

EXAMINING GAO FINDINGS ON DEFICIENCIES AT THE BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

HEARING BEFORE THE SUBCOMMITTEE ON THE INTERIOR, ENERGY, AND ENVIRONMENT OF THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

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EXAMINING GAO FINDINGS ON DEFICIENCIES AT THE BUREAU OF SAFETY AND ENVIRON- MENTAL ENFORCEMENT

Tuesday, March 21, 2017

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE INTERIOR, ENERGY AND
ENVIRONMENT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:05 p.m., in Room 2154, Rayburn House Office Building, Hon. Blake Farenthold [chairman of the subcommittee] presiding.

Present: Representatives Farenthold, Comer, Plaskett, and Raskin.

Mr. FARENTHOLD. The subcommittee on the Interior, Energy, and Environment will come to order.

Without objection, the chair is authorized to declare a recess at any time.

The chair notes the presence of our colleague—oh, we don't note the presence of anybody because there is not anybody else here—there we go.

The chair notes the presence of our colleagues from the full Committee of Oversight and Government Reform. We appreciate your interest in the topic and welcome your participation today. I ask unanimous consent that all members of the Committee on Oversight and Government Reform be allowed to fully participate in today's hearing.

Without objection, so ordered.

Well, good afternoon. Today, our subcommittee is going to examine the management deficiencies that have led the Government Accountability Office, or GAO, to once again—and the Bureau of Safety and Environmental Enforcement, or BSEE as it's known, to its high risk list. While this report notes that BSEE has made an effort to resolve some of the issues previously outlined by GAO, there's still substantial room for improvement. And today we will explore the lingering issues in hopes that we can determine some comprehensive solutions.

Before we got to these issues, I would like to thank the GAO and its staff for the hard work they've done in this issue area. And I'm especially glad to note that the GAO has a new report on the subject that it released just this morning. And I look forward to hearing more about that from Frank Rusco of the GAO appearing here today. Thank you for coming.

I would also like to thank Mr. Richard Cardinale, the acting Secretary for Lands and Minerals at the Department of the Interior. Mr. Cardinale is a career employee who has extensive experience in the Office of Land and Minerals. I'm also thankful that he is here today as well to provide this perspective from the last several years and shed some light on what's going on at BSEE. Thank you for coming.

Leadership seems to be a continual problem at BSEE since its formation after the Deepwater Horizon incident. Several whistleblowers, and now the GAO, have highlighted these issues. Data supports that GAO's conclusion as the 2016 Employee Viewpoint Survey found that regional personnel scored BSEE's leadership at 42.7 out of 100. Current acting director Margaret Schneider, who spent 30 years at the Environmental Protection Agency before joining BSEE in 2010, has been specifically mentioned as one of the problems.

The GAO has found a disconnect and, more importantly, a distrust between BSEE headquarters and its region. BSEE leadership has consistently hired contractors to try to fix its problem rather than using its own knowledgeable and experienced personnel. This distrust has caused significant duplication and reduced the agency's efficiency. These problems are so deep that some regional staff were discouraged from talking with the GAO and some were even concerned about retaliation.

Another problem facing BSEE is Integrity and Professional Responsibility Advisor, a group that exists to investigate allegations of misconduct and unethical behavior. This group follows unclear and inconsistent guidance, which appears to have undermined trust in its activities. Regional staff are concerned that this group is abusing its power and retaliating against employees, thereby deterring employees from speaking up and inhibiting agency transparency.

These problems with leadership and trust have trickled down effects throughout BSEE's portfolio. The GAO found a number of duplicative measures that have been fruitlessly implemented, which have resulted in a loss of valuable time and revenue. For example, BSEE hired two separate contractors to conduct simultaneous environmental risk assessments. This, unfortunately, resulted in two uncoordinated reports lacking quality. Had the two groups communicated with one another during their assessments, the final reports could have been substantially improved. Not only is this an inefficient way to run an agency, it's a waste of taxpayers hard-earned dollars.

Despite these problems, I'm hopeful Secretary Zinke will ride in and be able to take a good look at the Bureau staff and put in a leadership team at BSEE to fix the divide between headquarters and the region.

I'll now recognize the ranking member, Ms. Plaskett, for her opening statement.

Ms. PLASKETT. Thank you so much, Chairman. And thank you, gentlemen, for being here this afternoon.

Nearly 7 years ago, an explosion on Deepwater Horizon offshore oil rig caused 11 crewmen deaths and leaked approximately 4.9 million barrels of oil into the Gulf of Mexico. This spill caused im-

mense environmental and economic damage to the Gulf region and its residents for which BP paid out nearly \$62 billion.

A special commission was formed to investigate the explosion. The Department of the Interior Inspector General also investigated, as did Interior's Outer Continental Shelf Safety Oversight Board. Each issued reports making a number of recommendations to Interior to ensure the safety of offshore rigs.

The newly formed Bureau of Safety and Environmental Enforcement, or BSEE, was tasked with implementing these recommendations. Among other suggestions, the report recommended that Interior, quote, "develop an inspection program with strong representation at all levels of the bureau," quote, "identify sufficient inspection coverage, including reassessing the risk space and self-inspection approaches, and conduct advanced planning of inspections to allow inspectors time to prepare for each inspection and ensure efficient use of resources," end quote.

Yet GAO, the Government Accountability Office, report released in 2016, 5 years after many of these recommendations were issued, found that BSEE continues to face deficiencies in its investigation, environmental compliance, safety enforcement capabilities, and that "undermine its ability to effectively oversee offshore oil and gas development."

Now, a year later, GAO has issued another report indicating that BSEE is not doing everything it can to protect workers. The report found, for example, that BSEE halted pilot testing of risk-based inspection initiative, which was developed in 2012, due to deficiencies that GAO attributed to mismanagement of initiatives from the beginning. Why? That's why we're here at this hearing to understand the why, what the problem is, and not merely just to state, for you to inform us of that, but also to give us recommendations to how we can help BSEE best carry out its mission.

This initiative would have ensured the most dangerous rigs were inspected with more frequency and diligence, possibly saving lives. Workers lives are at risk, and BSEE must implement GAO's recommendations soon. The findings of the inspector general and Oversight Board reports point to the important role of the Federal Government in protecting the lives of offshore oil workers.

As our new President fulfills his campaign promise to lift the restrictions on the production of shale, oil, natural gas, and clean oil, those restrictions must not be worker safety regulations. And government agencies like BSEE must properly inspect drilling sites and stringently enforce the rules. This is particularly important given the Interior Department's recent announcement that will offer 73 million acres offshore in the Gulf to new oil and gas developments later this year. We cannot afford BSEE not to do its job and ensure that American workers lives are safe.

Thank you, Mr. Chairman.

Mr. FARENTHOLD. Thank you very much.

We'll now recognize—first, I want to let you know that any member who would like to submit a written statement is welcome to do so in the next 5 legislative days for which I'll hold the record open.

We'll now recognize our panel of witnesses. I'm pleased to welcome Mr. Richard Cardinale, acting Secretary for Lands and Min-

eral Management at the U.S. Department of Interior, and Frank Rusco from the GAO. Welcome to you both.

Pursuant to our committee rules, all witnesses will be sworn in before they testify. Would you please rise and raise your right hands.

Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Thank you. Please be seated.

Let the record reflect that both witness answered in the affirmative.

In order to allow time for discussion, we'd appreciate it if you'd limit your testimony to around 5 minutes. Your entire written statement will be made part of the record. You'll see a timer in front of you that will count for 5 minutes. Green light means you're good to go; the yellow light means hurry up, you're about out of time; and the red light means stop.

So I guess we'll start with Mr. Cardinale. You're recognized for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF RICHARD T. CARDINALE

Mr. FARENTHOLD. You're going to need to turn on your microphone, please, sir, and get real close. We bought the budget mics in order to save the taxpayers some money.

Mr. CARDINALE. Can you here me?

Mr. FARENTHOLD. You're good now.

Mr. CARDINALE. Okay. Mr. Chairman and members of the of the subcommittee, thank you for the opportunity to discuss leadership and management at the Department of the Interior's Bureau of Safety and Environmental Enforcement. We appreciate the subcommittee's interest in the efficient and effective functioning of government and the valuable service the GAO provides to that end.

My name is Richard Cardinale and I am currently the acting assistant Secretary for Land and Minerals Management at the Department, stepping into this role as chief of staff for the assistant Secretary's office. I have been the chief of staff to the assistant Secretary for Land and Minerals Management, the office that oversees BSEE, for the past 10-1/2 years. I was in my current position when the Bureau of Safety and Environmental Enforcement was established on October 1, 2011. We take seriously the insights and recommendations from the ten reports the GAO has issued concerning BSEE.

BSEE has asked that the GAO consider the clarifications, updates, and new information the Bureau has provided in its response to the most recent draft report examining several of BSEE's programs for offshore oversight and internal management. We appreciate that BSEE still faces challenges internally and how it develops and communicates management initiatives. The assistant Secretary's office will continue to provide guidance to the Bureau to help address these challenges.

Externally, we believe the Bureau has made great strides in effectively serving the American public and working productively

with the industry that it regulates, as well as our many stakeholders. During the past 5-1/2 years, BSEE has taken many constructive steps toward creating a stable and mature organization, while continuing to carry out its mission-critical goals of promoting safety, environmental responsibility, and resource conservation on the Outer Continental Shelf.

In 2016, the Bureau approved over 700 permits and conducted over 20,000 offshore inspections. The Bureau also continues to have an unprecedented level of engagement with industry and other stakeholders to address the many recommendations made as a result of the investigation stemming from the Deepwater Horizon tragedy. Those investigations produced 11 reports, resulting in 353 recommendations for industry, government, and others to improve offshore safety. Two hundred seventy five of the recommendations dealt with reforms to Federal oversight of offshore oil and gas development.

Due in part to the Bureau's hard work, the Department has addressed 217, or 80 percent of these recommendations. BSEE has also received a combined total of 93 recommendations, 37 from the GAO and 56 from the Department's Office of the Inspector General. BSEE has been successful in closing 80 of these recommendations, including 29 from the GAO and 39 from the OIG's New Horizon report.

BSEE has also developed major safety and regulatory reforms that have contributed significantly to an improved safety culture in the offshore environment. BSEE is a relatively new agency with a critically important mission. It has been the subject of review by both the GAO and the OIG. Throughout these reviews, the Bureau has demonstrated a consistent commitment to responding thoughtfully to recommendations and to improving areas where—that were underdeveloped under its predecessor organizations.

In an effort to assess its progress and address these and other challenges, in August 2016, BSEE engaged the National Academy of Public Administration to conduct an independent evaluation of the organization. The outcome of this study was made publicly available last Friday, and provides tangible steps that BSEE can take and has taken to improve its oversight, management, and communication capabilities.

I thank the subcommittee for the opportunity to testify on behalf of the Department, and I'll be happy to answer your questions.

