Maniilaq Association
P.O. Box 256
Kotzebue, Alaska 99752
907-442-3311

Ian Erlich, President and Chief Executive Officer

Testimony on the Indian Health Service Budget Submitted to
the House and Senate Appropriations Subcommittees on Interior, Environment
and Related Agencies

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Summary. The Maniilaq Association is an Alaska Native regional non-profit organization representing twelve tribes in Northwest Alaska. We provide health services through a self-governance agreement with the Indian Health Service (IHS). The focus of our testimony is on the need to bring some stability and certainty to the Indian Health Service budget by changing its funding to an *advance appropriations* basis. This is what Congress has done with regard to the Veterans Administration medical accounts, and we ask for comparable treatment with regard to the IHS.

We also ask that the Appropriations Committees address the chronic underfunding of the Village Built Clinics program ($8.2 million increase), IHS contract support costs ($617 million total), BIA contract support costs ($242 million total), reject the Administration's proposal to limit recovery of contract support costs, and exempt the IHS from future budget sequestration.

Advance Appropriations

The Need for Indian Health Service Advance Appropriation. The Federal health services to maintain and improve the health of American Indians and Alaska Natives are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian and Alaska Native people. Since FY 1998 there has been only one year (FY 2006) when the Interior, Environment and Related Agencies appropriations bill has been enacted by the beginning of the fiscal year. The lateness in enacting a final budget during that time ranges from 5 days (FY 2002) to 197 days (FY 2011). Even after enactment of an appropriations bill, there is an apportionment process involving the Office of Management and Budget and then a process within the IHS for allocation of funds to the IHS Area Offices.

Late funding causes the IHS and tribal health care providers great challenges in planning and managing care for American Indians and Alaska Natives. It significantly hampers tribal and IHS health care providers' budgeting, recruitment, retention, provision of services, facility maintenance and construction efforts. Receipt of funds late also severely impacts Maniilaq's ability to invest the funds and generate interest which can be used to offset the chronic underfunding of the region's health programs. Providing sufficient, timely, and predictable

funding is needed to ensure the Government meets its obligation to provide health care for American Indian and Alaska Native people.

In the case of the Maniilaq Association, we draft our budget for the coming fiscal year in the Spring – a budget which must be reviewed, amended, and approved during the ensuing months. However, if we find out that come October, as has been the case for far too many years, that Congress has not enacted an IHS appropriations bill, we are in limbo and must spend considerable staff time re-doing our budget, perhaps multiple times. We–and all tribes and tribal organizations– are hampered by the uncertainty as to whether Congress will provide funding for built-in costs, including inflation and pay increases, what amount of funding we might have with regard to signing outside vendor/and or medical services contracts, ordering supplies, and making crucial hiring decisions.

Advance Appropriations Explanation. As you know, an advance appropriation is funding that becomes available one year or more *after* the year of the appropriations act in which it is contained. For instance, if FY 2015 advance appropriations for the IHS were included in the FY 2014 Interior, Environment and Related Agencies Appropriations Act, those advance appropriations would not be counted against the FY 2014 Interior Appropriations Subcommittee's funding allocation but rather would be counted against its FY 2015 allocation. It would also be counted against the ceiling in the FY 2015 Budget Resolution, not the FY 2014 Budget Resolution.

To begin an advanced appropriations cycle there must be an initial transition appropriation which contains (1) an appropriation for the year in which the bill was enacted (for instance, FY 2014) and (2) an advance appropriation for the following year (FY 2015). Thereafter, Congress can revert to appropriations containing only one year advance funding. If IHS funding was on an advance appropriations cycle, tribal health care providers, as well as the IHS, would know the funding a year earlier than is currently the case **and** would not be subject to Continuing Resolutions. We note that advance appropriations are subject to across-the-board reductions.

The Veterans Administration Experience. In FY 2010 the Veterans Administration (VA) medical care programs achieved advance appropriations. This came after many years of veterans' organizations advocating for this change, including enactment of the Veterans Health Care Budget Reform and Transparency Act of 2009 (PL 111-81) which authorized advance appropriations and specified which appropriations accounts are to be eligible for advance appropriations. The Act required the Secretary to include in documents submitted to Congress in support of the President's budget detailed estimates of the funds necessary for the medical care accounts of the Department for the fiscal year following the fiscal year for which the budget is submitted.

The fact that Congress has implemented advance appropriations for the VA medical programs provides a compelling argument for tribes and tribal organizations to be given equivalent status with regard to IHS funding. Both systems provide direct medical care and both are the result of federal policies. Just as the veterans groups were alarmed at the impact of delayed funding upon the provision of health care to veterans and the ability of the VA to properly plan and manage its resources, tribes and tribal organizations have those concerns about the IHS health system. We also note that there is legislation (HR 813) pending in this Congress that would expand advance appropriations to the VA beyond its medical accounts.

