



DEPARTMENT OF HEALTH AND HUMAN SERVICES

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**OFFICE OF INSPECTOR GENERAL**

WASHINGTON, DC 20201

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**DATE:** September 26, 2022

**TO:** Roselyn Tso  
Director  
Indian Health Service

**FROM:** Suzanne Murrin  
Deputy Inspector General  
for Evaluation and Inspections

**SUBJECT:** Initial Observations of IHS Capacity to Manage Supplemental \$3.5 Billion  
Appropriated to Sanitation Facilities Construction Projects (OEI-06-22-00320)

The Office of Inspector General (OIG) is evaluating the Indian Health Service's (IHS') capacity to administer and oversee the \$3.5 billion that Congress appropriated for Sanitation Facilities Construction (SFC) projects under the Infrastructure Investment and Jobs Act (IIJA).<sup>1</sup> Ensuring that IHS has the capacity to administer and oversee this \$3.5 billion is critical for addressing sanitation needs and providing American Indian and Alaska Native homes and communities with essential water supply, sewage disposal, and solid waste disposal facilities. The purpose of this memorandum is to bring to your attention initial observations about IHS capacity that we identified through the preliminary research for our more comprehensive evaluation. Our intent in sharing these observations now is to assist your agency as it continues its planning for how to use and oversee the funds. These initial observations cover IHS' early preparations to build capacity and administer the funds as well as anticipated challenges. These challenges relate to the sufficiency of the funds; adequacy of staffing and other resources; limitations to IHS' strategies for increasing capacity to administer projects; and the need to further develop plans for future use and oversight of the funds.

## Scope of Preliminary Inquiry

This inquiry covers our preliminary observations of IHS' current and expected capacity to administer the \$3.5 billion. Topics for the inquiry included general information about

<sup>1</sup> IIJA, P.L. No. 117-58, Division J, Title VI, 1411-1412 (November 15, 2021).

the SFC Program and projects, including the contracts and agreements used to administer project funding, as well as staffing and other resources; IHS' plans and flexibilities to expand its capacity to administer and oversee projects; and any challenges and lessons learned. We developed our observations from interviews with IHS officials and staff and related documents and data received in June and July 2022.

Thus far, we have conducted 14 interviews with 81 key IHS officials and staff involved in administering or overseeing use of the IJA funds. We interviewed officials from the Office of Finance and Accounting; the Office of Environmental Health and Engineering (OEHE), including its Division of Sanitation Facilities Construction (DSFC) and its Division of Engineering Services (DES); the Division of Acquisition Policy (DAP); and relevant leadership and program staff in each of the 12 IHS Area Offices. One Area Office interview included two representatives from a Tribal organization that has a compact with IHS to deliver SFC services.

In addition to conducting the interviews, we requested and reviewed documents and data from IHS. We reviewed information regarding staffing rates; examples of the different contracts and agreements used to administer the funding; documentation of current and expected projects administered using the different funding mechanisms; evidence of workload; and documentation supporting staff competencies.

OIG has not independently verified the information we received from IHS.

We conducted this work in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

## Summary of Preliminary Observations

### **IHS officials and staff described the IJA funds as much needed and quickly began preparations to increase capacity and administer the funds using existing, generally supported methods**

Under the IJA, Congress appropriated \$700 million per year for fiscal years (FYs) 2022–2026 to IHS to construct sanitation facilities.<sup>2</sup> By comparison, the IHS FY 2022 budget includes \$197.8 million for SFC projects.<sup>3</sup> With the additional IJA funding, IHS total annual funding for SFC projects is now four times greater than in previous years. During interviews, IHS headquarters (HQ) and Area Office leadership described the rapid influx of the IJA funds as necessary for improving the health outcomes of American Indians and Alaska Natives. They also viewed administering the funding as a welcome challenge and described multiple strategies for quickly building

**4x greater**  
total annual funding  
than previous FYs

<sup>2</sup> IJA, P.L. No. 117-58, Division J, Title VI, 1411-1412 (November 15, 2021).