[Prepared statement of Mr. Cardinale follows:]

STATEMENT OF RICHARD T. CARDINALE
ACTING ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT,
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE
THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON THE INTERIOR, ENERGY, AND ENVIRONMENT

MARCH 21, 2017

Chairman Farenthold, Ranking Member Plaskett and members of the Subcommittee, thank you for inviting me today to discuss leadership and management at the Bureau of Safety and Environmental Enforcement (BSEE) within the Department of the Interior (Department). My name is Richard Cardinale and I am currently the acting Assistant Secretary for Land and Minerals Management at the Department. Prior to serving in this role, I was the Chief of Staff for the Assistant Secretary.

BSEE's mission is to promote safety, environmental responsibility and resource conservation on the Outer Continental Shelf through regulatory oversight and enforcement. BSEE has been in existence for a little more than five years. Since its inception, the organization has taken a variety of constructive steps toward creating a stable and mature organization while carrying out this critical mission and we look forward to working with the new Administration to answer the President's call to examine how the services we provide can be made more efficient and effective.

A critical element in the Bureau's maturation process has been its commitment to strategic planning, which the Bureau considers a top priority as evidenced by the Bureau's development of two strategic plans to guide its growth. The Bureau's current strategic plan addresses both operational and organizational excellence. The three organizational excellence goals focus on valuing, engaging, and supporting all BSEE employees; making data-driven decisions based on quality information; and promoting transparency through processes that ensure consistency, efficiency, accountability, and collaboration. In the last five years, the Bureau has made significant progress that aligns with its strategic plans in addition to conducting its day-to-day operations. Over the past year, the Bureau approved over 700 permits and conducted over 20,000 offshore inspections. The Bureau has issued permit decisions in a timely manner to facilitate offshore energy development and it upheld the Department's statutory obligation to inspect every offshore facility to ensure these activities are conducted in a safe and responsible manner.

The Bureau continues to have an unprecedented level of engagement with industry and other stakeholders to address the many recommendations that were provided by the various investigations stemming from the *Deepwater Horizon* tragedy. Subsequent investigations and analyses by various advisory bodies of the events that led to and occurred onboard the *Deepwater Horizon* produced many reports making numerous recommendations for industry, government, and others to improve offshore safety. Eleven reports from nine different advisory bodies are relevant to the Department of the Interior. Of the 353 recommendations provided by these nine advisory bodies, 275 of them dealt with reforms to federal oversight of offshore oil and gas development. With the creation of BSEE in 2011 and the Bureau's subsequent five years of work, the Department has addressed 217 – or 80 percent – of these recommendations. Additionally, BSEE has received 93 recommendations from the Government Accountability Office (GAO) and the Department's Office of the Inspector General (OIG). 80 of these recommendations have been addressed by the Department, including 44 from the OIG's New Horizon report. The major safety and regulatory reforms that BSEE was able to enact through these efforts have led to demonstrable improvements in offshore safety and environmental protection.

Because BSEE is a relatively new agency with a critically important mission, it has frequently been placed under the microscope and has been the subject of much scrutiny. The Bureau has consistently demonstrated a commitment to responding to recommendations and improving areas that were underdeveloped under its predecessor organization, the Minerals Management Service. BSEE has addressed recommendations made by the GAO, including a series of recommendations that advised the Bureau to improve hiring and retention of key oil and gas oversight positions.¹ BSEE responded to and resolved these recommendations and is now fully staffed, having implemented new initiatives to recruit, train, and retain the highly-qualified technical expertise the Bureau relies on to carry out its mission. BSEE's career management team is very proud of this and many other accomplishments and the effect they have had in enhancing the protections that are afforded offshore workers and the United States' marine and coastal environments.

The Department and the Bureau acknowledge that the organization still has room for improvement and faces challenges with respect to its management and internal communication processes. However, as the GAO highlighted in a forum on organizational transformation, "the experiences of successful major change management initiatives in large public and private sector organizations suggest it can often take at least 5 to 7 years until such initiatives are fully implemented and the related cultures are transformed in a sustainable manner."² Further, the

¹ U.S. Gov. Accountability Office, GAO-14-205, *Interior Has Begun to Address Hiring and Retention Challenges but Needs to Do More* (2014). <http://www.gao.gov/products/GAO-14-205> (listing the status of the recommendation as "Closed-Implemented").

² U.S. Gov. Accountability Office, GAO-03-293SP, *Mergers and Transformation: Lessons Learned for a Department of Homeland Security and Other Federal Agencies* Appx. I, 5 (2003). <http://www.gao.gov/assets/240/236371.pdf>.

political turnover and frequent leadership changes that tend to occur in this length of time make “it difficult to obtain the sustained and inspired attention to make needed changes.”³ With that in mind, the current status of BSEE’s programs and activities and the Bureau’s progress towards improving them should be considered in the context of an agency that recently celebrated its fifth year of existence.

In addition to the aforementioned efforts by BSEE to improve its management and operations, the Bureau has further demonstrated its commitment to continuing its maturation process by engaging the National Academy of Public Administration (NAPA) to conduct an independent evaluation of the organization. The outcome of this study, conducted by an independent, Congressional-chartered organization providing public and private sector expertise, was made publicly available on March 17, 2017.

In its report, NAPA notes:

“BSEE has established itself as a new federal entity; strengthened programs for the protection of safety and the environment and the conservation of OCS resources; improved core mission responsibilities for inspection and permitting; enhanced relationships with other federal entities; modernized and addressed gaps in regulations and policy; realigned the organization to promote consistency and transparency internally and with stakeholders; nearly achieved recruitment and hiring goals to attract highly skilled employees; and established partnerships to promote technical competencies.”⁴

The study also found areas for continued improvement around the common themes of a need for effective processes and practices, increased collaboration and communication, and continuation of planning efforts such as the strategic plan working group and the foresight initiative. NAPA’s recommendations provide tangible steps that BSEE can take to improve its oversight, management, and communication capabilities. These recommendations go hand in hand with Secretary Zinke’s priorities of restoring trust between Interior’s bureaus and the constituencies they serve and to foster improved lines of communication from headquarter offices to the professionals in the field. The bureau is committed to fulfilling the Secretary’s vision.

As previously mentioned, the Department is committed to working with the GAO to improve the effectiveness and efficiency of its bureaus. In doing so, it is essential that both entities operate on complete and accurate information so that the best use of government resources is made. As a result, tangible and meaningful recommendations can be developed and implemented. In furtherance of this goal, BSEE has asked that the GAO consider the clarifications, updates, and

³ U.S. Gov. Accountability Office, GAO-03-669, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations* 9 (2003). <http://www.gao.gov/assets/240/238749.pdf>.

⁴ National Academy of Public Administration, *Bureau of Safety and Environmental Enforcement: Strategic Organizational Assessment* 16 (2017). <http://www.napawash.org/2017/1934-bureau-of-safety-and-environmental-enforcement-strategic-organizational-assessment.html>

new information the Bureau has provided in its response to the most recent draft report examining several of BSEE's programs for offshore oversight and internal management.

The Department would also like to underscore the progress made in responding to past GAO recommendations. We understand that BSEE still faces challenges internally in how it develops and communicates management initiatives. Externally, however, the Bureau has made great strides in effectively serving the industry that it regulates, its many stakeholders, and the American public.

We stand ready to work with the new administration to improve our operations and carry out the Department's statutory mandate, in the most efficient way possible, to enforce safety and environmental regulations on the Outer Continental Shelf.

In closing, I want to underscore our commitment to working to strengthen the effectiveness of our organizational improvement initiatives. We appreciate the valuable service that the GAO provides to ensure that our government operates efficiently and responsibly. I thank the Subcommittee for allowing me the opportunity to testify on behalf of the Department, and I look forward to your questions.

Mr. FARENTHOLD. Thank you very much.
Mr. Rusco.

STATEMENT OF FRANK RUSCO

Mr. RUSCO. Thank you, Chairman Farenthold and Ranking Member Plaskett and members of the committee. I'm pleased to be here today to discuss our recent reports on the Bureau of Safety and Environmental Enforcement.

Before I go into my formal written statement, I want to say that I agree with a lot of what Mr. Cardinale has just said, that over the years, BSEE has done a very good job of responding to numerous recommendations from a number of bodies, including GAO.

Our most recent look at BSEE has been looking at their leadership initiatives and their restructuring process, and we have found serious deficiencies there, but that does not reflect a broad critique of what BSEE has been doing in the regions with its regional management and staff, who I think are doing, by and large, an excellent job. They're hampered, though, by leadership failures, and that's what I'm here to talk about today.

In our last two reports looking at BSEE's restructuring efforts and its leadership effectiveness, we have found a longstanding deficiency in the leadership in BSEE headquarters that has hindered its ability to effectively and efficiently administer its mission. BSEE leadership's failure is primarily the result of its mistrust and poor communication with its knowledgeable regional managers and staff. Time and again, BSEE has chosen consultant studies and headquarters-led projects instead of in-house expertise and experience. This has cost the Bureau precious time and the taxpayer precious dollars to achieve very little of substance in the past 5 years.

I have three examples from our past work that highlight BSEE's repeated efforts to restructure the Bureau without adequately obtaining input and advice from its regional management and staff.

First, BSEE has taken a number of steps to strengthen the permitting and planning process to ensure better well-designed drilling practices and oil spill response capabilities. And Congress has appropriated additional funds to enable BSEE to hire more inspectors. However, while stating the Bureau's philosophy of creating national leadership of key BSEE missions, BSEE headquarters inexplicably moved its environmental compliance unit from a national to regional reporting structure and also left numerous congressionally funded environmental compliance positions unfilled for years, despite demonstrated need for these positions.

These actions reduced the Bureau's ability to share expertise across offshore regions, and left the Gulf of Mexico region without the environmental compliance staff needed to perform its oversight responsibilities. Instead of acting to fix these deficiencies, BSEE leadership spent over \$1 million on consultant studies to assess environmental risk, rather than using the in-house expertise resident in BSEE's regional offices.

Second, in 2012, BSEE identified the need for performance measures to provide it with data, to evaluate the efficiency and efficacy of its programs and activities. Subsequently, BSEE began an initiative in 2014 to develop performance measures for its key programs by hiring a consultant to perform two sequential studies. These

contracts generated 12 recommended performance measures, delivered in 2016, none of which were implemented.

In 2016, BSEE began what they described as a multiyear internal effort to develop performance measures. In December 2016, BSEE completed a report that identified 17 performance measures, but the Bureau has yet to finalize or implement these measures to inform management decisionmaking.

What these three efforts have in common is a lack of implementable results and the fact that the efforts were done from headquarters largely without the benefit of the experience and talent within the BSEE regions.

Third, starting in 2012, BSEE leadership sought to develop a risk-based inspection's regime, but they did so without appropriate input and in consultation with the regional managers and staff, who for many years have been involved in previous attempts to identify risk factors and implement risk-based inspection practices.

