Hearing before the House Appropriations Committee
Subcommittee on Interior, Environment and Related Agencies
on the Fiscal Year 2014 Budget

Testimony of Charles Clement, President and CEO
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My name is Charles Clement and I am the President and CEO of the SouthEast Alaska Regional Health Consortium (SEARHC). Chairman Simpson, Ranking Member Moran, and members of the Committee, it is a pleasure to be here and I thank you for the opportunity to testify before this Committee.

I have been involved in the provision of Alaska Native health care for over 15 years. Prior to my employment at SEARHC I worked for the Southcentral Foundation in Anchorage, Alaska, as the vice president/chief operating officer; vice president – operations; director of information technology/chief information officer; and special assistant to the president. I have been the President/CEO of SEARHC for over a year, and am continually amazed at the positive impact our tribal consortium has on the health of Alaska Natives.

SEARHC is an inter-tribal consortium of 18 federally-recognized Tribes situated throughout the Southeast panhandle of Alaska. Our service area encompasses over 35,000 square miles, an area larger than the State of Maine. With no road system connecting our communities, the challenges to deliver robust health services are considerable.

SEARHC meets these challenges through a network of community clinics anchored in the Mt. Edgecumbe Hospital. Our services include medical, dental, mental health, physical therapy, radiology, pharmacy, laboratory, nutritional, audiology, optometry and respiratory therapy services. We also provide supplemental social services, substance abuse treatment, health promotion services, emergency medical services, environmental health services and traditional Native healing.

We administer over $42 million in IHS facilities and related programs and services, and average over 115,000 patient encounters each year. These are federal services, which we operate on behalf of the Federal Government, through a self-governance compact and associated funding agreement.

To carry out IHS programs under this contract requires us to incur many fixed costs, including a number of costs mandated by the Federal Government. These costs include substantial annual audit costs, insurance costs, and an array of administrative costs to operate our personnel and financial management systems.

Only a small portion of these contract support costs are covered in the direct service budget which IHS contracts to pay. This is because IHS either does not incur these costs at all (in the case of audit expenses and insurance costs,) or because IHS receives resources to carry-out these functions from other parts of the Government, including other DHHS divisions, and even other departments of the Federal Government. Still, these are mandatory fixed costs which SEARHC must incur every year. Each year the DHHS Division of Cost Allocation, Western Field Office sets these costs for SEARHC, and under our contract and the law, IHS is then required to pay them—in full.

But IHS does not pay these costs in full. It does not even budget to pay them in full. In fact, it is never even clear how much IHS will honor under the contract until the contract is already performed. Even this year—nearly half way through the year—we have no idea what IHS will pay us.

SEARHC has no tax base. Most Tribes have no tax base. Therefore, the only way for SEARHC to make up for the difference is to divert resources that would otherwise support the delivery of services. Every year this shortfall severely impacts our ability to serve the Alaska Native community. What is worse is that in no other area of government contracting does the United States fail to pay its contractors in full.

SEARHC is a member of the National Tribal Contract Support Cost Coalition, and we fully endorse the NTCSCC's testimony. Full funding of contract support costs in FY 2014, at a $140 million increase above the President's request, would honor SEARHC's contract and stop the bleeding of direct service funds to compensate for IHS's contract support cost shortfalls.

One final word. It has been nine years since the Supreme Court required the Government to honor its self-determination contracts with tribal healthcare providers. That was the landmark case of Cherokee Nation v. Leavitt. It has now been ten months since the Court reaffirmed that decision in the Ramah Navajo and Arctic Slope cases. In light of those decisions it is stunning that IHS would dare to defy the Court, and dare to overtly discriminate against Indian tribal contractors, by now suggesting a new strategy for avoiding its liability. If IHS devoted a fraction of the time it spends trying to avoid its contract obligations to instead meeting those obligations, we would not be here.

But one thing is clear: We have a deal with Congress and with IHS, and now is not the time to unilaterally change it. Our contracts, and the law under which they are executed, require IHS to pay us for the work we do—not to pay us in part but in "full". That is what the law says. "Full." The law also says we can file a claim with IHS if payments fall short. We absolutely oppose IHS's insertion of new appropriations language to unilaterally change our contracts and unilaterally change the law by insulating IHS from any future liability for its underpayments. It is a shocking reaction-in-avoidance to multiple losses in the courts. It is insulting to Indian people and tribal governments. And it is just plain wrong.

I thank you for the opportunity to testify before the Committee and would be happy to answer any questions you have for SEARHC.