<sup>3</sup> IHS, *Justification of Estimates for Appropriations Committees*, Fiscal Year 2023, p. CJ-12. Accessed at [https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display\\_objects/documents/FY2023BudgetJustification.pdf](https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY2023BudgetJustification.pdf) on August 5, 2022.

capacity to administer the funds. For example, they described taking steps to increase internal capacity by bolstering recruitment efforts and centralizing hiring processes, and by developing plans to work with contractors and other partners.

IHS HQ and Area Offices reported consulting with Tribes about how to allocate the funding and chose to use existing methods that were generally supported by both IHS staff and Tribes. IHS collaborates with Tribes to administer SFC projects as authorized by Congress.<sup>4</sup> Tribes may elect to enter into Memorandums of Agreement (MOAs) authorized by P.L. No. 86-121 to cooperatively administer SFC projects. Tribes with existing Title I self-determination contracts or Title V compacts may elect to manage SFC projects themselves, pursuant to the Indian Self-Determination and Education Assistance Act using a Title I Construction Contract or a Title V Construction Project Agreement.<sup>5, 6</sup> These two types of agreements are less common and require a lower level of IHS involvement than projects administered under MOAs. Area Offices said that after receiving the IJA funding, they would work with Tribes to finalize these documents and begin project administration quickly. They believed that most Tribes would choose to use the same agreement and contract types to administer the funding as they typically use.

## To administer IJA-funded projects and meet sanitation needs, IHS faces financial, capacity, and other challenges that warrant continued attention

Through our interviews, we identified four notable challenges that may warrant ongoing attention as IHS continues to plan for and administer the IJA funding. We also highlight strategies that IHS planned or proposed to address the challenges.

**Challenge 1: Sufficiency of IJA Funds.** IHS leadership and Area Offices reported that the \$3.5 billion that Congress appropriated for SFC projects will likely not be sufficient to address all known sanitation needs in Indian Country, as originally intended. This likely funding shortfall is attributable to two factors. The first is that costs for projects identified on the 2021 Sanitation Deficiency System List, which Congress used to appropriate the funding, are rising. Officials attributed cost increases to inflation and difficulty in procuring materials and contractor services—challenges that have worsened during the pandemic. One Area Office official described a project that increased from \$8 million to \$15 million because of higher-than-normal contractor bids. The second reason, officials explained, is that the Sanitation Deficiency System is a “living” system in which IHS is continually identifying new

<sup>4</sup> The Indian Sanitation Facilities Act of 1959 (P.L. No. 86-121) authorized IHS to provide essential water supply, sewage, and solid waste disposal facilities for American Indian and Alaska Native homes and communities. Congress reaffirmed this authority in the Indian Health Care Amendments of 1988 (P.L. No. 100-713), which amended the Indian Health Care Improvement Act (P.L. No. 94-437).

<sup>5</sup> Title I and Title V of The Indian Self-Determination and Education Assistance Act (codified at 25 U.S.C §§ 5321-5332 and 5381-5399).

<sup>6</sup> IHS Office of Environmental Health and Engineering, *Technical Assistance Guide Public Law 93-638 Construction*, October 2017, Sections 1 D-2 and E. Accessed at [https://www.ihs.gov/sites/des/themes/responsive2017/display\\_objects/documents/TechnicalAssistanceGuide2017.pdf](https://www.ihs.gov/sites/des/themes/responsive2017/display_objects/documents/TechnicalAssistanceGuide2017.pdf) on August 5, 2022.

sanitation deficiencies that will need to be addressed by SFC projects. One Area Office official said that Tribes may seek to add even more projects to the list this year in response to the IIJA funding.