BSEE hired outside consultants to inform their approach to risk-based inspections. This 3 year contract led to a risk assessment model and inspection protocol that BSEE tried to implement in a pilot in 2015. However, the pilot failed to identify useful risk factors, and only after these deficiencies were identified did BSEE begin to involve the regional managers and staff. Even then, instead of working with regional managers and staff to develop a better model, BSEE leadership decided to change its focus and reduce expectations for its risk-based inspection approach.

BSEE's leadership, lack of trust, and communication with regional managers and staff again led to waste of taxpayer money in a still deficient risk-based inspection regime.

I'm going to end there, and I would be happy to answer any of the questions you may have.

[Prepared statement of Mr. Rusco follows:]



United States Government Accountability Office

Testimony

Before the Subcommittee on the Interior,
Energy, and Environment, Committee on
Oversight and Government Reform,
House of Representatives

For Release on Delivery
Expected at 2:00 p.m. ET
Tuesday, March 21, 2017

OFFSHORE OIL AND GAS OVERSIGHT

Actions Needed to Address Leadership Commitment Deficiencies at Interior

Statement of Frank Rusco, Director,
Natural Resources and Environment

Chairman Farenthold, Ranking Member Plaskett, and Members of the Subcommittee:

I am pleased to be here today to discuss our report being issued today on offshore oil and gas oversight.¹ As you know, the 2010 *Deepwater Horizon* incident—which resulted in 11 deaths, serious injuries, and the largest marine oil spill in the history of the United States—raised questions about the Department of the Interior’s (Interior) oversight of offshore oil and gas activities in the Gulf of Mexico. In turn, on May 19, 2010, Interior reorganized the Minerals Management Service (MMS)—the agency responsible for managing oil and gas activities in federal waters—to improve the management, oversight, and accountability of activities on the Outer Continental Shelf.² As an interim step, Interior renamed MMS the Bureau of Ocean Energy, Management, Regulation and Enforcement (BOEMRE) and separated major functions of offshore oil and gas management by making BOEMRE responsible for offshore oil and gas management and the Office of Natural Resources Revenue responsible for revenue collections. On October 1, 2011, Interior completed the reorganization of MMS by splitting BOEMRE into the Bureau of Ocean Energy Management, which is responsible for leasing and resource management, and the Bureau of Safety and Environmental Enforcement (BSEE), which is responsible for reviewing drilling permits, inspecting offshore drilling rigs and production platforms, and developing regulations and standards for offshore drilling. BSEE’s mission is to promote safety, protect the environment, and conserve resources offshore through vigorous regulatory oversight and enforcement.

Since its inception in 2011, BSEE has undertaken several efforts to reform its oversight capabilities. In February 2016, we reported that BSEE’s ongoing organizational restructuring—which it initiated in October 2013 to develop national programs—had not addressed long-standing

¹GAO, *Oil and Gas Management: Stronger Leadership Commitment Needed at Interior to Improve Offshore Oversight and Internal Management*, GAO-17-293 (Washington, D.C.: Mar. 21, 2017).

²The Outer Continental Shelf refers to the submerged lands outside the territorial jurisdiction of all 50 states but within U.S. jurisdiction and control. The portion of the North American continental edge that is federally designated as the Outer Continental Shelf generally extends seaward 3 geographical miles off the coastline to at least 200 nautical miles. Secretarial Order No. 3299 (May 19, 2010).

deficiencies to its investigative, environmental compliance, and enforcement capabilities.³ Among other things, we found that:

- Regarding investigations, BSEE continued to rely on pre-*Deepwater Horizon* incident policies and guidance for managing its investigative capabilities and did not have the capability for analyzing data on incidents that occur on the Outer Continental Shelf.
- Regarding environmental compliance, BSEE reversed actions taken to address post-*Deepwater Horizon* incident concerns, weakening its oversight of operator compliance with environmental standards. Moreover, the bureau had made limited progress developing and updating guidance, which were among the goals of the restructuring. Additionally, BSEE's restructuring has not addressed staffing shortfalls that are preventing it from meeting its environmental oversight targets.
- Regarding enforcement, BSEE made limited progress addressing long-standing deficiencies in its effectiveness. Specifically, BSEE has not completed policies or developed procedures—including defined criteria for the use of its existing enforcement tools—to guide its enforcement actions.

To enhance BSEE's ability to effectively oversee offshore oil and gas development, we recommended in our February 2016 report that the Secretary of the Interior direct the Director of BSEE to take nine actions, including that BSEE complete policies outlining the responsibilities of its investigative, environmental compliance, and enforcement programs and update and develop procedures to guide them. Interior neither agreed nor disagreed with our recommendations. The findings of our February 2016 report served as the basis for the inclusion of the restructuring of offshore oil and gas oversight in our February 2017 expansion of our High-Risk List.⁴ Simultaneous to our assessment of BSEE's organizational restructuring, bureau leadership was developing its *Fiscal Year 2016-2019 Strategic Plan*, which identifies key initiatives to improve BSEE's safety and environmental oversight as well as its internal management.

³GAO, *Oil and Gas Management: Interior's Bureau of Safety and Environmental Enforcement Has Not Addressed Long-Standing Oversight Deficiencies*, GAO-16-245 (Washington, D.C.: Feb. 10, 2016).

⁴GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, GAO-17-317 (Washington, D.C.: February 2017). In 1990, we began a program to report on government operations that we identified as "high risk."

In this context, my testimony today discusses the findings from our report being issued today on BSEE's leadership efforts in implementing key strategic initiatives to improve its (1) safety and environmental oversight and (2) internal management.

To conduct our work, we reviewed BSEE strategic planning and budget justification documentation as well as interviewed BSEE leadership to identify key bureau strategic initiatives. For each initiative, we collected and analyzed BSEE documentation of its purpose and history—including budget justifications, project plans, and contracts, among others—to determine its objectives, time frames, and status. We also interviewed BSEE officials at headquarters responsible for bureau and program leadership as well as officials in the regional and district offices responsible for implementing BSEE oversight activities. The report includes a detailed explanation of the scope and methodology we used to conduct our work.

We conducted the work on which this testimony is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BSEE Leadership Has Started Several Initiatives to Improve the Bureau's Safety and Environmental Oversight Capabilities, but Its Actions Have Hindered Progress

We found that BSEE leadership has started several initiatives to improve its safety and environmental oversight capabilities, but its limited efforts to obtain and incorporate input from within the bureau have hindered its progress. Since 2012, BSEE has sought to augment its annual inspection program with a risk-based inspection program, but limited efforts to obtain and incorporate input from experienced regional personnel have hindered BSEE's ability to develop and implement the risk-based program. In 2012, BSEE began an initiative to develop an approach for conducting inspections of offshore facilities based on the level of risks they posed. However, to date, BSEE has not successfully implemented this supplemental risk-based inspection capability.

BSEE leadership led the development of the risk-based program; however, according to officials, leadership developed the program with little input from regional personnel. Officials in the Gulf of Mexico region with knowledge and experience conducting previous risk-based inspection efforts told us that they were not apprised of key program

products (e.g., a risk model developed by Argonne National Laboratory) until the products were well under development and that they were given little opportunity to provide comment on them.

As a result, BSEE first identified deficiencies with its risk-based program during pilot testing in 2015,⁵ rather than working closely with experienced regional personnel earlier in the process to obtain their input to identify potential deficiencies and remediate them during program development. In turn, BSEE leadership's limited efforts to obtain and incorporate input from regional staff and management during development of the program led to poor pilot results. In response, BSEE has changed the focus of the program and reduced expectations for its initial approach to risk-based inspections.

In 2016, BSEE conducted an environmental stewardship initiative comprised of two simultaneous environmental risk reduction efforts, but we found that these efforts were overlapping, fragmented, and uncoordinated, which reduced the effectiveness of the initiative and hindered the implementation of identified improvements. These efforts were led and coordinated by BSEE leadership in the Environmental Compliance Division at headquarters, which BSEE created in 2015 to establish national strategic goals and procedures for the bureau's environmental compliance activities. However, the efforts were overlapping because BSEE leadership tasked both with the same five objectives. The two efforts were also fragmented because BSEE leadership did not effectively coordinate their execution, which hindered information sharing between them that could have enhanced their value. Moreover, because the efforts were uncoordinated, they resulted in the inefficient use of resources.⁶

In our report being released today, we recommended that the Secretary of the Interior direct the Assistant Secretary for Land and Minerals Management, who oversees BSEE, to establish a mechanism for BSEE management to obtain and incorporate input from bureau personnel and

⁵Although the bureau initially intended to conduct pilots in fiscal year 2014, BSEE officials told us they instead spent September 2013 to February 2015 testing Argonne National Laboratory's model.

⁶Under the *Standards for Internal Control in the Federal Government*, management should internally and externally communicate the necessary quality information to achieve the entity's objectives. GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

any external parties, such as Argonne National Laboratory, that can affect the bureau's ability to achieve its objectives. In its written response to our report, Interior neither agreed nor disagreed with our recommendation. Interior stated that the recommendation reflects an ongoing BSEE commitment and that BSEE and Interior agree with the concept laid out therein. However, Interior's comments do not discuss any specific actions taken or under way to do so. Without higher-level oversight within Interior establishing a mechanism for BSEE management to obtain and incorporate input from personnel within the bureau and any external parties that can affect the bureau's ability to achieve its objectives, BSEE's risk-based inspection program and Environmental Stewardship efforts are likely to experience continued implementation and efficacy problems.

**BSEE Leadership
Has Made Limited
Progress in
Implementing
Strategic Initiatives to
Improve Its Internal
Management**

We found that since 2013, BSEE has begun four strategic initiatives to improve its internal management—two to improve its decision-making capabilities and two to enhance communication and transparency—but their successful implementation has been hindered by limited leadership commitment and not addressing factors contributing to trust concerns.

**BSEE Leadership Did Not
Fully Implement Initiatives
to Improve Decision-
Making Capabilities**

In 2013, BSEE began an initiative to develop an Enterprise Risk Management (ERM) framework but has not fully implemented it as a management tool.⁷ BSEE has made some progress over the past 3 years in implementing an ERM framework but has not completed the actions necessary to fully implement it. In conjunction with a contracted ERM support consultant, BSEE developed an iterative ERM cycle that includes six steps.⁸ In 2014, BSEE identified and prioritized 12 strategic risks that

⁷The Office of Management and Budget (OMB) defines ERM as an effective agencywide approach to addressing the full spectrum of the organization's risks by understanding the combined impacts of risks as an interrelated portfolio, rather than addressing risks only within silos (i.e., viewing problems in isolation). OMB, Cir. No. A-11, at § 270.24. OMB issued new policy for implementation of ERM in July 2016. OMB Cir. No. A-123.

