334 in 2014, the BIE has implemented a series of organizational improvements to focus services based on the types of schools served. The new BIE structure uses three categories: (1) Tribally-controlled schools, (2) BIE-operated schools, and (3) schools serving the Navajo Nation. The BIE completed this first phase of its reorganization in late 2016.

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b. Do you have an estimation for how long all of the required actions will take for the BIE to work independently?

Response: As noted above, the BIE plans to completely assume all operations and functions from the BIA by the end of fiscal year 2024.

Question 2: The Bureau of Indian Education (BIE) received nearly \$1.5 billion in federal funds from the CARES Act, the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), and the American Rescue Plan Act (ARP) to address challenges associated with the COVID-19 pandemic.

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With respect to CARES Act funds, BIE-funded schools prioritized personal protective equipment (PPE), mitigation supplies and services, essential personnel support (such as low-income meal program support personnel), and distance or remote learning equipment.

As a result of the pandemic’s impact, the BIE targeted the ESF funds provided under CRRSAA to address the following:

1. Mental and behavioral health, and wellness support for students and staff.
2. IT assessments and development of support contracts for Education Learning Management System and IT equipment and broadband upgrades.
3. Social distancing supplies and equipment.

¹ For purposes of this record, BIE-funded schools include BIE-operated schools, including Haskell Indian Nation University and Southwestern Indian Polytechnic Institute, schools operated pursuant to a grant under the *Tribally Controlled Schools Act of 1988* (25 U.S.C. § 2501 *et seq.*), and schools operated pursuant to a contract under the *Indian Self-Determination and Education Assistance Act* (25 U.S.C. § 5301 *et seq.*).

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4. Facility HVAC system assessments, filters, and repair and maintenance.
5. Additional PPE supplies.

To ensure timely obligation of funds and effective oversight, the BIE hired budget analysts, accountants, and a program support assistant to assist BIE-funded schools and TCUs with COVID-19 Spend Plan support and to provide monitoring oversight. Additional spending priorities included personnel expenses supporting retention and recruitment of BIE teachers and staff.

Finally, ARP Funds have been prioritized for longer-term planning needs, including repair and maintenance of school HVAC systems, phased support for education technology infrastructure and learning management system requirements, including connectivity or bandwidth needs, continuing social and emotional support contract services, and teacher professional development and training.

b. What are some of the main ways schools have used the funds the BIE has provided them?

Response: Under the statutory guidance on the use of COVID-19 relief funds, schools developed their spend plans in the following specific activity categories

1. Activity 1 - Preparedness and Response Efforts
2. Activity 2 - Planning and Coordinating Long-Term School Closures/School Reopening
3. Activity 3 - Educational Technology
4. Activity 4 - Mental Health Services and Support
5. Activity 5 - Summer Learning and Supplemental Afterschool Programs

A review of spending showed a majority of the funding was used for remote and distance learning needs. Other significant uses were personnel salary and benefit costs of essential personnel during the pandemic (hazardous pay and stipends) for food service workers, facility staff, and bus drivers. Additionally, schools used their relief funding for facility repairs and maintenance, which included supplies and materials for HVAC systems, as well as enhancements to ensure that facilities were secure, access limited, and safety signage available. Funds were also used for contract services to support teacher professional development and provide mental health, counseling, nurses, and IT support.

c. What steps has the BIE taken to conduct rigorous oversight of schools' use of COVID relief funding to ensure that these critical dollars continue to be spent appropriately?

Response: The BIE's Budget and Finance Division manages risk assessments with key internal control monitoring for all relief funds. Monitoring activities include implementation of an Internal Control Plan (ICP) that includes on-going frequency testing of financial transactions,

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tracking identified deficiencies, and taking corrective actions as necessary. The BIE relief funds require complex school-level planning with four relief funding sources and staggered Treasury availability periods. The BIE's relief monitoring plan includes assigning BIE financial staff to portfolios of BIE K-12 schools and TCUs to review financial system transactions and randomly select samples of expenditures for review and corrective action as identified. This oversight includes the daily monitoring of relief funds spending and available funds by school location, including acquisition, purchase requisition, personnel charges, and charge card transaction reporting.

Additionally, high-level monthly and quarterly Departmental relief funds reporting is conducted through the OMB MAX system, which provides monthly and quarterly aggregate spending and outlay reporting. This high-level reporting provides monthly obligation and expenditure reporting, transfer status, outlays, etc. through the status of budgetary resources (SF-133 process) for all COVID-19 supplemental funds. Detailed COVID-19 allowable expenditure guidance developed and published by the Department of Education, U.S. Treasury, and the Department of the Interior support BIE advisory services on appropriated and transferred relief funds, as well as internal BIE frequently asked questions and combined School Operations and Division of Performance and Accountability training and webinars provided to Associate Deputy Director Offices (ADD), school leaders, and school staff. Additionally, the Department of the Interior and BIE require employee training and certification of employees performing acquisition, using charge card, traveling, and other financial transactions supporting BIE-operated schools in the use of all relief funds.

Question 3: The COVID-19 pandemic has disproportionately affected the American Indian/Alaskan Native students. COVID-19 death rates for Native Americans are disproportionally higher than for other demographic groups, and are affecting Native Americans at younger ages.

- a. What steps is the BIE taking to ensure the health and safety of educators, students, and families?**

Response: In support of schools and Tribal communities, the BIE distributed over 2,000,000 protective masks to staff members, students, and their families to provide protection against COVID-19. The BIE also completed a major ventilation assessment project with the Public Health Service. In addition, the BIE formed a COVID-19 Response Team tasked with providing COVID-19 reporting and technical assistance to schools. Importantly, the work of the BIE COVID-19 Response Team enabled BIE schools to continue providing critical services, such as low-income nutritional services, uninterrupted. In many instances, the BIE team worked with local partners, such as Tribal law enforcement and the National Guard, to deliver meals to students at their homes.

The BIE also provided critical COVID-19 safety training to Tribal communities and staff. In total, the BIE provided 43 Safety Training events using Microsoft Teams, which reached 1,779

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individuals. The BIE also worked to ensure that effective workplace safety guidance, such as barriers, masks, and social distancing, were instituted across the BIE. The BIE hosted four Principal's Leadership Academies where the BIE Safety team provided information on the Collateral Duty Safety Officer (CDSO) and Safety Committee program, the Emergency Action Plan, and an informational session on the annual safety inspection program. The BIE also provided on-site safety inspections in BIE-operated schools and schools operating in BIA-leased facilities. These inspections covered life safety issues, Americans with Disabilities Act (ADA) requirements, fire hazards, and environmental issues.

Finally, the BIE also provided contracted services to support schools in their efforts to ensure enhanced cleaning and mitigation protocols related to COVID-19 disinfection. The BIE participated in the Federal Energy Management Program (a Department of Energy initiative) pilot programs to evaluate indoor environmental quality at four BIE schools that will provide specific data to support specifications for ventilation improvement projects. These programs will improve overall health of buildings and, as a result, further reduce the risk of COVID-19 exposure. Three additional schools are scheduled to be evaluated in FY 2023.

b. Do you have any updates on the BIE's coordination with the Indian Health Service (IHS) to facilitate student vaccinations?

Response: Throughout the duration of the pandemic, the BIE worked regularly with the IHS and the Centers for Disease Control (CDC). The interagency workgroup formed among the BIE, IHS, and CDC worked on a variety of issues, including several vaccination initiatives. Over the course of the pandemic, this interagency workgroup organized and held several COVID-19 on-site vaccination events at BIE schools. In addition, this interagency workgroup also coordinated access to vaccines for BIE students, staff, and families at local IHS facilities. BIE will continue to work with its partners at IHS and CDC on additional vaccination events.

c. What steps is the BIE taking to support the social-emotional well-being of educators, students and families who have experienced loss during the COVID-19 pandemic?

Response: Throughout the course of the COVID-19 pandemic, BIE schools and staff have grappled with significant loss and isolation. Additionally, increased needs for mental health support across the nation created unique challenges for ensuring that BIE students and staff had direct access to culturally appropriate and trauma-informed mental health and wellness services. Despite these challenges, the BIE has developed and implemented a new Behavioral Health and Wellness Program (BHWP) that is designed to address the wellness and mental health needs of students and staff at all BIE-funded institutions, including BIE-operated schools, Tribally-controlled schools, post-secondary institutions, and TCUs. The BIE's BHWP is laser-focused on providing behavioral health and wellness webinars while simultaneously creating the infrastructure needed to provide direct 24/7 Indigenous focused, trauma-informed, behavioral health counseling services and crisis support for students and employees.

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The BIE has also diligently worked to provide opportunities for staff to receive Youth Mental Health First Aid (YMHFA) training. YMHFA is an evidence-based, trauma-informed training designed to educate staff on how to assist students experiencing a mental health crisis. BIE has certified approximately 576 staff from across the BIE since the start of the pandemic. To further increase behavioral health supports, BIE has created three new Student Behavioral Health Program Specialist positions who serve as advisors to their assigned ADD and provide behavioral health focused technical assistance, training, and crisis support directly to schools. These new positions will also coordinate directly with the Student Health Program Specialist in the Director's Office regarding the BIE's Strategic Direction focus on wellness, behavioral health, and student physical health and safety.

The BIE has also been selected to participate in a new CDC initiative through their Healthy Schools Division. This initiative uses CDC's Whole School, Whole Community, Whole Child Model (WSCC Model), which aligns with BIE's wellness framework highlighted in the BIE Strategic Direction. Selected participants will have access to an Emotional Well-Being Learning Community (WSCC Emotional Well-Being LC), committed to improving emotional well-being for youth in communities that are socially and economically marginalized, and disproportionately affected by chronic diseases and the risk factors that cause them. The WSCC Emotional Well-Being LC will provide a comprehensive model of professional development, technical assistance, and implementation support. In addition, the BIE is simultaneously crafting a national-level contract focused on the development of national and regional social and emotional learning (SEL) curricula, intensive technical assistance for all BIE-funded entities, and additional school supports for developing and implementing school-level SEL curricula and programming.