**Planned IHS Strategies:** IHS officials outlined planned strategies to cover the funding shortfalls caused by inflation and other factors. For example, IHS officials reported plans to ensure that all projects are funded using annual SFC project appropriations and to designate funding in future IIJA spend plans to cover increased costs for projects when construction estimates are higher than anticipated due to inflation and other factors. Area Offices also described using “risk pools”—money saved from previous projects that were completed under budget—to cover increased project costs. In addition, DSFC and Area Office officials said they sometimes use funding from other Federal partners to offset increased costs. Given high project demands and growing costs, shortfalls may continue as IHS administers IIJA projects and require additional funding sources. IHS previously prioritized funding for SFC projects on the basis of a number of scoring factors, including health impact, Tribal priority, and severity of the sanitation deficiency, among other factors.<sup>7</sup> If IHS cannot cover shortfalls to fund all known projects, the agency may need to use its existing processes to fund only the highest priority level projects.

**Challenge 2: Recruiting and Retaining Qualified, Experienced Staff.** IHS officials described recruiting and retaining staff as a top challenge to effectively administering and overseeing the IIJA funds. As of April 2022, the SFC Program faced a 27.4 percent vacancy rate, and some Areas had vacancy rates up to 50 percent. In addition to these vacancies in permanent positions (143 vacancies), Area Offices estimate a need for 344 term positions to address the IIJA workload. Some officials and staff noted that supporting offices—such as OEHE, DES, DAP, and Human Resources—are also facing or expecting staffing challenges. A DSFC official said that the agency is “behind the eight ball” on filling positions, and Area Offices described ongoing difficulties recruiting due to national engineer shortages; noncompetitive government pay rates; lengthy recruitment and onboarding processes; remote locations; and other challenges.<sup>8</sup> IHS officials noted that low pay and high workload were causing turnover among existing DSFC and support office staff.<sup>9</sup> Area Offices also described competing for existing staff

**27.4%**  
vacancy  
rate

<sup>7</sup> IHS, *Sanitation Deficiency System (SDS): A Guide for Reporting Sanitation Deficiencies for American Indian and Alaska Native Homes and Communities*, September 2019. Accessed at [https://www.ihs.gov/sites/dsfc/themes/responsive2017/display\\_objects/documents/Final\\_SDS\\_Guide\\_v2.pdf](https://www.ihs.gov/sites/dsfc/themes/responsive2017/display_objects/documents/Final_SDS_Guide_v2.pdf) on August 9, 2022.

<sup>8</sup> According to surveys conducted by Deloitte and the Associated General Contractors of America, 52 percent of engineering and construction executives indicate that their organizations are facing severe labor and talent shortages, and 6 out of 10 firms are experiencing project delays caused by workforce shortages. See Deloitte, *2022 Engineering and Construction Industry Outlook*, p. 7. Accessed at <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/energy-resources/us-2022-outlook-engineering-and-construction.pdf> on July 18, 2022.

<sup>9</sup> The IHS workload will continue to increase as IHS administers the IIJA funds. IHS will fund 456 projects with nearly \$580 million in SFC-eligible costs using the first year of IIJA funds, in addition to its almost 2,200 existing active projects totaling approximately \$1.85 billion.

internally, which sometimes caused staff to shift across Areas rather than expanding the staffing pool.

IHS leadership and Area Offices described challenges in working with the U.S. Public Health Service (USPHS) Commissioned Corps on efforts related to both recruitment and retention. Officials reported that although IHS previously relied on the USPHS Commissioned Officer Student Training and Extern Program (COSTEP) to recruit students, changes to application requirements and earlier deadlines made it difficult to continue to do so. One Area Office official stated that changes to the COSTEP Program, including changes to medical and background checks, had effectively put an end to recruitment efforts. A DSFC official said that it will be difficult for IHS to perform adequately without the Commissioned Corps' support in filling vacancies and stated that IHS leadership will discuss these challenges with the Department of Health and Human Services. Area Offices also said that the Commissioned Corps reduced promotion rates for IHS engineers, and that the reduction in promotions and pay raises has made it harder for IHS to retain experienced engineers.