⁸Since 2013, BSEE has spent approximately \$1.5 million on contracted consultant support to develop and implement its ERM framework.

cover the lifecycle of BSEE operations. BSEE planned to verify the prioritization of its top several strategic risk treatments by July 2016 but did not do so. BSEE officials told us that the bureau halted ERM implementation while it acquired automated ERM software. The officials said BSEE planned to finalize a plan for its prioritized risk treatments by August 2016 but did not do so because of the temporary halt to ERM implementation. Likewise, they said BSEE intended to promulgate a monitoring plan by October 2016 but did not do so because of the aforementioned temporary halt to ERM implementation. However, in November 2016, BSEE determined that it would reinstate ERM implementation simultaneous to the implementation of software.

In 2014, BSEE began an initiative to develop performance measures for its programs but has not implemented any measures. BSEE's October 2012 *Strategic Plan-Fiscal Years 2012-2015* stated that the bureau must develop performance measures to assess the results of its programmatic efforts as well as its ability to reduce the risks of environmental damage and accidents. BSEE's initiative to develop performance measures has been comprised of three sequential efforts, in 2014, 2015, and 2016. For the first two efforts, the bureau contracted with a consultant. BSEE terminated the first effort, and although the consultant delivered a report identifying 12 performance measures during the second effort, BSEE officials said they were not implementing them due to a variety of factors, including data availability limitations. For its third effort to develop performance measures in 2016, BSEE headquarters officials told us that this initiative, which is being conducted internally by BSEE personnel, represents the beginning of a multi-year effort to implement a performance management system. BSEE initially planned to finalize its internally developed list of performance measures in February 2016 but did not meet this deadline. In December 2016, BSEE completed a report that discusses 17 performance measures and the bureau's plans for future iterations of their development.

We have previously reported on BSEE's struggles to effectively implement internal management initiatives. Specifically, in February 2016, we found that since its inception in 2011, BSEE had made limited progress in enhancing the bureau's investigative, environmental compliance, and enforcement capabilities.⁹ Likewise, with regard to its ongoing strategic initiatives to improve its decision-making capabilities,

⁹GAO-16-245.

more than 3 years have passed since BSEE initiated the development of its ERM framework, more than 2 years have passed since the bureau prioritized the strategic risks it faces, and more than 4 years have passed since it identified the development and implementation of performance measures as an organizational need. In that time, BSEE initiated several efforts to develop and implement such measures, and although BSEE has developed measures, it has yet to fully implement any.

One of our five criteria for assessing whether an area can be removed from our high-risk list is leadership commitment—that is, demonstrated strong commitment and top leadership support.¹⁰ An example of leadership commitment is continuing oversight and accountability, which BSEE leadership has not demonstrated for implementing internal management initiatives, as evidenced by its limited progress in implementing key strategic initiatives as well as its inability to address long-standing oversight deficiencies.

In our report being released today, we recommended that the Secretary of the Interior direct the Assistant Secretary for Land and Minerals Management, who oversees BSEE, to address leadership commitment deficiencies within BSEE, including by implementing internal management initiatives and ongoing strategic initiatives (e.g., ERM and performance measure initiatives) in a timely manner. Interior neither agreed nor disagreed with our recommendation. Interior stated that the recommendation reflects an ongoing BSEE commitment and that BSEE and Interior agree with the concept laid out therein. However, Interior's comments did not discuss specific actions taken or planned to meet the intent of our recommendation. Without higher-level oversight within Interior addressing BSEE's leadership commitment deficiencies—including by implementing internal management initiatives and ongoing strategic initiatives—in a timely manner, the bureau is unlikely to succeed in implementing such initiatives.

¹⁰The five criteria for removal are (1) leadership commitment, (2) agency capacity, (3) an action plan, (4) monitoring efforts, and (5) demonstrated progress. See GAO-15-290.

Initiatives to Enhance Communication and Transparency Have Not Addressed Factors Contributing to Long-Standing Trust Concerns between Headquarters and the Regions

In February 2016, BSEE announced an initiative to assess internal communications and develop an employee engagement strategy. BSEE employee engagement initiative documentation identifies the need to enhance communication vertically and horizontally across the bureau. BSEE leadership's safety and environmental stewardship initiatives have had limited success, largely due to poor communication and coordination between headquarters and the regions. BSEE officials from across the bureau told us that the poor communication between headquarters and the regions led to a deficit of trust vertically throughout the bureau. They also told us that because BSEE headquarters was newly established as part of the reorganization of MMS in 2010 following the *Deepwater Horizon* incident, not many existing relationships between headquarters and regional personnel existed.

The data collection plan for this employee engagement initiative focused on conducting outreach across the bureau to identify the means by which BSEE personnel prefer to receive information—for example, town hall meetings, BSEE's website, or e-mail. BSEE conducted this outreach but as of November 2016 had not developed an employee engagement strategy—although its original target completion date was April 2016—and it is unclear when it will do so. In September 2016, BSEE decided to conduct a second round of outreach across the organization by spring 2017 to review feedback from the initial outreach, discuss next steps, and provide guidance on existing communications resources.

To address trust concerns that exist between headquarters and the field, we recommended in our report being released today that the Secretary of the Interior direct the BSEE Director to expand the scope of its employee engagement strategy to incorporate the need to communicate quality information throughout the bureau consistent with federal standards for internal control.¹¹ Interior neither agreed nor disagreed with our recommendation. Interior asserted that, since receiving our draft report for review, BSEE has completed the assessment and analysis of employee feedback and developed an engagement plan, but Interior did not provide documentary evidence of this plan or what it entails. Without providing evidence of BSEE's activities, we could not confirm that any action had been taken and continue to believe that BSEE should expand the scope of its employee engagement strategy.

¹¹GAO-14-704G.

In addition, the bureau's Integrity and Professional Responsibility Advisor (IPRA) is responsible for promptly and credibly responding to allegations or evidence of misconduct and unethical behavior by BSEE employees and coordinating its activities with other entities, such as Interior's Office of Inspector General (OIG).¹² Senior BSEE officials from across the bureau stated that the IPRA function is critical to bolstering trust within the bureau because personnel need to have a functioning mechanism to which they can report potential misconduct by other employees. To increase transparency and consistency in how IPRA cases are handled following the completion of an investigation report, BSEE conducted a pilot initiative in 2016 to assess the types of allegations of misconduct being reported to the IPRA as well as the frequency with which the IPRA referred such allegations to other entities. In August 2016, BSEE determined that the majority of incoming allegations were being directed to the appropriate office for action.

However, BSEE's pilot initiative did not address unclear and conflicting guidance that could undermine organizational trust in how the IPRA addresses allegations of misconduct. Specifically, we found that the *Interior Department Manual* and IPRA guidance do not specify criteria for the severity thresholds for allegations that are to be referred to the OIG. As a result, the boundaries of IPRA responsibility are unclear. Additionally, BSEE's pilot initiative did not address IPRA guidance that conflicts with the reporting chain established by the *Interior Department Manual* and BSEE's organization chart.

Some BSEE regional officials told us that the uncertainty about how the IPRA reports allegations to the OIG as well as its reporting structure led them to question the independence of IPRA activities, and they expressed concern that the IPRA could be used to retaliate against employees, which has undermined organizational trust in its activities. Under the federal standards of internal control, management should design control activities to achieve objectives and respond to risks, such

¹²As part of BSEE's restructuring of its investigative capabilities in 2015, the bureau established an IPRA within the Office of the Director to investigate allegations of serious misconduct involving any employee not accepted for investigation by the OIG. The IPRA function previously had been located in BSEE's Investigations and Review Unit, which was dissolved as part of BSEE's organizational restructuring in 2015 and split into two new programs: the Safety and Incident Investigation Division and the IPRA.

as by clearly documenting internal controls.¹³ While BSEE has documented its policies, they are not clear.

In our report being released today, we recommended that the Secretary of the Interior direct the BSEE Director to assess and amend IPRA guidance to clarify (1) severity threshold criteria for referring allegations of misconduct to the OIG and (2) its reporting chain. Interior neither agreed nor disagreed with our recommendation but stated that contrary to our draft report, the Interior *Department Manual* includes severity threshold criteria for referring allegations of misconduct to the OIG. We believe that the language in the Interior *Department Manual* does not provide the specificity needed to adequately define the boundaries of IPRA responsibility.

Additionally, Interior stated that the IPRA reports to the BSEE Director, consistent with the reporting chain established in the bureau's organizational chart and the Interior *Department Manual*. However, the BSEE Director told us that, in practice, the IPRA often reports to the BSEE Deputy Director rather than the Director. Moreover, our work found that the decision-making process of the IPRA Board—whereby the Board determines how to respond to an investigation without consulting the Director—does not align with the IPRA's prescribed reporting chain. Without assessing and amending its IPRA guidance to clarify (1) the severity threshold criteria for referring allegations and (2) the IPRA reporting chain, BSEE risks further eroding organizational trust in the IPRA to carry out its mission to promptly and credibly respond to allegations or evidence of misconduct by BSEE employees.

Chairman Farenthold, Ranking Member Plaskett, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

¹³GAO-14-704G.

GAO Contact

If you or your staff have any questions about this testimony, please contact Frank Rusco, Director, Natural Resources and Environment, at (202) 512-3841 or ruscof@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

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Mr. FARENTHOLD. Thank you very much.

And I'll get started with a couple of questions. Mr. Cardinale, I'm kind of troubled by the number that—the leadership on a national level only scored a 42.7, based on what the people in the field actually doing the work said. I mean, that's an F minus. What's—what do you attribute that to and what's being done to fix it?

Mr. CARDINALE. We don't disagree with you on that score. I think part of the issue had been a lack of engagement with subject matter experts from the field. That, as I understand it, has changed. And specifically with Secretary Zinke's leadership, who wants to empower and engage, as he calls it, people on the front lines, those who are implementing policy decisions and carrying out operations, we are—

Mr. FARENTHOLD. It had to be more than, oh, heck, they just don't listen to me. What else have you found there?

Mr. CARDINALE. Well, I can't speak with any specificity to the reasons these employees gave, but I do feel that everything that I have seen suggests that we needed and we are now embarking on doing a better job of engaging employees and communicating with them, bringing them in early on in the effort. The Bureau has undertaken some leadership initiatives that are designed to bring people from the field into headquarters for detail opportunities, which we think will build trust and promote better communication.

The Bureau is also in the process of developing a new intranet tool which is designed to post information more quickly and facilitate engagement sooner in the process.

Mr. FARENTHOLD. Mr. Rusco, did you all find anything in particular, besides—you pointed out the excessive use of outside consultants. I used to work in radio, the staff used to never like the consultants. But what else did you see in there besides the overuse of consultants? And what generated this lack of trust in communications?

Mr. RUSCO. Well, I think it just stems largely from just pure cultural differences and mistrust between the headquarters folks and the people in, particularly, the Gulf of Mexico. And the headquarters does not respect or trust them and does not listen to them. And when we 2 years ago started—or 2-1/2 years ago started doing this most recent work, we went and we said, well, we're going to look at your management initiatives. And the response was, well, you're going have to run through this liaison. Every piece of information you want has to be approved by the deputy director directly.