We thus request this Committee's active support for any legislation that may be needed to authorize IHS advance appropriations, to protect such funding from a point of order in the Budget Resolution, and to appropriate the necessary funds. We have prepared a white paper on IHS advance appropriations and would be happy to share it with you.

Village Built Clinic Program

Last year the Maniilaq Association, Aleutian Pribilof Islands Association, Bristol Bay Area Health Corporation, and Norton Sound Health Corporation submitted joint testimony to the Committee regarding the chronic underfunding of the Village Built Clinic (VBC) program and the IHS' refusal to provide maintenance and improvement funding for the VCB-leased clinics. These clinics are vital to the provision of services by the Community Health Aides/practitioners who provide primary health care services and coordinate patient care through referral relationships with midlevel providers, physicians, and regional hospitals. The situation has not improved and we ask, as have other Alaska Native health care providers, that Congress direct the IHS to utilize FY 2014 appropriations to fully fund the Village Built Clinics leases in accordance with Section 804 of the Indian Health Care Improvement Act (IHCIA). Section 804 of the IHCIA (25 U.S.C. 1674) authorizes the Secretary "notwithstanding any other provision of law" to enter into leases with Indian tribes for period not in excess of 20 years. It provides that leased property may be "reconstructed or renovated" by the Secretary and that lease costs "include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable." We estimate an additional $8.2 million over current IHS resources needs to be allocated to VBC leases.

Contract Support Costs

IHS Contract Support Costs Shortfall. We appreciate the recent increases provided by Congress for Contract Support Costs (CSC) owed to tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA) and federal case law. Even so, there remains an ongoing shortfall of CSC, which continues to impose significant hardships on us and on other tribes/tribal organizations and our ability to provide adequate health services to our patients.

However, the President has proposed only $477,205,000 for IHS CSC, far below the estimated need of $617 million. In addition, the Administration proposes to limit CSC payments to tribal contractors by submitting a list of contractors to the House and Senate Appropriations Committees, with recommended, individual appropriations for each contractor. This proposed system is wholly unworkable. And—as it is created without any input from ISDEAA contractors—we fear the list will fail to reflect true CSC needs since the Administration has proven itself unable to properly account for contract support costs. The simplest and most fair answer is to fully fund tribal contractors' CSC.

We urge the Congress to reject the President's proposal outright, and fully fund IHS contract support costs at $617 million.

BIA Contract Support Costs Shortfall. The President proposes $230 million for Bureau of Indian Affairs contract support costs. This amount is closer to the estimated full need of $242 million than the IHS proposal, but still falls short of the actual need. Additionally, The President proposes the same system to cap BIA CSC as he did for the IHS. Maniilaq rejects this misguided proposal, and urges the Committees to fully fund the BIA contract support costs at $242 million, which will erase the need for the Administration's contortionist attempts to handle CSC shortfalls.

Unreleased IHS CSC Shortfall Reports. IHS must submit CSC shortfall reports to Congress no later than May 15 of each year, per section 106(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450j-1(c). Yet, the IHS has failed to submit CSC shortfall reports for FYs 2011 and 2012. Tribes have repeatedly asked the agency to release this data, which is critical for our ability to understand the IHS's view of the underfunding, and to pursue full payment of CSC, to which the Tribe is legally entitled. The IHS has refused to release these reports time and again, most recently in March of this year.

We ask the Committees to direct the IHS to release the shortfall data for FYs 2011 and 2012 immediately—and to submit future reports on time—as required under the law.

Sequestration

Exempt IHS from Sequestration. We are very concerned about the scale of reductions imposed on IHS and tribes/tribal organizations under the FY 2013 budget sequestration. The IHS budget is fully sequestrable, which resulted in a $220 million cut in funding to the IHS for FY 2013. IHS lost $195 million for programs like hospitals and health clinics services, contract health services, dental services, mental health and alcohol and substance abuse. Impacts are also felt on programs and projects necessary for maintenance and improvement of health facilities. These negative effects are then passed down to every Indian Self-Determination Act contractor including the Maniilaq Association.

We believe the IHS's budget should be exempt from these reductions. The United States has a trust responsibility for the health of Alaska Native and American Indian people. We fail to understand why this responsibility was taken less seriously than the Nation's promises to provide health care to our veterans. The Veterans Health Administration, Medicaid, and all but 2% of Medicare's administrative costs were made fully exempt from sequestration for all programs administered by the VA. We thus strongly urge the Committee to support an amendment to the Balanced Budget and Emergency Deficit Control Act to fully exempt the IHS from any future sequestration, just as the VA's programs are exempt.

Thank you for your consideration of our concerns and requests. We are happy to respond to questions or provide any additional information you may want.

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