Questions from Representative Morelle

Question 1: We understand that the Bureau of Indian Education (BIE) must coordinate with other offices within the Department of Interior in order to implement the recommendations from the Government Accountability Office (GAO).

- a. To what extent has the Bureau of Indian Education received support from the Office of the Assistant Secretary – Indian Affairs or other offices from the Department of the Interior to address open recommendations?**

Response: The Office of the Assistant Secretary – Indian Affairs (AS-IA) has provided critical support to BIE throughout its response to GAO’s recommendations. The BIE regularly reports progress in responding to the GAO recommendations to AS-IA. When appropriate, AS-IA has provided necessary and targeted intervention to address challenges the BIE has encountered in implementing those recommendations. For example, with regard to GAO-17-447, AS-IA has consistently ensured that partner agencies within the Department timely address challenges regarding school construction contracts, which are outside the direct control of the BIE. Additionally, AS-IA has worked closely with BIE leadership to ensure that those recommendations that are within the direct control of BIE are progressing towards full implementation.

Question 2: What have been the major challenges for the Bureau of Indian Education (BIE)-funded schools during the pandemic, and how has the BIE worked to help these schools and students? What challenges, if any, still remain?

Response: The BIE assisted schools in a variety of ways. For example, BIE worked directly with schools and Tribes to create spend plans for COVID-19 relief funding and distributing funds for IT equipment. The BIE established a learning management system and is actively implementing a technology refresh at 12 pilot sites in School Year (SY) 2021-2022. The BIE will continue to roll out this \$90 million investment at 20 new locations in SY 2022-2023. The BIE has also assisted with providing locations for students, staff, and families to obtain COVID-19 vaccinations. Importantly, throughout the pandemic, the BIE worked with CDC and IHS support to establish interagency solutions designed to address the health needs of students and staff. As stated above, the BIE also continues to work on behavioral health solutions for students and staff. BIE distributed PPE and testing kits to students, staff, and families. BIE has supported, and will continue to support, Tribal leadership by honoring Tribal executive orders and assisting school leaders in transitioning to hybrid or remote learning when necessary. Moving forward, BIE anticipates that there will be continuing behavioral health support, IT, and facilities needs at its schools. Each of these areas of improvement existed before the COVID-19 pandemic, but has become especially challenging as a result of the pandemic.

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Question from Representative Obernolte

Question 1: What is the timeline for the Bureau of Indian Education to implement each of the remaining GAO recommendations?

Response: At present, the BIE has fully implemented 23 of 39 GAO recommendations. BIE has submitted a formal closure package to GAO for recommendation 3 contained in GAO-20-358 and anticipates its closure in the coming weeks. In addition, the BIE recently completed its draft comprehensive Special Education Policy and Handbook, which will address two additional recommendations. The BIE has provided a copy of this draft Policy and Handbook to GAO for review and input. Each of the remaining open recommendations have varying target closure dates through December 2024. The BIE is on track to meet each of the remaining target closure dates.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 17 2022

The Honorable Katie Porter
Chair, Subcommittee on Oversight
and Investigations
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Porter:

Enclosed are responses prepared by the Bureau of Land Management to written questions for the record submitted to Mr. Michael D. Nedd, Deputy Director, Operations, Bureau of Land Management, following the Subcommittee's July 28, 2022, hearing on *Preventing Polluters from Getting Government Contracts: Bureau of Land Management's Corporate Exclusion Lists*.

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 Bruce Westerman
Ranking Member

Questions for the Record
House Natural Resources Subcommittee
on Oversight and Investigations
Hearing on BLM's Corporate Exclusions Lists
July 28, 2022

Questions from Chair Porter

Question 1. Does the BLM currently require every applicant that wants to do business with them to obtain and register a unique identifying number on SAM.gov? Why or why not?

Response: Neither the Department nor the BLM currently require every applicant to obtain and register a unique identifying number on System for Award Management (SAM.gov.)

Question 2. If not, will you commit to requiring BLM applicants for leases on public lands to register on SAM.gov and receive an identifying number?

Response: The BLM is committed to checking SAM.gov prior to issuing a lease or approving a change in lease interest holders. The BLM reviewed the option for requiring potential bidders to register through SAM.gov and obtain a unique entity identifier and identified several challenges with this approach (i.e., SAM.gov is designed for contracting and many of the registration processes are not applicable to fluid mineral leasing). As a result, we determined that this requirement would not further aid in the prevention of BLM issuing leases to entities that are on the SAM.gov exclusion list.

Question 3. How could SAM.gov be improved to make it easier for employees to check the exclusions list?

Response: The Department and the BLM are consistently working to improve our internal processes. After initial reviews, we will work with SAM.gov to improve the search parameters functionality and discuss the potential to merge with Federal Awardee Performance and Integrity Information System (FAPIIS.gov) data. As the BLM considers other potential improvements, we will continue to work with our interagency partners on the quality of data in SAM.gov.

Question 4. How long were companies on the 17(g) list before being referred to the Office of Inspector General? How often have new companies historically been added to the 17(g) list?

Response: The BLM has added 24 entities to the Entities in Noncompliance with Reclamation Requirements of Section 17(g) of Mineral Leasing Act list ("17(g) list") since 1987. Nine entities have been added to the 17(g) list since 2018. On July 8, 2022, the BLM met with the Office of Inspector General Administrative Remedies Division (ARD) to determine if and how the BLM should refer entities on the 17(g) list to ARD for consideration to suspend and/or debar the entity across all federal programs. The ARD agreed to review the entities added to the 17(g) list since 2018 and asked the BLM to provide the supporting records related to those entities. Based on the discussion, the BLM is gathering the required documents for all entities added to the 17(g) list since 2018.

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Question 5. How many entities have been referred from the 17(g) list to the Office of Inspector General? What is the timeframe for referring all entities currently on the 17(g) list to the Office of Inspector General?

Response: The BLM provided the list of nine entities on the 17(g) list to the ARD on June 27, 2022. The BLM is now gathering the required records for ARD to complete their review and plans to send all the records related to the nine entities to the ARD by the end of September 2022.

Question 6. Will all entities added to the 17(g) list be referred to the Office of Inspector General going forward?

Response: Yes. The BLM will refer entities added to the 17(g) list to the ARD.

Question 7. The Infrastructure Investment and Jobs Act included nearly \$5 billion dollars to find and clean up orphaned wells. All these newly discovered abandoned wells once belonged to some company or individual, some of which may still be operating oil and gas leases on public lands. Mr. Nedd, will this orphaned well funding increase or decrease the number of entities that could be added to the exclusions list? Why?

Response: While the Infrastructure Investment and Jobs Act (Public Law 117-58) provided the BLM additional funding to clean up orphaned wells on Federal lands, the nature of an orphaned well makes it difficult to identify a responsible party. If in the course of determining whether a well is orphaned the BLM identifies an operator or an entity who has held interest in the lease, they will be added to the exclusion list.

Question 8. Please describe the process of identifying the entities responsible for abandoning a well for both the state and the federal government. Is it possible to assess whether those entities are still in business with the federal government, or linked to companies that are? Is BLM required to do these assessments?

Response: The BLM manages Federal oil and gas resources under the authorities provided by the Mineral Leasing Act of 1920. The BLM does not have the authority to manage state-owned resources.

As part BLM's process to determine if a well is orphaned, the BLM pursues oil and gas entities in three stages. The BLM first pursues the operator of the well. If the operator does not address the liability of the well and the bond is insufficient to cover plugging and reclamation costs, the BLM pursues the current Federal lease interest owners. If the current Federal lease owners do not address the liabilities, the BLM pursues all entities that previously held interest in the Federal lease during the lifespan of the well. The process includes assessments and civil penalties for each group and each group is held jointly and severally responsible. The assessments range from

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House Natural Resources Subcommittee
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July 28, 2022

\$250 to \$1,000 per well per entity. The civil penalties range from \$1,198 to \$11,995 per well per entity per day.

If the BLM determines that no parties are capable of reclaiming the well, the BLM will add these entities to the 17(g) list. The BLM will not issue a new lease or approve an interest in a lease (assignments/transfers) to any entity on the Section 17(g) list. However, the BLM does not cancel other lease interests that they may hold nor does the BLM force entities to transfer any other lease interest that they may hold to another party. The BLM does not collect information on a company's corporate structure or their affiliated entities.

**Questions for the Record
House Natural Resources Subcommittee
on Oversight and Investigations
Hearing on BLM's Corporate Exclusions Lists
July 28, 2022**

Questions from Ranking Member Moore

Question 1. Please provide the Committee with the total number of Applications for Permits to Drill the Bureau of Land Management issued within the thirty-day time frame required for mineral leasing, between January 20, 2021, and July 28, 2022.

Response: The BLM approved 1,248 Applications for Permits to Drill (APDs), on BLM managed lands, within 30 days of receipt of an administratively complete APD between January 20, 2021, and July 28, 2022.

Question 2. Please provide the Committee with the total number of Applications for Permits to Drill that are currently pending before the Bureau of Land Management, as of July 28, 2022.

Response: As of July 31, 2022, the BLM has 4,373 APDs pending.

Question 3. Please provide the Committee with the total number of expressions of interest for parcels for leases that are pending Bureau of Land Management review, as of July 28, 2022.