Most of the things we asked for were deemed to be predecisional and not available to us to do our audit work. And these were things like years' old consultant reports.

Whenever we went to the Gulf and did our field work and we talked to people, there was a minder with us that was reporting back to headquarters, and that really cut back on what people were willing to tell us. And they told us that in private, afterwards. But they would not speak frankly and openly.

Mr. FARENTHOLD. Was it a sense of a fear of retaliation and intimidation?

Mr. RUSCO. There was a concern about that.

Mr. FARENTHOLD. Because this committee is committed to making sure that whistleblowers have the opportunity to report their problems and, you know, has shown a strong support for things like your GAO reports and internal inspector general's—it's pretty clear that the policy, at least of the government, at least coming out of this committee, is we want to hear from the rank and file folks that are doing the job.

Mr. RUSCO. And I will say that, over the years, when we have gone into the field and talked to the people on the front lines, doing the work, we get straight answers, we get good information, and they tell us what's working and what's not. And that's what most of our recommendations are based on.

Mr. FARENTHOLD. Mr. Cardinale, I'm about out of time, but we're talking a lot about the issues in the Gulf of Mexico region. I assume that's the largest of your regions based on the bulk of offshore oil and gas activity.

Mr. CARDINALE. That's correct, Mr. Chairman.

Mr. FARENTHOLD. Can you tell me about the basic sizes of your different—what your different regions are and the sizes?

Mr. CARDINALE. I don't have that information available to me. I do know that, in terms of specific number of employees, the organization numbers about 880 employees. About 140 of them are inspectors. Its largest region is in the Gulf of Mexico. There's also a regional office in Camarillo, California, and one in Anchorage, Alaska.

Mr. FARENTHOLD. Do you know how many of that 800 are in Washington, D.C.?

Mr. CARDINALE. I don't, but I'd be happy to—

Mr. FARENTHOLD. If you'd give me those numbers. I'd be interested. Again, it seems to me if your largest region only has, you know, 100 plus, we may be a little top heavy there too. It might be something worth looking at. But I don't want to get that without the numbers.

So at this point we'll go to the gentlelady from the Virgin Islands for her line of questioning.

Ms. PLASKETT. Thank you.

You know, it was very interesting reading the GAO's report, which paints still a troubling picture at BSEE of failing to properly implement programs. The report points to several instances where BSEE's leadership failed to implement several key strategic initiatives to improve its internal management. What's particularly troubling to read is that BSEE has not been able to make progress on approving its offshore safety and environmental oversight because of these deficiencies.

Mr. Cardinale, in your written testimony, you state that BSEE is now fully staffed. If that's so, when did that occur?

Mr. CARDINALE. That's occurred over the last couple of years. I think there are a culmination of reasons for it. BSEE has improved its recruitment and retention practices and has benefited from a full suite of tools to help recruit and retain employees. I think also the downturn in the market has resulted in the closure of a number of companies, and as a result, a number of employees have migrated from the private sector to the Federal sector.

Ms. PLASKETT. And so you're also not maybe having the high turnover of employees leaving that you had previously?

Mr. CARDINALE. That's correct.

Ms. PLASKETT. When you talked about the other achievements, you talked about retaining that technical expertise in the suite of availability. I know earlier you talked about the intranet services that you used. What are some of the other accomplishments that you believe BSEE has been able to implement?

Mr. CARDINALE. I think BSEE is working to build its inspection force through investigating opportunities to create a certification program for training its inspectors. As I mentioned earlier, we are trying to foster engagement with the field at the earliest possible opportunities, including bringing people in from the field to get the benefit of their insight and expertise in the day-to-day operations of policy development.

We are also just trying to foster better communication. At this time, there's an offshore inspector's conference going on in Lafayette, Louisiana, and the acting director is there now. This is the perfect opportunity to interact with the people in the field to get their perspectives, to better understand what challenges they are facing, and what we can do at headquarters to try to help address those challenges.

Ms. PLASKETT. So you talk about this better communication. Is there something that is just going to be—how is this going to be implemented if what we understand is there's a cultural difference between those at headquarters and those in the field? If you think that—you know, and I have great confidence in the charisma of our new Secretary of Interior, my former classmate, Secretary Zinke, but how do you believe that that is going to be able to drive it down into the regional levels?

Mr. CARDINALE. I think the perspective of the administration is, in fact, to ensure that we are more efficient and more effective. And in order to do that, I think we need to engage, at the earliest possible opportunities, with the people that are in the field and give them the resources and the tools they need to do their jobs and to carry them out effectively.

Ms. PLASKETT. And, you know, I'm sure this is something that you were trying to do 3 years ago. What is going to be different this time? Is it because of the new tools that you have? I really need to understand what has dynamically changed.

Mr. CARDINALE. I think the management focus is fundamentally outward facing towards the field, more engagement with the people that are actually implementing the policies, and more engagement with them in the development of the policies.

Ms. PLASKETT. Would that also be, Mr. Rusco, implementing risk-based inspections? Would that be part of the policies and procedures?

Mr. RUSCO. I hope so. And I hope that what Mr. Cardinale says is correct. What we have seen is not that. We have seen the headquarters leadership staying in D.C., not engaging with the field, and not trying to learn what their business is about. And I think that that's—

Ms. PLASKETT. So what kind of—you know, you give very concrete recommendations. Do you go as far as to say how many times

a year individuals from the headquarters should be out in the regional offices?

Mr. RUSCO. No, we haven't made that kind of specificity.

Ms. PLASKETT. You did talk, though, in the risk-based inspection. How difficult should it be for BSEE to address the deficiencies that the report noted?

Mr. RUSCO. It shouldn't be that difficult. The BSEE inspectors and the management in the Gulf has been working on risk factors and on various iterations of risk-based inspections for years, since the 1990s. For a long time, they didn't have enough inspectors to even do their annual inspections, so they didn't have extra inspectors to go around and make additional risk-based inspections. But now that they're staffed up in inspectors, they have the ability to do that.

So it was puzzling to us when BSEE turned around after the model built by their consultant failed. Instead of fixing that model, they changed their focus and reduced the scope of risk-based inspections. We think that's a mistake.

Ms. PLASKETT. Okay. Thank you.

I've run out of time. But, Mr. Chairman, I'm just hopeful that we will do an assessment of this in the months to come, and this will not be the only discussion we have with the witnesses today.

Mr. FARENTHOLD. All right. I see we've got Mr. Raskin here. We don't have anybody on our side.

Do you have some questions you're ready to go with? If not, I can do my second round and come back to you.

Mr. RASKIN. Mr. Chair, if you would take your second round and come back to me, that would be great.

Mr. FARENTHOLD. All right. That will give you a little bit of time to get settled. I understand.

So I'll toss this out to whichever one of you gentlemen wants to answer. BSEE was created in the wake of Deepwater Horizon to protect the Gulf from another environmental disaster. And risk-based inspection sounds like the way to go, and you have spent, in BSEE, a fair amount of money getting some expert input on what to do about risk based and what the risks are. I mean, it's a pretty highly technical field. I imagine you could go to the safety folks that work at various competing companies. I'm assuming that's how that was developed.

Can you tell me a little bit about what's involved in risk-based inspection and why—to me, it seems like the only way to go. Mr. Cardinale, do you want to take a stab at that?

Mr. CARDINALE. I'll be happy to respond, Mr. Chairman.

Mr. FARENTHOLD. You need to turn your mic on.

Mr. CARDINALE. I'll be happy to respond, Mr. Chairman. I think it's important to note that the risk-based inspection strategy is not designed to supplant or take the place of BSEE statutory obligations to inspect 100 percent of facilities in the offshore environment. It is—

Mr. FARENTHOLD. But I want you to go into the ones you're worried about twice a year instead of once a year, I mean, just in broad general terms.

Mr. CARDINALE. Understood. I think that it's important to point out that the risk-based model that was developed, we have found

to have been very, very accurate. Over the past 3 years, that model has identified the top 20 percent of high-risk facilities that are out in the Gulf, and those have accounted anywhere from 80 to 89 percent of the major incidents that have taken place out there.

I think it's also important to point out that the risk-based inspection strategy was designed as a pilot tool, and as such, it is supposed to be iterative in nature.

I recognize that when the team that identified the facilities in the first round put that list together, three of the facilities on the list were later determined to be shut in. Two of those were not inspected; one was because it was determined that even being a shut-in facility, there was merit to doing an inspection and gaining the information and insight that would come through the risk-based pilot. Subsequently, three additional facilities were identified, and the next phase of inspection is ongoing.

Mr. FARENTHOLD. And what about working with industry? We've seen a great success in OSHA through cooperative industry programs like VPP. Have you all—I mean, what's your relationship with industry? I imagine they're no more eager to have another problem than y'all are.

Mr. CARDINALE. I can't speak to the specific incidence of engagement, but I will tell you that, just generally, we view engagement with the industry to be of primary importance. I think it's critical that we get insight from industry about the policies that we're developing so that we can better understand what their challenges—

Mr. FARENTHOLD. Mr. Rusco, did you all look at all the interaction with industry?

Mr. RUSCO. Over the years, yes, we have. There is a lot of interaction in the inspection community between industry and the inspectors. We have some concerns about where that has gone in recent years with the addition of law enforcement inspections going—inspectors going along with those inspections. But for many years, the inspections have been along the lines of a safety culture perspective. So you go out, you have an incident, you find something, you try to figure out what the root cause is, you try to figure out what can we do to make that not happen. You communicate any serious problems to the industry from the regulator. And that's the way it goes. We are concerned about the effects of adding a law enforcement component to that, though.

Mr. FARENTHOLD. So by law enforcement, rather than working to fix something, you end up getting fined. Is that how that—I'm just trying to narrow it.

Mr. RUSCO. Yeah. So I'm sorry, I'll be more clear. After the Deepwater Horizon, there was this inspection unit that you referred to in your opening remarks that was looking for internal conflicts of interest between BSEE employees and the industry. They did not find any to speak of. So instead of wrapping that up and sending that component off to do nothing, they transformed it. Now, they have inspectors who have a law enforcement background, who are hired to do that first function, who are now taking part in regular inspections of offshore facilities.

Mr. FARENTHOLD. So it's a different—rather than a safety culture, it's a law enforcement culture within that.

Mr. RUSCO. When we talked to one of the inspectors in the Gulf, I asked him point blank, I said, what happens when you go out there and, you know, you're a police officer, you go out there and you start questioning folks? And he said they lawyer up. That's the opposite of a safety culture.

Mr. FARENTHOLD. Right. And I appreciate that.