**93 of 378**

occupied DSFC  
positions are filled  
by Commissioned  
Corps officers

The IIJA set a 3-percent cap on using appropriations for administrative and support costs, including staffing.<sup>10</sup> IHS leadership raised concerns that this level of funding will not be sufficient to address staffing concerns. Further, the 3 percent cannot be used to support Tribal organizations that contract or have a compact with IHS to administer SFC projects; therefore, those organizations cannot use the IIJA funding to expand their own staffing capacity. Additionally, although the 3 percent can be used to hire for IHS term positions to administer and oversee IIJA-funded projects—and such hiring would help address staffing concerns—Area Offices reported that they would likely experience the same difficulties in filling term positions as they would in recruiting for permanent positions.

If unaddressed, recruitment and retention challenges will negatively impact both SFC Program operations and the IIJA-funded projects. For example, Area Office officials described relying heavily on experienced staff to mentor new staff, with one stating: “We have approximately 12-14 staff that have at least 10 years’ experience working in [the] IHS SFC program, which is a pretty good number for being able to provide that bandwidth for mentoring new staff... It sometimes takes a few years to get new engineers up to speed, to get a grasp on the contracts and working with the Tribes.” Officials explained that it takes time to teach new staff about cultural sensitivities and self-determination, and how to manage SFC projects and address climate-related concerns specific to certain geographic areas. High turnover among experienced staff may result in fewer available mentors at a time when the agency plans to hire large numbers of new staff. Additionally, SFC projects already take an average of 4 years to complete. Area Offices said that without adequate staffing capacity, it may take even longer to complete the IIJA-funded projects, therefore delaying necessary services.

<sup>10</sup> IIJA, P.L. No. 117-58, Division J, Title VI, 1411-1412 (November 15, 2021).

*Planned and Proposed IHS Strategies:* At the time of our interviews, IHS leadership was completing a centralized hiring plan and exploring other ways to bolster staffing. Since then, IHS has finalized the plan and publicly stated that it will seek to reduce recruitment-related demands on Area Office staff; ensure more uniform application of salary considerations and use of hiring incentives; target recruitment efforts; and improve coordination with the USPHS Commissioned Corps, among other efficiencies.<sup>11</sup> IHS leadership described exploring opportunities to increase the amount of funding the agency can use for support costs, such as by using and requesting additional annual program appropriations, and to build scholarship and other recruitment tools. During interviews, one Area Office requested improved communication from IHS HQ about its hiring efforts. Another was unsure from its communication with IHS HQ as to how much of the IJA funding it would get for hiring in its Area.

*"You cannot just turn an engineer quickly into a quality IHS engineer. It takes years to master."  
— Area Office official*

In addition to bolstering hiring efforts, IHS plans to boost its training efforts. If IHS can fill existing vacancies and additional staffing needs, it may need to train approximately 500 new staff across DSFC and supporting offices. DSFC plans to bolster its formal, technical new employee training in Albuquerque, and could also consider bolstering the mentoring of new staff about technical skills and cultural considerations.

**Challenge 3: Adequacy of Other Agency Resources.** IHS leadership and Area Offices described challenges with the adequacy of other agency resources affecting SFC projects, such as office space, housing, and information technology (IT) capabilities. Some Area Offices reported having limited office space for any potential additional staff. One official explained that the Department of Health and Human Services previously reduced the square footage of office space permitted per employee and is further reducing it because of increased telework. Although some Area Offices reported using telework and other flexibilities to help with staffing and reduce the need for physical office space, the official explained that project management requirements—including site visits—and the need for mentoring sometimes make telework impractical. Additionally, Area Offices reported that IT capabilities were generally satisfactory, but remote field offices sometimes experienced difficulty with IT support and broadband capability, which could also limit the effectiveness of telework. One Area Office official described difficulty in balancing rent and staffing costs, and others reported that the remote location of some offices made it difficult for existing or potential staff to secure housing, which affected staffing. One DSFC official explained that clinical staff receive priority over engineers for IHS-provided housing and office space.