Response: As of July 31, 2022, the BLM estimates that it has approximately 3,322 pending EOIs, received over the past five years, which still need to be evaluated for whether the nominated lands are available for leasing.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 17 2022

The Honorable Alan S. Lowenthal
Chair, Natural Resources Subcommittee
on Energy and Mineral Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Lowenthal:

Enclosed are responses prepared by the Bureau of Land Management to questions for the record submitted to Mr. Michael D. Need, Deputy Director, Operations, Bureau of Land Management, following the Subcommittee's July 19, 2022, legislative hearing on *H.R. 3681, the Sinkhole Mapping Act of 2021*; *H.R. 5522, the Federal Land Asset Inventory Reform Act*; *H.R. 5805, the Buffalo Tract Protection Act*; and *H.R. 5350 the Enhancing Geothermal Production on Federal Lands 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 Pete Stauber
Ranking Member

Questions for the Record
House Natural Resources Subcommittee
on Energy and Mineral Resources
Legislative Hearing
July 19, 2022

Questions from Rep. Tiffany

Q 1. What is the total acreage of federal lands that have been withdrawn from mineral development, designated as wilderness or wilderness study areas, subjected to restrictions on 'multiple use' development or otherwise been made unavailable for resource development, permanently or for a period of time, during the Biden administration?

Response: The BLM manages more than 245 million acres of public land located primarily in 12 western states, including Alaska, on behalf of the American people. The BLM also administers 712 million acres of sub-surface mineral estate throughout the nation. The Biden-Harris Administration has permanently withdrawn approximately 2.5 million acres, primarily through the restoration of the Grand Staircase-Escalante National Monument and Bears Ears National Monument boundaries, and temporarily withdrawn approximately 457,000 acres. This represents approximately 0.4 percent of the Federal mineral estate managed by the BLM. Congress has not designated any wilderness areas during this Administration, nor have any additional wilderness study areas been identified.

**Questions for the Record
House Natural Resources Subcommittee
on Energy and Mineral Resources
Legislative Hearing
July 19, 2022**

Questions from Rep. Stauber

Q 1. BLM just held their first round of onshore lease sales more than a year and a half into this administration, with extremely limited acreage in the midst of a global energy crisis.

- a. As you know, zero leases have actually been issued by this administration. At the hearing on July 19, 2022, you said that the leases won at the recent onshore sales will be conveyed “expeditiously” and that BLM is working through the process of agency review. Can BLM provide a timeframe for when those leases will be conveyed to the leaseholders?**

Response: All 113 leases sold at the June 2022 lease sale have been issued.

- b. As you also know, the Mineral Leasing Act requires onshore lease sales to be held quarterly, meaning BLM is already five quarters behind where they should be. You said at the hearing on July 19, 2022, that BLM is continuing to receive nominations for the next round of lease sales, and once those are processed, BLM will announce a date for the next round of lease sales. Approximately how long will the remaining review process at BLM take, and when can we expect the next round of onshore lease sales to be held?**

Response: The BLM continues to receive and process nominations with our available resources. Once the BLM has completed the review of the parcels, we will announce a date for the next onshore oil and gas lease sale.

Q 2. You stated that the administration supports the goals of H.R. 5350, but that categorical exclusions should be created through the agency process, not through legislation. Approximately how long does it take for BLM to draft, review, and finalize a categorical exclusion?

Response: In the BLM’s experience this process can take about two years to complete.

Q 3. How many permits for geothermal development projects, from exploration through production, are pending at BLM?

Response: The BLM has nine pending geothermal development projects as of July 26, 2022. The BLM also approved four geothermal development projects in Fiscal Year (FY) 2022 to date.

Q 4. How many geothermal lease sales on federal lands have occurred over the past 10 years?

Response: The BLM has held 14 lease sales between FY 2012 and FY 2022. In FY 2022, the BLM held competitive geothermal lease sales in three states (Nevada, New Mexico, and Utah) that grossed over \$5.8 million from bids.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 17 2022

The Honorable Catherine Cortez Masto
Chair, Subcommittee on Public Lands,
Forests, and Mining
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chair Cortez Masto:

Enclosed are responses prepared by the Bureau of Land Management to written questions for the record submitted to Dr. Steven Feldgus, Deputy Assistant Secretary of the Interior for Land and Minerals Management, following the Subcommittee's October 19, 2021, hearing to consider pending legislation. We apologize for the delay in our response.

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 Mike Lee
Ranking Member

**Questions for the Record
Energy and Mineral Resources
Subcommittee on Public Lands, Forests, and Mining
Pending Legislation
October 19, 2021**

Questions from Senator Lee

Question 1: S.180 would withdraw approximately 4,288 acres from various forms of mineral development. Can you tell the committee what minerals or other resources have been documented to exist there?

Response: The area contains mineral materials deposits with an estimated potential of 36,000,000 cubic yards of sand and gravel.

Question 2: S.180 withdraws lands subject to valid existing rights. Can you explain what existing rights this may be referencing?

Response: The known current valid existing rights (e.g., sale contracts, lease contracts, valid mining claims, surface management notices, etc.) for the area include a mineral materials exploration permit and a mineral materials sale contract.

Question 3: S.180 clarifies that these lands will remain available for conveyance under FLPMA or the Recreation and Public Purposes Act. Has interest been expressed for such a conveyance?

Response: The BLM is aware of multiple parties with interest in acquiring some or all of the land, including the nearby Pueblo of Santa Ana, Pueblo of San Felipe, San Antonio de Las Huertas Land Grant, and a few private landowners.

Question 4: What are the local concerns S.180 is meant to address? Can you explain the reasoning behind the effort to withdraw these lands from mineral entry?

Response: The BLM is aware of concerns from local residents about health, air quality, and increased truck traffic from the production of sand and gravel.

Question 5: Are any or all of the lands identified in S.528 currently listed as eligible or potentially eligible for disposal by the bureau? Why are these transfers not simply happening under the RPPA or a FLPMA §302 disposal authority?

Response: In accordance with the Yuma Resource Management Plan (2010), the entire 4,800 acres are identified for retention under BLM management. To date, the BLM has not received a request from La Paz County to acquire the lands under the Recreation and Public Purposes Act (R&PPA) or the FLPMA §302 disposal authority. A plan amendment would be required to make the lands available for disposal, which would be incorporated into the NEPA analyses for the proposed disposal.

Questions for the Record
Energy and Mineral Resources
Subcommittee on Public Lands, Forests, and Mining
Pending Legislation
October 19, 2021

Question 6: S.607 establishes a requirement that the agency review and update all reasonably foreseeable development scenarios for federal land every 15 years at minimum. How often are these reasonably foreseeable development scenarios currently being completed by the agency? Is this full process being facilitated during all RMP updates?

Response: The BLM completes resource management plan (RMP) revisions on about a 20-year term. Amendments may occur between revisions as needed. The reasonably foreseeable development (RFD) scenario is updated at least as often as an RMP revision occurs but can also be updated through an amendment as information changes (i.e., due to a large-scale development EIS that affects existing estimates).

Question 7: It is my understanding that under the current leasing system, oil and gas companies take on a certain amount of risk to invest in and acquire new leases with the understanding that they may or may not be immediately productive. Before a developer can determine if a lease has potential for development, it must conduct extensive due diligence and invest a significant amount of money to analyze the underlying geology and conduct the necessary engineering assessments. Can you describe the assessment process that the agency performs to complete a reasonably foreseeable development scenario?

Response: The RFD scenario process is complex. As part of the RFD, the BLM completes extensive and detailed reviews of the area's geology, past and present oil and gas exploration and development activities, and the potential of oil and gas occurrence and development.

Question 8: How much does it cost the federal government to complete a reasonably foreseeable development scenario that accurately assesses oil and gas drilling potential on a parcel of land?

Response: The cost to the Federal government to complete an RFD scenario depends on a number of factors, including the areal extent of the RFD, complexity of the geology, and number of geologic plays within the area. Additional factors that can impact the cost are whether the BLM completes the RFD scenario in-house with existing staff, or whether the BLM issues a contract. As a result, costs can vary from \$15,000 to over \$150,000.

Question 9: Are any or all of the lands identified in S.1411 for disposal currently listed as eligible or potentially eligible for disposal by the bureau? Why are these transfers to the county not simply happening under the RPPA or a FLPMA §302 disposal authority?

Response: Approximately half of the parcels identified in S.1411 are listed in the current RMP as potentially suitable for disposal. The BLM is still required to conduct an environmental analysis to ensure the sale is in the public interest before any of these lands would be eligible to leave Federal management. Additionally, the BLM regularly leases and conveys lands to local governments and nonprofit entities for a variety of public purposes, typically under the R&PPA. The BLM has been in communication with Lander County, Nevada about potentially using R&PPA authority and BLM's general authority to conduct land sales.

Questions for the Record
Energy and Mineral Resources
Subcommittee on Public Lands, Forests, and Mining
Pending Legislation
October 19, 2021

Question 10: A recent report highlighted by E&E News predicts that annual global demand for nickel will rise from the current 2.7 million tons to a projected 3.7 million tons in 2024. The report predicts that global demand for nickel will outstrip supply, driven in large part by batteries for electric vehicles that require nickel. The Oregon Recreation Enhancement Act, together with the Smith River National Recreation Area Expansion Act, would withdraw approximately 316,000 acres of federal land in Southwest Oregon from mineral development. Can you tell the committee what minerals or other resources have been documented to exist in this area?

Response: Rock quarries for mineral materials exist throughout the area. The eastern third of the area has medium to high potential for the occurrence of gold, silver, copper, zinc, and lead.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 17 2022

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Manchin:

Enclosed are responses prepared by the Office of Insular Affairs to the questions for the record submitted to the Department of the Interior's witness, Keone Nakoa, Deputy Assistant Secretary for Insular and International Affairs, following his appearance at the March 29, 2022, oversight hearing on the Freely Associated States. We apologize for the delay in our response.

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 John Barrasso
Ranking Member

Questions from Chairman Manchin

Question 1. How will you and the Department of the Interior work with the Envoy on Compact Negotiations?

Response: In March of this year, the Administration named Ambassador Joseph Yun to serve as Special Presidential Envoy of Compact Negotiations (SPECN or Envoy) with the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau (Palau), collectively the freely associated states (FAS). SPECN coordinates and is supported by the National Security Council (NSC), State, and Interior staff on all policy, program, fiscal, and bilateral aspects of the Compact of Free Association (COFA or Compact) renewal negotiations.