BSEE is a relatively new organization, relatively small number of employees. So I guess the same issue with these former law enforcement folks—and we'll put some of the employees in—some of whom are management employees who seem to have some leadership issues. What issues do you face dealing with employees who either aren't good at their jobs or because of a change within the organization—looks like you're moving people into things that they may not be well suited for. Do you have an issue with having to relocate employees? Or what do you do about getting rid of people whose usefulness within the organization is not what it used to be? What do you do with your problem personnel, as a short answer to that question?

Mr. CARDINALE. Well, there are established policies and guidelines—

Mr. FARENTHOLD. Is your mic on?

Mr. CARDINALE. Yes.

Mr. FARENTHOLD. Okay. I'm sorry. Again, we have the budget mics. You need to really get close.

Mr. CARDINALE. There are established policies and practices for dealing with employees who are not performing. Employees are all under annual performance plans. They're all rated and reviewed to ensure that they are meeting all of the critical elements in their performance plans. And so the established practice is to follow the applicable HR guidelines when an employee is not meeting those standards.

Mr. FARENTHOLD. Do you have the ability to fire somebody?

Mr. CARDINALE. I think that ability exists, but, again, that has to happen through a process that may—

Mr. FARENTHOLD. It takes how long?

Mr. CARDINALE. It can take a while. It's designed to ensure that employees have due process.

Mr. FARENTHOLD. All right. The issue is always how much process is due.

Mr. Raskin, I went a little bit long, but I will be generous with your time as well.

Mr. RASKIN. Mr. Chairman, thank you very much.

And welcome, gentlemen.

I want to take this opportunity to talk about challenges that BSEE has had in hiring and retaining the inspectors that it needs to ensure worker and environmental safety. The GAO has shown that hiring compliance staff has been a tough spot for BSEE that has undermined the Bureau's performance. In February 2016, GAO reported, quote, BSEE has not met its goals for monitoring operator compliance with environmental standards, primarily because it does not have enough staff to accomplish its workload. GAO identified several sources, including BSEE's own annual compliance activity reports, that said it needs up to 30 compliance staff to effectively carry out its mission. And you had funding for 30 po-

sitions, but GAO reported that BSEE left 9 critical positions open as of November 2015, even with the funding to fill those positions, rolling over millions of dollars of environmental oversight funds from year to year.

So, Mr. Cardinale, let me ask you, why did BSEE roll over millions of dollars in environmental oversight funds in fiscal years 2013, 2014, and 2015, rather than use them to hire the requisite environmental compliance staff?

Mr. CARDINALE. Thank you for your question, Congressman. I think that BSEE has, in fact, over the last year or so, managed to staff up as a result of a variety of factors, anticipating that it would need a full complement of inspectors. I think they were reticent to spend money that they knew they would need as they staffed up.

As a result of changes in the market, as well as BSEE's use of a full suite of recruitment and retention tools, I'm pleased to say that the compliance inspection team is now fully staffed.

Mr. RASKIN. Okay. Well, let me shift over to you then, Mr. Rusco. Do you believe that BSEE is taking the steps that are needed to implement the GAO's recommendation that BSEE develop a plan to address the inadequacy of their staff?

Mr. RUSCO. Well, we'll be following up on that. A couple of things have happened in the last couple of years, in general, in the hiring front. BSEE was able to get special authority through OPM to pay closer to market salaries for certain key staff, and that has helped them hire people.

The specific issue with the environmental compliance staff and the open positions, that was entirely a leadership decision not to hire those. Those were not staff that you would have had trouble hiring in previous years. I don't know the extent to which those positions have been filled because we haven't looked at it since the 2016 report.

Mr. RASKIN. Okay. So, Mr. Cardinale, let me come back to you. Was that a mistake to make that strategic decision originally not to hire that staff? And what's the plan now for making sure that there is sufficient staff through hiring and retention activity?

Mr. CARDINALE. Congressman, I can't speak to whether or not it was a mistake. It does appear that, in hindsight, those resources could have been utilized for that purpose. I think the plan now is to ensure that we are, in fact, fully staffed and that our people on the front lines have all the resources they need to do their jobs.

Mr. RASKIN. Are you subject to a hiring freeze, the general Federal hiring freeze now?

Mr. CARDINALE. Yes.

Mr. RASKIN. So does that freeze into place those original erroneous decisions that were made about not hiring a full complement?

Mr. CARDINALE. I don't know the specifics of the impacts of the hiring freeze. But I would imagine that, at least for the time being, we would be restrained from hiring additional personnel.

Mr. RASKIN. Okay. Let me just quickly shift over to talk about the future of Interior safety and environmental regs. In 2012, BSEE implemented a new safety regulation for offshore rigs, the drilling safety rule which radically overhauled what were the radically inadequate regs that led to the Deepwater Horizon explosion.

The new rule required secondary blowout preventers to ensure that one blowout preventer would not be there and just not be able to do the job, so it was a backup. This possibly would have prevented the Deepwater Horizon situation.

However, President Trump has talked about easing regulations on oil, gas, and coal producers. Is the drilling safety rule one of the regs that President Trump plans to repeal, and do you have anything to say about that, Mr. Cardinale?

Mr. CARDINALE. I am not aware of any plans currently underway to repeal that rule. What I will say is that worker safety and the protection of the offshore environment and conservation of the resources have been and will continue to be our top priority.

Mr. RASKIN. Okay. Thank you very much.

I yield back, Mr. Chairman.

Mr. FARENTHOLD. Thank you very much.

We'll now go to the gentleman from Kentucky for 5 minutes.

Mr. COMER. Thank you, Mr. Chairman.

My first question is for Mr. Rusco. When GAO was conducting its previous investigation of the BSEE, what level of cooperation did you all receive from the Bureau?

Mr. RUSCO. During our first investigation along this line of restructuring and leadership initiatives, we found a very unusual degree of resistance from BSEE leadership. So we were kept from information that would have normally been given to us directly. And everywhere we went to talk to people, we were followed by a minder who reported directly back to headquarters what was said in the meetings.

Mr. COMER. What was the source of the problem?

Mr. RUSCO. The minder reported directly to the deputy director. I don't know that that's the source of the problem, but I know that's where they reported. And I know that all the information we got had to go through the deputy director before it came to us.

Mr. COMER. Is it correct that this level of cooperation improved for your most recent work?

Mr. RUSCO. Yes, it did. After that report, and after we raised this issue with access with our congressional clients, and there was some discussions behind the scenes, the then assistant Secretary for Lands and Minerals had a conversation with BSEE leadership and us in the room and said there will—that this will not go on, and during our second investigation, it was much better.

Mr. COMER. So who was it that made sure that happened?

Mr. RUSCO. That was the assistant secretary.

Mr. COMER. Mr. Cardinale, you were chief of staff in the Office of the assistant Secretary for Land and Minerals, correct?

Mr. CARDINALE. That's correct.

Mr. COMER. It appears your office was able to greatly improve cooperation with the GAO. What steps did you all take to make this happen?

Mr. CARDINALE. Thank you for your question, Congressman Comer. I think part of what happened, just generally, is beginning in the previous administration, and certainly continuing into this administration, there is a recognition that the work that GAO does is extremely valuable, and that it is important that we provide the GAO with the utmost cooperation in facilitating their reviews so

that we can get the benefit of well-informed, thoughtful recommendations.

Mr. COMER. Okay. Let me back up. The deputy director that you are referring to, is that Margaret Schneider?

Mr. RUSCO. Yes, that is.

Mr. COMER. Okay. Mr. Cardinale, will the agency and BSEE leadership commit to giving this Congress and the GAO ready access to data information and staff it needs to interview to do its oversight work?

Mr. CARDINALE. Yes, Congressman.

Mr. COMER. Okay. Well, thank you.

Mr. Chairman, I yield back my time.

Mr. FARENTHOLD. Will the gentleman yield for just one second?

Mr. COMER. Yes, sir.

Mr. FARENTHOLD. And, Mr. Cardinale, the minder that was talking to the assistant—or the deputy director, Ms. Schneider, what's her position now?

Mr. CARDINALE. She is currently serving as acting director. Like a number of senior career employees who are asked during the transition period, myself included, she is serving temporarily as the acting director.

Mr. FARENTHOLD. All right. Thank you very much.

Mr. Raskin, did you have any more questions?

Mr. RASKIN. I did.

Mr. FARENTHOLD. You have another 5 minutes.

Mr. RASKIN. If I may. Thank you very much, Mr. Chairman.

One general question I have is, the bottom line for most Americans is simply what are the chances of another Deepwater Horizon event? Have we been systematically reducing the prospects of another Deepwater Horizon?

Mr. CARDINALE. Yes, I think we have. I think the events of that tragedy have informed a better and more effective way of conducting our oversight. We've taken a hard look at some of the elements that led to that tragedy, and I think that we have done a better job.

Mr. RASKIN. And can you explain what that original bureaucratic resistance was to staffing up, hiring the requisite experts, and making the strongest approach?

Mr. CARDINALE. I think my initial response to that would be that we—the Bureau was, in fact, in its early days, seeking to develop a mission that in some areas had previously not been carried out by predecessor organizations. I can only speculate, and I wouldn't at this point speculate.

Mr. RASKIN. Okay. Let me go to another question then. According to the Outer Continental Shelf Lands Act, the Bureau of Ocean Energy Management is required to develop a 5-year oil and gas leasing plan. The current plan was finalized earlier this year by the Obama administration before leaving office, and it runs until 2022, and it struck a balance between the economic development and environmental imperatives.

Does this administration intend to make changes to this plan? And if so, what would they be?

Mr. CARDINALE. At this point, I don't know the specifics, but I do know that the administration is, in fact, taking a look at the plan that was finalized at the end of the last administration.

Mr. RASKIN. Okay. Well, Mr. Chairman, obviously this is a President who said he wants to promote deregulation. What we don't know at this point is what specific regulatory changes might be forthcoming from the administration in this field and how they would affect the environment and affect workers. And I hope this subcommittee, under your leadership, will continue to use its oversight powers to evaluate the deregulatory actions in terms of their implications for the environment and for workers.

With that, I yield back to you, Mr. Chair.

Mr. FARENTHOLD. Thank you very much.

I just have a couple of quick questions to wrap it up. Mr. Rusco, after reviewing your work and hearing the testimony here, it appears that the leadership at BSEE has created a malfunctioning work environment, whether it's distrust between headquarters and regional personnel mismanagement, failed initiatives, wasted money, fear of retaliation. Would you agree with this characterization? And if so, what do you think—why do you think the environment has become so poor?

Mr. RUSCO. I do agree with that. Unfortunately, and in terms of the root cause, well, I think it lies squarely in the leadership of BSEE. I mean, I think that they created an environment where they did not seek the advice and counsel of the experts in the field, and instead they created a culture where there was a fear of retaliation for anyone who said something different than what they were trying to do. And that really stopped organizational change in its tracks.

And as a result of that, we had cleared Interior from the high-risk list in terms of restructuring, but in this last year, we put them back on, and it's entirely for this leadership failure.