*Current and Proposed Area Office Strategies:* Area Offices reported that they used a variety of strategies to address resource concerns, but that those strategies are limited. Area Offices leased or considered leasing temporary office space, but one office was concerned about the

<sup>11</sup> See IHS, *All Tribal and Urban Indian Organization Leaders Call*, July 7, 2022. Accessed at [https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2022\\_Speeches/July-Tribal-UIO-Leader-Call.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2022_Speeches/July-Tribal-UIO-Leader-Call.pdf) on July 19, 2022.



ability to procure space in a timely manner. One Area Office proposed using housing subsidies as a hiring incentive but was currently unable to do so for engineers. An official in another Area Office reported working with its service units to expand housing but said that it needed additional funding. Area Offices described working closely with IT teams and other groups to resolve issues and ensure that IT capabilities, software, and data systems perform sufficiently, but explained that the vetting processes for new software and tools are sometimes slow.

**Challenge 4: New Challenges Associated with IHS Efforts To Increase Capacity.** IHS has plans to increase its capacity to administer projects—despite limited staff—by contracting with outside firms and working with other Federal partners. Although those efforts may help address capacity and funding concerns, they may also introduce new challenges.

IHS officials described plans to contract with outside firms to plan and design sanitation facilities as a useful way to expand capacity and reduce demands on Area Office staff, but using those contracts may have unforeseen challenges. For example, one Area Office official noted that for smaller projects, the contracting of services sometimes presents more difficulties than completing designs in-house.

*"I'm not under the impression that there is a big growing engineering [work] force when it comes to the availability of engineering firms to do this work."  
– Area Office staff*

Leadership and staff in another Area Office raised the concern that, like IHS, potential contractors may not have enough availability or staff to absorb the demand for work. One person stated: "I don't know that the consultant infrastructure can sustain what we need it to. [I'm] not sure firms can absorb [the] demand." One of the Area Office officials said that contractors may not have the same training and experience that IHS staff have in coordinating with Tribes about project design. One DSFC official explained that although Area Offices take great pride in providing design services in-house, the dramatic increase in workload makes using contractor firms necessary.

IHS has current or planned partnerships with other Federal agencies, such as the Army Corps of Engineers and the Environmental Protection Agency (EPA), to help increase capacity or cover funding shortfalls. However, according to a staff member in one Area Office, having multiple partners increases SFC staff's workload because staff have to meet the requirements of both IHS and the other agency. Similarly, another Area Office stated that when EPA funds sanitation projects using interagency agreements with IHS, IHS staff are required to provide "deliverables" to EPA for use of its funds. According to IHS guidance, deliverables could include providing construction documents and other supporting materials to EPA or other stakeholders for review.<sup>12</sup>

<sup>12</sup> See IHS, *Project Management Guideline For the SFC Project Management Program (PMPro), A Guide for Planning, Designing, and Constructing SFC Projects*, Section 5.5, December 2019. Accessed at [https://www.ihs.gov/sites/dsfc/themes/responsive2017/display\\_objects/documents/SFC\\_PM\\_Guidelines\\_2-21-2020\\_508\\_Compliant-v2-102521.pdf](https://www.ihs.gov/sites/dsfc/themes/responsive2017/display_objects/documents/SFC_PM_Guidelines_2-21-2020_508_Compliant-v2-102521.pdf) on September 19, 2022.

*Current and Proposed Area Office Strategies for Addressing Challenges and Managing*

*Increased Workload:* Area Offices reported using strategies to address partnership challenges and also suggested ways to further improve efficiencies and manage workload. Two Area Offices described working with partners strategically by sometimes declining outside funding to prioritize their IHS workload. Strategies to otherwise manage workload included sharing or shifting resources across offices and locations, as needed, and specializing staff to streamline tasks (e.g., tasking administrative staff with completing data entry and reports). In addition, officials and staff described using—or wanting to use—advanced equipment or tools, such as drones, to make work more expedient. One Area Office official suggested that IHS use external staffing resources such as Engineers Without Borders, in much the same way that the agency used external medical staffing during the height of the pandemic. The same official requested more robust communication with IHS HQ about strategic approaches for completing the IIJA workload: “Communication needs to be better and more robust and open to getting this work done... It [requires] different thinking, but we’re encouraging them to be as strategic as possible, any way that we can get these projects done so that families can have safe water and sewer.”