As a result, the Administration has improved coordination of Interior and State Departments for reengagement with the FAS by SPECN Yun in negotiations on amendments to strengthen relations under the Compacts. In addition, SPECN Yun – on behalf of President Biden and with strong Interior and State support – leads a broad interagency group and has already made significant progress to establish more productive United States positions and authorities, coordinate the federal programs and services package for each of the three Compacts, and address COFA funding needs for this next term of COFA. SPECN Yun has also prioritized consulting with Congress on behalf of the Administration for all these purposes.

Question 2. Will the Interior Department contribute personnel to the Envoy's team? If so, at what level?

Response: Following her confirmation as the Assistant Secretary for Insular and International Affairs, Ambassador Carmen Cantor assumed duties that include direction of Office of Insular Affairs (OIA) participation in the COFA negotiations. Deputy Assistant Secretary, Insular and International Affairs, Keone Nakoa previously served as the Interior's Compact team leader and continues to play an active role supporting Assistant Secretary Cantor and the Special Presidential Envoy's mission. OIA also has two senior professional policy advisors assigned to serve as staff support and members of the Envoy's policy and negotiating team as he directs. The entire OIA budget and policy staff as well as attorneys from the Department of the Interior's Office of Solicitor also perform work as needed to support the Envoy's mission, including traveling to participate in bilateral negotiation meetings.

Question 3. Do you agree that successful international negotiations first settle on the scope and goals?

Response: It is often very helpful in any negotiation for parties to agree on logistics, process, and objectives. With that in mind, negotiations with FSM have progressed well with a mutual understanding of the timeline for the negotiations and shared goals, including renewal of the expiring provisions of Title Two and need for other amendments to strengthen relations under the Compacts. With regard to RMI and Palau, as Deputy Assistant Secretary of State Mark Lambert testified at the Committee's hearing on March 29, 2022, confirming that SPECN Yun is authorized to discuss any issue the RMI (or Palau) chooses to raise in the Compact negotiations. As a result, we travelled to RMI for our first in-person negotiations in June 2022 and SPECN Yun and Assistant

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Secretary Cantor led comprehensive back-to-back three-day meetings with Chief Negotiators for each of the FAS governments from July 29 to August 8.

Question 4. Has the United States and each Freely Associated States reached an agreement on the scope and goals of the Compact negotiations? Please elaborate.

Response: To restore confidence in the negotiating process the United States has agreed not to limit the issues and topics that can be discussed and addressed for inclusion in the scope of negotiations. In that context, all three Compact partner governments recently have provided comprehensive written statements regarding issues of high priority each seeks to address.

It is expected that the scope of negotiations and shared goals of the parties will expand and retract as a mutually acceptable agendas are finalized and discussed in bilateral talks that are now on-going. But timely agreement on the expiring economic assistance provisions of the Compact continues to be the United States' priority.

Question 5. Are there any issues or Compact provisions that are “off the table” or that the United States is not willing to address in the Compact negotiations? Please be specific for Micronesia, the Marshall Islands and Palau.

Response: While it is likely not all past, current or future proposals from the U.S. or the FAS will be incorporated into the final Compact, out of respect for our partner governments in the Pacific, the Envoy has confirmed that no issue will be precluded from being proposed for consideration in negotiations. That commitment was honored in the July-August meetings just concluded.

Question 6: What happens if the Compact negotiations are not completed in time for Congress to pass a budget that includes economic assistance for the Marshall Islands, Micronesia and Palau? And, what are Congress's options for maintaining economic assistance to the Freely Associated States in the meantime?

Response: If any current 2022 negotiation with a COFA partner government does not reach timely culmination and agreement by the end of FY2023 for FSM and RMI and FY2024 for Palau, then under current Compact provisions and U.S. law, the mandatory economic assistance provisions would sunset and the Compact Trust Fund provisions, including distributions, would go into effect.

Questions from Ranking Member Barrasso

Question 1. Deputy Assistant Secretary Nakoa, what are the challenges and prospects for economic self-sufficiency among the FAS? What economic areas are the most promising, and what kinds of assistance, if any, are needed?

Response: This is a difficult question complicated by some of the most prescient generational issues today, which also disproportionately affect the Pacific Islands and are compounded by climate change and the effects of a global health pandemic. Nevertheless, on-going internal and bilateral discussions on this very question are being held. Underlying these discussions is the concept that the goal of increased self-sufficiency—at least where possible in the FAS sectors—must also be tied to strategies for sustainable economic development rather than simply self-sufficiency in the near term and at any cost.

With that in mind, the economic return from responsible management of fisheries resources under policies and standards consistent with sustainable practices, current international ship registry enterprises, and tourism remain the primary sustainable economic sectors. And for that reason, they consistently attract the most domestic and foreign investment in the private and public spheres of the Compact partner economies.

Unfortunately, recent events have demonstrated the volatility of these sectors. In the case of Palau, the global pandemic all but shut down their tourist industry resulting in significant damage to their economy. In one effort to address Palau's economic development, including its transition from a developing to a middle-income country, the United States is currently taking action to activate the Palau Economic Advisory Group mandated by Section 4(e) of the 2010 Palau-U.S. Compact Review Agreement. To jump start that sustainable developmental economics strategic planning group, Palau nominated, and on behalf of the United States Government, SPECN Yun, approved respected United States economist James K. Galbraith to serve as the jointly appointed member of that body. In addition, the two United States members of that body approved on behalf of the United States Government by the Secretary of the Interior are Dr. Peter S. Watson, former Chairman of the U.S. International Trade Commission, and Dr. Denise Eby Konan, Dean of the College of Social Sciences and Professor of Economics for the University of Hawai'i at Mānoa. We are looking forward to reviewing the economic recommendations proposed by this Commission.

Questions from Senator Wyden

Question 1. The number of migrants from the Freely Associated States (FAS) – Republic of the Marshall Islands, Republic of Palau and Federated States of Micronesia – has grown exponentially over the past decade, with a significant population now residing in the State of Oregon. The increased migration of COFA residents in the U.S. – as well as our shared history and geopolitical realities - compel the U.S. to ensure that FAS children begin their lives on a strong foundation of good health and a first-rate education so that they can better contribute to their new communities in Oregon and across the country. Unfortunately, today FAS children lack access to adequate healthcare, nutrition and education. In 2020, the World Bank reported that 35 out of 100 children in the Marshall Islands experience stunted growth, placing them at risk of cognitive and physical limitations that can last a lifetime.

Given the documented needs of the children in the FAS and the importance of job training for these migrants to set them up for lives of success and contribution to their communities, what enhancements in the areas of healthcare, nutrition and education are being considered for inclusion in the renewed compacts? Specifically:

- a. **A GAO report released last month concluded that “[a]bsent changes to current law, FSM and RMI will not be eligible after FY2023 and Palau will not be eligible after FY2024 for job training programs and Head Start early education programs, according to agency officials.” (GAO-22-104436, page 127) Is extending these federal programs to the FAS being considered as part of the Compact renewals?**

Response: Yes.

- b. **In 2003, numerous programs within the Department of Education that had applied to the FSM and RMI were consolidated into a block grant – the Supplemental Education Grant (SEG). Regrettably, this block grant was for an amount less than the value of the original programs and then was not fully funded, depriving the RMI and FSM of expected resources and causing some to question U.S. commitment. Given the unfulfilled funding of the SEG, are there plans to: (a) end the SEG in 2023 and return to the original federal education programs, and (b) pay the SEG funding contained in the 2003 compact that was never appropriated to FSM and RMI?**

Response: From FY 2004 to FY 2023, the SEG program funding was included in the U.S. Department of Education budget and transferred to the Department of the Interior for payment to the FSM and RMI COFA nations pursuant to Section 105(f)(1)(B)(iii) of the COFA Amendments Act of 2003. Those SEG provisions were authorized for Palau under Section 105(f)(1)(B)(ix), and the latter authorization of Palau was extended to 2024 at 48 U.S.C. 1921d(f)(1)(B)(ix); Dec. 12, 2017, Section 1259C, National Defense Authorization Act for Fiscal Year 2018 (P.L. 115-91, 131 Stat. 1687).

To date, neither the FSM nor RMI has requested for the SEG to return to the original federal education programs after 2023. However, both the FSM and RMI have requested additional funding to account for

funding that was not appropriated. These requests are being considered in the ongoing Compact negotiations with both countries.

- c. **Citizens from the Marshall Islands, Palau and the Federated States of Micronesia have not been able to access safety net programs available to other legal, long-term residents, as they lost their access to the benefits through the 1996 Welfare Reform Act. Would the Department of the Interior be supportive of restoring these federal lines of support, such as providing access to the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance to Needy Families (TANF)?**

Response: The Administration will consider these matters and consult with Congress as appropriate to consider the requests and views of leadership and members about these programs as well.

- d. **Similarly, would the Department of Interior be supportive of extending COFA/FAS students access to student loans, such as Stafford Loans and Graduate PLUS Loans? Currently, COFA/FAS students only have access to Pell grants. Expanding their access to these loans would allow students to more easily achieve their higher education goals and contribute to their communities.**

Response: As indicated in the previous response, the Administration will consider these matters and consult with Congress as appropriate to consider the requests and views of leadership and members about these programs.

Question 2. The 2010 Compact Amendments with Palau established an Economic Advisory Group to advise Palau on governmental reforms and economic opportunities at the request of our government. The president of Palau names two Members and our Government names two. The fifth of the five seats is to be chosen by our Government from a list of three submitted by Palau's President unless none are acceptable. President Whipps submitted three names for the fifth seat more than two and a half months ago; Professors James Galbraith, Martin Luby, and Norio Usui. They are all distinguished experts. Dr. Galbraith, for example, was Executive Director of Congress' Joint Economic Committee. A Government Accountability Office report recently noted the need for Federal action on the Group. Why hasn't President Whipps received a reply?