Mr. FARENTHOLD. And what effect do you think this environment and these problems are having on overall safety and oversight mission that BSEE has?

Mr. RUSCO. Well, I think that if BSEE, instead of spending 3 years and a lot of money on a risk-based approach to inspections, had gone to the field and said, you know, you guys have a lot of experience in this, let's build a risk-based approach together, they would have had one that worked the first time and they'd have one right now up and running that worked.

Mr. FARENTHOLD. And have you seen any improvements in the work environment since the beginning of the new administration?

Mr. RUSCO. We haven't been doing any audits in there, so I can't—

Mr. FARENTHOLD. Mr. Cardinale, has anything started to change since the administration changed? Microphone, please.

Mr. CARDINALE. I think there's always been a strong commitment on the BSEE workforce, as there is with all Federal employees. I do think that, as Secretary Zinke assembles his management team, that there'll be a renewed focus on employee engagement and empowerment and ensuring that people on the front lines have the tools they need to get the job done and that we hear from them.

Mr. FARENTHOLD. All right. And, Mr. Rusco, do you believe leadership changes at BSEE could help address some of these issues?

Mr. RUSCO. Yes, I do.

Mr. FARENTHOLD. Anything else you think could help, that you haven't mentioned so far?

Mr. RUSCO. That it's not necessarily the case that every leader has to know everything about an organization to be an effective leader, but they have to want to learn. And they have to go out and find out what their mission is and they have to find out from the people who do it. So whoever takes over, that's what they have to do.

Mr. FARENTHOLD. All right. Finally, from a congressional standpoint, is there anything particular that you think Congress could or should do to improve this situation? And I'll let you both take a stab at that. Mr. Rusco?

Mr. RUSCO. At this point, I think the agency has the authority and the ability to make any changes it needs to make. If they don't make those changes, then I would have a different answer.

Mr. FARENTHOLD. And I'm always nervous asking somebody from an agency, because the answer is usually, "give us more money." Other than money, Mr. Cardinale, what can we do for you?

Mr. CARDINALE. I'm in agreement with Mr. Rusco. I think BSEE has the authorities it needs to do its job, and I'm looking forward to the leadership coming in and charting the course ahead.

Mr. FARENTHOLD. All right. Great.

Mr. Raskin, if you don't have anything else, I'd like to thank our witnesses for being here, and appreciate your service to our country.

And with that, we are adjourned.

[Whereupon, at 2:59 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Questions for Richard Cardinale

Acting Assistant Secretary for Lands and Minerals Management
U.S. Department of the Interior

Questions from Blake Farenthold

March 21, 2017, Full Committee Hearing: *“Examining GAO Findings on Deficiencies at the Bureau of Safety and Environmental Enforcement”*

1. On March 17, 2017, the National Academy of Public Administration (NAPA) published a report on the effectiveness of BSEE’s structure and progress it has made since its creation in 2011.

- a. How similar is the scope of the report to GAO’s report on BSEE, which was published on March 21, 2017?

Response: According to the GAO report, the focus of the report was on efforts BSEE leadership has made in implementing several specific strategic initiatives to improve safety and environmental oversight and improve internal management. On the other hand, BSEE contracted with NAPA to conduct a complete strategic organizational assessment – far broader in scope than the GAO’s report of March 21. The NAPA study focused on BSEE’s “mission execution and operability as a separate bureau and its relationship with the [Bureau of Ocean Energy Management] and other Federal entities; its regulatory framework; emerging policy and operational issues; the results of a recent organizational realignment; strategic planning and organizational performance management; human capital management; governance, communication, and collaboration; and budgetary challenges.”¹ The NAPA study not only assessed the readiness and capability of the Bureau but also offered tangible steps that BSEE could take to establish and institutionalize effective process and practices.

- b. Could BSEE have received the same or similar results by taking the recommendations from GAO’s March 2017 report or any of its past reports on BSEE?

Response: BSEE would not have received the same or similar results, as the scope of the NAPA study was much broader than the GAO investigation that led to the March 2017 report. The NAPA study engaged the organization’s independent expertise to provide specific and actionable recommendations that BSEE could implement to refine and strengthen BSEE’s strategic and programmatic capabilities. It should be noted, however, that BSEE considers all constructive feedback on how to enhance the bureau and its effectiveness in

¹ National Academy of Public Administration, Bureau of Safety and Environmental Enforcement: Strategic Organizational Assessment (2017). <http://www.napawash.org/2017/1934-bureau-of-safety-and-environmental-enforcement-strategic-organizational-assessment.html>

fulfilling its mission, including the GAO's current and past reports. The NAPA's more detailed, comprehensive evaluation of BSEE provides more robust recommendations in some of the areas also identified by GAO.

- c. How much was spent on this report?

Response: The total contract obligation under the task order was \$500,728.58.

- d. Which Department of the Interior (DOI) or BSEE official made the decision to request this report from NAPA?

Response: Former BSEE Director Brian Salerno, in consultation with the Assistant Secretary for Land and Minerals Management, requested that NAPA conduct this study.

2. How many cases of employee misconduct or unethical behavior has the Integrity and Professional Responsibility Advisor (IPRA) or Safety Incident Investigations Division (SIID) found since BSEE's creation?

Response: In 2015, BSEE officially separated the internal and external investigative functions, thus creating the Integrity and Professional Responsibility Advisor (IPRA) for internal misconduct investigations and the Safety and Incident Investigations Division (SIID) for external offshore incident investigations. SIID does not investigate cases of employee misconduct or unethical behavior. The IPRA conducts fact-finding and reports findings to leadership and the appropriate managers in response to allegations or evidence of misconduct or unethical behavior by BSEE employees. Since BSEE's creation, 68 allegations of employee misconduct or unethical behavior have been reviewed by the Bureau.

3. Does BSEE have legal enforcement authority over offshore operators?

Response: Yes. Among the legal enforcement authorities over offshore operators, Section 22 of the Outer Continental Shelf Lands Act (OCSLA) directs the Secretary of the Interior to "enforce safety and environmental regulations promulgated pursuant to [the OCSLA]."² The Secretary has delegated this authority to enforce regulations promulgated pursuant to OCSLA to BSEE.³ This enforcement authority includes the authority to investigate, summon witnesses, require the production of evidence, assess civil penalties, and suspend activities.⁴ Section 5 of OCSLA likewise requires the Secretary to "prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of

² 43 U.S.C. § 1348(a) (2016).

³ U.S. Dept. of the Interior Departmental Manual, 219 DM 1 (2014). "The Director, Bureau of Safety and Environmental Enforcement (BSEE), is delegated, through the Assistant Secretary – Land and Minerals Management, the Secretary's authority to oversee and regulate offshore operations and perform all related functions..."

⁴ See, e.g., 43 U.S.C. § 1348(d) and (f); U.S. Dept. of the Interior Departmental Manual, 219 DM 1 (2014).

the natural resources of the outer Continental Shelf,” and “to carry out” “the provisions of [OCSLA] related to the leasing of the outer Continental Shelf,” pursuant to which DOI has promulgated regulations pertaining to oversight and enforcement directed toward offshore operators.⁵ BSEE enforces laws and regulations related to activities authorized by the OCSLA and carried out on oil and gas leases issued by the Federal government. To achieve this directive, BSEE employs over 100 personnel in the inspection, investigation, regulatory enforcement and compliance job series. These individuals are a key component in the implementation of our compliance oversight activities. BSEE works closely with the Inspector General’s office to refer any matters involving criminal behavior.

4. In GAO’s March 21, 2017 report on BSEE, GAO reports that BSEE has gone through three sequential and sometimes overlapping efforts studying program performance measures.

- a. Has BSEE implemented any of these performance measures and if not, when does it plan to do so?

Response: BSEE is currently implementing performance measures at the national level. This implementation includes collection of quarterly data for 14 national performance measures, with presentation of data occurring at senior leadership’s quarterly management review meetings. Additionally, BSEE is developing new measures and expanding regional measures into national measures where appropriate. Development of these performance measures has been iterative, and the three efforts cited by GAO have each contributed to the bureau’s understanding of effective measures. For example, three of the twelve measures identified by the March 2016 consultant report have been implemented, with some modification.

- b. How much did the contracts to create these performance measures cost?

Response: The combined cost of these two contracts was \$238,338.40. The total amount paid in the first contract was \$194,838.40. This contract was terminated in January 2015 to allow completion of the organizational restructuring. The total amount paid for the performance measure task in the second contract was \$43,500.

5. GAO’s March 2017 reports described deficiencies with BSEE’s efforts to create a risk-based inspection program.

- a. What is the current status of this program?

Response: The Risk-Based Inspection (RBI) program is in the pilot phase. The latest phase of the pilot program was conducted in late March 2017, from which

⁵ 43 U.S.C. § 1334(a); 30 C.F.R. Part 250.

lessons learned will be incorporated by a joint headquarters-regional team into a revision of the overall inspection strategy guidance.

- b. Has BSEE worked to include regional personnel in the creation of this program?

Response: Yes. Regional personnel, including regional managers and district managers, were involved throughout the development of the risk model and pilot testing. Regional personnel will continue to lead the development of the revisions to the overall inspection strategy.

Questions for Richard Cardinale

Acting Assistant Secretary for Lands and Minerals Management
U.S. Department of the Interior

Questions from Ranking Minority Member Stacey E. Plaskett

March 21, 2017, Full Committee Hearing: *“Examining GAO Findings on Deficiencies at the Bureau of Safety and Environmental Enforcement”*

- 1. During the hearing, you were asked about the Bureau of Ocean Energy Management's (BOEM) five-year plan for oil and gas leases, as required by the Outer Continental Shelf Lands Act. You indicated that the Department was considering amending the plan. Please detail the changes Interior is intending to make to the plan.

Response: As stated at the hearing, “the Administration is taking a look at the plan that was finalized at the end of the last Administration.” Per the Outer Continental Shelf Lands Act, 43 U.S.C. § 1344(e), once a Five Year Oil and Gas Leasing Program is finalized, it cannot be significantly revised without undertaking the full program development process. This Administration has not indicated if it will direct BOEM to begin development of a new Five Year Program.

- 2. In April 2016, BOEM proposed a rule regulating air quality of operations on the Outer Continental Shelf. BOEM has not finalized this rule.

- a. What is the status of this rulemaking?

Response: BOEM published a proposed rule on April 5, 2016, entitled, “Air Quality Control, Reporting, and Compliance” (81 FR 19718). The proposed rule was not made final by the previous Administration.

- b. Is BOEM planning to finalize this rule?

Response: The Department is evaluating the proposed rule and comments received on the proposed rule to determine what further action is warranted to advance the Administration's commitment to energy policies that lower costs for Americans and maximize the development of American resources.

- c. If not, why not?

3. This Administration has not yet provided a sub-department level budget request for the Department of the Interior (Interior). Please provide the budget request for BSEE.