## Plans are as yet unclear for IHS’ assessment of the use of IIJA funds, strategies for future spending, and assisting Tribes with long-term operation of IIJA-funded facilities

IHS has the following additional responsibilities that may warrant further attention as the agency moves forward with IIJA-funded facilities. From speaking with IHS officials, it appears that IHS has not yet finalized its plans to assess its use of the IIJA funds; strategize for future IIJA spend plans; and assist Tribes with the long-term operation and maintenance of IIJA-funded facilities.

- **Assessing Use of the IIJA Funds:** Although IHS HQ reported developing a plan to assess the effectiveness of its use of the IIJA funds, most Area Offices were unaware of any formal assessment plans or metrics. They did, however, identify ideas that could contribute to such an assessment. Area Offices indicated that existing performance metrics and data points for SFC projects, such as time to completion and number of homes served, could work well for assessing IIJA use. One Area Office official suggested that, given experience with prior supplemental appropriations, IHS should seek to limit the administrative burden that any additional data reporting would place on Area Office staff. Another suggested that IHS increase efficiencies in its existing SFC data-entry processes. Officials in other Area Offices described encouraging staff to update data on projects and sanitation deficiencies more frequently, which may be useful as IHS HQ monitors the status of sanitation deficiencies and IIJA-funded projects. OEHE and DSFC officials reported that in fulfilling OIG’s data requests for this evaluation, they took steps to gather additional information about SFC projects and ensure that Area Offices report data accurately. Although IHS took these steps for OIG, the improvements may also be useful for the agency’s own data-tracking efforts.
- **Communicating Plans for Future IIJA Spend Plans:** At the time of our interviews, most Area Offices reported that they had not yet received any early detailed communication from



IHS HQ about the FY 2023 IJA spend plan. IHS officials reported that given the extended timelines for submitting Sanitation Deficiency System data, the FY 2023 spend plan will likely not be finalized until January or February of 2023. Furthermore, both IHS leadership and Area Offices described difficulty in coordinating use of the IJA funds and annual appropriations, resulting in delayed finalization of the FY 2022 IJA spend plan. One Area Office requested improved guidance about delineating between IJA-funded projects and projects funded using other appropriations.

- **Long-Term Operation and Maintenance of IJA-Funded Facilities:** Area Offices described as successful the technical assistance they provide to Tribes for the long-term operation and maintenance of SFC facilities, and they reported that they plan to continue providing technical assistance for IJA-funded facilities. However, the need for those efforts will likely grow substantially in the coming years given the large number of projects. One Area Office official suggested that IHS could request appropriations to provide Tribes with financial assistance for maintaining wastewater systems. Others indicated that as allowed by IJA, the IJA funding could be used to fund lower-level projects that IHS had not previously prioritized, but which would restore or update existing sanitation facilities and therefore increase system efficiencies similarly to operation and maintenance improvements.

## Conclusion and OIG Contact

Although IHS has quickly begun preparations to administer the \$3.5 billion Congress appropriated for SFC projects under the IJA, the agency faces considerable potential financial, capacity, and other challenges that warrant continued attention. To date, the strategies that IHS has outlined for addressing the potential challenges have some limitations and may call for additional action. Ensuring that IHS has the capacity to administer and oversee the \$3.5 billion is critical for providing sanitation services to American Indians and Alaska Natives.

As noted above, OIG's oversight of IHS's capacity to administer and oversee the IJA funding for SFC projects remains ongoing. Our further work will offer additional detail about these and other management challenges. If you have questions about this memorandum or would like to request a briefing by the OIG team, please contact me or one of your staff may contact Jennifer Gist. Please refer to product number OEI-06-22-00320 in all correspondence.