Response: We are pleased to report that President Whipps has been informed that the United States is currently taking action to activate the Palau Economic Advisory Group mandated by Section 4(e) of the 2010 Palau-U.S. Compact Review Agreement. To jump start that sustainable developmental economics strategic planning group, Palau nominated and on behalf of the United States Government, SPECN Yun, recently approved respected United States economist James K. Galbraith to serve as the jointly appointed member of that body. Furthermore, the two United States members of that body recently approved on behalf of the United States Government by the Secretary of the Interior are Dr. Peter S. Watson, former Chairman of the United States

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International Trade Commission, and Dr. Denise Eby Konan, Dean of the College of Social Sciences and Professor of Economics for the University of Hawai'i at Mānoa. We are looking forward to reviewing the economic recommendations proposed by this Commission.

Question 3. Some 14 Departments and agencies have programs in the freely associated states. Key decisions are needed from OMB. An inability to obtain adequate cooperation and positions by some agencies was one of the reasons for the failure of the effort led by the State Department's last Compact Negotiator, her legal adviser, with some Interior personnel. Now, the U.S. has a Special Presidential Envoy. How have departments and agencies been directed to work with the Envoy? Please tell me what documents establish the position and define his authority, mission, and please provide copies. Please also identify to whom he will report.

Response: The Special Presidential Envoy for Compact Negotiations represents and reports to the President through the Executive Office of the President. These arrangements are consistent with the previous arrangements made in 1976 for negotiation of the political status of the Northern Mariana Islands, as well as the 1978 through 1986 negotiations leading to the Compact of Free Association for FSM, RMI and Palau.

The appointment of a representative of the President for the COFA negotiations was determined by the Administration to be appropriate and consistent with the high priority the Administration puts on timely agreements to extend, renew, and strengthen the Compacts. This decision was made after communications from and consultations with Congress and the COFA partner governments.

The reasons for restoration of presidential representation for Compact negotiations include the need for enhanced interagency coordination of policy on issues that arose during the 2020 COFA negotiations as mentioned in this question. One lesson learned from the 2020 negotiations was that EOP authorization and direction of COFA chief negotiators has been a more successful management model for COFA negotiations than processes delegated to the Departments of the Interior and State. With the SPECN, we have had broad engagement and strong coordination from federal agencies with equities in the FAS.

Question 4. The State Department's prior Compact Negotiator complained about a lack of staff. She and her legal adviser were not successful in their efforts. What staff will the new Envoy have? Will the prior Negotiator and legal adviser be advising the Envoy? For how long, specifically?

Response: Both the Interior and State Departments have added new professional staff members assigned to support the interdepartmental staff already playing direct roles on the COFA Team and work of the SPECN. The former State Department co-negotiator in 2020 was retained as a senior advisor during the transition to SPECN to chief negotiator position. The State Department Office of the Legal Advisor assigns staff attorneys to support COFA negotiations as needed.

Additionally, before confirmation of Ambassador Carmen Cantor as the Assistant Secretary for Insular and International Affairs, Deputy Assistant Secretary, Insular and International Affairs, Keone Nakoa served as

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Interior's lead representative supporting the Envoy's mission. OIA also has two senior professional policy advisors assigned to serve as staff support and members of the Envoy's policy and negotiating team as he directs. The entire OIA budget and policy staff as well as attorneys from the Department of the Interior's Office of Solicitor also perform work as needed to support the Envoy's mission, including traveling to participate in bilateral negotiation meetings.

Questions from Senator Hirono

Question 1. Last year, I introduced legislation that would reinstate access to all federal benefits – not just Medicaid – for COFA citizens. While this is primarily an issue of ensuring individuals that need support are able to access it, it is also an issue of relieving the pressure on states who foot the majority of the bill for providing that support. Does the administration support correcting the change made by the 1993 welfare bill that excluded COFA citizens from accessing these benefits? Is it the position of the administration that states should continue to provide these services, despite repeatedly communicating to multiple administrations that Compact Impact funding was insufficient to reimburse those costs?

Response: As I said in response to this question at the hearing, I know that this is an issue that is important to you. Assistant Secretary for Insular and International Affairs Carmen Cantor was sworn in to her position at the Department in August, and now that the Department's leadership on matters relating to the territories is in place we will ensure that this issue, and your legislation, are appropriately reviewed.

Question 2. I understand that my staff have been in contact with DOI to receive updates on the negotiations thus far. As the renegotiation process continues, is it the position of the administration that the states with substantial, measurable populations of COFA citizens are stakeholders in these conversations? To what degree will the needs of those states be considered moving forward?

Response: The negotiation of international agreements is in the first instance an Executive Branch responsibility constitutionally and Department of State authority under applicable legal authorities. States with FAS citizen populations that impact state services and programs are stakeholders in the promulgation of federal domestic laws addressing the impact of COFA migration. The Administration will address COFA impact issues in that context. The Department has had conversations with your staff about the ongoing negotiations and the needs of Hawai'i and other impacted states and territories. We value your input and would like to continue our engagement as COFA negotiations progress, and we move closer to the formulation of the domestic aspects of the Compacts.

Question 3. On March 1, in honor of Nuclear Victims Remembrance Day in the Marshall Islands, Senator Markey and I introduced a resolution formally apologizing to the people of the Republic of the Marshall Islands for the US nuclear testing program, and affirming the importance of the Compact of Free Association. Does the administration support formally apologizing to the people and government of the Republic of the Marshall Islands for the damages caused by our country's nuclear testing program?

Response: The Administration is not opposed to the proposal to offer an apology to the people of the RMI for the injury and damaged caused by the nuclear testing program. However, the Administration does not want to apologize without it being in the context of addressing RMI proposals for additional measures contributing to resolution of the nuclear testing legacy. The RMI has indicated it intends to explore such further measures as the negotiations are resumed in the weeks and months ahead. We look forward to working with the RMI on this healing process that we hope will bring our countries closer.

Questions from Senator Hickenlooper

Question 1: To what extent will addressing climate change factor into future COFA negotiations? What sorts of climate adaptation and resilience investments are of greatest value to the Freely Associated States? What assistance in this regard do you anticipate may be requested by the Freely Associated States?

Response: Climate change impact mitigation and resilience are topics that have been raised by the FAS governments in our COFA consultations. The United States is expecting and preparing for further consultations on how we can support FAS climate change initiatives.

Question 2: Fishing is one of the primary industries in the Freely Associated States. Unfortunately, illegal, unreported, and unregulated fishing (IUU) is on the rise, threatening the economies and fragile ecosystems of these coastal nations. Can you speak to U.S. efforts within the Department of State, Department of Defense, and the Department of the Interior, respectively, to combat IUU fishing in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau?

Response: The issue of illegal, unreported, and unregulated fishing (IUU) has not been raised in the context of administering Compact funding through Interior by any of the three FAS. However, there are occasions where Interior's Technical Assistance Program (TAP) and Maintenance Assistance Program (MAP) funding may indirectly support the larger mission to combat IUU in the FAS. In fiscal years 2021 and 2022, for example, OIA TAP and MAP funding was provided to the Pacific Mission Aviation (PMA), to maintain and update small aircraft engine avionics and engines, purchase supplies, and repair a hangar used for air transportation services between Guam, Palau, and Micronesia. The PMA, a non-profit organization, is one of the only organizations that provides regular air transportation support to the smaller, less-accessible islands in the region. PMA also works closely with United States partners and FAS governments in support of exclusive economic zone (EEZ) surveillance for illegal activities, search and rescue efforts, and general emergency needs and readiness in the Western Pacific.

Interior defers to the witnesses from the Department of Defense and the Department of State to comment on their efforts.

Question 3. Congress will need to approve the extension of programs, services and economic assistance for the Freely Associated States that end of FY23. Do you think the Administration will be in a position send Congress a proposed legislative package later this year? Can you share with the Committee information on the Administration's commitment to continue existing programs and services—US Postal Service, Supplemental Education Grants, disaster preparedness, Pell Grants, to name a few—for the next 20-year-period?

Response: Under the new leadership and interagency coordination of SPECN Yun, we have already made significant progress in our Compact negotiations with the FSM, including a robust round of negotiations at the

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end of June 2022. We re-engaged with the RMI's new Compact negotiation lead and team at in-person meetings in Kwajalein in June 2022 as well. And, we have had some progress with Palau, including meeting with President Whipps and appointing the U.S. members of a bilateral economic advisory group created by Section 4(e) of the 2010 Palau-U.S. Compact Review Agreement. With this progress and the priority support from the White House and across agencies, we are hopeful to be able to send mutually agreed packages to Congress later this year indeed – that is, as long as we continue to see this level of cooperation from the FAS governments.

While it is premature to comment on how the negotiations with all three FAS will conclude regarding all of the aforementioned federal programs and services, we have been working very closely with the FSM on many aspects of the current Federal Programs and Services Agreement of the Compact with much progress already made. It is the Department's hope that we will be able to reach agreements with all three FAS to be able to continue offering these valuable federal programs and services to the FAS.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 02 2022

The Honorable Brian Schatz
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Schatz:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted following the June 22, 2022, oversight hearing on "Volume 1 of the Department of the Interior's Federal Indian Boarding School Initiative Investigative Report" and legislative hearing on S. 2907, the *Truth and Healing Commission on Indian Boarding School Policies Act*.

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

Sincerely,

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

Enclosure

cc: The Honorable Lisa Murkowski
Vice Chairman

Questions from Chairman Schatz

Question 1: You testified that you will be leading a year-long listening tour to hear directly from boarding school survivors, and that while the first listening session will take place in Oklahoma, you are working with Tribes to decide upon locations for future listening sessions.

