

**BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON INTERIOR, ENVIRONMENT AND RELATED
AGENCIES**

**TESTIMONY OF ANGELA COX, VICE-PRESIDENT OF ADMINISTRATION
ARCTIC NATIVE SLOPE ASSOCIATION, LTD.
REGARDING THE FY 2014 INDIAN HEALTH SERVICE BUDGET**

Chairman Simpson, Ranking Member Moran and other distinguished members of the Subcommittee, thank you for the honor and opportunity to testify before you today regarding the FY 2014 budget for the Indian Health Service (IHS). My name is Angela Cox. I am an Inupiaq from the northern most Tribe in the United States, and I am the Vice President of Administration for the Arctic Slope Native Association (ASNA). We are an inter-tribal health organization based in Barrow, Alaska and we are controlled by and serve eight federally recognized Tribes situated across Alaska's North Slope.

The anchor for all of our services is the IHS Samuel Simmonds Memorial Hospital in Barrow. Since 1996 we have operated this IHS facility under a self-governance compact with IHS, now compacted under Title V of the Indian Self-Determination Act. The region we serve is quite large, equal in size to the State of Minnesota.

I am here to provide testimony about our new IHS hospital, which is in the final stages of completion. This new 100,000 square foot state-of-the-art hospital is replacing the 25,000 square foot hospital which IHS built in 1963. We are excited about our new facility and must pause to thank this Committee for its extraordinary work in providing the majority of the funds necessary for this project.

I am particularly proud to say that we contracted for the construction of this hospital under Title V, and that we are completing the project within budget. Next month (May 2013) we will receive our certificate of beneficial occupancy. In five months (September 2013) actual patient services will begin in the new hospital.

But, a brand new hospital is of little use if there is no new staffing. This is one reason why I am here to testify about IHS's proposed FY14 budget. The most significant impacts for ASNA in that budget are staffing for new facilities and contract support costs.

New Hospital Staffing. Our staffing requirements for the new hospital were developed over the course of several years, and IHS signed our final staffing package in May 2011. The new IHS hospital is four times larger than our existing facility and many more services will be available – assuming we have the staffing – including CT-scan, physical therapy, and optometry, as well as expansions of existing services. Many of the new services are currently only available by flying to Anchorage, which is over 700 air miles south of Barrow. Practically speaking, that means only some patients receive this care, and others simply go without. Providing this care locally will enhance patient health while producing considerable savings over travel and lodging costs in Anchorage.

Our existing staffing package for the old hospital is 116 FTEs (full time equivalent employees). IHS calculated the new hospital staffing package – granted, only at the standard 85%-of-capacity formula – to be 256 FTEs. That is a 140 FTE increase in staff. (If IHS were staffing the hospital at the level for which it was designed, based upon IHS’s patient need methodology, the staffing would actually be 301 FTEs. As I said a moment ago, 256 FTEs is only 85% of full staffing.)

Although we require 140 new FTEs for a total of 256 FTEs, the FY14 budget only requests 49 new FTEs for a total of 165 FTEs. *That is only 35% of the personnel required to bring the hospital online at 85% capacity.* In other words, ***about half of the hospital will be empty and unused.*** (As a matter fact, even though we are commencing patient services in current fiscal year 2013, ASNA is not slated to receive *any* FY 2013 IHS staffing funds.)

It makes little sense for Congress to finance the construction of a high priority new facility, and then to leave the facility half-staffed and unable to provide the care for which it was designed. We ask that the Committee take corrective action to staff the Barrow Hospital by adding 140 new FTEs, not a mere 49 FTEs.

Contract Support Costs. The underfunding of the staffing package is compounded by the underfunding of our contract support requirements. These are the funds which IHS is required, by contract, to pay ASNA for the cost of operating the Barrow Hospital and outlying village clinics.

ASNA’s contract support has been underfunded since 1996. Each year since then we have had to redirect health care monies, including FTE staffing funds, to cover for

IHS's failure to pay these costs in full. This Committee has been heroic in seeking to close the national gap in funding all tribal contract support cost requirements, and we thank this Committee for its hard work. No one has done more to remedy this perennial problem than this Committee.

We appreciate that it is extremely difficult to find new funds and to reorder priorities in a "sequester" environment. But with all due respect to the President, the Administration, and to Director Roubideaux, honoring a contract in full is not a choice among priorities; it is a legal obligation.

I say this from direct experience. The Committee is surely familiar with the recent Supreme Court decision involving BIA contract underpayments, called Salazar v. Ramah. What may be less well known is that *for 9 years we have been litigating identical claims against IHS*. When the Supreme Court decided the Ramah case, the Supreme Court also issued an Order reopening our Arctic Slope case. A few weeks later, the Court of Appeals said we would be able to recover the unpaid portion of our contracts through the federal Judgment Fund, just like any other government contractor. Just this month, we finally settled our 1999 claim for \$1.4 million plus interest.

The proposed Budget would prevent us from securing justice on our contract claims in FY 2014. It would cap contract payments to ASNA and deprive us of our day in court for any losses. That is its stated purpose. We are shocked that the agency would propose this, particularly after having just lost decades of litigation in the Supreme Court. The answer when you lose a case in the Supreme Court is to honor the ruling, not look for a way to get around it.

I am particularly disappointed to see IHS call its new proposal a Supreme Court "recommendation." The Supreme Court never recommended cutting off our claims. The Supreme Court vindicated our claims. The agency has turned the Court's words in order to avoid paying our contracts in the future. The agency and the Department are not proposing to cut off the contract rights of its many non-Indian contractors, and it should not treat Indian contractors any differently.

Worse yet, the Administration has done this in secret, without any consultation whatsoever with the impacted Tribes. We understand the importance of the current fiscal

challenges and would like to be part of the solution; this is the value of supporting tribal consultation.

In short, in the wake of the Ramah and Arctic Slope decisions, contract support costs should be fully funded at \$617 million. As this Committee said two years ago, “The Committee believes that both the Bureau and the Indian Health Service should pay all contract support costs for which it has contractually agreed and directs the Service to include the full cost of the contract support obligations in its fiscal year 2013 budget submission.”

Regardless of funding levels, no new language should be added that would cut off our contract rights under the Indian Self-Determination Act. If any proposal is going to be advanced to alter our contract rights under the Indian Self-Determination Act, it should be done through an open and transparent process that is led by the authorizing committees which wrote the Act, beginning with Chairman Don Young’s Subcommittee on Indian and Alaska Native Affairs.

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One last thing before I close.

On behalf of our President and CEO Marie Carroll, together with our Board and member Tribes, I would like to extend an invitation to Chairman Simpson, Ranking Member Moran, all Members of the Committee, and your staffs, to join us in August for our celebratory opening in Barrow of the Samuel Simonds Memorial Hospital.

This new facility is the result of a unique partnership between many local, state, and federal agencies; IHS, the Denali Commission, and our eight federally-recognized Tribes; and, most importantly, this Committee. We would be very honored if you would join us at the opening.

In my language we end our public statements by simply saying, *Quyanaqpak*, or Thank you very much.