Response: The Administration is finalizing the full FY 2018 budget request which is expected to be released in May.

- a. How much and how many FTEs is Interior requesting for BSEE's safety inspectors?

Response: The Administration will release those details with the full budget request in May. BSEE is currently fully staffed according to its existing staffing plans. BSEE currently has 881 FTEs, including 127 inspectors.

- b. How much and how many FTEs is Interior requesting for BSEE's environmental inspectors?

Response: The Administration will release details of its staffing plans with the full budget request in May. BSEE does not have separate environmental inspection personnel. BSEE inspectors perform a comprehensive set of inspection activities that align with BSEE's mission to promote safety, environmental stewardship, and resource conservation.

4. Are there any offices or bureaus within the Department of the Interior that are not subject to President Trump's hiring freeze?

Response: The 90-day Federal hiring freeze issued on January 23, 2017 expired on April 12, 2017. There are no offices or bureaus within the Department currently operating under a hiring freeze. All of Interior's bureaus and offices were subject to the hiring freeze in accordance with government-wide guidelines as outlined in OMB Memorandum 17-18.

- a. Is BSEE impacted by the hiring freeze?

Response: The hiring freeze was applicable to BSEE, but the Bureau's essential functions were not affected.

- b. Are there any positions within BSEE that are not affected by the hiring freeze?

Response: As stated above, the bureaus' essential functions were not affected by the hiring freeze.

- c. What is the turnover rate for BSEE safety and environmental inspectors?

Response: The FY2016 annual turnover rate for BSEE inspectors was 2.43%, and the average annual turnover rate for inspectors since 2011 is 9.5%.

- d. Are any safety or environmental oversight positions currently open?

Response: No. BSEE is fully staffed for available funding levels.

5. The United States is a participant of the international Extractive Industries Transparency Initiative (EITI), a global standard to promote the open and accountable management of extractive resources. Participating nations to the EITI commit to providing data about their natural resources sectors in order to improve accountability. Signatory nations are required to issue annual reports in consultation with domestic industries and civil society. In the United States, the Department of State (State) acts as the country's representative to the EITI Board, and the Department of the Interior manages the nation's commitment to the EITI.

Recent news reports indicate that the Department of the Interior cancelled all schedule meetings of the United States Extractive Industries Transparency Initiative Multi-Stakeholder Group (Group) and its subcommittees. The Group is the body composed of domestic industries and civil society with which Industry is required to consult in issuing its annual reports.

This news is deeply troubling, and I have several questions with which to gauge the Department of the Interior's commitment to the EITI.

- a. Will the United States be submitting its report under the EITI next year? If so, is Interior consulting with stakeholders as required by the EITI's rules? If so, which stakeholders are being consulted, and how are they being consulted?

Response: In December 2015, USEITI published its first annual Report and Executive Summary using publicly available, government open data. Both were published on the DOI data portal (<https://useiti.doi.gov/>), and in November 2016 the second online Report and Executive Summary were published.

We have already begun implementing and expect to complete a third online report in December 2017. In 2016, USEITI began a process whereby the annual report is rolled out with decisions and approvals by the multi-stakeholder group (MSG) Subcommittees and full Committee (MSG) throughout the year. We continue that dynamic roll out of the report for 2017. The MSG

decisions regarding the 2017 Annual Report are a matter of public record at <https://www.doi.gov/eiti/faca>.

b. Since January 20, 2017, has Interior coordinated or consulted with State regarding its decision to cancel Group and Group subcommittee meetings? In that same period, has Interior coordinated or consulted with State regarding its commitment to the EITI, or the contents of its next report?

Response: On March 17, 2017, Interior met with State Department staff to provide an update on USEITI. The Department is committed to public awareness and stakeholder engagement in the proposed policies and regulations related to revenue collection from resource development.

Questions for Frank Rusco
 Director
 Natural Resources and Environment-Energy Issues
 Government Accountability Office

Questions from Chairman Blake Farenthold

March 21, 2017, Full Committee Hearing: *"Examining GAO Findings on Deficiencies at the Bureau of Safety and Environmental Enforcement"*

- 1. GAO has outlined numerous instances where the Bureau of Safety and Environmental Enforcement (BSEE) contracted work out to consultants instead of consulting with its own expert staff, and where the work was sometimes duplicative and overlapping.**

a. How much do you estimate has been spent on these contracts?

We identified a number of consultant contracting actions taken by BSEE during the course of our two reviews.² Some of these contracts pertained specifically to topics covered in our reviews and some did not. Because we did not specifically evaluate BSEE's use of consultant contracts and their outcomes in the scope of either review, we cannot determine a comprehensive figure for the total amount spent by the bureau on consultant contracts. However, based on the information collected, since 2012, BSEE has spent at least \$29.2 million on consultant contracts—approximately \$21.7 million on contracts related to topics we covered in our reports and \$7.6 million on topics we did not review. See tables below for additional detail.

Table 1: Consultant contracts related to topics covered in our reports

Contract Purpose	Amount	Consultant	Date Initiated
Enforcement program planning	\$124,215	The Environmental Law Institute	April 2012
Engineering, analysis, and technical support ³	\$16,550,000	Argonne National Laboratory	September 2012
Enforcement support	\$99,259	The Environmental Law Institute	April 2013
Program effectiveness study	\$1,228,737	Pricewaterhouse Coopers LLP	April 2014
Enterprise risk management (ERM)	\$1,331,147	ABSG Consulting, Inc.	May 2014
Performance management ⁴	\$194,844	Pricewaterhouse Coopers LLP	July 2014
Case management system ⁵	\$556,769	Micropact, Inc.	July 2014
Pacific region organization study ⁶	\$411,580	Booz Allen Hamilton Inc.	May 2015
Environmental standard operating procedures	\$499,439	Booz Allen Hamilton Inc.	August 2015
ERM software support	\$301,637	CGI Federal, Inc.	May 2016
Strategic assessment	\$450,603	National Academy of Public Administration	August 2016
Total	\$21,748,230	--	--

²GAO, *Oil and Gas Management: Interior's Bureau of Safety and Environmental Enforcement Has Not Addressed Long-Standing Oversight Deficiencies*, GAO-16-245 (Washington, D.C.: Feb. 10, 2016) and GAO, *Oil and Gas Management: Stronger Leadership Commitment Needed at Interior to Improve Offshore Oversight and Internal Management*, GAO-17-293 (Washington, D.C.: Mar. 21, 2017).

³Under this agreement, BSEE tasked Argonne National Laboratory with developing an environmental risk assessment for \$597,602 in December 2015. Argonne National Laboratory also developed the facility risk assessment model described in GAO-17-293 under this agreement.

⁴BSEE terminated this contract in January 2015 prior to funding the entire \$876,712 value of the contract.

⁵The total value for this contract, including all options, is \$756,039.

⁶The total value for this contract, including all options, was \$1,340,060.

Table 2: Additional consultant contracts identified during our reviews

Contract Purpose	Amount	Consultant	Date Initiated
Leadership development	\$115,187	SRA International, Inc.	February 2014
SEMS audit criteria	\$70,225	SEMPCheck Services, Inc.	March 2015
Position descriptions	\$434,200	Lindholm & Associates, Inc.	July 2015
Oil spill data	\$118,398	ABSG Consulting, Inc.	September 2015
Environmental analyses	\$800,000	Argonne National Laboratory	September 2015
Risk assessment, engineering test design, and failure analysis	\$5,000,000	National Aeronautics and Space Administration	January 2016
Business intelligence	\$1,037,001	Mythics, Inc.	February 2016
Total	\$7,575,011		

b. How many of these initiatives have been completed and implemented?

We did not conduct audit work to specifically determine the need for, or efficacy of, BSEE's use of consultant contracts. However, of the 11 consultant contracts related to topics covered in our two reports, at least those for (1) engineering, analysis, and technical support and (2) ERM software support remain ongoing. Although we cannot make an assessment regarding the implementation of contract outputs broadly, we did report that those stemming from contracts for enforcement planning, enforcement support, and performance management were not implemented.

c. Would it have been a more productive use of resources to simply accept GAO's recommendations rather than seeking input in these contract analyses?

As noted, we did not conduct audit work to specifically determine the need for, or efficacy of, BSEE's use of consultant contracts. Additionally, BSEE issued all but two of the consultant contracts related to topics covered in our reports prior to the publication of our February 2016 report. Nevertheless, we are concerned by the BSEE's extensive use of such contracts largely due to the bureau's history of struggles in effectively implementing organizational change.

2. On March 17, 2017, the National Academy of Public Administration (NAP A) published a report on the effectiveness of BSEE's structure and progress it has made since its creation in 2011.

a. How similar is the scope of the report to GAO's report on BSEE, which was published on March 21, 2017?

The scope of NAPA's report bears numerous similarities to our two recent reviews, specifically with regard to BSEE's (1) implementation of its national program manager model, (2) advancement of strategic goals, and (3) facilitation of organizational and cultural change.

b. Could BSEE have received the same or similar results by taking the recommendations from GAO's March 2017 report or any of its past reports on BSEE?

We do not believe that BSEE needed to duplicate the aforementioned aspects of work that we had completed (in GAO-16-245) and were in the process of conducting (GAO-17-293).

3. Since the reorganization of the Minerals Management Service (MMS) in 2010, how many investigative organizations have been within BSEE or any of its preceding organizations?

BSEE's primary investigations responsibility is to determine the causes of incidents related to oil and gas activities that occur on the OCS and prepare reports that inform the public and industry on how to prevent incidents and improve safety and environmental protection. BSEE regulations require that operators report certain incidents to BSEE and include stipulations regarding when and how these reports are made, depending on the severity of the incident.⁷

Interior established the Investigations and Review Unit (IRU) in June 2010 in the aftermath of the *Deepwater Horizon* incident to (1) promptly and credibly respond to allegations or evidence of misconduct, unethical behavior, and unlawful activities by bureau employees, as well as by members of industries they regulate; (2) oversee and coordinate the bureau's internal auditing, regulatory oversight, and enforcement systems and programs; and (3) ensure the bureau responds swiftly to emerging issues and crises on a bureau-wide level and assesses significant incidents, including spills, accidents, and other crises.

In October 2015, BSEE formally reorganized the IRU into the Safety and Incident Investigation Division (SIID) and the Integrity and Professional Responsibility Advisor (IPRA). The SIID assumed the external review functions of the IRU and is staffed by former IRU investigators. The IPRA is responsible for investigating allegations of serious misconduct involving any employee not accepted for investigation by Interior's Office of Inspector General.

4. Have these organizations found any serious instances of employee misconduct or collusion with industry operators?

We did not conduct a comprehensive review of BSEE investigative files since the inception of the IRU. However, neither of the case log tracking spreadsheets BSEE provided—one for the IRU and one for the IPRA—referenced the term "collusion."

⁷30 C.F.R. § 250.188-190.