- a) **If available, please provide timing and location details on the first session in Oklahoma.**
- b) **How are you conducting Tribal engagement for listening session location -- though formal consultations, or some other process? If through formal consultation, have Dear Tribal Leader Letters been sent? What is the timeframe for these consultations?**

Response: The first visit of The Road to Healing tour was held at the Riverside Indian School, the nation's oldest federally operated Indian boarding school, in Anadarko, Oklahoma on Saturday, July 9, 2022. The Department has conducted three consultation sessions regarding the Federal Indian Boarding School Initiative with Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community. The Department has sent, or will send, Dear Tribal Leader letters to Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community, near each stop on The Road to Healing tour.

Question 2: You testified that the Department will receive testimony from survivors both publicly or privately, depending on an individual's preference, at the listening sessions.

- a) **Will the contents of the private sessions fall within one of the nine Freedom of Information Act (FOIA) exemptions? If so, which exemption or exemptions would apply? If these discussions are subject to FOIA, how will the Department ensure the privacy of this testimony?**
- b) **If some, or all, survivors wish to speak in private, how will their testimonies be used, or not used, to build a public record? What protocols will be in place to protect this information?**

Response: At each visit on The Road to Healing tour, members of the media will be present for the first hour of the event. During the first break, media will be escorted out of the visit and the remainder of the day will be closed to press. A court reporter will transcribe the entire visit, and a full transcript of the event may be released, to the extent permitted by federal law, if requested.

We will not know the substance of the private sessions in advance, so we cannot say which, if any, FOIA exemptions could apply. However, the Department will ensure the privacy of all testimony consistent with the law.

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The testimony may contain information about Federal Indian boarding school system burial sites, both marked and unmarked. The Department supports Congressional action to protect sensitive information identifying burial sites of Indian children associated with the Federal Indian boarding school system by developing new or amending existing FOIA exemptions. Doing so would assist in preventing grave-robbing, vandalism, and other disturbances to Indian burial sites, which are already well documented and could be likely to occur.

Question 3: Does the Department intend to receive testimony from descendants of survivors, representatives of organizations that participated in, or have historical connections to, boarding schools? Others?

Response: The Road to Healing tour provides survivors of the Federal Indian boarding school system and their descendants and families an opportunity to share their stories and experiences in a safe and supportive environment. The Department believes that this approach will help better inform the Federal Government about subsequent work of the Federal Indian Boarding School Initiative.

Outside of the Road to Healing Tour, the Department welcomes non-federal entities to provide feedback or information on their role in the Federal Indian boarding school system.

Question 4: Please describe, in as much detail as possible, how the listening sessions will be structured and how the Department intends to facilitate them.

Response: For each of The Road to Healing tour stops, the Department plans to coordinate a local Tribal or Native Hawaiian blessing, as appropriate, remarks from Secretary Haaland, Assistant Secretary Newland, or both, before then focusing on open discussion with survivors of the Federal Indian boarding school system and their descendants and families about their experiences. Members of the media will be allowed for the first hour of the event. During the first break, any media will be escorted out of the visit and the remainder of the visit will be closed to the press. A court reporter will transcribe the entire visit and a full transcript of the event may be released, under applicable authorities, if requested.

Question 5: Please describe the mental health resources the Department plans to provide to survivors and staff during and after your listening sessions. Are there organizations the Department is working with to assist in facilitating discussions?

Response: To help fulfill the U.S. trust responsibility to Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community, the Department is collaborating with other Federal agencies to support the Department's Federal Indian Boarding School Initiative. The Department of Health and Human Services (HHS), including through the Indian Health Service

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(IHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA), is providing trauma-informed and on-site support throughout the tour. HHS will also connect survivors and their families with follow-up support, as requested.

Question 6: Beyond creating a public record, how will the Department use the information gathered during the listening sessions?

Response: The Road to Healing tour is the first time the Federal Government has provided survivors of Federal Indian boarding schools and their descendants and families an opportunity to directly share their stories and experiences. As the Department continues its investigation of the Federal Indian boarding school system, the individual experiences of survivors at specific schools can help paint a picture of the overall system that the archives alone cannot fully provide. In addition to advancing our priorities for Volume II of the Report, which includes identifying marked and unmarked burial sites and documenting methodologies and practices that discouraged or prevented the use of American Indian, Alaska Native, and Native Hawaiian languages or cultural or religious practices, the first-hand accounts of survivors and their families may assist the Department in identifying additional aspects of the Federal Indian boarding school system that warrant examination.

Question 7: You testified that the Department's current work through the Boarding School Initiative is complementary to the work contemplated in S. 2907. How so? Please explain.

Response: The Federal Indian Boarding School Initiative is the Federal Government's first effort to comprehensively examine the establishment, operation, and impacts of the Federal Indian boarding school system. The Department is currently focused on two things: identifying, digitizing, examining, and evaluating records under its control, including at the Department of the Interior Library and American Indian Records Repository (AIRR) relating to the Federal Indian boarding school system, and hearing directly from survivors and their families about their experiences. The Department is also coordinating with the National Archives and Records Administration (NARA) to identify, digitize, examine, and evaluate records under NARA's control relating to the Federal Indian boarding school system.

S. 2907 would complement the Department's Federal Indian Boarding School Initiative by creating an independent voice that could make recommendations, establish resources for survivors, and seek records in ways that the Department cannot.

The Administration further supports S. 2907 because it would increase access to records pertaining to the Federal Indian boarding school system that are not under the Department's control but are instead under the control of other Federal agencies or non-federal entities. This would include through the use of subpoenas, which may in some cases be helpful or necessary to

acquire important information that remains inaccessible to the Department. S. 2907 would also develop national survivor resources to address intergenerational trauma.

Question 8: Are there any Boarding School Initiative-related activities that would benefit from additional resources or statutory authorizations?

Response: The Department supports possible Congressional action:

- (1) To clarify the applicability of the Native American Graves Protection and Repatriation Act (NAGPRA) as it relates to Federal agencies;
- (2) To increase appropriations and professional staffing for programs in Federal agencies that are responsible for agency compliance with NAGPRA;
- (3) To strengthen the repatriation process of funerary objects and human remains for Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community, including Indian children in marked and unmarked burial sites associated with Indian boarding schools;
- (4) To direct Federal agencies that control cemeteries to allow the reburial of remains of Indian children and funerary objects repatriated pursuant to NAGPRA, and consistent with specific Tribal practices. An amendment of the Recreation and Public Purposes Act may be needed to facilitate the use of Bureau of Land Management (BLM) lands for this purpose.
- (5) To authorize the protection, preservation, reclamation, and Tribal co-management or co-stewardship of sites across the Federal Indian boarding school system where the Federal Government has jurisdiction over a location;
- (6) To fund the expansion and development of programs implementing or supporting Native language revitalization for Bureau of Indian Education (BIE)-operated and funded schools, as well as non-BIE Tribally operated schools;
- (7) To fund the expansion and development of programs outside BIE schools that implement or support Native language revitalization, including language immersion schools and community organizations;
- (8) To authorize federally funded scientific and medical research on the Federal Indian boarding school system, including health impacts on Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community and individual American Indians, Alaska Natives, and Native Hawaiians; and
- (9) To increase the provision of trauma-informed support and mental health care to Indian boarding school survivors and their families, and students at BIE-operated or funded schools, by other agencies responsible for the health care of American Indians, Alaska Natives, and Native Hawaiians.

Question 9: A 2019 *High Country News* article estimated that, for every dollar the U.S. spent on federal Indian boarding schools, it has spent less than seven cents (\$0.07) on

Native American language revitalization.¹ Will the Department's future work look into data points like this? For example, will it try to document the full scope of federal investments in boarding schools? Or, examine the cultural and linguistic impacts of the boarding school policies on Native communities in more depth?

Response: The Department believes that it is important to gather this information to understand the scope of the Federal Indian boarding school system, and is working to determine the scope of federal investments in these schools – including financial, property, livestock and animals, equipment, and personnel for the Federal Indian boarding school system, recognizing that some records are no longer available.

The Department is currently identifying, examining, and evaluating records that document methodologies and practices used in the Federal Indian boarding school system that discouraged or prevented the use of American Indian, Alaska Native, and Native Hawaiian languages or cultural or religious practices.

Question 10: The U.S. Army has, and continues to engage in, a lengthy and complicated process of returning the remains of children buried at the Carlisle Industrial School to their home communities. While this process was a voluntary one on the part of the Army, the Army has also stated that the Native American Graves Protection and Repatriation Act does not apply to these circumstances and instead chooses to follow Army Regulation 290-5. These regulations require that a request for disinterment be made by a lineal descendant. It is the Committee's understanding that in terms of the disposition of remains at Carlisle, Interior deferred to the Army's decision to follow its own regulations and not NAGPRA. How, if at all, is the Department engaging the Army to clarify if, how, and when NAGPRA would apply in the boarding school cemeteries located on lands currently controlled by the Department of Defense?

Response: The Department recognizes the work of the Department of Defense (DOD), in coordination with Indian Tribes and Alaska Native Villages, and individuals from those Tribes and Villages, to disinter human remains from military installations or other lands under DOD's control. This work is critical to addressing the Federal Indian boarding school system.

As stated in points (1)-(5) in the response to Question 8 above, the Department would welcome Congressional legislation to ensure clarity on NAGPRA's application and provide support for its implementation.

¹ The article estimates that the U.S. spent almost \$3 billion – adjusted for inflation – on federal Indian boarding schools between 1877 and 1918 and \$180 million on Native language revitalization between 2005 and 2019. <https://www.hcn.org/issues/51.21-22/indigenous-affairs-the-u-s-has-spent-more-money-erasing-native-languages-than-saving-them>.

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Question 11: How does the Department envision the survey and discovery of marked and unmarked burials taking place? Will the Department engage Tribal Historic Preservation Officers to conduct this work? If so, will the Department be requesting additional funding for Tribal Historic Preservation Officers (THPOs) to cover the additional administrative and workforce burdens these offices will face?

Response: The Department has identified marked and unmarked burial sites at approximately 53 different Federal Indian boarding school system sites thus far and we expect this number to increase as our investigation continues. The Department is identifying, examining, and evaluating potentially responsive records to locate additional marked and unmarked burial sites.

The Department supports increased Congressional appropriations for programs in Federal agencies responsible for compliance with NAGPRA and for the Historic Preservation Fund (HPF) under the National Park Service (NPS) for THPOs to increase professional staffing and program activities as highlighted in the response to Question 8 above.

Question 12: The Department makes several NAGPRA related recommendations. Can you provide more details on the specific legislative changes to adopt these recommendations? And, has the Department worked with Tribes, THPOs, and Native community members in developing these NAGPRA-related proposals?

Response: In addition to points (1)-(5) in the response to Question 8 above, the Department would also support Congressional activity to exempt from the Freedom of Information Act information on burial locations across the Federal Indian boarding school system that contain remains of Indian children to protect these sensitive areas and prevent grave-robbing, vandalism, and other kinds of disturbances to Indian burial sites that have been all too common.

As stated in our response to Question 11, the Department also supports Congressional activity to increase appropriations and professional staffing for programs in Federal agencies responsible for compliance with NAGPRA and for the HPF under the NPS for THPOs.

In July 2021, the Department invited Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community to consult on revisions to the NAGPRA regulations. By September 2021, the Department had received over 700 comments from Indian Tribes, Alaska Native Villages, and Native Hawaiian organizations, all of which were reviewed and considered in drafting a proposed regulation. The Department hopes to publish a proposed rule in the *Federal Register* soon for a 90-day public comment period and will conduct additional consultation with Indian Tribes, Alaska Native Villages, and Native Hawaiian organizations.

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Question 13: Is there anything else the Department would like to add to the record? Are there any parts of the record the Department would like to correct for this hearing?

Response: The Department supports Congressional action to create a memorial to recognize the generations of American Indian, Alaska Native, and Native Hawaiian children who experienced the Federal Indian boarding school system.

The Department also recommends that Congress consider the Department's Federal Indian Boarding School Initiative Investigative Report and the Running Bear studies,² watershed quantitative research based on now-adult Federal Indian boarding school attendees' medical status, which indicate that the Indian boarding school system continues to impact the present-day health of Indians who participated in the studies.

² Ursula Running Bear et al., The Impact of Individual and Parental American Indian Boarding School Attendance on Chronic Physical Health of Northern Plains Tribes, 42 *Fam. Community Health* 1, 3–4 (2019); Ursula Running Bear et al., Boarding School Attendance and Physical Health Status of Northern Plains Tribes, 13 *Applied Res. Qual. of Life* 633 (2018); Ursula Running Bear et al., The relationship of five boarding school experiences and physical health status among Northern Plains Tribes, 27 *Applied Res. in Qual. of Life* 153 (2018).

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Questions from Senator Luján

Question 1: As part of its Federal Indian Boarding School Initiative, the Department prepared Volume 1 of its report as part of an initial investigation of the federal Indian boarding school system. Volume 1 notes that you anticipate future site work and investigations and mentions the development of a second report.

Secretary Haaland, the president requested an additional \$7 million in his Fiscal Year 2023 Budget Request to continue the Federal Boarding School Initiative. Is this funding sufficient to complete the Initiative's work, or will future funding also be instrumental in achieving the Initiative's goals? Can you explain what Congress's initial \$7 million appropriation in Fiscal Year 2022 has meant for the Initiative?

Response: Congress's initial \$7 million appropriation for Fiscal Year 2022 is advancing the Federal Indian Boarding School Initiative by: (1) supporting the identification, digitization, examination, and evaluation of millions of records in the American Indian Records Repository (AIRR) related to the Federal Indian boarding school system; and (2) supporting The Road to Healing, a year-long tour across the country to provide survivors of the Federal Indian boarding school system and their descendants an opportunity to share their experiences.

As part of the trust responsibility to Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community, the Department would welcome long-term investment in the Federal Indian Boarding School Initiative by Congress.

Question 2: Secretary Haaland, you note in Volume 1 of the Initiative's report that the agency has a substantial number of records to review to complete its work. Does Interior have an estimate of how many records it needs to analyze, organize, preserve and potentially make available for families of survivors? What agencies and departments outside of Interior require future appropriations to move this effort forward?

Response: For Volume I, the Department, through the Bureau of Trust Funds Administration, identified 39,385 boxes in the AIRR that have potentially responsive documents (approximately 98.4 million sheets of paper). The Department is currently digitizing, examining, and evaluating these records.

Additionally, the Department, in collaboration with NARA, will identify, examine, and evaluate potentially responsive records under NARA's control.

The Department supports Congressional activity that would allow the Department and other Federal agencies that control potentially responsive records, including those that control sites on current or former military installations; those that provide health care to American Indians, Alaska Natives, and Native Hawaiians; and NARA, to further identify, digitize, examine, and

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evaluate the millions of potentially responsive records relating to the Federal Indian boarding school system.

Question 3: Secretary Haaland, will subsequent volumes of federal Indian boarding school reports try to estimate total federal spending on federal Indian boarding schools? Why is it important that we have an estimate of this spending?

Response: For the first time, the Department is identifying, digitizing, examining, and evaluating responsive records to approximate the amount of Federal support, including financial, property, livestock and animals, equipment, and personnel, allocated to the Federal Indian boarding school system, recognizing that some records are no longer available.

These responsive records document methodologies and practices used in the Federal Indian boarding school system that discouraged or prevented the use of American Indian, Alaska Native, and Native Hawaiian languages or cultural or religious practices.

The Department believes that it is important to gather this information to understand the scope of the Federal Indian boarding school system and its impact, which will ultimately inform Congress on future activity it may undertake to address the intergenerational trauma created by historical federal policy.

Question 4: Secretary Haaland, in keeping with recommendations outlined in Volume 1, should Congress make bold, substantial investments in Native American language immersion, preservation and maintenance programs?

Response: Yes, the Department encourages Congress to support the expansion and development of Native language revitalization programs within Native communities and their schools, including accepting the Department's fiscal year 2023 budget request to provide at least \$4 million in new funding for Native Language Development at the Bureau of Indian Education (BIE) operated and funded schools. The Department's fiscal year 2023 budget request also proposes at least \$21 million for grants and technical assistance to support Native language revitalization provided through non-BIE language immersion schools and community organizations. Congress should consider supporting all avenues to revive Native languages.

Question 5: Secretary Haaland, will future volumes from the Initiative’s investigation make recommendations to improve federal Native American language program funding? Why is it important that we make federal funding for Native American languages more robust and accessible for Tribes and Native communities?

Response: The Department is identifying, examining, and evaluating responsive records that document methodologies and practices used in the Federal Indian boarding school system that discouraged or prevented the use of American Indian, Alaska Native, and Native Hawaiian languages or cultural or religious practices. The Federal Indian boarding school system played a large role in breaking up families and preventing or discouraging the use of Native languages. This has led to a dramatic reduction in the number of fluent language speakers in Tribal communities. As stated in the hearing, I believe that our obligation to Native communities means that federal policies should fully support and revitalize Native health care, education, languages, and cultural practices that prior federal Indian policies, like those supporting Indian boarding schools, sought to destroy. We need to make investments in Tribes and Tribal organizations to revitalize their languages and preserve their cultural practices.

Question 6: Secretary Haaland, how would a federal Truth and Healing Commission supplement Interior’s current Initiative? How does the scope of the Initiative compare to the proposed work of the federal Truth and Healing Commission under S. 2907?

Response: The Federal Indian Boarding School Initiative is the Federal Government’s first effort to comprehensively examine the Federal Indian boarding school system. The Department is focused on identifying, digitizing, examining, and evaluating our records relating to the Federal Indian boarding school system and coordinating with NARA to do the same with NARA’s potentially responsive records. The Department is also conducting The Road to Healing, a year-long tour across the country to provide survivors of the Federal Indian boarding school system and their descendants an opportunity to share experiences.

S. 2907 would create a Truth and Healing Commission on Indian Boarding School Policies in the United States, an independent voice with subpoena power that would, among other things, develop recommendations for the Federal Government to acknowledge and heal the historical and intergenerational trauma caused by the Indian Boarding School Policies and other cultural and linguistic termination practices carried out by the Federal Government and State and local governments, including recommendations for resources for survivors. The Commission’s subpoena power is notable in that the Commission would be able to obtain records, testimony, and evidence in ways that the Department cannot. The Commission’s work with survivors would also be a benefit to, and benefit from, The Road to Healing currently undertaken by the Department.

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The Administration strongly supports S. 2907, especially the steps taken toward the development of national survivor resources to address intergenerational trauma, and the inclusion of the Commission's formal investigation and documentation practices.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 02 2022

The Honorable Brian Schatz
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Schatz:

Enclosed are responses prepared by the Bureau of Indian Affairs to the questions for the record submitted following the March 16, 2022, oversight hearing entitled, "Buy Native American: Federal Support for Native Business Capacity Building and Success". We apologize for the delay in our response.

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

Sincerely,

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

Enclosure
cc: The Honorable Lisa Murkowski
Vice Chairman

Questions from Chairman Schatz

Question 1: You testified that the Department of the Interior is analyzing impediments and barriers in the agricultural leasing area in preparation for potential amendments to the BIA's Agricultural Leasing and Permitting Regulations. Can you describe the main impediments and barriers identified to date?

Response: The impediments and barriers to agricultural leasing range from several sources including staffing and authority to processes and land itself. Below is a brief explanation of the top impediments to agricultural leasing:

1. Staff Shortage for the Bureau of Indian Affairs (BIA).
 - a. Currently 81 Realty positions are vacant and being advertised for recruitment.
 - b. Agency employees routinely wear several hats. For example, a compliance technician in one Agency also assesses trespass, reviews expired leases, and obtains Global Positioning System (GPS) coordinates of farm fields.
 - c. The position of soil conservationist, a position that completes assessments based on the type of lease, soils, crop productions, farm payments, noxious weed identification and lease history, is also vacant in many Regions and Agencies.
 - d. Staffing levels of Natural Resource professionals and technicians continue to decline in the BIA.
2. Delay in services.
 - a. Any delay in valuation services also delay the setting of minimum bids on advertised leases.
3. Limited BIA compliance and enforcement capabilities.
 - a. Trespass policies need to be revised and additional compliance staff hired.
 - b. Enforcement capabilities on violations, i.e., hunting on agricultural leases, trespass, dumping, etc., need to be strengthened.
4. Fractionation.
 - a. Fractionated lands pose a barrier in getting information to landowners and producers on type of services offered through United States Department of Agriculture (USDA)/Farm Service Agency.
 - b. Coordination between federal partners needs to be improved as USDA focuses on the needs of agricultural producers, and the BIA focuses on the needs of the landowner.
5. Agricultural Lease terms are too short (5 years) to obtain USDA services.
 - a. Some USDA programs that can benefit Indian lands, beneficiaries, and producers have a life span of 10 years or more. In most cases, a producer must demonstrate

that they have control of the lease or permit for one year prior to the 10-year term of the program. BIA leases and permits are issued for 5 or 10-year terms. Therefore, a producer who holds a 10-year lease would never be able to take advantage of a 10-year program at any time during the life of their lease.

6. In western states, lack of sufficient acreage and water for agricultural purposes.
 - a. The lack of water and the increase of climate change is impeding factor for the development of various leases.

Question 2: When does the Department of the Interior intend to begin working on amendments to the BIA's Agricultural Leasing and Permitting Regulations?

Response: In May of this year, the Department of the Interior (Department) completed draft regulations and scheduled Tribal Consultation Sessions for 25 Code of Federal Regulation (CFR) Part 151 (Land Acquisition) and Part 293 (Class III Tribal State Gaming Compact Process).

Next the Department will draft updates to Part 162, Leases and Permits (which includes Agricultural, Residential, Business, as well as Wind and Solar). The Department would also like to update Parts 211, Leasing of Tribal Lands for Mineral Development, and Part 212 Leasing of Allotted Lands for Mineral Development.

Question 3: You testified that, aside from the BIA's Agricultural Leasing and Permitting Regulations, Tribes can use the HEARTH Act to exercise their own agricultural leasing authority. How many Tribes are currently using HEARTH Act authority to issue agricultural leases? What can be done to increase the number of Tribes exercising agricultural leasing authority under the statute?

Response: Sixteen (16) Tribes have approved HEARTH Act regulations for Agriculture Leasing, one (1) Tribe's regulations are presently pending Secretarial approval, and three (3) Tribes have newly submitted applications.

The Secretary of the Interior encourages all Tribes interested in the HEARTH Act to submit their regulations to the BIA. The decision for a Tribe to draft, adopt, and submit for approval of agricultural leases lies with each Tribal nation. However, to increase the number of HEARTH Act Tribes, in October 2019, the BIA offered HEARTH Act information and training to Tribes, and groups consisting of or serving Tribal governments, including the National Congress of American Indians, USDA's Rural Development, the United States Department of Housing and Urban Development (HUD) Office of Native American Programs, the National Tribal Land Association, as well as BIA Regional and Agency Offices.

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Question 4: You testified that expansion of the HEARTH Act to affirm Tribes’ authority to issue rights-of-way would go a long way toward removing barriers to Tribal energy development. Are there other specific HEARTH Act improvements that can be made to remove barriers to Tribal economic development?

Response: The HEARTH Act covers 25 CFR Part 162, Leases and Permits (agriculture, residential, business, and wind and solar resources). It does not apply to Part 169, Rights-of-Way over Indian Land. Tribal economic development could be facilitated if Tribes had the ability to approve, manage, and enforce rights-of-way in a similar fashion that HEARTH Act Tribes can control Part 162 leases and permits.

Questions from Vice Chairman Murkowski

Question 1: On February 24, 2021, President Biden issued Executive Order 14017 “America’s Supply Chains.” Executive Order 14017 directs the Administration to support a resilient, diverse, and secure supply chain that is able to withstand pandemics and other biological threats, cyber-attacks, climate shocks and extreme weather events, terrorist attacks, geopolitical and economic competition, and other conditions that can reduce critical manufacturing capacity. The Executive Order requires Agency heads to consult outside stakeholders — such as those in industry, academia, non-governmental organizations, communities, labor unions, and State, local, and Tribal governments.

- A. Can you discuss how your Agency has consulted with Tribal governments, and relevant stakeholders in fulfilling the policy of Executive Order 14017?**
- B. What role did your respective office play in supporting your Agency’s broader outreach on the Executive Order?**

Response: The Department has not yet conducted specific consultations on this topic. To date, the Department has taken actions to increase acquisitions that promote broader use of the Buy Indian Act. Advancing use of the Buy Indian Act for acquisition advances Buy American acquisition goals. This includes holding consultations as part of the effort to update of Buy Indian Act regulations. Further, the Department is actively advancing use of Build America, Buy America (BABA) requirements included in the Bipartisan Infrastructure Law and will participate in an interagency Tribal consultation on September 21, 2022, on BABA implementation.

Question 2: The Indian Loan Guarantee and Insurance Program (ILGP) plays an important role in providing financing for hard to reach areas of Indian country, where a project may not be economically viable under traditional financing models. Over the last 5 years the BIA ILGP has approved over \$123 million in loans in Alaska. Nearly half of that amount, approximately \$60 million, were approved during the pandemic.

The SBA offers federally guaranteed loans similar to the Indian Loan Guaranteed Program at BIA. As a part of the CARES Act, SBA is authorized to pay six months of principal, interest, and any associated fees that borrowers owe under SBA loans.

- A. Can you discuss what impact the pandemic has had on tribal small businesses funded through the ILGP?**

Response: Indian Country has been impacted by the pandemic just as much as non-Indian communities. Moreover, because many Indian communities are in geographically remote

locations, there often are fewer resources available to address illness, worker shortages, supply chain disruptions and increased costs. Many Indian-owned small businesses impacted by the pandemic have struggled to meet their financial obligations, and a number of those supported by the ILGP have sought to adjust their loan terms to survive.

B. How many loans were approved under the ILGP during the pandemic? What is the default rate on those loans?

Response: Since March 2020, the ILGP has approved 37 guaranteed loans and 56 insured loans. To date there have been no defaults on ILGP supported loans during this period.

C. What authorities are available to the Division of Capital Investment, to provide assistance for Tribal Small Business owners in the ILGP (or ILGP recipients generally)?

Response: The Secretary of the Interior's authority concerning the ILGP, as delegated to the Division of Capital Investment (DCI) in the Department Manual, is primarily reflected in 25 U.S.C. §1496, Powers of Secretary; finality of financial transactions and property acquisitions, management, and dispositions. Subsection (b), which permits modification of loans, was particularly helpful for lenders and borrowers.

D. Would the Division of Capital Investment benefit from having the same type of loan payment assistance authority that was granted to the SBA under the CARES Act? If so, please explain.

Response: Yes. Indian country has suffered severe economic hardship since the rise of COVID-19, and the ILGP has had no additional resources to assist its borrowers. Although the Small Business Administration (SBA) offers loan guarantees that appear similar to those of the ILGP, SBA's guarantees pursue somewhat different objectives and do not overlap significantly with those of the ILGP. Many of the Indian businesses helped by ILGP guarantees and insurance are either outside the urban focus of the SBA or require financial structures that do not meet SBA guidelines.

For example, the ILGP honors leasehold mortgages on trust property as both equity and as collateral, whereas SBA does not. This fact alone prevents many Indian businesses from using SBA guarantees. The fear of lending in Indian Country stems from unfamiliar Federal or Tribal laws, or the need to employ Tribal court systems accompanied with an assumption of the Tribal court could derail the otherwise routine pursuit of collateral liquidation.

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The SBA serves a very important function in the U.S. economy, and the support it received under the CARES Act was absolutely essential to its mission. However, the SBA loan support has deployed CARES Act support primarily to Indian-owned businesses in urban areas, typically outside of the boundaries of a Tribal service area. By their definition, Indian business ownership may include State-recognized Tribes and their members. It is also unclear the extent to which SBA confirms Indian ownership, whether based on State or Federal recognition, when reporting its statistics. Borrowers supported by the much smaller ILGP have not received similar assistance, they represent a segment of U.S. businesses that could not benefit from the CARES Act help provided to SBA. ILGP guaranteed and insured borrowers would be greatly relieved to receive comparable assistance; the continued existence of some of these businesses may depend on it.

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Questions from Senator Luján

DOI Facilitation of and Cross-Agency Coordination for Broadband Programs

Question 1: Mr. Garriott, I am particularly concerned about broadband coordination regarding easements and licenses granted by federal agencies beyond those familiar with broadband infrastructure. How can the Bureau of Indian Affairs, Bureau of Land Management, U.S. Forest Service and others facilitate broadband projects that rely on new or existing easements over trust or public lands?

Response: Existing easements over trust or public lands may have different, non-governmental grantees and may cross numerous land statuses that could include lands managed by the BIA, BLM, U.S. Forest Service, states and municipalities. It can also be difficult for Tribes to work with each of the federal agencies’ regulatory requirements for ROWs. Facilitating multi-agency broadband projects requires planning and coordination. Interagency collaboration to facilitate broadband projects, identify funding opportunities, and streamline the processes for these projects would benefit Tribes and the federal agencies working with them. The Department’s Bureau of Land Management (BLM) is one of the leaders of the interagency American Broadband Initiative and is also collaborating with the Federal Permitting Improvement Steering Council (FPISC) to examine opportunities to promote more consistent and streamlined permitting processes which would benefit broadband projects.